

ASSEMBLY BILL

No. 82

Introduced by Assembly Member Evans

December 23, 2008

An act to amend Sections 369.5 and 739.5 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 82, as introduced, Evans. Dependent children: psychotropic medications.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child or a ward who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's or ward's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would expand the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child or ward who has been removed from the physical custody of his or her parent or guardian, or a child who has been removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The bill would require the physician or other health care professional submitting the request for psychotropic medication to have conducted an examination of the child or ward. The

bill would require the request to indicate additional information, including the child's medical history and a description of any clinically indicated therapy recommended for the child to participate in during the 6-month period until the next court review of the psychotropic medication. The bill would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make certain findings, including that the child's or ward's caregiver has been informed, and the child or ward has been informed in an age and developmentally appropriate manner, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks, and any other recommended treatments, that the child or ward has been informed of the right to request a hearing, and that a plan is in place for regular monitoring of the medication, as specified.

This bill would require a dependent child or ward to be present in court for any hearing on the request for authorization to administer psychotropic medication, except as specified. The bill would require the court to make specified orders upon authorizing the administration of psychotropic medication to a child or ward. The bill would authorize the court to inquire about specified information in any proceeding in the juvenile court following court authorization for the administration of psychotropic medication to a child or ward.

This bill would require the State Department of Mental Health, on or before July 1, 2010, to identify or develop and make available written materials to assist county welfare agencies and mental health care providers in providing age-appropriate information to minors concerning psychotropic medications.

The bill would require the Judicial Council to adopt rules and forms to implement these provisions on or before July 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 369.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 369.5. (a) If a child is adjudged a dependent child of the court
- 4 under Section 300 and the child has been removed from the
- 5 physical custody of the parent *or guardian* under Section 361, *or*
- 6 *if the child has been removed from the physical custody of a parent*

1 *or guardian pending adjudication pursuant to Section 319, only*
2 *a juvenile court judicial officer shall have authority to make orders*
3 *regarding the administration of psychotropic medications for that*
4 *child. The juvenile court may issue a specific order delegating this*
5 *authority to a parent or guardian upon making findings on the*
6 *record that the parent or guardian poses no danger to the child and*
7 *has the capacity to authorize psychotropic medications. Court*
8 *authorization for the administration of psychotropic medication*
9 *shall be based on a request from a physician or other health care*
10 *professional, indicating the reasons for the request, a description*
11 *of the child's diagnosis and behavior, the child's medical history,*
12 *the expected results of the medication, the nature, degree, duration,*
13 *and probability of side effects and significant risks commonly*
14 *known by the medical profession and a description of any side*
15 *effects of clinically indicated therapy recommended for the*
16 *medication. On or before July 1, 2000, child to participate in*
17 *during the Judicial Council shall adopt rules of six-month period*
18 *until the next court and develop appropriate forms for*
19 *implementation review of this section psychotropic medication.*

20 *(b) The physician or other health care professional submitting*
21 *the request for psychotropic medication shall have conducted an*
22 *examination of the child in compliance with Section 2242 of the*
23 *Business and Professions Code.*

24 *(c) Before authorizing the administration of psychotropic*
25 *medication, the juvenile court judicial officer shall make the*
26 *following findings:*

27 *(1) The child's caregiver has been informed, and the child has*
28 *been informed in an age and developmentally appropriate manner,*
29 *about the recommended medications, the anticipated benefits, the*
30 *nature, degree, duration, and probability of side effects and*
31 *significant risks commonly known by the medical profession, and*
32 *any other recommended treatments, and that the child has been*
33 *informed of the right to request a hearing pursuant to subdivision*
34 *(g). On or before July 1, 2010, the State Department of Mental*
35 *Health shall identify or develop and make available written*
36 *materials to assist county welfare agencies and mental health care*
37 *providers in providing age-appropriate information to minors*
38 *concerning psychotropic medications.*

39 *(2) A plan is in place for regular monitoring of the child's*
40 *medication plan, the effectiveness of the medication, and any*

1 *potential side effects, by the physician or other health care*
2 *professional in consultation with the child's caregiver, mental*
3 *health care provider, and others who have contact with the child,*
4 *as appropriate.*

5 *(d) If a hearing is conducted pursuant to subdivision (g), the*
6 *child shall be present in court for the hearing unless the child*
7 *waives the right to attend after consulting with counsel or the court*
8 *finds that there is good cause for the child's absence from the*
9 *proceedings.*

10 *(e) In any proceeding in the juvenile court following court*
11 *authorization for the administration of psychotropic medication*
12 *to a child, the court may inquire about all of the following:*

13 *(1) As reported by the child's physician or other health care*
14 *professional, the effectiveness of the medication and any side effects*
15 *experienced by the child, the child's progress toward meeting the*
16 *goals outlined in the child's treatment plan and in any concurrent*
17 *therapy or other mental health treatment, and, if applicable, any*
18 *steps recommended to increase the effectiveness of the medication,*
19 *to reduce side effects, or to obviate the need for continued*
20 *administration of the medication.*

21 *(2) Any behavior changes and possible side effects that have*
22 *been observed by individuals who have regular contact with the*
23 *child.*

24 *(3) Any statements or concerns expressed by the child regarding*
25 *the medication.*

26 ~~(b)~~

27 *(f) (1) In counties in which the county child welfare agency*
28 *completes the request for authorization for the administration of*
29 *psychotropic medication, the agency is encouraged to complete*
30 *the request within three business days of receipt from the physician*
31 *of the information necessary to fully complete the request.*

32 *(2) Nothing in this subdivision is intended to change current*
33 *local practice or local court rules with respect to the preparation*
34 *and submission of requests for authorization for the administration*
35 *of psychotropic medication.*

36 ~~(e)~~

37 *(g) Within seven court days from receipt by the court of a*
38 *completed request, the juvenile court judicial officer shall either*
39 *approve or deny in writing a request for authorization for the*
40 *administration of psychotropic medication to the child, or shall,*

1 upon a request by the parent, the legal guardian, or the child's
2 attorney, or upon its own motion, set the matter for hearing.

3 ~~(d)~~

4 (h) Psychotropic medication or psychotropic drugs are those
5 medications administered for the purpose of affecting the central
6 nervous system to treat psychiatric disorders or illnesses. These
7 medications include, but are not limited to, anxiolytic agents,
8 antidepressants, mood stabilizers, antipsychotic medications,
9 anti-Parkinson agents, hypnotics, medications for dementia, and
10 psychostimulants.

11 (i) *For purposes of this section, a "health care professional"*
12 *is a licensed professional authorized to prescribe psychotropic*
13 *medications pursuant to Division 2 (commencing with Section*
14 *500) of the Business and Professions Code.*

15 ~~(e)~~

16 (j) Nothing in this section is intended to supersede local court
17 rules regarding a ~~minor's~~ child's right to participate in mental
18 health decisions.

19 (k) *The Judicial Council shall adopt rules and forms to*
20 *implement the provisions of this section on or before July 1, 2010.*

21 SEC. 2. Section 739.5 of the Welfare and Institutions Code is
22 amended to read:

23 739.5. (a) If a minor who has been adjudged a ward of the
24 court under Section 601 or 602 is removed from the physical
25 custody of the parent *or guardian* under Section 726 and placed
26 into foster care, as defined in Section 727.4, only a juvenile court
27 judicial officer shall have authority to make orders regarding the
28 administration of psychotropic medications for that minor. The
29 juvenile court may issue a specific order delegating this authority
30 to a parent *or guardian* upon making findings on the record that
31 the parent *or guardian* poses no danger to the minor and has the
32 capacity to authorize psychotropic medications. Court authorization
33 for the administration of psychotropic medication shall be based
34 on a request from a physician *or other health care professional*,
35 indicating the reasons for the request, a description of the minor's
36 diagnosis and behavior, the *minor's medical history, the expected*
37 *results of the medication, the nature, degree, duration, and*
38 *probability of side effects and significant risks commonly known*
39 *by the medical profession, and a description of any ~~side effects~~*
40 *clinically indicated therapy recommended for the minor to*

1 participate in during the six-month period until the next court
2 review of the psychotropic medication. On or before July 1, 2008,
3 the Judicial Council shall adopt rules of court and develop
4 appropriate forms for implementation of this section.

5 (b) The physician or other health care professional submitting
6 the request for psychotropic medication shall have conducted an
7 examination of the minor in compliance with Section 2242 of the
8 Business and Professions Code.

9 (c) Before authorizing the administration of psychotropic
10 medication, the juvenile court judicial officer shall make the
11 following findings:

12 (1) The minor's caregiver has been informed, and the minor
13 has been informed in an age and developmentally appropriate
14 manner, about the recommended medications, the anticipated
15 benefits, the nature, degree, duration, and probability of side effects
16 and significant risks commonly known by the medical profession,
17 and any other recommended treatments, and that the minor has
18 been informed of the right to request a hearing pursuant to
19 subdivision (g). On or before July 1, 2010, the State Department
20 of Mental Health shall identify or develop and make available
21 written materials to assist county welfare agencies and mental
22 health care providers in providing age-appropriate information
23 to minors concerning psychotropic medications.

24 (2) A plan is in place for regular monitoring of the minor's
25 medication plan, the effectiveness of the medication, and any
26 potential side effects, by the physician or other health care
27 professional in consultation with the minor's caregiver, mental
28 health care providers, and others who have contact with the minor,
29 as appropriate.

30 (d) If a hearing is conducted pursuant to subdivision (g), the
31 minor shall be present in a court for the hearing unless the minor
32 waives the right to attend after consulting with counsel or the court
33 finds that there is good cause for the minor's absence from the
34 proceedings.

35 (e) In any proceeding in the juvenile court following court
36 authorization for the administration of psychotropic medication
37 to a minor, the court may inquire about all of the following:

38 (1) As reported by the minor's physician or other health care
39 professional, the effectiveness of the medication and any side effects
40 experienced by the minor, the minor's progress toward meeting

1 *the goals outlined in the minor's treatment plan and in any*
2 *concurrent therapy or other mental health treatment, and, if*
3 *applicable, any steps recommended to increase the effectiveness*
4 *of the medication, to reduce side effects, or to obviate the need for*
5 *continued administration of the medication.*

6 *(2) Any behavior changes and possible side effects that have*
7 *been observed by individuals who have regular contact with the*
8 *child.*

9 *(3) Any statements or concerns expressed by the minor*
10 *regarding the medication.*

11 ~~(b)~~

12 *(f) (1) The agency that completes the request for authorization*
13 *for the administration of psychotropic medication is encouraged*
14 *to complete the request within three business days of receipt from*
15 *the physician of the information necessary to fully complete the*
16 *request.*

17 *(2) Nothing in this subdivision is intended to change current*
18 *local practice or local court rules with respect to the preparation*
19 *and submission of requests for authorization for the administration*
20 *of psychotropic medication.*

21 ~~(e)~~

22 *(g) Within seven court days from receipt by the court of a*
23 *completed request, the juvenile court judicial officer shall either*
24 *approve or deny in writing a request for authorization for the*
25 *administration of psychotropic medication to the minor, or shall,*
26 *upon a request by the parent, the legal guardian, or the minor's*
27 *attorney, or upon its own motion, set the matter for hearing.*

28 ~~(d)~~

29 *(h) Psychotropic medication or psychotropic drugs are those*
30 *medications administered for the purpose of affecting the central*
31 *nervous system to treat psychiatric disorders or illnesses. These*
32 *medications include, but are not limited to, anxiolytic agents,*
33 *antidepressants, mood stabilizers, antipsychotic medications,*
34 *anti-Parkinson agents, hypnotics, medications for dementia, and*
35 *psychostimulants.*

36 *(i) For purposes of this section, a "health care professional"*
37 *is a licensed professional authorized to prescribe psychotropic*
38 *medications pursuant to Division 2 (commencing with Section*
39 *500) of the Business and Professions Code.*

40 ~~(e)~~

1 (j) Nothing in this section is intended to supersede local court
2 rules regarding a minor's right to participate in mental health
3 decisions.

4 (k) *The Judicial Council shall adopt rules and forms to*
5 *implement the provisions of this section on or before July 1, 2010.*