

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 82

Introduced by Assembly Member Evans
(Coauthors: Assembly Members Brownley, Fuentes, Huffman,
Jones, and Niello)
(Coauthor: Senator Alquist)

December 23, 2008

An act to add and repeal Sections 369.6 and 739.6 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 82, as amended, 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 court authorization except in an emergency situation, as specified, 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, in a pilot project operative only until January 1, 2013, in 3 counties that meet specified criteria and that are selected by the State Department of Social Services in consultation with the Judicial Council and ~~another 2 other~~ specified ~~entity~~ *entities*, 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 pilot project would require the physician submitting the request for psychotropic medication to have conducted an examination of the child or ward. The pilot project 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 pilot project 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.

The pilot project 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 pilot project 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.

The bill would require the State Department of Social Services, after consultation with the State Department of Mental Health, to report to the Legislature regarding the pilot project before July 1, 2013, as specified.

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

These provisions would remain in effect until January 1, 2014.

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 369.6 is added to the Welfare and
2 Institutions Code, to read:

3 369.6. (a) Notwithstanding Section 369.5, this section
4 establishes a pilot project operative only until January 1, 2013, in
5 three counties, one each from the northern, southern, and central
6 areas of the state and each with a population of less than 2,500,000.
7 The department shall, in consultation with the County Welfare
8 Directors Association ~~and the Judicial Council~~, *the Judicial*
9 *Council, and the California Mental Health Directors Association*,
10 select the three counties to participate in the pilot project from
11 among those counties expressing an interest in participating.

12 (b) If a child is adjudged a dependent child of the court under
13 Section 300 and the child has been removed from the physical
14 custody of the parent or guardian under Section 361, or if the child
15 has been removed from the physical custody of a parent or guardian
16 pending adjudication pursuant to Section 319, only a juvenile court
17 judicial officer shall have authority to make orders regarding the
18 administration of psychotropic medications for that child. The
19 juvenile court may issue a specific order delegating this authority
20 to a parent or guardian upon making findings on the record that
21 the parent or guardian poses no danger to the child and has the
22 capacity to authorize psychotropic medications. Court authorization
23 for the administration of psychotropic medication shall be based
24 on a request from a physician indicating the reasons for the request,
25 a description of the child's diagnosis and behavior, the child's
26 medical history, the expected results of the medication, the nature,
27 degree, duration, and probability of side effects and significant
28 risks commonly known by the medical profession and a description
29 of any clinically indicated therapy recommended for the child to
30 participate in during the six-month period until the next court
31 review of psychotropic medication.

32 (c) The physician submitting the request for psychotropic
33 medication shall have conducted an examination of the child in

1 compliance with Section 2242 of the Business and Professions
2 Code.

3 (d) Before authorizing the administration of psychotropic
4 medication, the juvenile court judicial officer shall make the
5 following findings:

6 (1) The child's caregiver has been informed, and the child has
7 been informed in an age and developmentally appropriate manner,
8 about the recommended medications, the anticipated benefits, the
9 nature, degree, duration, and probability of side effects and
10 significant risks commonly known by the medical profession, and
11 any other recommended treatments, and that the child has been
12 informed of the right to request a hearing pursuant to subdivision
13 (h).

14 (2) A plan is in place for regular monitoring of the child's
15 medication plan, the effectiveness of the medication, and any
16 potential side effects, by the physician in consultation with the
17 child's caregiver, mental health care provider, and others who have
18 contact with the child, as appropriate.

19 (e) If a hearing is conducted pursuant to subdivision (h), the
20 child shall be present in court for the hearing unless the child
21 waives the right to attend after consulting with counsel or the court
22 finds that there is good cause for the child's absence from the
23 proceedings.

24 (f) In any proceeding in the juvenile court following court
25 authorization for the administration of psychotropic medication
26 to a child, the court may inquire about all of the following:

27 (1) As reported by the child's physician or other health care
28 professional, the effectiveness of the medication and any side
29 effects experienced by the child, the child's progress toward
30 meeting the goals outlined in the child's treatment plan and in any
31 concurrent therapy or other mental health treatment, and, if
32 applicable, any steps recommended to increase the effectiveness
33 of the medication, to reduce side effects, or to obviate the need for
34 continued administration of the medication.

35 (2) Any behavior changes and possible side effects that have
36 been observed by individuals who have regular contact with the
37 child.

38 (3) Any statements or concerns expressed by the child regarding
39 the medication.

1 (g) (1) In counties in which the county child welfare agency
2 completes the request for authorization for the administration of
3 psychotropic medication, the agency is encouraged to complete
4 the request within three business days of receipt from the physician
5 of the information necessary to fully complete the request.

6 (2) Nothing in this subdivision is intended to change current
7 local practice or local court rules with respect to the preparation
8 and submission of requests for authorization for the administration
9 of psychotropic medication.

10 (h) Within seven court days from receipt by the court of a
11 completed request, the juvenile court judicial officer shall either
12 approve or deny in writing a request for authorization for the
13 administration of psychotropic medication to the child, or shall,
14 upon a request by the parent, the legal guardian, or the child's
15 attorney, or upon its own motion, set the matter for hearing.

16 (i) Psychotropic medication or psychotropic drugs are those
17 medications administered for the purpose of affecting the central
18 nervous system to treat psychiatric disorders or illnesses. These
19 medications include, but are not limited to, anxiolytic agents,
20 antidepressants, mood stabilizers, antipsychotic medications,
21 anti-Parkinson agents, hypnotics, medications for dementia, and
22 psychostimulants.

23 (j) Consistent with subdivision (d) of Section 369, psychotropic
24 medications may be administered without court authorization in
25 an emergency situation. In that situation, court authorization shall
26 be sought as soon as possible thereafter consistent with the
27 provisions of this section and related rules of the court developed
28 pursuant to subdivision (d) of Section 369.

29 (k) Nothing in this section is intended to supersede local court
30 rules regarding a child's right to participate in mental health
31 decisions.

32 (l) The Judicial Council shall adopt rules and forms to implement
33 the provisions of this section on or before July 1, 2010.

34 (m) The department, after consultation with the State
35 Department of Mental Health, shall report to the Legislature
36 regarding the findings of the pilot project established pursuant to
37 this section before July 1, 2013. The report shall include
38 demographic data on foster youth and probation youth on
39 psychotropic medications and data on mental health outcome
40 measures for these youth.

1 (n) This section shall remain in effect only until January 1, 2014,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 2. Section 739.6 is added to the Welfare and Institutions
5 Code, to read:

6 739.6. (a) Notwithstanding Section 739.5, this section
7 establishes a pilot project operative only until January 1, 2013, in
8 three counties, one each from the northern, southern, and central
9 areas of the state and each with a population of less than 2,500,000.
10 The department shall, in consultation with the County Welfare
11 Directors Association ~~and the Judicial Council~~, *the Judicial*
12 *Council, and the California Mental Health Directors Association*,
13 select the three counties to participate in the pilot project from
14 among those counties expressing an interest in participating.

15 (b) If a minor who has been adjudged a ward of the court under
16 Section 601 or 602 is removed from the physical custody of the
17 parent or guardian under Section 726 and placed into foster care,
18 as defined in Section 727.4, only a juvenile court judicial officer
19 shall have authority to make orders regarding the administration
20 of psychotropic medications for that minor. The juvenile court
21 may issue a specific order delegating this authority to a parent or
22 guardian upon making findings on the record that the parent or
23 guardian poses no danger to the minor and has the capacity to
24 authorize psychotropic medications. Court authorization for the
25 administration of psychotropic medication shall be based on a
26 request from a physician, indicating the reasons for the request, a
27 description of the minor's diagnosis and behavior, the minor's
28 medical history, the expected results of the medication, the nature,
29 degree, duration, and probability of side effects and significant
30 risks commonly known by the medical profession, and a description
31 of any clinically indicated therapy recommended for the minor to
32 participate in during the six-month period until the next court
33 review of psychotropic medication.

34 (c) The physician submitting the request for psychotropic
35 medication shall have conducted an examination of the minor in
36 compliance with Section 2242 of the Business and Professions
37 Code.

38 (d) Before authorizing the administration of psychotropic
39 medication, the juvenile court judicial officer shall make the
40 following findings:

1 (1) The minor's caregiver has been informed, and the minor has
2 been informed in an age and developmentally appropriate manner,
3 about the recommended medications, the anticipated benefits, the
4 nature, degree, duration, and probability of side effects and
5 significant risks commonly known by the medical profession, and
6 any other recommended treatments, and that the minor has been
7 informed of the right to request a hearing pursuant to subdivision
8 (h).

9 (2) A plan is in place for regular monitoring of the minor's
10 medication plan, the effectiveness of the medication, and any
11 potential side effects, by the physician or in consultation with the
12 minor's caregiver, mental health care providers, and others who
13 have contact with the minor, as appropriate.

14 (e) If a hearing is conducted pursuant to subdivision (h), the
15 minor shall be present in a court for the hearing unless the minor
16 waives the right to attend after consulting with counsel or the court
17 finds that there is good cause for the minor's absence from the
18 proceedings.

19 (f) In any proceeding in the juvenile court following court
20 authorization for the administration of psychotropic medication
21 to a minor, the court may inquire about all of the following:

22 (1) As reported by the minor's physician, the effectiveness of
23 the medication and any side effects experienced by the minor, the
24 minor's progress toward meeting the goals outlined in the minor's
25 treatment plan and in any concurrent therapy or other mental health
26 treatment, and, if applicable, any steps recommended to increase
27 the effectiveness of the medication, to reduce side effects, or to
28 obviate the need for continued administration of the medication.

29 (2) Any behavior changes and possible side effects that have
30 been observed by individuals who have regular contact with the
31 minor.

32 (3) Any statements or concerns expressed by the minor regarding
33 the medication.

34 (g) (1) The agency that completes the request for authorization
35 for the administration of psychotropic medication is encouraged
36 to complete the request within three business days of receipt from
37 the physician of the information necessary to fully complete the
38 request.

39 (2) Nothing in this subdivision is intended to change current
40 local practice or local court rules with respect to the preparation

1 and submission of requests for authorization for the administration
2 of psychotropic medication.

3 (h) Within seven court days from receipt by the court of a
4 completed request, the juvenile court judicial officer shall either
5 approve or deny in writing a request for authorization for the
6 administration of psychotropic medication to the minor, or shall,
7 upon a request by the parent, the legal guardian, or the minor's
8 attorney, or upon its own motion, set the matter for hearing.

9 (i) Psychotropic medication or psychotropic drugs are those
10 medications administered for the purpose of affecting the central
11 nervous system to treat psychiatric disorders or illnesses. These
12 medications include, but are not limited to, anxiolytic agents,
13 antidepressants, mood stabilizers, antipsychotic medications,
14 anti-Parkinson agents, hypnotics, medications for dementia, and
15 psychostimulants.

16 (j) Consistent with subdivision (d) of Section 739, psychotropic
17 medications may be administered without court authorization in
18 an emergency situation. In that situation, court authorization shall
19 be sought as soon as possible thereafter consistent with the
20 provisions of this section and related rules of the court developed
21 pursuant to subdivision (d) of Section 739.

22 (k) Nothing in this section is intended to supersede local court
23 rules regarding a minor's right to participate in mental health
24 decisions.

25 (l) The Judicial Council shall adopt rules and forms to implement
26 the provisions of this section on or before July 1, 2010.

27 (m) The department shall, after consultation with the State
28 Department of Mental Health, report to the Legislature regarding
29 the findings of the pilot project established pursuant to this section
30 before July 1, 2013. The report shall include demographic data on
31 foster youth and probation youth on psychotropic medications and
32 data on mental health outcome measures for these youth.

33 (n) This section shall remain in effect only until January 1, 2014,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2014, deletes or extends that date.