Date of Hearing: June 14, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Lisa Calderon, Chair
SB 528 (Jones) – As Amended June 8, 2022

SENATE VOTE: 37-1

SUBJECT: Juveniles: health information summary

SUMMARY: Specifies that a JV-220 form is required to be included within a foster youth's case plan for purposes of the health and education passport (HEP).

EXISTING LAW:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk or have been abused or neglected, as specified. (Welfare and Institutions Code Section [WIC] 202 *et seq.*)

2) Allows a juvenile court to adjudge a child a ward or a dependent of the court for specified reasons, including but not limited to if the child has been left without any provision for support, as specified. (WIC 300)

3) Requires, when a child is placed in foster care, the case plan for each child to include a summary of the health and education information or records, including mental health information or records, of the child. Permits the summary to be maintained in the form of an HEP, or a comparable format designed by the child protective agency and is required to include, but not be limited to, the names and addresses of the child's health, dental, and education providers; the child's grade level performance; the child's school record; assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; the number of school transfers the child has already experienced; the child's educational progress, as demonstrated by factors, including, but not limited to, academic proficiency scores; credits earned toward graduation; a record of the child's immunizations and allergies; the child's known medical problems; the child's current medications, past health problems, and hospitalizations; a record of the child's relevant mental health history; the child's known mental health condition and medications and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of the California Department of Social Services (CDSS). (WIC 16010(a)(1))

4) Requires a court report or assessment to include a copy of the current health and education summary, including the name and contact information of the person or persons currently holding the right to make educational decisions for the child. (WIC 16010(b))

5) Requires, as soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency to provide the caregiver with the child's current health and education summary. For each subsequent placement of a child or nonminor dependent, requires the child protective agency to provide the caregiver with a current summary within 48 hours of the placement. (WIC 16010(c))

6) Defines "psychotropic medication" or "psychotropic drugs" as those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. Further states that these medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants. (WIC 369.5(d))

7) States that only a juvenile court judicial officer has the authority to make orders for the administration of psychotropic medications for a minor who has been adjudged a dependent of the court. (WIC 369.5)

8) Requires, within seven court days from receipt by the court of a completed request, the juvenile court judicial officer to either approve or deny in writing a request for authorization for the administration of psychotropic medication to the child, or, upon a request by the parent, the legal guardian, or the child's attorney, or upon its own motion, set the matter for hearing. (WIC 369.5(c)(1))

9) Notwithstanding WIC Section 827 or any other law, upon the approval or denial by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, requires the county child welfare agency or other person or entity who submitted the request to provide a copy of the court order approving or denying the request to the child's caregiver.

10) Requires 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 diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Establishes procedures for these orders and directs the adoption of rules and forms that comply with specific requirements (WIC 739.5)

11) Requires CDSS, in consultation with the Department of Health Care Services (DHCS) and other specified stakeholders to develop county-specific monthly reports that describe each child for whom one or more psychotropic medications have been paid for under Medi-Cal, including paid claims and managed care encounters. Requires CDSS to develop training, in consultation DHCS and various other agencies that may be provided to county child welfare social workers and others that addresses the use of psychotropic medications. (WIC 16501.4)

FISCAL EFFECT: This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Child welfare services: California's child welfare services (CWS) system exists to protect children from abuse and neglect, and in doing so, to provide for their health, safety, and overall well-being. When suspicions of abuse or neglect arise, often as a result of a report by a mandated reporter like a doctor or teacher, Child Protective Services is tasked with investigating the report. If the allegation of abuse or neglect is substantiated, it is then determined whether it is in the best interest of the child to remain in their parent's custody or be placed within the CWS system. If a child is suspected to be at risk of neglect, abuse, or abandonment, the juvenile court holds legal jurisdiction, and the CWS system appoints a social worker to ensure that the needs of a youth are met. As of January 1, 2022, there were 55,539 youth between the ages of 0 and 21 placed in California's CWS system.

***Psychotropic medications and foster youth*:** Psychotropic medications include drugs prescribed to manage psychiatric and mental health disorders or issues including depression, obsessive-compulsive disorder, attention deficit hyperactivity disorder, bipolar disorder, schizophrenia, and others. These medications include antipsychotics such as Seroquel, antidepressants like Prozac, mood stabilizers including Lithium, and stimulants like Ritalin.

Research has repeatedly indicated that children and youth in foster care face higher levels of inappropriate or excessive medication use and as a result, the Legislature passed several bills to address the issue, resulting in additional processes to ensure that proper levels of these medications are being prescribed.

In late 2011, the United States Department of Health and Human Services issued a letter to states encouraging them to coordinate with partners who worked with foster youth to address enhanced efforts to appropriately prescribe and monitor psychotropic medication among children placed in out-of-home care. As a result, DHCS and CDSS jointly developed the Quality Improvement Project (QIP) to strengthen the state's Medicaid and CWS system by, among other things, improving safe and appropriate prescribing and monitoring of psychotropic drugs. The QIP has enabled the state to access the knowledge and perspectives of various experts, and has continued to hold workgroup meetings and set and accomplish objectives related to its mission.

Additionally, DHCS and CDSS, who have the shared responsibility for the oversight of mental health services provided to children and youth involved with county child welfare and probation agencies, developed and released state guidelines for the use of psychotropic medication with children and youth in foster care. According to these guidelines, a psychiatric evaluation includes a thorough mental status exam, complete review of current emotional and behavioral symptoms, and the assessment for potential psychosocial precipitants for the current presentation. It also should include the review of collateral documents provided by CWS, when available. These records provide critical history and context for appropriate case formulation.

Prior to the child's appointment, the prescriber is expected to review the collateral documentation when provided by the CWS social worker. The guidelines further stipulate that reports should ideally be received at least five business days prior to the appointment to allow ample time for review. The guidelines state that the prescriber's access to available historical information is critical for the provision of optimal care and list the following documents as representing optimal psychosocial history to share with the prescriber.

These documents should include:

1) The Detention Hearing Report which describes what happened to the child and why the child was removed from the home. These conditions typically are the 'root cause' of the child or youth's emotional, cognitive, and/or behavioral dysregulation.

2) The Jurisdiction/Disposition Report which includes additional information regarding the abuse and/or neglect experienced by the child in the current referral, history of prior referrals and cases (if applicable) which provides context for the current case, and provides more details regarding why out of home care was necessary.

3) Copies of significant additional court reports, i.e., those that document major changes in the family's situation.

4) Copies of all prior psychological evaluations and Initial Treatment Plans/Updates for the client.

5) All prior mental health, physical health, and developmental records.

6) Copies of psychiatrist's Admission and Discharge summaries and the medical H & P (History and Physical) report from all psychiatric hospitalizations for the client.

7) Order Authorizing Health Assessments, Routine Health Care, And Release Of Information (Blanket Court Order) or case-specific forms signed by the Court, as per county process).

8) History of Child Placement report.

9) Current HEP, Individualized Education Plan (IEP) and IEP Triennial evaluation (Psychoeducational Assessment Report conducted by school staff once every three years as a condition of initiating and continuing an IEP), if applicable.

10) Medication log to be attached to the JV-220, if available.

JV-220: Judicial approval (JV-220) is mandated by California law Rules of Court prior to the administration of psychotropic medications to children and youth in foster care. The Psychotropic Medication Protocol, also referred to as the JV-220 process, initiates the court authorization of psychotropic medications for dependents of the court. The JV-220 documentation specifies the dosage and medication plan, ideally including targeted goals. This is undertaken, to the extent possible, in collaboration with the child, family, caregiver, and other supportive collaterals. The prescriber should discuss the JV-220 with the child, family, and caregiver.

As soon as psychotropic medication is identified as a recommended part of a treatment plan, the foster youth's social worker or probation officer (some counties may utilize a Public Health Nurse) begins the process of completing the JV-220 which functions like a cover sheet for the full application, and must be accompanied by a completed and signed JV-220 (A) or (B) and thorough documentation before it is filed with the Court. The social worker or probation officer in charge of the case is responsible for filing the complete set of documents with the Court.

The JV-220 provides the Court with information about the child and where they live; contact information for the social worker or probation officer of the case; the input they have received from the child or caregiver about the medication plan, and their own input about the application; history of other recent medications and/or treatments along with information about who will be providing input and in what form; and provides the social worker or probation officer verification that the information included in the attachments is accurate and complete.

According to the Rules of Court, upon the approval or denial of the application for psychotropic medication, the county child welfare agency, probation department, or other person or entity who submitted the request must provide the child's caregiver with a copy of the court order approving or denying the request. The copy of the order must be provided in person or mailed within two court days of when the order is signed.

If the court approves the request, the copy of the order must include the last two pages of form JV-220(A) or the last two pages of JV-220(B) and all medication information sheets (medication monographs) that were attached to form JV-220(A) or form JV-220(B).

If the child resides in a group home or short-term residential therapeutic program, a copy of the order, the last two pages of form JV-220(A) or the last two pages of JV-220(B), and all medication information sheets (medication monographs) that were attached to the JV-220(A) or form JV-220(B) must be provided to the facility administrator, as defined in California Code of Regulations, title 22, section 84064, or to the administrator's designee.

If the child changes placement, the social worker or probation officer must provide the new caregiver with a copy of the order, the last two pages of form JV-220(A) or the last two pages of JV-220(B), and the medication information sheets (medication monographs) that were attached to form JV-220(A) or form JV-220(B).

Health and Education Passport: Although there is no statutory definition of "health and education passport" in California, WIC Section 16010, contains a listing of records that must be included in the case file which is required to be provided to the foster caregiver.

Current law requires, whenever a child is placed in foster care, a case plan for each child to include a summary of the health and education information or records of the child. The summary includes, but is not limited to, mental health information, contact information for health and dental providers, the child's school record, the child's grade level performance, current medications of the child, and any known medical problems, among others. As it relates to education, current law allows for the information for the educational liaison of the child's local educational agency to be included in the summary.

State statute requires that, within 30 days after initial placement of a child into the child welfare system, a caregiver must be provided with the current health and education summary; for each subsequent placement of a child or nonminor, the caregiver must be provided with the summary within 48 hours of placement. While a caregiver does not currently have access to certain educational information, current law does require the caregiver to obtain and maintain accurate information from the child's doctors and teachers to be included in the summary. Finally, current law requires, at the initial hearing, the court to direct each parent to provide complete medical, dental, mental health, and educational information, as well as medical background of the child and of the child's mother and biological father.

In 2015, the California State Auditor found that HEPs (one format of the health and education summary) often contained inaccurate and incomplete information – specifically, inaccurate start dates for psychotropic medications. Many of the passports examined did not identify all the psychotropic medications authorized by the court and failed to note the corresponding psychosocial services that should have been administered to the youth in conjunction with medication. The audit found that the errors and omissions in the passport appeared to be caused in large part by a lack of county staff to enter foster children's information into the data system. Without accurate information, according to the audit, caretakers, health care providers, social workers, and others may make decisions that are not in the best interest of a child.

Need for this bill: As a result of the placement changes that many foster youth experience, they can often find themselves receiving inconsistent health care. When foster youth are moved from one home to another, rarely are they bringing with them accurate information about what

illnesses they have had, what medications they have taken or are taking, and what progress they have made in school. This lack of information makes it difficult - nearly impossible, for the new caregiver and new medical provider to provide consistent care.

The provisions of this bill seek to ensure that a foster youth's medical provider has access to all relevant medical and psychiatric history, including information contained on the JV-220 form by including it in the list of forms required to be in the HEP.

Current statute is clear that the child protective agency is required to provide the foster youth's caregiver with the current health and education summary as soon as possible, but not later than 30 days after initial placement of a child into foster care. Additionally, for each subsequent placement, the child protective agency is required to provide the summary within 48 hours of the placement. However, the sponsor of the bill, the California Academy of Adolescent Psychiatry, has reported instances in which their providers, upon meeting with foster youth for the first time, do not have access to their HEP, which greatly limits the ability for the physician to refill medications or prescribe new ones. The sponsors report that not having access to these records is a regular occurrence.

In a recent survey of California Academy of Child and Adolescent Psychiatry members treating foster youth, 44% reported access to a foster youth's JV-220 less than 10% of the time, and 28% reported never having had access to the report prior to an appointment. The survey continues with 40% of these members reporting lack of access to the HEP less than 10% of the time and 40% report never having had access to the HEP while 30% reported access to the CWS worker less than 10% of the time, and 28% reported never having had access to the child's social worker.

According to the author, "Foster youth, some of our most vulnerable children, frequently change the health providers they see or the foster families they live with, for reasons beyond their control. Oftentimes, their changing lives lead to a loss of critical health records, such as the prescription of antidepressants, mood stabilizers, antipsychotics, and other psychotropic medications. SB 528 will update existing law by ensuring that the foster youth's case plan specifically include any JV-220 forms so that medical providers have an accurate picture of their health history."

Staff comments: This bill adds the requirement for "any JV-220 forms" to be included within the HEP, however, this could inadvertently lead to more confidential information being shared with the caregiver than is currently identified in existing law. Therefore, should this bill move forward, the author may wish to consider specifying the type of information on the JV-220 that is appropriate to be included in the HEP.

Recommended amendments: In order to ensure clarity related to the documentation required to be included in the HEP, committee staff recommends the following amendments:

On page 4 of the bill, beginning on line 15, strike "including any JV-220 forms" and insert "the court order approving or denying an application for psychotropic medication (JV-220), the last two pages of form JV-220(A) or the last two pages of JV-220(B), and all medication information sheets that were attached to form JV-220(A) or form JV-220(B), which are all referenced in California Rules of Court, rule 5.640;"

Double referral: This bill will be referred to the Assembly Health Committee should it pass out of this committee.

PRIOR AND RELATED BILLS:

SB 238 (Mitchell), Chapter 534, Statutes of 2015, required certification and training programs for foster parents, child welfare social workers, group home administrators, public health nurses, dependency court judges and court appointed council to include training on psychotropic medication, trauma, and behavioral health, as specified, for children receiving child welfare services. SB 238 also required Judicial Council to amend and adopt rules of court and develop appropriate forms pertaining to the authorization of psychotropic medication for foster youth.

SB 319 (Beall), Chapter 535, Statutes of 2015, expanded the duties of the foster care public health nurse to include monitoring and oversight of the administration of psychotropic medication to foster children, as specified.

SB 543 (Bowen), Chapter 552, Statutes of 1999, mandated that once a child has been adjudged a dependent of the state, only the court may authorize psychotropic medications for the child, based on a request from a physician that includes specified information. In accordance with this statute, the Administrative Office of the Courts established a series of court documents generally referred to as the "JV-220," which includes a statement completed and signed by the prescribing physician that includes the child's diagnosis, relevant medical history, other therapeutic services, the medication to be administered, and the basis for the recommendation.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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