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UNFINISHED BUSINESS

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Bill No: SB 528  
Author: Jones (R)  
Amended: 8/25/22  
Vote: 21

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SENATE HUMAN SERVICES COMMITTEE: 4-0, 3/9/21  
AYES: Hurtado, Jones, Cortese, Pan

SENATE HEALTH COMMITTEE: 11-0, 4/28/21  
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth,  
Rubio, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21  
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 37-1, 6/2/21  
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero,  
Cortese, Dahle, Dodd, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso,  
Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman,  
Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg,  
Wieckowski, Wiener, Wilk

NOES: Durazo

NO VOTE RECORDED: Melendez, Nielsen

ASSEMBLY FLOOR: 79-0, 8/29/22 - See last page for vote

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**SUBJECT:** Juveniles: medication documentation

**SOURCE:** California Academy of Child and Adolescent Psychiatry

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**DIGEST:** This bill clarifies that upon approval by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, the copy of the order provided to the foster youth's care giver is

required to include the last two pages of the form JV-220(A) or the last two pages of form JV-220(B) and all medication information sheets that were attached to either of those forms, as referenced in Rule 5.640 of the California Rules of Court. Additionally, this bill further clarifies that if the child changes placement, their social worker or probation officer is required to provide the new caregiver with these same documents, as provided.

*Assembly Amendments* remove various provisions of this bill as introduced, which would have previously required the California Department of Social Services to create an electronic health care portal, through which health care providers would have been able to access the health information included in the foster child's health and education summary and JV-220 forms, as provided. Prior versions of this bill, as heard in the Senate, would also have required foster children and youth, their caregivers, and their health care providers to receive information on how to request medical records and information, including the information contained in JV-220 form (A) and form (B) and their respective attachments.

#### **ANALYSIS:**

Existing law:

- 1) Establishes a state and local system of child welfare services, including foster care, for children who have been judged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (*WIC 202*)
- 2) Specifies that only a juvenile court judicial officer has the authority to make orders regarding the administration of psychotropic medications for dependents or wards of the court, and permits the judicial officer to delegate that authority to a parent upon certain findings. (*WIC 369.5(a)*)
- 3) Requires court authorization for the administration of psychotropic medication to be based on a request from a physician that indicates the reason for the request, provides a description of the minor's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. (*WIC 369.5(a)(1)*)
- 4) Requires the Judicial Council to amend and adopt rules of court to develop appropriate rules and forms for the administration of authorizing requests for psychotropic medication, including providing an opportunity for a minor's caregiver and court appointed special advocate, if any, to provide input on the medications being prescribed. (*WIC 369.5(a)(2)*)

- 5) Requires the California Department of Social Services (DSS), 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. Additionally requires DSS to develop training, in consultation with 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*)
- 6) Requires a foster youth's case plan to include a summary of the health and education information or records, including mental health records. Provides for this summary to be maintained in the form of a health and education passport, or comparable format designed by the child protective agency, and further requires it include specified information. (*WIC 16010*)
- 7) Restricts who may inspect a foster child or youth's case file to those listed in statute, which includes members of the children's multidisciplinary teams, and persons, or agencies providing treatment or supervision of the minor. (*WIC 827*)
- 8) Requires DSS to establish and maintain a program of public health nursing in the child welfare services program to promote and enhance the physical, mental, dental, and developmental well-being of children in the child welfare system. Requires counties to use the services of a foster care public health nurse, and requires the foster care public health nurse to coordinate health care services and serve as a liaison with health care professionals and other providers of health related services. Requires the duties of the foster care public health nurse to include collecting health information and other relevant data on each foster child as available, and expediting referrals to providers in the community. (*WIC 16501.3*)

This bill:

- 1) Requires, if the court approves the request, a copy of the order through which the court authorizes the administration of psychotropic medication to a foster child, including the last two pages of a JV-220 form (A) or form (B), and all medical information sheets attached to that form as referenced in Rule 5.640 of the California Rules of Court, to be provided to the child's caregiver by the child's social worker or probation officer.
- 2) Requires the child's social worker or probation officer to provide each new caregiver with a copy of the order, including the information described in 1)

above, when a child changes placement after the court has approved a request for authorization for the administration of psychotropic medication to the child.

## Comments

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 clarify existing law by ensuring that the foster youth's caregiver is provided with important court documents upon approval to take psychotropic medications so that medical providers have an accurate picture of their current and past health history.”

*Child Welfare Services (CWS)*. California's child welfare services (CWS) system is an essential component of the state's safety net. Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county's juvenile dependency court. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. As of October 1, 2021, there were 58,072 children in California's CWS system.

*Psychotropic Medications and Foster Youth*. California has been passing legislation in response to concerns over the excessive prescription of psychotropic medication to foster children and youth since 1999. Despite these early efforts, concerns remained that foster youth were disproportionately prescribed psychotropic medications. These concerns were highlighted and publicized by a series of stories published in the San Jose Mercury News, beginning in 2014, and the Los Angeles Times, beginning in 2015. This investigative series, entitled “Drugging our Children,” highlighted growing concerns that psychotropic medications were being relied on by California's child welfare and children's mental health systems as a means of controlling, instead of treating, youth who suffer from trauma-related behavioral health challenges.

This media series and other efforts by stakeholders led to the introduction and passage of SB 238 (Mitchell, Chapter 534, Statutes of 2015), which required training on psychotropic medication, trauma, and behavioral health, as specified, for children receiving child welfare services to key components of the child welfare system, including resource families, public health nurses, and social workers. Also in 2015, SB 1174 (McGuire, Chapter 840, Statutes of 2015) was signed into law, requiring DHCS and DSS to provide the Medical Board of California (MBC) with information regarding Medi-Cal physicians and their

prescribing patterns of psychotropic medications to foster youth, and required the MBC to review the data provided to the board, as specified. As a result of these reforms, more is known about psychotropic prescribing rates and patterns in California and more attention is being paid to the psychotropic medications prescribed to foster children and youth.

*JV-220.* Judicial approval (JV-220) is mandated by the California 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 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).

This bill seeks to ensure a foster child or youth's caregivers have access to the information included in the child or youth's approved JV-220 forms by requiring their social worker or probation officer provide the last two pages of those forms, and attached medication info sheets, to the child or youth's caregiver.

### **Related/Prior Legislation**

SB 238 (Mitchell, Chapter 534, Statutes of 2015) required, among other things, the rules of court and forms to address specified concerns regarding authorizing psychotropic medications for dependents and wards of the court, including that guidance be provided to the court on how to evaluate the request for authorization.

AB 2502 (Keene, Chapter 329, Statutes of 2004) required a judicial officer to approve or deny, in writing, a request for authorization to administer psychotropic medication to a dependent of the court, or set the matter for hearing, within seven days.

SB 543 (Bowen, Chapter 552, Statutes of 1999) provided that only a juvenile court judicial officer has the authority to make orders regarding the administration of psychotropic medications for dependents of the court, as specified.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: No Local: No

As amended, this bill has been keyed non-fiscal by the Legislative Counsel.

**SUPPORT:** (Verified 8/29/22)

California Academy of Child and Adolescent Psychiatry (source)

**OPPOSITION:** (Verified 8/29/22)

None received

**ARGUMENTS IN SUPPORT:** The California Academy of Child and Adolescent Psychiatry writes:

“In 2015, the California State Auditor released a report regarding California’s Foster Care System and found that the state and counties failed to adequately oversee the prescription of psychotropic medications to children in the foster care system. Specifically, they found that many of the foster care youth’s Health and

Education Passports (HEP) did not identify all the psychotropic medications that the courts authorized, and none contained complete summaries of the psychosocial services that the foster children had received. Furthermore, CALACAP conducted a survey within our membership and found 40% of these members reported access to the HEP less than 10% of the time and 40% report never having access to the HEP when treating foster youth. When HEP contains inaccurate and incomplete health information, health care providers may not have the critical information they need to make sound health care decisions for these vulnerable children.

“SB 528 would create a universal electronic health care portal which would include the judicial authorization form for prescribing psychotropic medication (JV-220) and the HEP information allowing health care providers access to critical information in real time for any foster child. For these reasons, the California Academy of Child and Adolescent Psychiatry is pleased to SPONSOR AND SUPPORT SB 528. Thank you for authoring this important piece of legislation.

ASSEMBLY FLOOR: 79-0, 8/29/22

AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Irwin

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524  
8/29/22 23:45:21

\*\*\*\* END \*\*\*\*