

AMENDED IN SENATE APRIL 7, 2015

AMENDED IN SENATE MARCH 24, 2015

SENATE BILL

No. 238

Introduced by Senators Mitchell and Beall
(Coauthor: Assembly Member Chiu)

February 17, 2015

An act to amend Sections 1522.41 and 1529.2 of the Health and Safety Code, and to amend Sections 304.7, 317, 369.5, 16003, and 16206 of, and to add Section 16501.4 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 238, as amended, Mitchell. Foster care: psychotropic medication.

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. Existing law requires the Judicial Council to adopt rules of court and develop appropriate forms for the implementation of these provisions.

This bill would require the Judicial Council, on or before July 1, 2016, to, in consultation with the State Department of Social Services, the State Department of Health Care Services, and stakeholders, develop

updates to the implementation of these provisions with regard to dependent children and related forms. The bill would require the updates to ensure, among other things, that the child and his or her caregiver and court-appointed special advocate, if any, have ~~an~~ *a meaningful* opportunity to provide input on the medications being prescribed, and would require the updates to include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications. The bill would require the Judicial Council, on or before July 1, 2016, to adopt or amend rules of court and forms to implement the updates.

This bill would also require *the State Department of Social Services, in consultation with specified parties, to develop and provide a monthly report to each county child welfare services agency, and would require this report to include specified information regarding each child receiving services from the county child welfare services agency and for whom one or more psychotropic medications have been authorized, including, among others things, the psychotropic medications that have been authorized for the child. The bill would also require a county child welfare agency to provide, share, on a monthly basis, to with the juvenile court, the child's attorney, and the child's court-appointed special advocate, if one has been appointed, specified information regarding a* ~~an individual~~ child receiving child welfare services, including, among other things, the psychotropic medications that have been authorized for the child. The bill would require the State Department of Social Services, in consultation with specified parties, to develop, or ensure access to, a system that automatically alerts a child's social worker when psychotropic medication has been prescribed that fits certain descriptions, and would require the social worker to take specified actions upon receipt of an alert from that system. By imposing additional duties on social workers and county child welfare agencies, this bill would impose a state-mandated local program.

Existing law requires certain individuals involved in the care and oversight of dependent children, including group home administrators, foster parents, relative caregivers, nonrelative extended family member caregivers, social workers, judges, and attorneys, to receive training on various topics.

This bill would require the training to include training on the ~~authorization for administration~~, *authorization*, uses, risks, benefits, administration, oversight, and monitoring of psychotropic medications, and trauma, ~~mental~~ *behavioral* health, and other available ~~mental~~

behavioral health treatments, for those children. The bill would require the State Department of Social Services, in consultation with specified parties, to develop training that may be used for these purposes. By imposing additional training requirements on social workers, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1522.41 of the Health and Safety Code
2 is amended to read:
3 1522.41. (a) The director, in consultation and collaboration
4 with county placement officials, group home provider
5 organizations, the Director of Health Care Services, and the
6 Director of Developmental Services, shall develop and establish
7 a certification program to ensure that administrators of group home
8 facilities have appropriate training to provide the care and services
9 for which a license or certificate is issued.
10 (b) (1) In addition to any other requirements or qualifications
11 required by the department, an administrator of a group home
12 facility shall successfully complete a department-approved
13 certification program, pursuant to subdivision (c), prior to
14 employment. An administrator employed in a group home on the
15 effective date of this section shall meet the requirements of
16 paragraph (2) of subdivision (c).
17 (2) In those cases when the individual is both the licensee and
18 the administrator of a facility, the individual shall comply with all
19 of the licensee and administrator requirements of this section.
20 (3) Failure to comply with this section shall constitute cause for
21 revocation of the license of the facility.
22 (4) The licensee shall notify the department within 10 days of
23 any change in administrators.
24 (c) (1) The administrator certification programs shall require
25 a minimum of 40 hours of classroom instruction that provides

1 training on a uniform core of knowledge in each of the following
2 areas:

3 (A) Laws, regulations, and policies and procedural standards
4 that impact the operations of the type of facility for which the
5 applicant will be an administrator.

6 (B) Business operations.

7 (C) Management and supervision of staff.

8 (D) Psychosocial and educational needs of the facility residents,
9 including, but not limited to, the ~~authorization for administration,~~
10 ~~authorization~~, uses, risks, benefits, administration, oversight, and
11 monitoring of psychotropic medications, and trauma, ~~mental~~
12 ~~behavioral~~ health, and other available ~~mental behavioral~~ health
13 treatments, for children receiving child welfare ~~services.~~ *services,*
14 *including how to access those treatments.*

15 (E) Community and support services.

16 (F) Physical needs for facility residents.

17 (G) Administration, storage, misuse, and interaction of
18 medication used by facility residents.

19 (H) Resident admission, retention, and assessment procedures,
20 including the right of a foster child to have fair and equal access
21 to all available services, placement, care, treatment, and benefits,
22 and to not be subjected to discrimination or harassment on the
23 basis of actual or perceived race, ethnic group identification,
24 ancestry, national origin, color, religion, sex, sexual orientation,
25 gender identity, mental or physical disability, or HIV status.

26 (I) Instruction on cultural competency and sensitivity relating
27 to, and best practices for, providing adequate care to lesbian, gay,
28 bisexual, and transgender youth in out-of-home care.

29 (J) Nonviolent emergency intervention and reporting
30 requirements.

31 (K) Basic instruction on the existing laws and procedures
32 regarding the safety of foster youth at school and the ensuring of
33 a harassment- and violence-free school environment contained in
34 the School Safety and Violence Prevention Act (Article 3.6
35 (commencing with Section 32228) of Chapter 2 of Part 19 of
36 Division 1 of Title 1 of the Education Code).

37 (2) The department shall adopt separate program requirements
38 for initial certification for persons who are employed as group
39 home administrators on the effective date of this section. A person
40 employed as an administrator of a group home facility on the

1 effective date of this section shall obtain a certificate by completing
2 the training and testing requirements imposed by the department
3 within 12 months of the effective date of the regulations
4 implementing this section. After the effective date of this section,
5 these administrators shall meet the requirements imposed by the
6 department on all other group home administrators for certificate
7 renewal.

8 (3) Individuals applying for certification under this section shall
9 successfully complete an approved certification program, pass a
10 written test administered by the department within 60 days of
11 completing the program, and submit to the department the
12 documentation required by subdivision (d) within 30 days after
13 being notified of having passed the test. The department may
14 extend these time deadlines for good cause. The department shall
15 notify the applicant of his or her test results within 30 days of
16 administering the test.

17 (d) The department shall not begin the process of issuing a
18 certificate until receipt of all of the following:

19 (1) A certificate of completion of the administrator training
20 required pursuant to this chapter.

21 (2) The fee required for issuance of the certificate. A fee of one
22 hundred dollars (\$100) shall be charged by the department to cover
23 the costs of processing the application for certification.

24 (3) Documentation from the applicant that he or she has passed
25 the written test.

26 (4) Submission of fingerprints pursuant to Section 1522. The
27 department may waive the submission for those persons who have
28 a current clearance on file.

29 (5) That person is at least 21 years of age.

30 (e) It shall be unlawful for any person not certified under this
31 section to hold himself or herself out as a certified administrator
32 of a group home facility. Any person willfully making any false
33 representation as being a certified administrator or facility manager
34 is guilty of a misdemeanor.

35 (f) (1) Certificates issued under this section shall be renewed
36 every two years and renewal shall be conditional upon the
37 certificate holder submitting documentation of completion of 40
38 hours of continuing education related to the core of knowledge
39 specified in subdivision (c). No more than one-half of the required
40 40 hours of continuing education necessary to renew the certificate

1 may be satisfied through online courses. All other continuing
2 education hours shall be completed in a classroom setting. For
3 purposes of this section, an individual who is a group home facility
4 administrator and who is required to complete the continuing
5 education hours required by the regulations of the State Department
6 of Developmental Services, and approved by the regional center,
7 may have up to 24 of the required continuing education course
8 hours credited toward the 40-hour continuing education
9 requirement of this section. Community college course hours
10 approved by the regional centers shall be accepted by the
11 department for certification.

12 (2) Every administrator of a group home facility shall complete
13 the continuing education requirements of this subdivision.

14 (3) Certificates issued under this section shall expire every two
15 years on the anniversary date of the initial issuance of the
16 certificate, except that any administrator receiving his or her initial
17 certification on or after July 1, 1999, shall make an irrevocable
18 election to have his or her recertification date for any subsequent
19 recertification either on the date two years from the date of issuance
20 of the certificate or on the individual's birthday during the second
21 calendar year following certification. The department shall send
22 a renewal notice to the certificate holder 90 days prior to the
23 expiration date of the certificate. If the certificate is not renewed
24 prior to its expiration date, reinstatement shall only be permitted
25 after the certificate holder has paid a delinquency fee equal to three
26 times the renewal fee and has provided evidence of completion of
27 the continuing education required.

28 (4) To renew a certificate, the certificate holder shall, on or
29 before the certificate expiration date, request renewal by submitting
30 to the department documentation of completion of the required
31 continuing education courses and pay the renewal fee of one
32 hundred dollars (\$100), irrespective of receipt of the department's
33 notification of the renewal. A renewal request postmarked on or
34 before the expiration of the certificate shall be proof of compliance
35 with this paragraph.

36 (5) A suspended or revoked certificate shall be subject to
37 expiration as provided for in this section. If reinstatement of the
38 certificate is approved by the department, the certificate holder,
39 as a condition precedent to reinstatement, shall submit proof of
40 compliance with paragraphs (1) and (2) of subdivision (f), and

1 shall pay a fee in an amount equal to the renewal fee, plus the
2 delinquency fee, if any, accrued at the time of its revocation or
3 suspension. Delinquency fees, if any, accrued subsequent to the
4 time of its revocation or suspension and prior to an order for
5 reinstatement, shall be waived for a period of 12 months to allow
6 the individual sufficient time to complete the required continuing
7 education units and to submit the required documentation.
8 Individuals whose certificates will expire within 90 days after the
9 order for reinstatement may be granted a three-month extension
10 to renew their certificates during which time the delinquency fees
11 shall not accrue.

12 (6) A certificate that is not renewed within four years after its
13 expiration shall not be renewed, restored, reissued, or reinstated
14 except upon completion of a certification training program, passing
15 any test that may be required of an applicant for a new certificate
16 at that time, and paying the appropriate fees provided for in this
17 section.

18 (7) A fee of twenty-five dollars (\$25) shall be charged for the
19 reissuance of a lost certificate.

20 (8) A certificate holder shall inform the department of his or
21 her employment status and change of mailing address within 30
22 days of any change.

23 (g) Unless otherwise ordered by the department, the certificate
24 shall be considered forfeited under either of the following
25 conditions:

26 (1) The department has revoked any license held by the
27 administrator after the department issued the certificate.

28 (2) The department has issued an exclusion order against the
29 administrator pursuant to Section 1558, 1568.092, 1569.58, or
30 1596.8897, after the department issued the certificate, and the
31 administrator did not appeal the exclusion order or, after the appeal,
32 the department issued a decision and order that upheld the
33 exclusion order.

34 (h) (1) The department, in consultation and collaboration with
35 county placement officials, provider organizations, the State
36 Department of Health Care Services, and the State Department of
37 Developmental Services, shall establish, by regulation, the program
38 content, the testing instrument, the process for approving
39 certification training programs, and criteria to be used in
40 authorizing individuals, organizations, or educational institutions

1 to conduct certification training programs and continuing education
2 courses. The department may also grant continuing education hours
3 for continuing courses offered by accredited educational institutions
4 that are consistent with the requirements in this section. The
5 department may deny vendor approval to any agency or person in
6 any of the following circumstances:

7 (A) The applicant has not provided the department with evidence
8 satisfactory to the department of the ability of the applicant to
9 satisfy the requirements of vendorization set out in the regulations
10 adopted by the department pursuant to subdivision (j).

11 (B) The applicant person or agency has a conflict of interest in
12 that the person or agency places its clients in group home facilities.

13 (C) The applicant public or private agency has a conflict of
14 interest in that the agency is mandated to place clients in group
15 homes and to pay directly for the services. The department may
16 deny vendorization to this type of agency only as long as there are
17 other vendor programs available to conduct the certification
18 training programs and conduct education courses.

19 (2) The department may authorize vendors to conduct the
20 administrator's certification training program pursuant to this
21 section. The department shall conduct the written test pursuant to
22 regulations adopted by the department.

23 (3) The department shall prepare and maintain an updated list
24 of approved training vendors.

25 (4) The department may inspect certification training programs
26 and continuing education courses, including online courses, at no
27 charge to the department, to determine if content and teaching
28 methods comply with regulations. If the department determines
29 that any vendor is not complying with the requirements of this
30 section, the department shall take appropriate action to bring the
31 program into compliance, which may include removing the vendor
32 from the approved list.

33 (5) The department shall establish reasonable procedures and
34 timeframes not to exceed 30 days for the approval of vendor
35 training programs.

36 (6) The department may charge a reasonable fee, not to exceed
37 one hundred fifty dollars (\$150) every two years, to certification
38 program vendors for review and approval of the initial 40-hour
39 training program pursuant to subdivision (c). The department may
40 also charge the vendor a fee, not to exceed one hundred dollars

1 (\$100) every two years, for the review and approval of the
2 continuing education courses needed for recertification pursuant
3 to this subdivision.

4 (7) (A) A vendor of online programs for continuing education
5 shall ensure that each online course contains all of the following:

6 (i) An interactive portion in which the participant receives
7 feedback, through online communication, based on input from the
8 participant.

9 (ii) Required use of a personal identification number or personal
10 identification information to confirm the identity of the participant.

11 (iii) A final screen displaying a printable statement, to be signed
12 by the participant, certifying that the identified participant
13 completed the course. The vendor shall obtain a copy of the final
14 screen statement with the original signature of the participant prior
15 to the issuance of a certificate of completion. The signed statement
16 of completion shall be maintained by the vendor for a period of
17 three years and be available to the department upon demand. Any
18 person who certifies as true any material matter pursuant to this
19 clause that he or she knows to be false is guilty of a misdemeanor.

20 (B) Nothing in this subdivision shall prohibit the department
21 from approving online programs for continuing education that do
22 not meet the requirements of subparagraph (A) if the vendor
23 demonstrates to the department's satisfaction that, through
24 advanced technology, the course and the course delivery meet the
25 requirements of this section.

26 (i) The department shall establish a registry for holders of
27 certificates that shall include, at a minimum, information on
28 employment status and criminal record clearance.

29 (j) Subdivisions (b) to (i), inclusive, shall be implemented upon
30 regulations being adopted by the department, by January 1, 2000.

31 (k) Notwithstanding any law to the contrary, vendors approved
32 by the department who exclusively provide either initial or
33 continuing education courses for certification of administrators of
34 a group home facility as defined by regulations of the department,
35 an adult residential facility as defined by regulations of the
36 department, or a residential care facility for the elderly as defined
37 in subdivision (k) of Section 1569.2, shall be regulated solely by
38 the department pursuant to this chapter. No other state or local
39 governmental entity shall be responsible for regulating the activity
40 of those vendors.

SEC. 2. Section 1529.2 of the Health and Safety Code is amended to read:

1529.2. (a) In addition to the foster parent training provided by community colleges, foster family agencies shall provide a program of training for their certified foster families.

(b) (1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of eight hours of foster parent training annually, as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.

(2) (A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:

- (i) Lack of access to training due to the cost or travel required.
- (ii) Family emergency.

(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.

(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:

- (A) An overview of the child protective system.
- (B) The effects of child abuse and neglect on child development.
- (C) Positive discipline and the importance of self-esteem.
- (D) Health issues in foster care, including, but not limited to,

~~the authorization for administration,~~ *authorization*, uses, risks, benefits, administration, oversight, and monitoring of psychotropic medications, and trauma, ~~mental behavioral health~~, and other available ~~mental behavioral health treatments~~, for children receiving child welfare ~~services~~. *services, including how to access those treatments.*

(E) Accessing education and health services available to foster children.

1 (F) The right of a foster child to have fair and equal access to
2 all available services, placement, care, treatment, and benefits, and
3 to not be subjected to discrimination or harassment on the basis
4 of actual or perceived race, ethnic group identification, ancestry,
5 national origin, color, religion, sex, sexual orientation, gender
6 identity, mental or physical disability, or HIV status.

7 (G) Instruction on cultural competency and sensitivity relating
8 to, and best practices for, providing adequate care to lesbian, gay,
9 bisexual, and transgender youth in out-of-home care.

10 (H) Basic instruction on the existing laws and procedures
11 regarding the safety of foster youth at school and the ensuring of
12 a harassment and violence free school environment contained in
13 the California Student Safety and Violence Prevention Act of 2000
14 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
15 Part 19 of Division 1 of Title 1 of the Education Code).

16 (4) The postplacement annual training shall include, but not be
17 limited to, training courses that cover all of the following:

18 (A) Age-appropriate child development.

19 (B) Health issues in foster care, including, but not limited to,
20 ~~the authorization for administration;~~ *authorization*, uses, risks,
21 benefits, administration, oversight, and monitoring of psychotropic
22 medications, and trauma, ~~mental behavioral~~ *behavioral* health, and other
23 available ~~mental behavioral~~ *behavioral* health treatments, for children
24 receiving child welfare ~~services.~~ *services, including how to access*
25 *those treatments.*

26 (C) Positive discipline and the importance of self-esteem.

27 (D) Emancipation and independent living skills if a foster parent
28 is caring for youth.

29 (E) The right of a foster child to have fair and equal access to
30 all available services, placement, care, treatment, and benefits, and
31 to not be subjected to discrimination or harassment on the basis
32 of actual or perceived race, ethnic group identification, ancestry,
33 national origin, color, religion, sex, sexual orientation, gender
34 identity, mental or physical disability, or HIV status.

35 (F) Instruction on cultural competency and sensitivity relating
36 to, and best practices for, providing adequate care to lesbian, gay,
37 bisexual, and transgender youth in out-of-home care.

38 (5) Foster parent training may be attained through a variety of
39 sources, including community colleges, counties, hospitals, foster

1 parent associations, the California State Foster Parent Association's
2 Conference, adult schools, and certified foster parent instructors.

3 (6) A candidate for placement of foster children shall submit a
4 certificate of training to document completion of the training
5 requirements. The certificate shall be submitted with the initial
6 consideration for placements and provided at the time of the annual
7 visit by the licensing agency thereafter.

8 (c) Nothing in this section shall preclude a county from requiring
9 county-provided preplacement or postplacement foster parent
10 training in excess of the requirements in this section.

11 SEC. 3. Section 304.7 of the Welfare and Institutions Code is
12 amended to read:

13 304.7. (a) The Judicial Council shall develop and implement
14 standards for the education and training of all judges who conduct
15 hearings pursuant to Section 300. The training shall include, but
16 not be limited to, all of the following:

17 (1) A component relating to Section 300 proceedings for newly
18 appointed or elected judges and an annual training session in
19 Section 300 proceedings.

20 (2) Cultural competency and sensitivity relating to, and best
21 practices for, providing adequate care to lesbian, gay, bisexual,
22 and transgender youth.

23 (3) ~~The authorization for administration, authorization, uses,~~
24 ~~risks, benefits, administration, oversight, and monitoring of~~
25 ~~psychotropic medications, and trauma, mental behavioral health,~~
26 ~~and other available mental behavioral health treatments, for~~
27 ~~children receiving child welfare services. services, including how~~
28 ~~to access those treatments.~~

29 (b) A commissioner or referee who is assigned to conduct
30 hearings held pursuant to Section 300 shall meet the minimum
31 standards for education and training established pursuant to
32 subdivision (a), by July 31, 1998.

33 (c) The Judicial Council shall submit an annual report to the
34 Legislature on compliance by judges, commissioners, and referees
35 with the education and training standards described in subdivisions
36 (a) and (b).

37 SEC. 4. Section 317 of the Welfare and Institutions Code is
38 amended to read:

39 317. (a) (1) When it appears to the court that a parent or
40 guardian of the child desires counsel but is presently financially

1 unable to afford and cannot for that reason employ counsel, the
2 court may appoint counsel as provided in this section.

3 (2) When it appears to the court that a parent or Indian custodian
4 in an Indian child custody proceeding desires counsel but is
5 presently unable to afford and cannot for that reason employ
6 counsel, the provisions of Section 1912(b) of Title 25 of the United
7 States Code and Section 23.13 of Title 25 of the Code of Federal
8 Regulations shall apply.

9 (b) When it appears to the court that a parent or guardian of the
10 child is presently financially unable to afford and cannot for that
11 reason employ counsel, and the child has been placed in
12 out-of-home care, or the petitioning agency is recommending that
13 the child be placed in out-of-home care, the court shall appoint
14 counsel for the parent or guardian, unless the court finds that the
15 parent or guardian has made a knowing and intelligent waiver of
16 counsel as provided in this section.

17 (c) (1) If a child or nonminor dependent is not represented by
18 counsel, the court shall appoint counsel for the child or nonminor
19 dependent, unless the court finds that the child or nonminor
20 dependent would not benefit from the appointment of counsel. The
21 court shall state on the record its reasons for that finding.

22 (2) A primary responsibility of counsel appointed to represent
23 a child or nonminor dependent pursuant to this section shall be to
24 advocate for the protection, safety, and physical and emotional
25 well-being of the child or nonminor dependent.

26 (3) Counsel may be a district attorney, public defender, or other
27 member of the bar, provided that he or she does not represent
28 another party or county agency whose interests conflict with the
29 child's or nonminor dependent's interests. The fact that the district
30 attorney represents the child or nonminor dependent in a
31 proceeding pursuant to Section 300 as well as conducts a criminal
32 investigation or files a criminal complaint or information arising
33 from the same or reasonably related set of facts as the proceeding
34 pursuant to Section 300 is not in and of itself a conflict of interest.

35 (4) The court may fix the compensation for the services of
36 appointed counsel.

37 (5) (A) The appointed counsel shall have a caseload and training
38 that ensures adequate representation of the child or nonminor
39 dependent. The Judicial Council shall promulgate rules of court
40 that establish caseload standards, training requirements, and

1 guidelines for appointed counsel for children and shall adopt rules
2 as required by Section 326.5 no later than July 1, 2001.

3 (B) The training requirements imposed pursuant to subparagraph
4 (A) shall include instruction on both of the following:

5 (i) Cultural competency and sensitivity relating to, and best
6 practices for, providing adequate care to lesbian, gay, bisexual,
7 and transgender youth in out-of-home care.

8 (ii) ~~The authorization for administration,~~ *authorization*, uses,
9 risks, benefits, administration, oversight, and monitoring of
10 psychotropic medications, and trauma, ~~mental behavioral health,~~
11 and other available ~~mental behavioral health treatments,~~ *services, including how*
12 *to access those treatments.*
13

14 (d) Counsel shall represent the parent, guardian, child, or
15 nonminor dependent at the detention hearing and at all subsequent
16 proceedings before the juvenile court. Counsel shall continue to
17 represent the parent, guardian, child, or nonminor dependent unless
18 relieved by the court upon the substitution of other counsel or for
19 cause. The representation shall include representing the parent,
20 guardian, or the child in termination proceedings and in those
21 proceedings relating to the institution or setting aside of a legal
22 guardianship. On and after January 1, 2012, in the case of a
23 nonminor dependent, as described in subdivision (v) of Section
24 11400, no representation by counsel shall be provided for a parent,
25 unless the parent is receiving court-ordered family reunification
26 services.

27 (e) (1) Counsel shall be charged in general with the
28 representation of the child's interests. To that end, counsel shall
29 make or cause to have made any further investigations that he or
30 she deems in good faith to be reasonably necessary to ascertain
31 the facts, including the interviewing of witnesses, and shall
32 examine and cross-examine witnesses in both the adjudicatory and
33 dispositional hearings. Counsel may also introduce and examine
34 his or her own witnesses, make recommendations to the court
35 concerning the child's welfare, and participate further in the
36 proceedings to the degree necessary to adequately represent the
37 child. When counsel is appointed to represent a nonminor
38 dependent, counsel is charged with representing the wishes of the
39 nonminor dependent except when advocating for those wishes
40 conflicts with the protection or safety of the nonminor dependent.

1 If the court finds that a nonminor dependent is not competent to
2 direct counsel, the court shall appoint a guardian ad litem for the
3 nonminor dependent.

4 (2) If the child is four years of age or older, counsel shall
5 interview the child to determine the child's wishes and assess the
6 child's well-being, and shall advise the court of the child's wishes.
7 Counsel shall not advocate for the return of the child if, to the best
8 of his or her knowledge, return of the child conflicts with the
9 protection and safety of the child.

10 (3) Counsel shall investigate the interests of the child beyond
11 the scope of the juvenile proceeding, and report to the court other
12 interests of the child that may need to be protected by the institution
13 of other administrative or judicial proceedings. Counsel
14 representing a child in a dependency proceeding is not required to
15 assume the responsibilities of a social worker, and is not expected
16 to provide nonlegal services to the child.

17 (4) (A) At least once every year, if the list of educational
18 liaisons is available on the Internet Web site for the State
19 Department of Education, both of the following shall apply:

20 (i) Counsel shall provide his or her contact information to the
21 educational liaison, as described in subdivision (b) of Section
22 48853.5 of the Education Code, of each local educational agency
23 serving counsel's foster child clients in the county of jurisdiction.

24 (ii) If counsel is part of a firm or organization representing foster
25 children, the firm or organization may provide its contact
26 information in lieu of contact information for the individual
27 counsel. The firm or organization may designate a person or
28 persons within the firm or organization to receive communications
29 from educational liaisons.

30 (B) The child's caregiver or other person holding the right to
31 make educational decisions for the child may provide the contact
32 information of the child's attorney to the child's local educational
33 agency.

34 (C) Counsel for the child and counsel's agent may, but are not
35 required to, disclose to an individual who is being assessed for the
36 possibility of placement pursuant to Section 361.3 the fact that the
37 child is in custody, the alleged reasons that the child is in custody,
38 and the projected likely date for the child's return home, placement
39 for adoption, or legal guardianship. Nothing in this paragraph shall

1 be construed to prohibit counsel from making other disclosures
2 pursuant to this subdivision, as appropriate.

3 (5) Nothing in this subdivision shall be construed to permit
4 counsel to violate a child's attorney-client privilege.

5 (6) The changes made to this subdivision during the 2011–12
6 Regular Session of the Legislature by the act adding subparagraph
7 (C) of paragraph (4) and paragraph (5) are declaratory of existing
8 law.

9 (7) The court shall take whatever appropriate action is necessary
10 to fully protect the interests of the child.

11 (f) Either the child or counsel for the child, with the informed
12 consent of the child if the child is found by the court to be of
13 sufficient age and maturity to consent, which shall be presumed,
14 subject to rebuttal by clear and convincing evidence, if the child
15 is over 12 years of age, may invoke the psychotherapist-client
16 privilege, physician-patient privilege, and clergyman-penitent
17 privilege. If the child invokes the privilege, counsel may not waive
18 it, but if counsel invokes the privilege, the child may waive it.
19 Counsel shall be the holder of these privileges if the child is found
20 by the court not to be of sufficient age and maturity to consent.
21 For the sole purpose of fulfilling his or her obligation to provide
22 legal representation of the child, counsel shall have access to all
23 records with regard to the child maintained by a health care facility,
24 as defined in Section 1545 of the Penal Code, health care providers,
25 as defined in Section 6146 of the Business and Professions Code,
26 a physician and surgeon or other health practitioner, as defined in
27 former Section 11165.8 of the Penal Code, as that section read on
28 January 1, 2000, or a child care custodian, as defined in former
29 Section 11165.7 of the Penal Code, as that section read on January
30 1, 2000. Notwithstanding any other law, counsel shall be given
31 access to all records relevant to the case that are maintained by
32 state or local public agencies. All information requested from a
33 child protective agency regarding a child who is in protective
34 custody, or from a child's guardian ad litem, shall be provided to
35 the child's counsel within 30 days of the request.

36 (g) In a county of the third class, if counsel is to be provided to
37 a child at the county's expense other than by counsel for the
38 agency, the court shall first use the services of the public defender
39 before appointing private counsel. Nothing in this subdivision shall
40 be construed to require the appointment of the public defender in

1 any case in which the public defender has a conflict of interest. In
2 the interest of justice, a court may depart from that portion of the
3 procedure requiring appointment of the public defender after
4 making a finding of good cause and stating the reasons therefor
5 on the record.

6 (h) In a county of the third class, if counsel is to be appointed
7 to provide legal counsel for a parent or guardian at the county's
8 expense, the court shall first use the services of the alternate public
9 defender before appointing private counsel. Nothing in this
10 subdivision shall be construed to require the appointment of the
11 alternate public defender in any case in which the public defender
12 has a conflict of interest. In the interest of justice, a court may
13 depart from that portion of the procedure requiring appointment
14 of the alternate public defender after making a finding of good
15 cause and stating the reasons therefor on the record.

16 SEC. 5. Section 369.5 of the Welfare and Institutions Code is
17 amended to read:

18 369.5. (a) (1) If a child is adjudged a dependent child of the
19 court under Section 300 and the child has been removed from the
20 physical custody of the parent under Section 361, only a juvenile
21 court judicial officer shall have authority to make orders regarding
22 the administration of psychotropic medications for that child. The
23 juvenile court may issue a specific order delegating this authority
24 to a parent upon making findings on the record that the parent
25 poses no danger to the child and has the capacity to authorize
26 psychotropic medications. Court authorization for the
27 administration of psychotropic medication shall be based on a
28 request from a physician, indicating the reasons for the request, a
29 description of the child's diagnosis and behavior, the expected
30 results of the medication, and a description of any side effects of
31 the medication.

32 (2) (A) On or before July 1, 2016, the Judicial Council shall,
33 in consultation with the State Department of Social Services, the
34 State Department of Health Care Services, and stakeholders,
35 including, but not limited to, the County Welfare Directors
36 Association, associations representing current and former foster
37 children, county behavioral health departments, caregivers, and
38 children's attorneys, develop updates to the implementation of this
39 section and related forms.

1 (B) The implementation updates developed pursuant to
2 subparagraph (A) shall ensure all of the following:

3 (i) The child and his or her caregiver and court-appointed special
4 advocate, if any, have ~~an~~ *a meaningful* opportunity to provide input
5 on the medications being prescribed.

6 (ii) Information regarding the child's overall ~~mental~~ *behavioral*
7 health assessment and treatment plan is provided to the court.

8 (iii) Information regarding the rationale for the proposed
9 medication, provided in the context of past and current treatment
10 efforts, is provided to the court. *This information shall include,*
11 *but not be limited to, information on other pharmacological and*
12 *non-pharmacological treatments that have been utilized and the*
13 *child's response to those treatments, a discussion of symptoms not*
14 *alleviated or ameliorated by other current or past treatment efforts,*
15 *and an explanation of how the psychotropic medication being*
16 *prescribed is expected to improve the child's symptoms.*

17 (iv) *Guidance is provided to the court on how to evaluate the*
18 *request for authorization, including how to proceed if information,*
19 *otherwise required to be included in a request for authorization*
20 *under this section, is not included in a request for authorization*
21 *submitted to the court.*

22 (C) The implementation updates developed pursuant to
23 subparagraph (A) shall include a process for periodic oversight by
24 the court of orders regarding the administration of psychotropic
25 medications that includes the caregiver's and child's observations
26 relating to the effectiveness of the medication and side effects,
27 information on medication management appointments and other
28 follow-up appointments with medical practitioners, and information
29 on the delivery of other ~~mental~~ *behavioral* health treatments that
30 are a part of the child's overall treatment plan. The periodic
31 oversight shall be facilitated by the county social worker, public
32 health nurse, or other appropriate county staff. This oversight
33 process may be conducted in conjunction with other court hearings
34 and reports provided to the court by the county child welfare
35 agency.

36 (D) On or before July 1, 2016, the Judicial Council shall adopt
37 or amend rules of court and forms to implement the updates
38 developed pursuant to this paragraph.

39 (b) (1) In counties in which the county child welfare agency
40 completes the request for authorization for the administration of

1 psychotropic medication, the agency is encouraged to complete
2 the request within three business days of receipt from the physician
3 of the information necessary to fully complete the request.

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

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

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

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

24 (f) This section does not apply to nonminor dependents, as
25 defined in subdivision (v) of Section 11400.

26 SEC. 6. Section 16003 of the Welfare and Institutions Code is
27 amended to read:

28 16003. (a) In order to promote the successful implementation
29 of the statutory preference for foster care placement with a relative
30 caretaker as set forth in Section 7950 of the Family Code, each
31 community college district with a foster care education program
32 shall make available orientation and training to the relative or
33 nonrelative extended family member caregiver into whose care
34 the county has placed a foster child pursuant to Section 1529.2 of
35 the Health and Safety Code, including, but not limited to, courses
36 that cover the following:

37 (1) The role, rights, and responsibilities of a relative or
38 nonrelative extended family member caregiver caring for a child
39 in foster care, including the right of a foster child to have fair and
40 equal access to all available services, placement, care, treatment,

1 and benefits, and to not be subjected to discrimination or
2 harassment on the basis of actual or perceived race, ethnic group
3 identification, ancestry, national origin, color, religion, sex, sexual
4 orientation, gender identity, mental or physical disability, or HIV
5 status.

6 (2) An overview of the child protective system.

7 (3) The effects of child abuse and neglect on child development.

8 (4) Positive discipline and the importance of self-esteem.

9 (5) Health issues in foster care, including, but not limited to,
10 ~~the authorization for administration,~~ *authorization*, uses, risks,
11 benefits, administration, oversight, and monitoring of psychotropic
12 medications, and trauma, ~~mental behavioral~~ health, and other
13 available ~~mental behavioral~~ health treatments, for children
14 receiving child welfare ~~services~~, *services, including how to access*
15 *those treatments*.

16 (6) Accessing education and health services that are available
17 to foster children.

18 (7) Relationship and safety issues regarding contact with one
19 or both of the birth parents.

20 (8) Permanency options for relative or nonrelative extended
21 family member caregivers, including legal guardianship, the
22 Kinship Guardianship Assistance Payment Program, and kin
23 adoption.

24 (9) Information on resources available for those who meet
25 eligibility criteria, including out-of-home care payments, the
26 Medi-Cal program, in-home supportive services, and other similar
27 resources.

28 (10) Instruction on cultural competency and sensitivity relating
29 to, and best practices for, providing adequate care to lesbian, gay,
30 bisexual, and transgender youth in out-of-home care.

31 (11) Basic instruction on the existing laws and procedures
32 regarding the safety of foster youth at school and the ensuring of
33 a harassment and violence free school environment contained in
34 the California Student Safety and Violence Prevention Act of 2000
35 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
36 Part 19 of Division 1 of Title 1 of the Education Code).

37 (b) In addition to training made available pursuant to subdivision
38 (a), each community college district with a foster care education
39 program shall make training available to a relative or nonrelative

1 extended family member caregiver that includes, but need not be
2 limited to, courses that cover all of the following:

3 (1) Age-appropriate child development.

4 (2) Health issues in foster care, including, but not limited to,
5 ~~the authorization for administration,~~ *authorization*, uses, risks,
6 benefits, administration, oversight, and monitoring of psychotropic
7 medications, and trauma, ~~mental~~ *behavioral* health, and other
8 available ~~mental~~ *behavioral* health treatments, for children
9 receiving child welfare ~~services.~~ *services, including how to access*
10 *to those treatments.*

11 (3) Positive discipline and the importance of self-esteem.

12 (4) Emancipation and independent living.

13 (5) Accessing education and health services available to foster
14 children.

15 (6) Relationship and safety issues regarding contact with one
16 or both of the birth parents.

17 (7) Permanency options for relative or nonrelative extended
18 family member caregivers, including legal guardianship, the
19 Kinship Guardianship Assistance Payment Program, and kin
20 adoption.

21 (8) Basic instruction on the existing laws and procedures
22 regarding the safety of foster youth at school and the ensuring of
23 a harassment and violence free school environment contained in
24 the California Student Safety and Violence Prevention Act of 2000
25 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
26 Part 19 of Division 1 of Title 1 of the Education Code).

27 (c) In addition to the requirements of subdivisions (a) and (b),
28 each community college district with a foster care education
29 program, in providing the orientation program, shall develop
30 appropriate program parameters in collaboration with the counties.

31 (d) Each community college district with a foster care education
32 program shall make every attempt to make the training and
33 orientation programs for relative or nonrelative extended family
34 member caregivers highly accessible in the communities in which
35 they reside.

36 (e) When a child is placed with a relative or nonrelative extended
37 family member caregiver, the county shall inform the caregiver
38 of the availability of training and orientation programs and it is
39 the intent of the Legislature that the county shall forward the names
40 and addresses of relative or nonrelative extended family member

1 caregivers to the appropriate community colleges providing the
2 training and orientation programs.

3 (f) This section shall not be construed to preclude counties from
4 developing or expanding existing training and orientation programs
5 for foster care providers to include relative or nonrelative extended
6 family member caregivers.

7 SEC. 7. Section 16206 of the Welfare and Institutions Code is
8 amended to read:

9 16206. (a) The purpose of the program is to develop and
10 implement statewide coordinated training programs designed
11 specifically to meet the needs of county child protective services
12 social workers assigned emergency response, family maintenance,
13 family reunification, permanent placement, and adoption
14 responsibilities. It is the intent of the Legislature that the program
15 include training for other agencies under contract with county
16 welfare departments to provide child welfare services. In addition,
17 the program shall provide training programs for persons defined
18 as a mandated reporter pursuant to the Child Abuse and Neglect
19 Reporting Act, Article 2.5 (commencing with Section 11164) of
20 Chapter 2 of Title 1 of Part 4 of the Penal Code. The program shall
21 provide the services required in this section to the extent possible
22 within the total allocation. If allocations are insufficient, the
23 department, in consultation with the grantee or grantees and the
24 Child Welfare Training Advisory Board, shall prioritize the efforts
25 of the program, giving primary attention to the most urgently
26 needed services. County child protective services social workers
27 assigned emergency response responsibilities shall receive first
28 priority for training pursuant to this section.

29 (b) The training program shall provide practice-relevant training
30 for mandated child abuse reporters and all members of the child
31 welfare delivery system that will address critical issues affecting
32 the well-being of children, and shall develop curriculum materials
33 and training resources for use in meeting staff development needs
34 of mandated child abuse reporters and child welfare personnel in
35 public and private agency settings.

36 (c) The training provided pursuant to this section shall include
37 all of the following:

- 38 (1) Crisis intervention.
- 39 (2) Investigative techniques.
- 40 (3) Rules of evidence.

1 (4) Indicators of abuse and neglect.

2 (5) Assessment criteria, including the application of guidelines
3 for assessment of relatives for placement according to the criteria
4 described in Section 361.3.

5 (6) Intervention strategies.

6 (7) Legal requirements of child protection, including
7 requirements of child abuse reporting laws.

8 (8) Case management.

9 (9) Use of community resources.

10 (10) Information regarding the dynamics and effects of domestic
11 violence upon families and children, including indicators and
12 dynamics of teen dating violence.

13 (11) Posttraumatic stress disorder and the causes, symptoms,
14 and treatment of posttraumatic stress disorder in children.

15 (12) The importance of maintaining relationships with
16 individuals who are important to a child in out-of-home placement,
17 including methods to identify those individuals, consistent with
18 the child's best interests, including, but not limited to, asking the
19 child about individuals who are important, and ways to maintain
20 and support those relationships.

21 (13) The legal duties of a child protective services social worker,
22 in order to protect the legal rights and safety of children and
23 families from the initial time of contact during investigation
24 through treatment.

25 (14) ~~The authorization for administration, authorization, uses,~~
26 ~~risks, benefits, administration, oversight, and monitoring of~~
27 ~~psychotropic medications, and trauma, mental behavioral health,~~
28 ~~and other available mental behavioral health treatments, for~~
29 ~~children receiving child welfare services. services, including how~~
30 ~~to access those treatments.~~

31 (d) The training provided pursuant to this section may also
32 include any or all of the following:

33 (1) Child development and parenting.

34 (2) Intake, interviewing, and initial assessment.

35 (3) Casework and treatment.

36 (4) Medical aspects of child abuse and neglect.

37 (e) The training program in each county shall assess the
38 program's performance at least annually and forward it to the State
39 Department of Social Services for an evaluation. The assessment
40 shall include, at a minimum, all of the following:

1 (1) Workforce data, including education, qualifications, and
2 demographics.

3 (2) The number of persons trained.

4 (3) The type of training provided.

5 (4) The degree to which the training is perceived by participants
6 as useful in practice.

7 (5) Any additional information or data deemed necessary by
8 the department for reporting, oversight, and monitoring purposes.

9 (f) The training program shall provide practice-relevant training
10 to county child protective services social workers who screen
11 referrals for child abuse or neglect and for all workers assigned to
12 provide emergency response, family maintenance, family
13 reunification, and permanent placement services. The training shall
14 be developed in consultation with the Child Welfare Training
15 Advisory Board and domestic violence victims' advocates and
16 other public and private agencies that provide programs for victims
17 of domestic violence or programs of intervention for perpetrators.

18 SEC. 8. Section 16501.4 is added to the Welfare and
19 Institutions Code, to read:

20 16501.4. In order to ensure the oversight of psychotropic
21 medications that are prescribed for children receiving child welfare
22 services, all of the following shall occur:

23 ~~(a) (1) A county child welfare agency shall use the form~~
24 ~~developed pursuant to paragraph (2) to provide a monthly report~~
25 ~~to the juvenile court, the child's attorney, and the child's~~
26 ~~court-appointed special advocate, if one has been appointed. In~~
27 ~~consultation with the State Department of Health Care Services,~~
28 ~~the County Welfare Directors Association, and other stakeholders,~~
29 ~~the State Department of Social Services shall develop and provide~~
30 ~~an individualized monthly report to each county child welfare~~
31 ~~services agency. At a minimum, that report shall include all of the~~
32 ~~following information regarding a each child receiving child~~
33 ~~welfare services: services from the county child welfare services~~
34 ~~agency and for whom one or more psychotropic medications have~~
35 ~~been authorized:~~

36 ~~(A)~~

37 ~~(1) Psychotropic medications that have been authorized for the~~
38 ~~child: child pursuant to Section 369.5.~~

39 ~~(B)~~

1 ~~(2) Paid-claims data~~ *Data* for medications that have been
2 ~~prescribed~~ *dispensed* to the child, including both psychotropic and
3 non-psychotropic medication.

4 ~~(C)~~

5 ~~(3) Durational information relating to the child's prescribed~~
6 ~~authorized psychotropic medication, including, but not limited to,~~
7 the length of time a medication has been authorized and the length
8 of time for which ~~claims have been paid for a filled prescription.~~
9 *a medication has been dispensed by a pharmacy.*

10 ~~(D)~~

11 ~~(4) Claims paid for mental behavioral health services provided~~
12 to the child, other than claims paid for psychotropic medication.

13 ~~(E)~~

14 ~~(5) The dosage of psychotropic medications that have been~~
15 authorized for the child and ~~for which a claim has been paid.~~ *that*
16 *have been dispensed.*

17 ~~(b) (1) On a monthly basis, a county child welfare services~~
18 ~~agency shall use the form developed pursuant to paragraph (2) to~~
19 ~~share with the juvenile court, the child's attorney, and the~~
20 ~~court-appointed special advocate, if one has been appointed, the~~
21 ~~information described in subdivision (a) regarding an individual~~
22 ~~child receiving child welfare services and for whom one or more~~
23 ~~psychotropic medications have been authorized.~~

24 ~~(2) In consultation with the State Department of Health Care~~
25 ~~Services, the County Welfare Directors Association, and other~~
26 ~~stakeholders, the State Department of Social Services shall develop~~
27 ~~a form to be utilized in making the reports sharing the information~~
28 ~~required by paragraph (1).~~

29 ~~(b)~~

30 ~~(c) (1) In consultation with the State Department of Health Care~~
31 ~~Services, the County Welfare Directors Association, and other~~
32 ~~stakeholders, the State Department of Social Services shall either~~
33 ~~develop, or ensure access to, a system that automatically alerts the~~
34 ~~social worker of a child receiving child welfare services when~~
35 ~~psychotropic medication has been prescribed that fits any of the~~
36 ~~following descriptions:~~

37 ~~(A) The psychotropic medication has been prescribed in~~
38 ~~combination with another psychotropic medication and the~~
39 ~~combination is unusual or has the potential for a dangerous~~
40 ~~interaction.~~

1 (B) The psychotropic medication is prescribed in a dosage that
2 is unusual for a child of that age.

3 (C) The psychotropic medication has the potential for a
4 dangerous interaction with other prescribed psychotropic or
5 non-psychotropic medications.

6 (D) The psychotropic medication is not typically indicated for
7 a child of that age.

8 (2) If a child's social worker receives an alert from the system
9 described in paragraph (1), upon receipt of the alert, the social
10 worker shall indicate to the court, the child's attorney, the child's
11 caregiver, and the child's court-appointed special advocate, if one
12 has been appointed, that the alert has been received. The social
13 worker shall also include a discussion of the alert and the
14 resolution, if any, of the issue raised by the alert in the next court
15 report filed in the child's case.

16 (e)

17 (d) In consultation with the State Department of Health Care
18 Services, the Judicial Council, the County Welfare Directors
19 Association, and other stakeholders, the State Department of Social
20 Services shall develop training that may be provided to county
21 child welfare social workers, courts, children's attorneys, children's
22 caregivers, court-appointed special advocates, and other relevant
23 staff who work with children receiving child welfare services that
24 addresses the ~~authorization for administration, authorization, uses,~~
25 risks, benefits, administration, oversight, and monitoring of
26 psychotropic medications, and trauma, ~~mental~~ *behavioral* health,
27 and other available ~~mental~~ *behavioral* health treatments, for
28 children receiving child welfare ~~services~~. *services, including how*
29 *to access those treatments.*

30 SEC. 9. To the extent that this act has an overall effect of
31 increasing the costs already borne by a local agency for programs
32 or levels of service mandated by the 2011 Realignment Legislation
33 within the meaning of Section 36 of Article XIII of the California
34 Constitution, it shall apply to local agencies only to the extent that
35 the state provides annual funding for the cost increase. Any new
36 program or higher level of service provided by a local agency
37 pursuant to this act above the level for which funding has been
38 provided shall not require a subvention of funds by the state nor

- 1 otherwise be subject to Section 6 of Article XIII B of the California
- 2 Constitution.

O