

Senate Bill No. 253

Passed the Senate August 24, 2016

Secretary of the Senate

Passed the Assembly August 18, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 4064.5 of the Business and Professions Code, and to amend, repeal, and add Sections 369.5 and 739.5 of, and to add Section 369.4 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, Monning. Juveniles: psychotropic medication.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents or wards of the court under certain circumstances. Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent or delinquent child who has been removed from the physical custody of his or her parent. Existing law requires that court authorization for the administration of psychotropic medication to a child 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. Existing law requires the Judicial Council to adopt rules of court and develop appropriate forms for the implementation of these provisions, as specified.

This bill, commencing January 1, 2018, would require that an order authorizing the administration of psychotropic medications to a dependent child or a delinquent child in foster care be granted only upon the court's determination that the administration of the medication is in the best interest of the child and that specified requirements have been met, including a requirement that the prescribing physician confirms that all appropriate laboratory screenings or tests have been performed or ordered for the child, as specified. Under specified circumstances, the bill would prohibit the court from authorizing the administration of psychotropic medications to a child under those provisions, unless a preauthorization review is obtained from a child psychiatrist or behavioral pediatrician, as specified. The bill would impose additional requirements on the court to implement these provisions and to conduct review hearings, as specified. The bill would require

the child's social worker to submit a report to the court prior to any review hearing, to include information from the child, the child's caregiver, the public health nurse, and the court-appointed special advocate. By increasing the duties of county social workers, the bill would impose a state-mandated local program. The bill would authorize psychotropic medication to be administered in an emergency without court authorization. The bill would require court authorization to be sought as soon as practical thereafter, but in no case more than 2 court days after emergency administration of the psychotropic medication. The bill would require the Judicial Council to adopt rules of court and develop appropriate forms to implement these provisions by January 1, 2018.

This bill would also require the State Department of Health Care Services, in collaboration with the Judicial Council, to identify resources to assist courts in securing preauthorization reviews in those counties in which there are fewer than 10 practicing child and adolescent psychiatrists in order to avoid undue delays in the authorization of psychotropic medications.

This bill would incorporate changes to Section 4064.5 of the Business and Professions Code proposed by both this bill and SB 999, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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.

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

SECTION 1. Section 4064.5 of the Business and Professions Code is amended to read:

4064.5. (a) A pharmacist may dispense not more than a 90-day supply of a dangerous drug other than a controlled substance pursuant to a valid prescription that specifies an initial quantity of less than a 90-day supply followed by periodic refills of that amount if all of the following requirements are satisfied:

(1) The patient has completed an initial 30-day supply of the dangerous drug.

(2) The total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the prescription, including refills.

(3) The prescriber has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary.

(4) The pharmacist is exercising his or her professional judgment.

(b) For purposes of this section, if the prescription continues the same medication as previously dispensed in a 90-day supply, the initial 30-day supply under paragraph (1) of subdivision (a) is not required.

(c) A pharmacist dispensing an increased supply of a dangerous drug pursuant to this section shall notify the prescriber of the increase in the quantity of dosage units dispensed.

(d) In no case shall a pharmacist dispense a greater supply of a dangerous drug pursuant to this section if the prescriber personally indicates, either orally or in his or her own handwriting, “No change to quantity,” or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked “No change to quantity,” provided that the prescriber personally initials the box or checkmark. To indicate that an increased supply shall not be dispensed pursuant to this section for an electronic data transmission prescription as defined in subdivision (c) of Section 4040, a prescriber may indicate “No change to quantity,” or words of similar meaning, in the prescription as transmitted by electronic data, or may check a box marked on the prescription “No change to quantity.” In either instance, it shall not be required that the prohibition on an increased supply be manually initialed by the prescriber.

(e) This section does not apply to psychotropic medication or psychotropic drugs as described in Sections 369.5 and 739.5 of the Welfare and Institutions Code.

(f) Nothing in this section shall be construed to require a health care service plan, health insurer, workers’ compensation insurance plan, pharmacy benefits manager, or any other person or entity, including, but not limited to, a state program or state employer, to

provide coverage for a dangerous drug in a manner inconsistent with a beneficiary's plan benefit.

SEC. 1.5. Section 4064.5 of the Business and Professions Code is amended to read:

4064.5. (a) A pharmacist may dispense not more than a 90-day supply of a dangerous drug other than a controlled substance pursuant to a valid prescription that specifies an initial quantity of less than a 90-day supply followed by periodic refills of that amount if all of the following requirements are satisfied:

(1) The patient has completed an initial 30-day supply of the dangerous drug.

(2) The total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the prescription, including refills.

(3) The prescriber has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary.

(4) The pharmacist is exercising his or her professional judgment.

(b) For purposes of this section, if the prescription continues the same medication as previously dispensed in a 90-day supply, the initial 30-day supply under paragraph (1) of subdivision (a) is not required.

(c) A pharmacist dispensing an increased supply of a dangerous drug pursuant to this section shall notify the prescriber of the increase in the quantity of dosage units dispensed.

(d) In no case shall a pharmacist dispense a greater supply of a dangerous drug pursuant to this section if the prescriber personally indicates, either orally or in his or her own handwriting, "No change to quantity," or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked "No change to quantity," provided that the prescriber personally initials the box or checkmark. To indicate that an increased supply shall not be dispensed pursuant to this section for an electronic data transmission prescription as defined in subdivision (c) of Section 4040, a prescriber may indicate "No change to quantity," or words of similar meaning, in the prescription as transmitted by electronic data, or may check a box marked on the prescription "No change to quantity." In either

instance, it shall not be required that the prohibition on an increased supply be manually initialed by the prescriber.

(e) This section does not apply to psychotropic medication or psychotropic drugs as described in Sections 369.5 and 739.5 of the Welfare and Institutions Code.

(f) Except for the provisions of subdivision (d), this section does not apply to FDA-approved, self-administered hormonal contraceptives.

(1) A pharmacist shall dispense, at a patient's request, up to a 12-month supply of an FDA-approved, self-administered hormonal contraceptive pursuant to a valid prescription that specifies an initial quantity followed by periodic refills.

(2) A pharmacist furnishing an FDA-approved self-administered hormonal contraceptive pursuant to Section 4052.3 under protocols developed by the Board of Pharmacy may furnish, at the patient's request, up to a 12-month supply at one time.

(3) Nothing in this subdivision shall be construed to require a pharmacist to dispense or furnish a drug if it would result in a violation of Section 733.

(g) Nothing in this section shall be construed to require a health care service plan, health insurer, workers' compensation insurance plan, pharmacy benefits manager, or any other person or entity, including, but not limited to, a state program or state employer, to provide coverage for a dangerous drug in a manner inconsistent with a beneficiary's plan benefit.

SEC. 2. Section 369.4 is added to the Welfare and Institutions Code, to read:

369.4. The State Department of Health Care Services, in collaboration with the Judicial Council, shall identify resources, which may include, but need not be limited to, university-based consultation services, to assist the courts in securing preauthorization reviews in those counties in which there are fewer than 10 practicing child and adolescent psychiatrists in order to avoid undue delays in the authorization of medications pursuant to Sections 369.5 and 739.5.

SEC. 3. Section 369.5 of the Welfare and Institutions Code is amended to read:

369.5. (a) (1) If a child is adjudged a dependent child of the court under Section 300 and has been removed from the physical custody of the parent under Section 361, only a juvenile court

judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall 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.

(2) (A) On or before July 1, 2016, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this section, in consultation with the State Department of Social Services, the State Department of Health Care Services, and stakeholders, including, but not limited to, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, associations representing current and former foster children, caregivers, and children's attorneys. This effort shall be undertaken in coordination with the updates required under paragraph (2) of subdivision (a) of Section 739.5.

(B) The rules of court and forms developed pursuant to subparagraph (A) shall address all of the following:

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

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

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

(iv) Guidance is provided to the court on how to evaluate the request for authorization, including how to proceed if information,

otherwise required to be included in a request for authorization under this section, is not included in a request for authorization submitted to the court.

(C) The rules of court and forms developed pursuant to subparagraph (A) shall include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications that includes the caregiver's and child's observations regarding the effectiveness of the medication and side effects, information on medication management appointments and other followup appointments with medical practitioners, and information on the delivery of other mental health treatments that are a part of the child's overall treatment plan. The periodic oversight shall be facilitated by the county social worker, public health nurse, or other appropriate county staff. This oversight process shall be conducted in conjunction with other regularly scheduled court hearings and reports provided to the court by the county child welfare agency.

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

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

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

(2) Notwithstanding 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, the county child welfare agency or other person or entity who submitted the request shall provide a copy of the court order approving or denying the request to the child's caregiver.

(d) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central

nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

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

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

(g) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 4. Section 369.5 is added to the Welfare and Institutions Code, to read:

369.5. (a) If a child is adjudged a dependent child of the court under Section 300 and has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent, upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall 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. If the court authorizes the administration of a psychotropic medication, it shall verify that the administration of the psychotropic medication is only one part of a comprehensive treatment plan for the child that shall include and specify the psychosocial, behavioral, and alternative services, if any, the child will receive in addition to any authorized medication.

(b) (1) An order authorizing the administration of psychotropic medications pursuant to this section shall be granted only upon the court's determination that the administration of the medication is in the best interest of the child based on a determination that the anticipated benefits of the psychotropic medication outweigh the short- and long-term risks associated with the medications. An

order authorizing the administration of psychotropic medication pursuant to this section shall not be granted if the court determines that the medication is being used as punishment, for purposes other than the treatment of a diagnosed mental health condition, as a substitute for other less invasive treatments, or in quantities or dosages that interfere with the child's treatment program.

(2) An order authorizing the administration of psychotropic medications pursuant to this section shall be granted only if the court determines all of the following:

(A) The court is provided documentation confirming the child's caregiver has been informed, and the child has been informed in an age and developmentally appropriate manner in the primary language of the child, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks commonly known by the medical profession, and of psychosocial treatments and interventions specific to the identified disorder and symptoms to be considered concurrently with or as an alternative to the medication.

(i) The documentation shall state that the child and the child's caregiver have been asked whether either have concerns regarding the medication, and, if so, shall describe the nature of those concerns.

(ii) The documentation shall confirm that the child has been informed of the right to object to the authorization of psychotropic medication and to request a hearing pursuant to paragraph (1) of subdivision (g).

(iii) The documentation shall include the written consent or refusal to consent of a child who is 12 years of age or older.

(B) The prescribing physician submitting the request for psychotropic medication was provided a copy of the child's health and education summary or passport as described in Section 16010.

(C) The prescribing physician also confirms all of the following:

(i) There are no less invasive treatment options available to meet the needs of the child.

(ii) The dosage or dosage range requested is appropriate for the child.

(iii) The short- and long-term risks associated with the use of psychotropic medications by the child do not outweigh the reported benefits to the child.

(iv) All appropriate measurements have been completed and all appropriate laboratory screenings or tests have been performed or ordered for the child in accordance with accepted medical guidelines.

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

(3) The person or entity submitting the request for authorization of the administration of psychotropic medication is responsible for providing the necessary documentation of the clinical appropriateness of the proposed psychotropic medication and shall bear the burden of proof.

(c) (1) A court shall not issue an order authorizing the administration of psychotropic medications for a child described in subdivision (a) unless a preauthorization review is obtained from a child psychiatrist or behavioral pediatrician, if one or more of the following circumstances exist:

(A) The request is for any class of psychotropic medication for a child who is five years of age or younger.

(B) The request would result in the child being administered three or more psychotropic medications concurrently.

(C) The request is for the concurrent administration of two antipsychotic medications unless the request is for medication tapering and replacement that is limited to no more than 45 days.

(2) Preauthorization review under this subdivision does not require a face-to-face assessment of the child for whom the psychotropic medications are prescribed. The court, on its own motion or upon the request of the child's attorney or the parent or parent's attorney, may order that assessment to be completed before deciding whether or not to approve the request to authorize the medication. The health care professional providing the preauthorization review shall review all the information submitted to the court, including, but not limited to, the prescribing physician's statement and the child's health and education summary or passport, and, if deemed necessary, conduct a telephone consultation with the prescriber or the public health nurse responsible for the child pursuant to Section 16501.3.

(d) The court shall not authorize the administration of the psychotropic medication for a child described in subdivision (a) unless the court is provided with documentation that appropriate laboratory screenings, measurements, or tests for the child have been completed no more than 45 days prior to submission of the request to the court in accordance with accepted medical guidelines.

(e) (1) No later than 60 days after the authorization of a new psychotropic medication is granted or at the next review hearing scheduled for a child described in subdivision (a), if scheduled no earlier than 45 days after the authorization of a new psychotropic medication, the court shall conduct a review hearing to determine all of the following:

(A) Whether the child is taking the medication or medications.

(B) Whether psychosocial services and other aspects of the child's treatment plan have been provided to the child.

(C) To what extent the symptoms for which the medication or medications were authorized have been alleviated.

(D) Whether more time is needed to evaluate the effectiveness of the medication or medications.

(E) What, if any, adverse effects the child has suffered.

(F) Any steps taken to address those effects.

(G) The date or dates of followup visits with the prescribing physician since the medication or medications were authorized.

(H) Whether the appropriate followup laboratory screenings have been performed and their findings.

(2) Prior to the review, the child's social worker shall submit a report to the court and to counsel for the parties, which shall include information from the child, the child's caregiver, the public health nurse, and the court-appointed special advocate, if any.

(3) If, based upon this review, the court determines that the proffered benefits of the medication have not been demonstrated or that the risks of the medication outweigh the benefits, the court shall reconsider, modify, or revoke its authorization for the administration of medication.

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

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

(g) (1) Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the child, refer the request for a preauthorization review as required by subdivision (c), or shall, upon a request by the parent, the legal guardian, or the child's attorney, or upon its own motion, set the matter for hearing.

(2) Notwithstanding 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, the county child welfare agency or other person or entity who submitted the request shall provide a copy of the court order approving or denying the request to the child's caregiver.

(h) If the court grants the request, or modifies and grants the request, the order for authorization is effective until terminated or modified by court order or until 180 days following the date of the order, whichever event occurs earlier.

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

(j) (1) Psychotropic medications may be administered without court authorization to a child described in subdivision (a) in an emergency. An emergency exists if all of the following conditions are met:

(A) A physician finds that the child requires psychotropic medication to treat a psychiatric disorder or illness.

(B) The medication is immediately necessary for the preservation of life or the prevention of serious bodily harm to the child or others. It is not necessary for the harm to take place or become unavoidable prior to treatment.

(C) It is impractical to obtain authorization from the court before administering the psychotropic medication to the child.

(2) Court authorization shall be sought as soon as practical, but in no case more than two court days after the emergency administration of psychotropic medication.

(k) This section is not intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

(l) This section does not grant any person the authority to administer psychotropic medication to a child who indicates a refusal of treatment with the authorized medication. A person shall not threaten, coerce, withhold privileges, or otherwise penalize a child for refusing to take a psychotropic medication. A child described in subdivision (a) shall not be involuntarily administered a psychotropic medication unless otherwise specifically permitted by law.

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

(n) (1) On or before January 1, 2018, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this section, in consultation with the State Department of Social Services, the State Department of Health Care Services, and stakeholders, including, but not limited to, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, associations representing current and former foster children, caregivers, and children's attorneys. This effort shall be undertaken in coordination with the updates required under paragraph (1) of subdivision (n) of Section 739.5.

(2) The rules of court and forms developed pursuant to paragraph (1) shall address all of the following:

(A) The child and his or her caregiver and court-appointed special advocate, if any, have an opportunity to provide input on the medications being prescribed.

(B) Information regarding the child's overall mental health assessment and treatment plan is provided to the court.

(C) Information regarding the rationale for the proposed medication, provided in the context of past and current treatment efforts, is provided to the court. This information shall include, but not be limited to, information on other pharmacological and nonpharmacological treatments that have been utilized and the

child's response to those treatments, a discussion of symptoms not alleviated or ameliorated by other current or past treatment efforts, and an explanation of how the psychotropic medication being prescribed is expected to improve the child's symptoms.

(D) Guidance is provided to the court on how to evaluate the request for authorization, including how to proceed if information, otherwise required to be included in a request for authorization under this section, is not included in a request for authorization submitted to the court.

(3) The rules of court and forms developed pursuant to paragraph (1) shall include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications that includes the caregiver's and child's observations regarding the effectiveness of the medication and side effects, information on medication management appointments and other followup appointments with medical practitioners, and information on the delivery of other mental health treatments that are a part of the child's overall treatment plan. The periodic oversight shall be facilitated by the county social worker, public health nurse, or other appropriate county staff. This oversight process shall be conducted in conjunction with other regularly scheduled court hearings and reports provided to the court by the county child welfare agency.

(o) This section shall become operative on January 1, 2018.

SEC. 5. Section 739.5 of the Welfare and Institutions Code is amended to read:

739.5. (a) (1) If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the minor and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, 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.

(2) (A) On or before July 1, 2016, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this section, in consultation with the State Department of Social Services, the State Department of Health Care Services, and stakeholders, including, but not limited to, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, associations representing current and former foster children, caregivers, and minors' attorneys. This effort shall be undertaken in coordination with the updates required under paragraph (2) of subdivision (a) of Section 369.5.

(B) The rules of court and forms developed pursuant to subparagraph (A) shall address all of the following:

(i) The minor and his or her caregiver and court-appointed special advocate, if any, have an opportunity to provide input on the medications being prescribed.

(ii) Information regarding the minor's overall mental health assessment and treatment plan is provided to the court.

(iii) Information regarding the rationale for the proposed medication, provided in the context of past and current treatment efforts, is provided to the court. This information shall include, but not be limited to, information on other pharmacological and nonpharmacological treatments that have been utilized and the minor's response to those treatments, a discussion of symptoms not alleviated or ameliorated by other current or past treatment efforts, and an explanation of how the psychotropic medication being prescribed is expected to improve the minor's symptoms.

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

(C) The rules of court and forms developed pursuant to subparagraph (A) shall include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications that includes the caregiver's and minor's observations regarding the effectiveness of the medication and side effects, information on medication management appointments and other

followup appointments with medical practitioners, and information on the delivery of other mental health treatments that are a part of the minor's overall treatment plan. This oversight process shall be conducted in conjunction with other regularly scheduled court hearings and reports provided to the court by the county probation agency.

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

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

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

(2) Notwithstanding 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, the county probation agency or other person or entity who submitted the request shall provide a copy of the court order approving or denying the request to the minor's caregiver.

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

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

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

(g) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 6. Section 739.5 is added to the Welfare and Institutions Code, to read:

739.5. (a) If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. The juvenile court may issue a specific order delegating this authority to a parent, upon making findings on the record that the parent poses no danger to the minor and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, 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. If the court authorizes the administration of a psychotropic medication, it shall verify that the administration of the psychotropic medication is only one part of a comprehensive treatment plan for the minor that shall include and specify the psychosocial, behavioral, and alternative services, if any, the minor will receive in addition to any authorized medication.

(b) (1) An order authorizing the administration of psychotropic medications pursuant to this section shall be granted only upon the court's determination that the administration of the medication is in the best interest of the minor based on a determination that the anticipated benefits of the psychotropic medication outweigh the short- and long-term risks associated with the medications. An order authorizing the administration of psychotropic medication pursuant to this section shall not be granted if the court determines that the medication is being used as punishment, for purposes other than the treatment of a diagnosed mental health condition, as a substitute for other less invasive treatments, or in quantities or dosages that interfere with the minor's treatment program.

(2) An order authorizing the administration of psychotropic medications pursuant to this section shall be granted only if the court determines all of the following:

(A) The court is provided documentation confirming the minor's caregiver has been informed, and the minor has been informed in an age and developmentally appropriate manner in the primary language of the minor, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks commonly known by the medical profession, and of psychosocial treatments and interventions specific to the identified disorder and symptoms to be considered concurrently with, or as an alternative to, the medication.

(i) The documentation shall state that the minor and the minor's caregiver have been asked whether either have concerns regarding the medication, and, if so, shall describe the nature of those concerns.

(ii) The documentation shall confirm that the minor has been informed of the right to object to the authorization of psychotropic medication and to request a hearing pursuant to paragraph (1) of subdivision (g).

(iii) The documentation shall include the written consent or refusal to consent of a minor who is 12 years of age or older.

(B) The prescribing physician submitting the request for psychotropic medication was provided a copy of the child's health and education summary or passport as described in Section 16010.

(C) The prescribing physician also confirms all of the following:

(i) There are no less invasive treatment options available to meet the needs of the minor.

(ii) The dosage or dosage range requested is appropriate for the minor.

(iii) The short- and long-term risks associated with the use of psychotropic medications by the minor do not outweigh the reported benefits to the minor.

(iv) All appropriate measurements have been completed and all appropriate laboratory screenings or tests have been performed or ordered for the child in accordance with accepted medical guidelines.

(D) A plan is in place for regular monitoring of the minor's medication and psychosocial treatment plan, the effectiveness of the medication and psychosocial treatment, and any potential side effects of the medication by the physician in consultation with the

caregiver, mental health care provider, and others who have contact with the minor, as appropriate.

(3) The person or entity submitting the request for authorization of the administration of psychotropic medication is responsible for providing the necessary documentation of the clinical appropriateness of the proposed psychotropic medication and shall bear the burden of proof.

(c) (1) A court shall not issue an order authorizing the administration of psychotropic medications for a minor described in subdivision (a) unless a preauthorization review is obtained from a child psychiatrist or behavioral pediatrician, if one or more of the following circumstances exist:

(A) The request is for any class of psychotropic medication for a minor who is five years of age or younger.

(B) The request would result in the minor being administered three or more psychotropic medications concurrently.

(C) The request is for the concurrent administration of two antipsychotic medications unless the request is for medication tapering and replacement that is limited to no more than 45 days.

(2) Preauthorization review under this subdivision does not require a face-to-face assessment of the child for whom the psychotropic medications are prescribed. The court, on its own motion or upon the request of the child's attorney or the parent or parent's attorney, may order that assessment to be completed before deciding whether or not to approve the request to authorize the medication. The health care professional providing the preauthorization review shall review all the information submitted to the court, including, but not limited to, the prescribing physician's statement and the child's health and education summary or passport, and, if deemed necessary, conduct a telephone consultation with the prescriber or the public health nurse responsible for the child pursuant to Section 16501.3.

(d) The court shall not authorize the administration of the psychotropic medication for a minor described in subdivision (a) unless the court is provided with documentation that appropriate laboratory screenings, measurements, or tests for the minor have been completed no more than 45 days prior to submission of the request to the court in accordance with accepted medical guidelines.

(e) (1) No later than 60 days after the authorization of a new psychotropic medication is granted or at the next review hearing

scheduled for a minor described in subdivision (a), if scheduled no earlier than 45 days after the authorization of a new psychotropic medication, the court shall conduct a review hearing to determine all of the following:

- (A) Whether the minor is taking the medication or medications.
- (B) Whether psychosocial services and other aspects of the minor's treatment plan have been provided to the minor.
- (C) To what extent the symptoms for which the medication or medications were authorized have been alleviated.
- (D) Whether more time is needed to evaluate the effectiveness of the medication or medications.
- (E) What, if any, adverse effects the minor has suffered.
- (F) Any steps taken to address those effects.
- (G) The date or dates of followup visits with the prescribing physician since the medication or medications were authorized.
- (H) Whether the appropriate followup laboratory screenings have been performed and their findings.

(2) Prior to the review, the minor's probation officer shall submit a report to the court and to counsel for the parties, which shall include information from the minor, the minor's caregiver, the public health nurse, and the court-appointed special advocate, if any.

(3) If, based upon this review, the court determines that the proffered benefits of the medication have not been demonstrated or that the risks of the medication outweigh the benefits, the court shall reconsider, modify, or revoke its authorization for the administration of medication.

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

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

(g) (1) Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the minor, refer the

request for a preauthorization review as required by subdivision (c), or shall, upon a request by the parent, the legal guardian, or the minor's attorney, or upon its own motion, set the matter for hearing.

(2) Notwithstanding 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, the county probation agency or other person or entity who submitted the request shall provide a copy of the court order approving or denying the request to the minor's caregiver.

(h) If the court grants the request, or modifies and grants the request, the order for authorization is effective until terminated or modified by court order or until 180 days following the date of the order, whichever event occurs earlier.

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

(j) (1) Psychotropic medications may be administered without court authorization to a minor described in subdivision (a) in an emergency. An emergency exists if all of the following conditions are met:

(A) A physician finds that the minor requires psychotropic medication to treat a psychiatric disorder or illness.

(B) The medication is immediately necessary for the preservation of life or the prevention of serious bodily harm to the minor or others. It is not necessary for the harm to take place or become unavoidable prior to treatment.

(C) It is impractical to obtain authorization from the court before administering the psychotropic medication to the minor.

(2) Court authorization shall be sought as soon as practical, but in no case more than two court days after the emergency administration of psychotropic medication.

(k) This section is not intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

(l) This section does not grant any person the authority to administer psychotropic medication to a minor who indicates a

refusal of treatment with the authorized medication. A person shall not threaten, coerce, withhold privileges, or otherwise penalize a minor for refusing to take a psychotropic medication. A minor described in subdivision (a) shall not be involuntarily administered a psychotropic medication unless otherwise specifically permitted by law.

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

(n) (1) On or before January 1, 2018, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this section, in consultation with the State Department of Social Services, the State Department of Health Care Services, and stakeholders, including, but not limited to, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, associations representing current and former foster children, caregivers, and minors' attorneys. This effort shall be undertaken in coordination with the updates required under paragraph (1) of subdivision (n) of Section 369.5.

(2) The rules of court and forms developed pursuant to paragraph (1) shall address all of the following:

(A) The minor and his or her caregiver and court-appointed special advocate, if any, have an opportunity to provide input on the medications being prescribed.

(B) Information regarding the minor's overall mental health assessment and treatment plan is provided to the court.

(C) Information regarding the rationale for the proposed medication, provided in the context of past and current treatment efforts, is provided to the court. This information shall include, but not be limited to, information on other pharmacological and nonpharmacological treatments that have been utilized and the minor's response to those treatments, a discussion of symptoms not alleviated or ameliorated by other current or past treatment efforts, and an explanation of how the psychotropic medication being prescribed is expected to improve the minor's symptoms.

(D) Guidance is provided to the court on how to evaluate the request for authorization, including how to proceed if information, otherwise required to be included in a request for authorization under this section, is not included in a request for authorization submitted to the court.

(3) The rules of court and forms developed pursuant to paragraph (1) shall include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications that includes the caregiver's and minor's observations regarding the effectiveness of the medication and side effects, information on medication management appointments and other followup appointments with medical practitioners, and information on the delivery of other mental health treatments that are a part of the minor's overall treatment plan. This oversight process shall be conducted in conjunction with other regularly scheduled court hearings and reports provided to the court by the county probation agency.

(o) This section shall become operative on January 1, 2018.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 4064.5 of the Business and Professions Code proposed by both this bill and Senate Bill 999. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 4064.5 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 999, in which case Section 1 of this bill shall not become operative.

SEC. 8. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor