

CONCURRENCE IN SENATE AMENDMENTS

AB 866 (Blanca Rubio)

As Amended April 4, 2024

Majority vote

SUMMARY

Clarifies that dependent children of the juvenile court who are 16 years of age or older can consent to receive medications for opioid use disorder without the consent of their parent, guardian, social worker, or court order. Authorizes a social worker to inform a dependent child 10 years of age or older, rather than 12 years of age, of their right to consent to receive specified health services.

Senate Amendments

Delete the contents of the bill and insert the following provisions:

- 1) Allow a dependent child of the juvenile court who is 16 years of age or older to consent to receive medications for opioid use disorder from a licensed narcotic treatment program as replacement narcotic therapy without the consent of their parent, guardian, person standing in loco parentis, or social worker, and without a court order, only if, and to the extent, expressly permitted by federal law.
- 2) Allow a dependent child of the juvenile court who is 16 years of age or older to consent to opioid use disorder treatment that uses buprenorphine at a physician's office, clinic, or health facility, by a licensed physician and surgeon or other health care provider acting within the scope of their practice, whether or not they have the consent of their parent, guardian, person standing in loco parentis, or social worker and without a court order.
- 3) Authorize a social worker, if a dependent child is 10 years of age or older, instead of 12 years of age or older, to inform the child of their right as a minor to consent to and receive among other things, the diagnosis and treatment of infectious, contagious, or communicable diseases, mental health treatment, and treatment for alcohol and drug abuse, as necessary, and their confidentiality rights regarding those services.
- 4) Allow a social worker for a dependent child to do either or both of the following:
 - a) Provide access to age-appropriate, medically accurate information about sexual development, reproductive health, and prevention of unplanned pregnancies and sexually transmitted infections and how to access reproductive and sexual health care services; and/or,
 - b) Facilitate access to the care described in a) above, including assisting with any barriers to care.

COMMENTS

Background: Consistent with longstanding policies developed over the last few decades that allow minors to seek specified medical care without parental consent, AB 816 (Haney), Chapter 456, Statutes of 2023, further permitted minors between 16 and 17 years of age to consent to replacement narcotic abuse treatment that uses buprenorphine, a psychotropic medicine, while

maintaining the requirement that the professional person providing the treatment includes the parent in the treatment plan, unless the professional determines it would be inappropriate to contact the minor's parent or guardian. *This bill* clarifies that youth in the foster care system, who are between 16 and 17 years of age, are included within the provisions enacted by the passage of AB 816.

According to an article entitled, *Buprenorphine and Its Therapeutic Potential in Psychiatric Disorders* by researchers featured in *Psychiatric Times* in July of 2022, “Buprenorphine, along with methadone and extended-release naltrexone, is 1 of 3 medications currently approved by the US Food and Drug Administration (FDA) to treat opioid use disorder (OUD). Buprenorphine is considered the ‘gold standard’ treatment for OUD and has been proven to reduce mortality and to improve treatment retention and remission. Buprenorphine has an advantage over methadone in that it has a lower overdose risk. . .”

Current law requires court oversight for any psychotropic medication provided to youth in foster care. SB 543 (Bowen), Chapter 552, Statutes of 1999, mandated that once a child has been adjudged a dependent of the state, only the court may authorize psychotropic medications for the child, based on a request from a physician.

In 2016, a series of stories published in the *San Jose Mercury News* and *Los Angeles Times* underscored growing concerns regarding the high rate of psychotropic medications being prescribed to foster youth. Concerns suggested the medications have been relied on by California's child welfare and behavioral health systems as a means of controlling, instead of treating, youth who suffer from trauma-related behavioral health challenges. In response, the Legislature passed a suite of bills to address the oversight and monitoring of psychotropic medication and behavioral health services for youth in foster care. Specifically, SB 377 (McGuire), Chapter 547, Statutes of 2019, created a process for a ward or dependent child or their attorney to provide authorization for the Medical Board of California to review their medical information to determine whether there is excessive prescribing of psychotropic medication inconsistent with the standard of care.

The provisions of this bill clarify that minors in the foster care system, who are 16 years of age and older, who are providing their own consent for medically assisted treatment, do not need court approval, to receive medications for opioid use disorder, allowing youth to access the help they need immediately. Additionally, the provisions of this bill update language to reflect current law regarding the right of a dependent child who is ten years of age or older to consent to and receive the diagnosis and treatment of infectious, contagious, or communicable diseases, mental health treatment, and treatment for alcohol and drug abuse, as necessary, and their confidentiality rights regarding those services.

According to the Author

“AB 816 (Haney, 2023) provided a first in the nation treatment option for youth experiencing opioid addiction. Unfortunately, youth in foster care have been unable to consistently access the very lifesaving treatments afforded to others in the state this past year. The opioid epidemic is not limited to any population and has been especially harmful to those navigating the foster system. AB 866 clarifies the unique parameters within the foster system as it relates to treatment and ensures those seeking help can receive it, regardless of their status as a foster youth.”

Arguments in Support

Children Now writes in support that, “Medication-assisted treatment is the treatment modality most associated with reduced overdose deaths. It combines counseling and behavioral therapies with a prescription opioid agonist, such as buprenorphine, which is considered a psychotropic medication.

“This critical intervention remains less accessible to youth in foster care due to requirements for court oversight of any psychotropic medication provided to minors in foster care. This oversight was established due to an over-reliance on medication to address behavioral health challenges among youth in foster care. Usually, this oversight is beneficial, ensuring notice requirements are met and all interested parties have the opportunity to express their opinion. However, it hinders timely access for youth in foster care to medication-assisted treatment for opioid addiction, which requires a more immediate response to be effective.

“[This bill] will further California’s goal to adopt effective, life-saving strategies to address the opioid crisis among youth by making this same intervention equally accessible to youth in foster care through clarification that court approval is not required for 16- and 17-year-old minors in foster care to consent to their own medication-assisted treatment for opioid use disorder.”

Arguments in Opposition

No opposition on file.

FISCAL COMMENTS

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

VOTES:**ASM HUMAN SERVICES: 7-0-1**

YES: Jackson, Sanchez, Arambula, Bonta, Bryan, Calderon, Garcia

ABS, ABST OR NV: Alanis

ASM APPROPRIATIONS: 11-0-5

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

ABS, ABST OR NV: Megan Dahle, Dixon, Mathis, Robert Rivas, Sanchez

ASSEMBLY FLOOR: 80-0-0

YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

UPDATED

VERSION: April 4, 2024

CONSULTANT: Jessica Langtry / HUM. S. / (916) 319-2089

FN: