



Judicial Council of California

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Subject Text

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Title

Juvenile Law: Psychotropic Medication (Action Required)

Summary

The Family and Juvenile Law Advisory Committee proposed amending rule 5.640 of the California Rules of Court, approving two optional forms, adopting two mandatory forms, revising five forms, and revising and renumbering one form to conform to recent statutory changes to the requirements for court authorization of psychotropic medication for foster children enacted by Senate Bill 238 (Mitchell; Stats. 2015, ch. 534).

Recommendation

The committee recommended several actions to implement five amendments to the Welfare and Institutions Code that require the Judicial Council to develop rules and forms.

1. Newly enacted sections 369.5(a)(2)(B)(i) and 739.5(a)(2)(B)(i) require the Judicial Council to develop rules and forms to ensure that the child and his or her caregiver and court-appointed special advocate volunteer (CASA), if any, have an opportunity to provide input on the medications being prescribed. To implement this requirement, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2016:
 - a. Amend rule 5.640(c) to allow the child, caregiver, CASA, parents, and Indian child's tribe to provide input to the court by the proposed new *Child's Statement About Psychotropic Medication* (form JV-218) or *Statement About Psychotropic Medication* (form JV-219); submission of a letter; talking to the judge at a hearing; or through the social worker, probation officer, lawyer, or CASA. Input from the CASA would also be allowed by a court report;
 - b. Approve for optional use *Child's Statement About Psychotropic Medication* (form JV- 218);
 - c. Approve for optional use *Statement About Psychotropic Medication* (form JV-219);
 - d. Revise *Application for Psychotropic Medication* (form JV-220) with several questions that the social worker or probation officer must answer when filling out the form;
 - e. Further amend rule 5.640(c) to require service of a blank *Child's Statement About Psychotropic Medication* (form JV-218), or *Statement About Psychotropic Medication* (form JV-219) when serving *Application for Psychotropic Medication* (form JV-220) and to remove the option for service to parents, children, and caregivers, that rather than blank forms, service could include information on how to obtain the forms;
 - f. Further amend rule 5.640(c) to require that *Child's Statement About Psychotropic Medication* (form JV-218) and *Statement About Psychotropic Medication* (form JV-219) be filed within four court days of receipt of notice of the application for psychotropic medication; and
 - g. Revise *Prescribing Physician's Statement-Attachment* (form JV-220(A)) to ensure the child has an opportunity to provide input on the prescribed medication by eliminating from the form the option for the prescribing physician to not inform the child of the request, the recommended medications, benefits, and side effects because the child is too young.
2. Newly enacted sections 369.5(a)(2)(B)(ii)-(iii) and 739.5(2)(B)(ii)-(iii) require the Judicial Council to develop rules and forms to ensure that information regarding an assessment of the child's overall mental health and treatment plan, as well as information regarding the rationale for the proposed medication,

are provided to the court. To implement this requirement, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2016:

- a. Amend rule 5.640(c) to require that *Prescribing Physician's Statement-Attachment* (form JV-220(A)) include information regarding an assessment of the child's overall mental health and treatment plan, as well as information regarding the rationale for the proposed medication;
 - b. Revise *Prescribing Physician's Statement-Attachment* (form JV-220(A)) to include the information required by SB 238, including 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;
 - c. Revise *Prescribing Physician's Statement-Attachment* (form JV-220(A)) to separate out compound questions; and
 - d. Adopt for alternate mandatory use *Prescribing Physician's Statement, Request to Continue-Attachment* (form JV-220(B)).
3. Newly enacted sections 369.5(a)(2)(B)(iv) and 739.5(a)(2)(B)(iv) require the Judicial Council to develop rules and forms to address how to proceed if information, otherwise required to be included in a request for authorization, is not included in the request. To implement this requirement, the committee recommends that the council, effective July 1, 2016:
- a. Amend rule 5.640(c) to direct the court, if all the required information is not included in the request for authorization, to order the applicant to provide the missing information and set the application for a hearing; and
 - b. Further revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include an item on the form so the court can order that the applicant must submit the missing information by the time specified on the order, and so the court can order a hearing on the application.
4. Newly enacted sections 369.5(a)(2)(C) and 739.5(2)(C) require the Judicial Council to develop rules and forms to include a process for periodic oversight by the court of orders regarding the administration of psychotropic medication. To implement this requirement, the committee recommends that the council, effective July 1, 2016:
- a. Amend rule 5.640(f) and (g) to mandate progress reviews at every status review hearing and allow progress reviews at any other time at the court's discretion.
 - b. Amend rule 5.640(f) to require the social worker or probation officer to file a completed *Report About Psychotropic Medication-County Staff* (form JV-224) at any scheduled psychotropic medication progress review hearing and each status review hearing.
 - c. Revise *Prescribing Physician's Statement-Attachment* (form JV-220(A)) to ensure the court has all the information needed to provide thorough periodic oversight of court ordered psychotropic medications, including requiring an explanation if the child agrees with the medication, mandating information on whether all relevant laboratory tests were performed, and expanding the list of types of therapeutic services in which the child is enrolled or is recommended to participate. Ensure that the same information is contained in *Prescribing Physician's Statement, Request to Continue-Attachment* (form JV-220(B)).
 - d. Adopt for mandatory use *Report About Psychotropic Medication-County Staff* (form JV- 224).
5. Newly enacted sections 369.5(c)(2) and 739.5(c)(2) mandate that the child welfare agency, probation department, or other person or entity who submitted the request for authorization of psychotropic medication provide a copy of the court order approving or denying the request to the child's caregiver. To implement this requirement, the committee recommended that the council, effective July 1, 2016:
- a. Amend rule 5.640(e) to require that the child welfare agency, probation department, or other

person or entity who submitted the request for authorization of psychotropic medication provide the child's caregiver with a copy of the court order approving or denying the request within two days of when the order is made.

- b. Amend rule 5.640(e) to mandate that the order also contain the last two pages of form JV- 220 (A) and the Food and Drug Administration (FDA) label that was attached to the form JV- 220 (A). This would ensure that the caregiver has the information needed on dosages, side effects, and recommended therapeutic interventions.
- c. Revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include an order that the applicant must provide the caregiver with a copy of the order, the last two pages of form JV-220(A), and the FDA label within two days of when the order is made.

While not mandated by SB 238, the committee recommended that the council, effective July 1, 2016:

6. Amend rule 5.640 to improve clarity by moving the paragraphs regarding what forms must or can be used to the beginning of the rule.
7. Revise *Information About Psychotropic Medication Forms* (form JV-219-INFO) and *Proof of Notice: Application for Psychotropic Medication* (form JV-221) to conform to changes to the new forms and procedures.
8. Renumber form JV-219-INFO as JV-217-INFO, so that the form with information on the psychotropic medication request and approval process is at the beginning of the series of psychotropic medication forms.
9. Revise *Opposition to Application Regarding Psychotropic Medication* (form JV-222) so that it can be used to provide input to the court, even if the person using the form does not oppose the medication, and rename the form *Opposition to or Statement About Application for Psychotropic Medication*.
10. Revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include the new forms in this proposal as evidence the court has read and considered.
11. Further revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include an order about gradually reducing the psychotropic medication.

Hon. Jerilyn L. Borack, Cochair, Family and Juvenile Law Advisory Committee
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