

By Senator Campbell

33-842-02

1                                   A bill to be entitled  
2           An act relating to children; amending s. 39.01,  
3           F.S.; defining the term "medical passport" for  
4           purposes of proceedings relating to children;  
5           amending s. 39.407, F.S.; requiring a medical  
6           passport to be maintained with respect to a  
7           child taken into custody for whom psychotropic  
8           medication is prescribed; providing  
9           requirements for dispensing such medication;  
10          providing requirements for passports, records,  
11          and court review; amending ss. 39.0015, 39.302,  
12          F.S., to conform; providing an effective date.

13

14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Present subsections (43) through (72) of  
17 section 39.01, Florida Statutes, are renumbered as subsections  
18 (44) through (73) respectively, and a new subsection (43) is  
19 added to that section to read:

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21           39.01 Definitions.--When used in this chapter, unless  
22 the context otherwise requires:

23

24           (43) "Medical passport" means a written health history  
25 of a child in shelter status or foster care which is used to  
26 document health care. The medical passport must be kept with  
27 the child's caregiver, in the child's resource record, and  
28 updated at each visit with a health care provider.

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30           Section 2. Present subsections (3) through (14) of  
31 section 39.407, Florida Statutes, are renumbered as  
subsections (4) through (15) respectively, and a new  
subsection (3) is added to that section to read:

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1           39.407 Medical, psychiatric, and psychological  
2 examination and treatment of child; physical or mental  
3 examination of parent or person requesting custody of child.--

4           (3)(a) If a child is prescribed psychotropic  
5 medication by a medical provider, such medication must be  
6 dispensed as prescribed once the department has obtained a  
7 court order that finds compliance with the procedures in this  
8 section. The requirements for a court order authorizing the  
9 dispensing of the medication include:

10           1. A complete medical passport prepared by the  
11 department which contains, at a minimum:

12           a. The names and telephone numbers for all physicians  
13 who have treated the child, and the respective dates and  
14 purpose of treatment.

15           b. All known medical operations, procedures, and  
16 treatments that the child has undergone, including, but not  
17 limited to, psychiatric and psychological consultations, and  
18 the dates of the operations, procedures, and treatment.

19           c. All known hospitalizations, and the respective  
20 dates, location, treating physicians, and reason for  
21 hospitalization.

22           d. All known medication previously and currently  
23 prescribed for the child, including the dates that the  
24 prescription was first administered to the dates that the  
25 prescription was discontinued; the dosage and frequency of  
26 administration; and any subsequent re-prescribing of each  
27 medication.

28           e. All known allergies and negative reactions to  
29 medication.

30           f. The local after-hours department emergency contact  
31 phone numbers.

1           2. Medical records or other competent evidence  
2 demonstrating that the psychotropic medication prescribed is  
3 appropriate to the treatment of the child's diagnosed medical  
4 condition and the symptoms the medication is expected to  
5 address.

6           3. Medical records or other competent evidence that  
7 the prescribing physician has provided to the child, if age  
8 appropriate, and to the child's primary caretaker a clinically  
9 appropriate explanation of the nature and purpose of the  
10 treatment; recognized side effects, risks and  
11 contraindications of the medication; and drug interaction  
12 precautions.

13           4. Medical records or other competent evidence  
14 indicating that alternative methods of treatment for the  
15 child's condition have been duly considered by medical  
16 providers and that an alternative course of treatment that  
17 would offer comparable benefits to the child is unavailable or  
18 undesirable.

19           5. Medical records or other competent evidence  
20 demonstrating whether the psychotropic medication will replace  
21 or supplement any other currently prescribed medications or  
22 treatments, the length of time the child is expected to be  
23 taking the medication, and identification of additional  
24 medical or counseling services that the prescribing physician  
25 believes are necessary for the treatment of the child's  
26 medical condition and that the physician expects or advises to  
27 be provided to the child in concert with the medication.

28           (b) The court shall review the status of the child's  
29 progress on psychotropic medication at least every 6 months  
30 and may do so during timely scheduled judicial review hearings  
31 pursuant to s. 39.701. On its own motion or on good cause

1 shown by any party, including any guardian ad litem or  
2 appointed attorney ad litem who has been appointed to  
3 represent the child or his or her interests, the court may  
4 review the status more frequently than required in this  
5 paragraph.

6 (c) If at any time the court determines that the  
7 statutory requirements for continued use of psychotropic  
8 medication are not being met, the court may in the best  
9 interests of the child order the treatment suspended and  
10 direct the department to either seek alternative treatment or  
11 produce evidence of compliance with the requirements of this  
12 section.

13 (d) Notwithstanding compliance with paragraph (a),  
14 before issuing an order approving dispensing of a psychotropic  
15 medication, the court may direct further medical consultation,  
16 including obtaining second opinions, based on considerations  
17 of the best interests of the child, including in cases in  
18 which a prescribed medication has not been specifically  
19 approved for use by children by the Federal Food and Drug  
20 Administration.

21 Section 3. Paragraph (b) of subsection (3) of section  
22 39.0015, Florida Statutes, is amended to read:

23 39.0015 Child abuse prevention training in the  
24 district school system.--

25 (3) DEFINITIONS.--As used in this section:

26 (b) "Child abuse" means those acts as defined in ss.  
27 39.01(1), (2), (30), ~~(44)(43)~~, ~~(46)(45)~~, ~~(53)(52)~~, and ~~(64)~~  
28 ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

29 Section 4. Subsection (1) of section 39.302, Florida  
30 Statutes, is amended to read:

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1           39.302 Protective investigations of institutional  
2 child abuse, abandonment, or neglect.--

3           (1) The department shall conduct a child protective  
4 investigation of each report of institutional child abuse,  
5 abandonment, or neglect. Upon receipt of a report which  
6 alleges that an employee or agent of the department, or any  
7 other entity or person covered by s. 39.01(31) or (48)~~(47)~~,  
8 acting in an official capacity, has committed an act of child  
9 abuse, abandonment, or neglect, the department shall  
10 immediately initiate a child protective investigation and  
11 orally notify the appropriate state attorney, law enforcement  
12 agency, and licensing agency. These agencies shall  
13 immediately conduct a joint investigation, unless independent  
14 investigations are more feasible. When conducting  
15 investigations onsite or having face-to-face interviews with  
16 the child, such investigation visits shall be unannounced  
17 unless it is determined by the department or its agent that  
18 such unannounced visits would threaten the safety of the  
19 child. When a facility is exempt from licensing, the  
20 department shall inform the owner or operator of the facility  
21 of the report. Each agency conducting a joint investigation  
22 shall be entitled to full access to the information gathered  
23 by the department in the course of the investigation. A  
24 protective investigation must include an onsite visit of the  
25 child's place of residence. In all cases, the department shall  
26 make a full written report to the state attorney within 3  
27 working days after making the oral report. A criminal  
28 investigation shall be coordinated, whenever possible, with  
29 the child protective investigation of the department. Any  
30 interested person who has information regarding the offenses  
31 described in this subsection may forward a statement to the

1 state attorney as to whether prosecution is warranted and  
2 appropriate. Within 15 days after the completion of the  
3 investigation, the state attorney shall report the findings to  
4 the department and shall include in such report a  
5 determination of whether or not prosecution is justified and  
6 appropriate in view of the circumstances of the specific case.

7 Section 5. This act shall take effect July 1, 2002.

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10 SENATE SUMMARY

11 Requires that a medical passport, as defined, be  
12 maintained with respect to a child who has been taken  
13 into custody and for whom psychotropic medication is  
14 prescribed. Necessary components of such a passport are  
15 enumerated, as are requirements with respect to judicial  
16 oversight.