

711-131AXA-08

Bill No. CS/HB 947

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Ryan offered the following:

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Amendment (with title amendment)

Remove everything after the enacting clause

15

and insert:

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Section 1. Paragraph (b) of subsection (3) of section 39.0015, Florida Statutes, is amended to read:

18

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

21

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

22

(b) "Child abuse" means those acts as defined in ss.

23

39.01(1), (2), (30), ~~(43)~~, (45), (47), (54), and (65) ~~(52)~~,

24

~~and (63)~~, 827.04, and 984.03(1), (2), and (37).

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Section 2. Present subsections (40) and (42) of section 39.01, Florida Statutes, are renumbered as subsections (42) and (43), respectively, present subsection (41) is renumbered as subsection (40), present subsection (72) is renumbered as subsection (41), present subsections (43) through (71) are renumbered as subsections (45) through (73), respectively, and a new subsection (44) is added to said

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1 section, to read:

2 39.01 Definitions.--When used in this chapter, unless
3 the context otherwise requires:

4 (44) "Medical passport" means a written health history
5 of a child in shelter status or foster care, which is used to
6 document health care, and is to be kept with the child's
7 caregiver in the child's resource record and updated at each
8 health care provider visit. The department is responsible for
9 ensuring the medical passport is current, complete, and
10 accurate.

11 Section 3. Subsection (1) of section 39.302, Florida
12 Statutes, is amended to read:

13 39.302 Protective investigations of institutional child
14 abuse, abandonment, or neglect.--

15 (1) The department shall conduct a child protective
16 investigation of each report of institutional child abuse,
17 abandonment, or neglect. Upon receipt of a report which
18 alleges that an employee or agent of the department, or any
19 other entity or person covered by s. 39.01(31) or ~~(49)(47)~~,
20 acting in an official capacity, has committed an act of child
21 abuse, abandonment, or neglect, the department shall
22 immediately initiate a child protective investigation and
23 orally notify the appropriate state attorney, law enforcement
24 agency, and licensing agency. These agencies shall immediately
25 conduct a joint investigation, unless independent
26 investigations are more feasible. When conducting
27 investigations onsite or having face-to-face interviews with
28 the child, such investigation visits shall be unannounced
29 unless it is determined by the department or its agent that
30 such unannounced visits would threaten the safety of the
31 child. When a facility is exempt from licensing, the

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1 department shall inform the owner or operator of the facility
2 of the report. Each agency conducting a joint investigation
3 shall be entitled to full access to the information gathered
4 by the department in the course of the investigation. A
5 protective investigation must include an onsite visit of the
6 child's place of residence. In all cases, the department shall
7 make a full written report to the state attorney within
8 working days after making the oral report. A criminal
9 investigation shall be coordinated, whenever possible, with
10 the child protective investigation of the department. Any
11 interested person who has information regarding the offenses
12 described in this subsection may forward a statement to the
13 state attorney as to whether prosecution is warranted and
14 appropriate. Within 15 days after the completion of the
15 investigation, the state attorney shall report the findings to
16 the department and shall include in such report a
17 determination of whether or not prosecution is justified and
18 appropriate in view of the circumstances of the specific case.

19 Section 4. Subsections (3) through (14) of section
20 39.407, Florida Statutes, are renumbered as subsections (4)
21 through (15), respectively, and a new subsection (3) is added
22 to said section, to read:

23 39.407 Medical, psychiatric, and psychological
24 examination and treatment of child; physical or mental
25 examination of parent or person requesting custody of child.--

26 (3) The provision of psychotropic medication to a
27 child in the legal custody of the department, and in
28 compliance with this subsection, shall be deemed in compliance
29 with the restrictions in s. 743.0645(1)(b).

30 (a) A court order is not required to dispense
31 psychotropic medication to a child in the legal custody of the

1 department under any of the following conditions:
2 1. If a child was taking prescribed psychotropic
3 medications at the time the child was removed from the home,
4 the department may take possession of the remaining
5 medications when the department takes the child, and may
6 dispense those medications on a temporary basis until the next
7 regularly scheduled court hearing required under this chapter,
8 other than the shelter hearing, if such hearing occurs within
9 60 days of the time the child was removed.
10 2. Psychotropic medications may be dispensed in
11 advance of issuance of a court order if the prescribing
12 physician indicates in writing that delay in dispensing the
13 medication could be detrimental to the child. The order
14 required under this subsection shall be sought by the
15 department at the next regularly scheduled court hearing
16 required under this chapter, or within 60 days of the
17 prescription, whichever is sooner; or
18 3. In an acute care setting.
19 (b) A motion seeking court authority to dispense
20 psychotropic medication to a child in the legal custody of the
21 department must be supported by the prescribing physician's
22 signed medical report or, if not available, an affidavit from
23 the prescribing physician indicating:
24 1. The name of the child and the name and dosage of
25 the psychotropic medication, and indicating that there is a
26 need to prescribe psychotropic medication to the child based
27 upon a diagnosed condition for which such medication is
28 indicated and that there is a plan of treatment that addresses
29 treatment alternatives that are or are not available or
30 desirable.
31 2. That the psychotropic medication at its prescribed

1 dosage is appropriate for the treatment of the child's
2 diagnosed medical condition, as well as the behaviors and
3 symptoms the medication at its prescribed dosage level is
4 expected to address.

5 3. That the prescribing physician has provided to the
6 child, if age-appropriate, the department and any person
7 responsible for the child in his or her residential setting, a
8 clinically appropriate explanation of the nature and purpose
9 of the treatment; the recognized side effects, risks, and
10 contraindications of the medication; and drug interaction
11 precautions.

12 4. Whether the psychotropic medication will replace or
13 supplement any other currently prescribed medications or
14 treatments; the length of time the child is expected to be
15 taking the medication; and any additional medical, counseling,
16 or other services that the prescribing physician believes are
17 necessary or would be beneficial for the treatment of the
18 child's medical condition and that the physician expects or
19 advises to be provided to the child in concert with the
20 medication.

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22 The department shall have the burden of compliance with and
23 proof of the provisions of this paragraph.

24 (c) At a hearing to determine whether to initially
25 allow dispensing of psychotropic medication to a child in the
26 legal custody of the department, or at a hearing for
27 continuation of such medication, the medical report or
28 affidavit described in paragraph (b) are admissible in
29 evidence. The prescribing physician is not required to attend
30 the hearing or testify unless the court specifically orders
31 such attendance or testimony. If the medical report or

1 affidavit, the medical passport, and other evidence are in
2 accord with the requirements of this subsection, the court
3 shall order the dispensing or continuation of psychotropic
4 medication without further testimony or evidence. The court
5 shall further inquire of the department as to whether the
6 additional medical, counseling, or other services that the
7 prescribing physician believes are necessary or would be
8 beneficial for the treatment of the child's medical condition
9 and that the physician expects or advises to be provided to
10 the child in concert with the medication are being provided to
11 the child by the department. The court may require further
12 medical consultation, including obtaining a second opinion,
13 based upon considerations of the best interests of the child,
14 and the court may not order the discontinuation of prescribed
15 psychotropic medication contrary to the decision of the
16 prescribing physician without first obtaining a second opinion
17 from a licensed physician that the psychotropic medication
18 should be discontinued.

19 (d) The court shall review the medical passport and
20 the status of the child's progress on psychotropic medication
21 at least every 6 months, which may be accomplished during
22 timely scheduled judicial review hearings pursuant to s.
23 39.701. On its own motion or on good cause shown by any party,
24 including any guardian ad litem, attorney, or attorney ad
25 litem who has been appointed to represent the child or his or
26 her interests, the court may review the status more frequently
27 than required in this paragraph.

28 (e) If at any time the court determines that the
29 statutory requirements for continued use of the psychotropic
30 medication are not being met, the court may, in the best
31 interests of the child, order the department to either produce

1 evidence of compliance with the requirements of this section
 2 or obtain a medical opinion that continued use of the
 3 medication under the circumstances is safe and medically
 4 appropriate. If at any time the court determines that the
 5 additional medical, counseling, or other services that the
 6 prescribing physician believes are necessary or would be
 7 beneficial for the treatment of the child's medical condition
 8 and that the physician expects or advises to be provided to
 9 the child in concert with the medication are not being
 10 provided, the court may, in the best interests of the child,
 11 order the department to either produce evidence of compliance
 12 with the requirement of providing those services or obtain a
 13 medical opinion that such services are not medically
 14 appropriate.

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

18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 remove: the entire title

22 and insert:

23 A bill to be entitled

24 An act relating to dependent children; amending
 25 s. 39.01, F.S.; providing a definition;
 26 amending ss. 39.0015 and 39.302, F.S.;
 27 correcting cross references; amending s.
 28 39.407, F.S.; specifying conditions under which
 29 a court order is not required for dispensing
 30 psychotropic medication to a child in the legal
 31 custody of the Department of Children and

1 Family Services; providing requirements for a
2 petition to the court for authority to dispense
3 psychotropic medication to such a child;
4 providing for prior review of the child's
5 medical history and evidence demonstrating that
6 the treatment is appropriate for the child's
7 condition; providing for the burden of proof;
8 providing for further medical consultation,
9 including second opinions, under certain
10 circumstances; providing conditions for
11 discontinuation of prescribed psychotropic
12 medication or for the provision of other
13 services; providing for periodic court review
14 of the child's progress; providing an effective
15 date.

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