

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 The Committee on Judicial Oversight offered the following:

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13 **Amendment**

14 Remove everything after the enacting clause

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16 and insert:

17 Section 1. Paragraph (b) of subsection (3) of section
18 39.0015, Florida Statutes, is amended to read:

19 39.0015 Child abuse prevention training in the district
20 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)~~, and
24 ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

25 Section 2. Present subsections (40) and (42) of
26 section 39.01, Florida Statutes, are renumbered as subsections
27 (42) and (43), respectively, present subsection (41) is
28 renumbered as subsection (40), present subsection (72) is
29 renumbered as subsection (41), present subsections (43)
30 through (71) are renumbered as subsections (45) through (73),
31 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.

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

11 39.302 Protective investigations of institutional child
12 abuse, abandonment, or neglect.--

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

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

17 Section 4. Subsections (3) through (14) of section
18 39.407, Florida Statutes, are renumbered as subsections (4)
19 through (15), respectively, and a new subsection (3) is added
20 to said section to read:

21 39.407 Medical, psychiatric, and psychological
22 examination and treatment of child; physical or mental
23 examination of parent or person requesting custody of child.--

24 (3) Psychotropic medication may not be dispensed to a
25 child in out-of-home placement or a child in the legal custody
26 of the department unless the department obtains a court order
27 authorizing the medication to be dispensed, except as provided
28 in paragraph (g). The provision of psychotropic medications
29 in compliance with this subsection shall be deemed in
30 compliance with the restriction in s. 743.0645(1)(b).

31 (a) A petition for authority to dispense or continue

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1 psychotropic medication to a child in out-of-home placement or
2 in the legal custody of the department shall have attached
3 thereto an affidavit from the prescribing physician stating:
4 1. The child's name.
5 2. The name of the psychotropic medication.
6 3. That there is a need to prescribe psychotropic
7 medication to the child.
8 4. That, prior to prescribing the psychotropic
9 medication, the physician reviewed the child's complete
10 medical passport prepared by the department and that the
11 medical passport is complete.
12 5. That medical records or other competent evidence
13 demonstrate that the psychotropic medication at its prescribed
14 dosage is appropriate for the treatment of the child's
15 diagnosed medical condition, as well as the behaviors and
16 symptoms the medication at its prescribed dosage level is
17 expected to address.
18 6. That medical records or other competent evidence
19 demonstrate that the prescribing physician has provided to the
20 child, if age-appropriate, and to the child's legal custodian,
21 foster parent, relative caregiver, or, where appropriate,
22 other person responsible for the child's welfare in his or her
23 residential setting, a clinically appropriate explanation of
24 the nature and purpose of the treatment; the recognized side
25 effects, risks, and contraindications of the medication; and
26 drug interaction precautions.
27 7. That medical records or other competent evidence
28 reflect that alternative methods of treatment for the child's
29 condition have been duly considered by medical providers and
30 an alternative course of treatment that would offer comparable
31 benefits to the child is unavailable or undesirable.

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1 8. A statement whether the psychotropic medication
2 will replace or supplement any other currently prescribed
3 medications or treatments, the length of time the child is
4 expected to be taking the medication, and any additional
5 medical, counseling, or other services that the prescribing
6 physician believes are necessary or would be beneficial for
7 the treatment of the child's medical condition and that the
8 physician expects or advises to be provided to the child in
9 concert with the medication.

10 (c) At a hearing to determine whether to initially
11 allow dispensing of psychotropic medication to a child in an
12 out-of-home placement or a child in the legal custody of the
13 department, or at a hearing for continuation of such
14 medication, the affidavit described in paragraph (b) shall be
15 admissible in evidence, and the prescribing physician shall
16 not be required to attend the hearing or testify unless the
17 court specifically orders such attendance or testimony. If
18 the affidavit is in order, the court may order the dispensing
19 or continuation of psychotropic medication without further
20 testimony or evidence; or the court may require further
21 medical consultation, including obtaining a second opinion,
22 based on considerations of the best interests of the child.

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

31 (e) If at any time the court determines that the

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1 statutory requirements for continued use of the psychotropic
2 medication are not being met, the court may, in the best
3 interests of the child, order the department to either produce
4 evidence of compliance with the requirements of this section
5 or obtain a medical opinion that continued use of the
6 medication under the circumstances is safe and medically
7 appropriate.

8 (f) A medical passport is complete if it contains, at
9 a minimum:

10 a. The names of and telephone numbers for all
11 physicians who have treated the child, and the dates and
12 purposes of treatment.

13 b. Any and all known medical operations, procedures,
14 and treatments the child has undergone, including, but not
15 limited to, psychiatric and psychological consultations, and
16 the dates of those operations, procedures, or treatments.

17 c. Any and all known hospitalizations, including
18 voluntary and involuntary psychiatric hospitalizations, and
19 the respective dates, locations, treating physicians, and
20 reasons for hospitalization.

21 d. Any and all known medications previously and
22 currently prescribed for the child, including the date that
23 the prescription was first administered and the date that the
24 prescription was discontinued, the dosage and frequency of
25 administration, and any subsequent represcription of each
26 medication, and any side effects or other complications or
27 reactions the child may have experienced while on the
28 medication.

29 e. The local after-hours emergency contact telephone
30 numbers for the Department of Children and Family Services or
31 other agency providing case management for the child.

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1 (g) A court order shall not be required to dispense
2 psychotropic medication to a child in an out-of-home placement
3 or in the legal custody of the department under any of the
4 following conditions:

5 1. If a child was taking prescribed psychotropic
6 medications at the time the child is removed from the home,
7 the department is authorized to take possession of the
8 remaining medications when the department takes the child, and
9 may dispense those medications on a temporary basis until the
10 next regularly scheduled court hearing required under this
11 chapter other than the shelter hearing, provided such hearing
12 occurs within 60 days of the time the child was removed.

13 2. Psychotropic medications may be dispensed in
14 advance of a court order being issued if the prescribing
15 physician indicates that delay in dispensing the medication
16 could be detrimental to the child. The order required under
17 this subsection shall be sought at the next regularly
18 scheduled court hearing required under this chapter, or within
19 60 days of the prescription, whichever is sooner.

20 3. In an acute care setting.

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

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