

By Representative Ryan

1                                   A bill to be entitled  
2           An act relating to dependent children; amending  
3           s. 39.01, F.S.; providing a definition;  
4           amending ss. 39.0015 and 39.302, F.S.;  
5           correcting cross references; amending s.  
6           39.407, F.S.; providing requirements for  
7           issuance of a court order authorizing  
8           dispensing of psychotropic medication to a  
9           child in shelter status or foster care;  
10          providing for prior review of the child's  
11          medical history and evidence demonstrating that  
12          the treatment is appropriate for the child's  
13          condition; providing for periodic court review  
14          of the child's progress; providing conditions  
15          for suspension of the treatment; providing for  
16          further medical consultation, including second  
17          opinions, prior to issuance of an order  
18          authorizing such medication; providing an  
19          exception for the dispensing of such medication  
20          in an acute care setting; providing an  
21          effective date.

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

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25           Section 1. Paragraph (b) of subsection (3) of section  
26   39.0015, Florida Statutes, is amended to read:

27           39.0015 Child abuse prevention training in the  
28   district school system.--

29           (3) DEFINITIONS.--As used in this section:  
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1           (b) "Child abuse" means those acts as defined in ss.  
2 39.01(1), (2), (30), ~~(43)~~, (45), (47), (54), and (65)~~(52)~~,  
3 ~~and (63)~~, 827.04, and 984.03(1), (2), and (37).

4           Section 2. Present subsections (40) and (42) of  
5 section 39.01, Florida Statutes, are renumbered as subsections  
6 (42) and (43), respectively, present subsection (41) is  
7 renumbered as subsection (40), present subsection (72) is  
8 renumbered as subsection (41), present subsections (43)  
9 through (71) are renumbered as subsections (45) through (73),  
10 respectively, and a new subsection (44) is added to said  
11 section, to read:

12           39.01 Definitions.--When used in this chapter, unless  
13 the context otherwise requires:

14           (44) "Medical passport" means a written health history  
15 of a child in shelter status or foster care, which is used to  
16 document health care and is to be kept with the child's  
17 caregiver in the child's resource record, and updated at each  
18 health care provider visit.

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

21           39.302 Protective investigations of institutional  
22 child abuse, abandonment, or neglect.--

23           (1) The department shall conduct a child protective  
24 investigation of each report of institutional child abuse,  
25 abandonment, or neglect. Upon receipt of a report which  
26 alleges that an employee or agent of the department, or any  
27 other entity or person covered by s. 39.01(31) or ~~(49)~~~~(47)~~,  
28 acting in an official capacity, has committed an act of child  
29 abuse, abandonment, or neglect, the department shall  
30 immediately initiate a child protective investigation and  
31 orally notify the appropriate state attorney, law enforcement

1 agency, and licensing agency. These agencies shall  
2 immediately conduct a joint investigation, unless independent  
3 investigations are more feasible. When conducting  
4 investigations onsite or having face-to-face interviews with  
5 the child, such investigation visits shall be unannounced  
6 unless it is determined by the department or its agent that  
7 such unannounced visits would threaten the safety of the  
8 child. When a facility is exempt from licensing, the  
9 department shall inform the owner or operator of the facility  
10 of the report. Each agency conducting a joint investigation  
11 shall be entitled to full access to the information gathered  
12 by the department in the course of the investigation. A  
13 protective investigation must include an onsite visit of the  
14 child's place of residence. In all cases, the department shall  
15 make a full written report to the state attorney within 3  
16 working days after making the oral report. A criminal  
17 investigation shall be coordinated, whenever possible, with  
18 the child protective investigation of the department. Any  
19 interested person who has information regarding the offenses  
20 described in this subsection may forward a statement to the  
21 state attorney as to whether prosecution is warranted and  
22 appropriate. Within 15 days after the completion of the  
23 investigation, the state attorney shall report the findings to  
24 the department and shall include in such report a  
25 determination of whether or not prosecution is justified and  
26 appropriate in view of the circumstances of the specific case.

27 Section 4. Subsections (3) through (14) of section  
28 39.407, Florida Statutes, are renumbered as subsections (4)  
29 through (15), respectively, and a new subsection (3) is added  
30 to said 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 shall be  
6 dispensed as prescribed after the department has obtained a  
7 court order that finds compliance with the procedures of this  
8 subsection. The requirements for a court order authorizing  
9 dispensing of the medication shall include:

10           1. A statement by the prescribing physician that,  
11 prior to prescribing the psychotropic medication, the  
12 physician has reviewed the child's complete medical passport  
13 prepared by the department and that the medical passport  
14 contains, at a minimum:

15           a. The names of and telephone numbers for all  
16 physicians who have treated the child, and the dates and  
17 purposes of treatment.

18           b. Any and all known medical operations, procedures,  
19 and treatments the child has undergone, including, but not  
20 limited to, psychiatric and psychological consultations, and  
21 the dates of the operations, procedures, or treatments.

22           c. Any and all known hospitalizations, including  
23 voluntary and involuntary psychiatric hospitalizations, and  
24 the respective dates, locations, treating physicians, and  
25 reasons for hospitalization.

26           d. Any and all known medications previously and  
27 currently prescribed for the child, including the date that  
28 the prescription was first administered and the date that the  
29 prescription was discontinued, the dosage and frequency of  
30 administration, and any subsequent represcribing of each  
31 medication, and any side effects or other complications or

1 reactions the child may have experienced while on the  
2 medication.

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

6 2. Medical records or other competent evidence  
7 demonstrating that the psychotropic medication at its  
8 prescribed dosage is appropriate for the treatment of the  
9 child's diagnosed medical condition, as well as the behaviors  
10 and symptoms the medication at its prescribed dosage level is  
11 expected to address.

12 3. Medical records or other competent evidence  
13 demonstrating that the prescribing physician has provided the  
14 child, if age-appropriate, and the child's primary caregiver  
15 with a clinically appropriate explanation of: the nature and  
16 purpose of the treatment; the recognized side effects, risks,  
17 and contraindications of the medication; and drug interaction  
18 precautions.

19 4. Medical records or other competent evidence  
20 reflecting that alternative methods of treatment for the  
21 child's condition have been duly considered by medical  
22 providers and an alternative course of treatment that would  
23 offer comparable benefits to the child is unavailable or  
24 undesirable.

25 5. Medical records or other competent evidence  
26 demonstrating whether the psychotropic medication will replace  
27 or supplement any other currently prescribed medications or  
28 treatments, the length of time the child is expected to be  
29 taking the medication, and identification of additional  
30 medical, counseling, or other services that the prescribing  
31 physician believes are necessary or would be beneficial for

1 the treatment of the child's medical condition and that the  
2 physician expects or advises to be provided to the child in  
3 concert with the medication.

4 (b) The court shall review the status of the child's  
5 progress on psychotropic medication at least every 6 months  
6 and may do so during timely scheduled judicial review hearings  
7 pursuant to s. 39.701. On its own motion or on good cause  
8 shown by any party, including any guardian ad litem, attorney,  
9 or attorney ad litem who has been appointed to represent the  
10 child or his or her interests, the court may review the status  
11 more frequently than required in this paragraph.

12 (c) If at any time, based upon competent expert  
13 testimony, the court determines that the statutory  
14 requirements for continued use of the psychotropic medication  
15 are not being met, the court may, in the best interests of the  
16 child, order the treatment suspended and direct the department  
17 to either seek alternative treatment or produce evidence of  
18 compliance with the requirements of this section. The  
19 suspension of the use of any previously ordered medication  
20 shall be in compliance with acceptable medical practices as  
21 they relate to the termination of the ordered medication.

22 (d) Notwithstanding compliance with the requirements  
23 of paragraph (a), prior to issuing an order authorizing  
24 dispensing of a psychotropic medication, the court may require  
25 further medical consultation, including obtaining second  
26 opinions, based on considerations of the best interests of the  
27 child, and including cases where a prescribed medication has  
28 not been specifically approved for administration to children  
29 by the federal Food and Drug Administration.

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1 The provisions of this subsection notwithstanding, in an acute  
2 care setting, a medical provider may dispense prescribed  
3 psychotropic medication to a child without prior issuance of a  
4 court order obtained by the department authorizing such  
5 action.

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

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9 HOUSE SUMMARY

10 Provides requirements for issuance of a court order  
11 authorizing dispensing of psychotropic medication to a  
12 child in shelter status or foster care. Requires the  
13 prescribing physician to review the child's medical  
14 history, in the form of a "medical passport" prepared by  
15 the Department of Children and Family Services, prior to  
16 issuance of such order, and requires medical records or  
17 other evidence demonstrating that the medication is  
18 appropriate for the child. Defines, and prescribes  
19 minimum contents of, the medical passport. Authorizes the  
20 court to require further medical consultation, including  
21 second opinions, prior to issuance of such order.  
22 Provides for periodic court review of the child's  
23 progress under the treatment, and provides conditions for  
24 suspension of the treatment. Provides authority of a  
25 medical provider to dispense prescribed psychotropic  
26 medication to a child in an acute care setting without  
27 the court order otherwise required.  
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