

By the Committee on Children and Families; and Senator
Campbell

300-799A-03

1 A bill to be entitled
2 An act relating to dependent children; amending
3 s. 39.01, F.S.; defining the term "child
4 resource record"; amending ss. 39.0015, 39.302,
5 F.S.; conforming cross-references; amending s.
6 39.407, F.S.; specifying conditions under which
7 the Department of Children and Family Services
8 may consent to the dispensing of psychotropic
9 medication to a child in its legal custody
10 prior to a court order; providing requirements
11 for a petition to the court for authority to
12 dispense psychotropic medication to such a
13 child; providing for prior review of the
14 child's medical history and evidence
15 demonstrating that the treatment is appropriate
16 for the child's condition; providing for the
17 burden of proof; providing for further medical
18 consultation, including second opinions, under
19 certain circumstances; providing conditions for
20 discontinuation of prescribed psychotropic
21 medication or for the provision of other
22 services; providing for periodic court review
23 of the child's progress; directing the
24 department to adopt rules; amending s.
25 743.0645, F.S.; providing an exception to the
26 limitations on the dispensing of psychotropic
27 medications; providing an effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (b) of subsection (3) of section
2 39.0015, Florida Statutes, is amended to read:

3 39.0015 Child abuse prevention training in the
4 district school system.--

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

6 (b) "Child abuse" means those acts as defined in ss.
7 39.01(1), (2), (31), (44), (46), (53), and (64)~~(30)~~, ~~(43)~~,
8 ~~(45)~~, ~~(52)~~, and ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

9 Section 2. Present subsections (14) through (72) of
10 section 39.01, Florida Statutes, are renumbered as subsections
11 (15) through (73), respectively, and a new subsection (14) is
12 added to that section, to read:

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

15 (14) "Child resource record" means a standardized
16 folder that contains copies of the basic legal, demographic,
17 and known medical information pertaining to a specific child,
18 as well as any documents necessary for the child to be
19 provided medical treatment.

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

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

24 (1) The department shall conduct a child protective
25 investigation of each report of institutional child abuse,
26 abandonment, or neglect. Upon receipt of a report which
27 alleges that an employee or agent of the department, or any
28 other entity or person covered by s. 39.01(31) or (48)~~(47)~~,
29 acting in an official capacity, has committed an act of child
30 abuse, abandonment, or neglect, the department shall
31 immediately initiate a child protective investigation and

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

28 Section 4. Subsections (3) through (14) of section
29 39.407, Florida Statutes, are renumbered as subsections (4)
30 through (15), respectively, and a new subsection (3) is added
31 to that section, to read:

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 in the legal custody of the
5 department was taking prescribed psychotropic medications at
6 the time the child was removed from the home, the department
7 may take possession of the remaining medications when the
8 department takes the child and may provide consent for the
9 dispensing of those medications on a temporary basis until the
10 next regularly scheduled court hearing required under this
11 chapter, other than the shelter hearing, if such hearing
12 occurs within 60 days after the time the child was removed.

13 (b) A motion seeking court authority to dispense
14 psychotropic medication to a child in the legal custody of the
15 department must be supported by the prescribing physician's
16 signed medical report indicating:

17 1. The name of the child and the name and range of the
18 dosage of the psychotropic medication and indicating that
19 there is a need to prescribe psychotropic medication to the
20 child based upon a diagnosed condition for which such
21 medication is indicated and that there is a plan of treatment
22 that addresses treatment alternatives that are or are not
23 available or desirable.

24 2. That the psychotropic medication at its prescribed
25 dosage is appropriate for the treatment of the child's
26 diagnosed medical condition, as well as the behaviors and
27 symptoms the medication at its prescribed dosage level is
28 expected to address.

29 3. That the prescribing physician has provided to the
30 child, if age-appropriate, the department, and any person
31 responsible for the child in his or her residential setting a

1 clinically appropriate explanation of the nature and purpose
2 of the treatment; the recognized side effects, risks, and
3 contraindications of the medication; and drug interaction
4 precautions.

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

14
15 The department has the burden of compliance with and proof of
16 the provisions of this paragraph.

17 (c) At a hearing to determine whether to initially
18 allow dispensing of psychotropic medication to a child in the
19 legal custody of the department, or at a hearing for
20 continuation of such medication, the medical report described
21 in paragraph (b) is admissible in evidence. The prescribing
22 physician is not required to attend the hearing or testify
23 unless the court specifically orders such attendance or
24 testimony. If the medical report, the child resource record,
25 and other evidence are in accord with the requirements of this
26 subsection, the court may order the dispensing or continuation
27 of psychotropic medication without further testimony or
28 evidence. The court shall further inquire of the department as
29 to whether the additional medical, counseling, or other
30 services that the prescribing physician believes are necessary
31 or would be beneficial for the treatment of the child's

1 medical condition and that the physician expects or advises to
2 be provided to the child in concert with the medication are
3 being provided to the child by the department. The court may
4 require further medical consultation, including obtaining a
5 second opinion, based upon considerations of the best
6 interests of the child, and the court may not order the
7 discontinuation of prescribed psychotropic medication contrary
8 to the decision of the prescribing physician without first
9 obtaining a second opinion from a licensed psychiatrist, if
10 available, or, if not available, a physician licensed under
11 chapter 458 or chapter 459 that the psychotropic medication
12 should be discontinued.

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

22 (e) If at any time the court determines that the
23 statutory requirements for continued use of the psychotropic
24 medication are not being met, the court may, in the best
25 interests of the child, order the department to either produce
26 evidence of compliance with the requirements of this section
27 or obtain a medical opinion that continued use of the
28 medication under the circumstances is safe and medically
29 appropriate. If at any time the court determines that the
30 additional medical, counseling, or other services that the
31 prescribing physician believes are necessary or would be

1 beneficial for the treatment of the child's medical condition
2 and that the physician expects or advises to be provided to
3 the child in concert with the medication are not being
4 provided, the court may, in the best interests of the child,
5 order the department to either produce evidence of compliance
6 with the requirement of providing those services or obtain a
7 medical opinion that such services are not medically
8 appropriate.

9 (f) The department shall adopt rules to ensure that
10 children receive timely access to clinically appropriate
11 psychotropic medications. These rules must, at a minimum,
12 describe a uniform process for obtaining informed consent and
13 procedures for obtaining court authorization, including
14 adoption of uniform forms to be used in requesting court
15 authorization for use of psychotropic medication.

16 Section 5. Paragraph (b) of subsection (1) of section
17 743.0645, Florida Statutes, is amended to read:

18 743.0645 Other persons who may consent to medical care
19 or treatment of a minor.--

20 (1) As used in this section, the term:

21 (b) "Medical care and treatment" includes ordinary and
22 necessary medical and dental examination and treatment,
23 including blood testing, preventive care including ordinary
24 immunizations, tuberculin testing, and well-child care, but
25 does not include surgery, general anesthesia, provision of
26 psychotropic medications, or other extraordinary procedures
27 for which a separate court order, power of attorney, or
28 informed consent as provided by law is required, except as
29 provided in s. 39.407(3)(a).

30 Section 6. This act shall take effect July 1, 2003.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 112
4
5 Eliminates the definition of "medical passport;"
6 Creates a definition for "child resource record;"
7 Deletes provisions authorizing the dispensing of psychotropic
8 medications in advance of a court order;
9 Authorizes the medical report to specify the range of dosages
10 allowed for the psychotropic medications rather than requiring
11 a specific dosage of the medication;
12 Deletes the requirement for an affidavit when a signed medical
13 report is unavailable;
14 Specifies that the physician from whom the court obtains a
15 second opinion must be a licensed psychiatrist whenever
16 available;
17 Requires the Department of Children and Family Services to
18 write rules regarding uniform procedures for obtaining
19 informed consent and requesting authorizations from the courts
20 and for the identification of a standardized format for the
21 content of medical reports to be submitted to the court; and
22 Amends s. 743.0645, F.S., providing an exception to the
23 limitations on the dispensing of psychotropic medications.
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