



HB 0261

2003

1 A bill to be entitled
 2 An act relating to dependent children; amending s. 39.01,
 3 F.S.; defining the term "medical passport"; amending ss.
 4 39.0015, 39.302, F.S.; conforming cross-references;
 5 amending s. 39.407, F.S.; specifying conditions under
 6 which a court order is not required for dispensing
 7 psychotropic medication to a child in the legal custody of
 8 the Department of Children and Family Services; providing
 9 requirements for a petition to the court for authority to
 10 dispense psychotropic medication to such a child;
 11 providing for prior review of the child's medical history
 12 and evidence demonstrating that the treatment is
 13 appropriate for the child's condition; providing for the
 14 burden of proof; providing for further medical
 15 consultation, including second opinions, under certain
 16 circumstances; providing conditions for discontinuation of
 17 prescribed psychotropic medication or for the provision of
 18 other services; providing for periodic court review of the
 19 child's progress; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Paragraph (b) of subsection (3) of section
 24 39.0015, Florida Statutes, is amended to read:

25 39.0015 Child abuse prevention training in the district
 26 school system.--

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

28 (b) "Child abuse" means those acts as defined in ss.
 29 39.01(1), (2), (30), ~~(43)~~, (45), (47), (54), and (65) ~~(52)~~
 30 and ~~(63)~~, 827.04, and 984.03(1), (2), and (37).



HB 0261

2003

31 Section 2. Present subsections (40) and (42) of section
 32 39.01, Florida Statutes, are renumbered as subsections (42) and
 33 (43), respectively, present subsection (41) of that section is
 34 renumbered as subsection (40), present subsection (72) of that
 35 section is renumbered as subsection (41), present subsections
 36 (43) through (71) of that section are renumbered as subsections
 37 (45) through (73), respectively, and a new subsection (44) is
 38 added to that section, to read:

39 39.01 Definitions.--When used in this chapter, unless the
 40 context otherwise requires:

41 (44) "Medical passport" means a written health history of
 42 a child in shelter status or foster care which is used to
 43 document health care and must be kept with the child's caregiver
 44 in the child's resource record and updated at each visit to a
 45 health care provider. The department shall ensure that the
 46 medical passport is current, complete, and accurate.

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

49 39.302 Protective investigations of institutional child
 50 abuse, abandonment, or neglect.--

51 (1) The department shall conduct a child protective
 52 investigation of each report of institutional child abuse,
 53 abandonment, or neglect. Upon receipt of a report which alleges
 54 that an employee or agent of the department, or any other entity
 55 or person covered by s. 39.01(31) or (49) ~~(47)~~, acting in an
 56 official capacity, has committed an act of child abuse,
 57 abandonment, or neglect, the department shall immediately
 58 initiate a child protective investigation and orally notify the
 59 appropriate state attorney, law enforcement agency, and
 60 licensing agency. These agencies shall immediately conduct a



HB 0261

2003

61 joint investigation, unless independent investigations are more
62 feasible. When conducting investigations onsite or having face-
63 to-face interviews with the child, such investigation visits
64 shall be unannounced unless it is determined by the department
65 or its agent that such unannounced visits would threaten the
66 safety of the child. When a facility is exempt from licensing,
67 the department shall inform the owner or operator of the
68 facility of the report. Each agency conducting a joint
69 investigation shall be entitled to full access to the
70 information gathered by the department in the course of the
71 investigation. A protective investigation must include an onsite
72 visit of the child's place of residence. In all cases, the
73 department shall make a full written report to the state
74 attorney within 3 working days after making the oral report. A
75 criminal investigation shall be coordinated, whenever possible,
76 with the child protective investigation of the department. Any
77 interested person who has information regarding the offenses
78 described in this subsection may forward a statement to the
79 state attorney as to whether prosecution is warranted and
80 appropriate. Within 15 days after the completion of the
81 investigation, the state attorney shall report the findings to
82 the department and shall include in such report a determination
83 of whether or not prosecution is justified and appropriate in
84 view of the circumstances of the specific case.

85 Section 4. Subsections (3) through (14) of section 39.407,
86 Florida Statutes, are renumbered as subsections (4) through
87 (15), respectively, and a new subsection (3) is added to that
88 section, to read:



HB 0261

2003

89 39.407 Medical, psychiatric, and psychological examination
 90 and treatment of child; physical or mental examination of parent
 91 or person requesting custody of child.--

92 (3) The provision of psychotropic medication to a child in
 93 the legal custody of the department, and in compliance with this
 94 subsection, shall be deemed in compliance with the restrictions
 95 in s. 743.0645(1) (b).

96 (a) A court order is not required to dispense psychotropic
 97 medication to a child in the legal custody of the department
 98 under any of the following conditions:

99 1. If a child was taking prescribed psychotropic
 100 medications at the time the child was removed from the home, the
 101 department may take possession of the remaining medications when
 102 the department takes the child and may dispense those
 103 medications on a temporary basis until the next regularly
 104 scheduled court hearing required under this chapter, other than
 105 the shelter hearing, if such hearing occurs within 60 days after
 106 the time the child was removed.

107 2. Psychotropic medications may be dispensed in advance of
 108 issuance of a court order if the prescribing physician indicates
 109 in writing that delay in dispensing the medication could be
 110 detrimental to the child. The order required under this
 111 subsection shall be sought by the department at the next
 112 regularly scheduled court hearing required under this chapter,
 113 or within 60 days after the date of the prescription, whichever
 114 is sooner.

115 3. Psychotropic medications may be dispensed in an acute
 116 care setting.

117 (b) A motion seeking court authority to dispense
 118 psychotropic medication to a child in the legal custody of the



HB 0261

2003

119 department must be supported by the prescribing physician's
120 signed medical report or, if not available, an affidavit from
121 the prescribing physician indicating:

122 1. The name of the child and the name and dosage of the
123 psychotropic medication and indicating that there is a need to
124 prescribe psychotropic medication to the child based upon a
125 diagnosed condition for which such medication is indicated and
126 that there is a plan of treatment that addresses treatment
127 alternatives that are or are not available or desirable.

128 2. That the psychotropic medication at its prescribed
129 dosage is appropriate for the treatment of the child's diagnosed
130 medical condition, as well as the behaviors and symptoms the
131 medication at its prescribed dosage level is expected to
132 address.

133 3. That the prescribing physician has provided to the
134 child, if age-appropriate, the department, and any person
135 responsible for the child in his or her residential setting a
136 clinically appropriate explanation of the nature and purpose of
137 the treatment; the recognized side effects, risks, and
138 contraindications of the medication; and drug interaction
139 precautions.

140 4. Whether the psychotropic medication will replace or
141 supplement any other currently prescribed medications or
142 treatments; the length of time the child is expected to be
143 taking the medication; and any additional medical, counseling,
144 or other services that the prescribing physician believes are
145 necessary or would be beneficial for the treatment of the
146 child's medical condition and that the physician expects or
147 advises to be provided to the child in concert with the
148 medication.



HB 0261

2003

149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178

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

(c) At a hearing to determine whether to initially allow dispensing of psychotropic medication to a child in the legal custody of the department, or at a hearing for continuation of such medication, the medical report or affidavit described in paragraph (b) is admissible in evidence. The prescribing physician is not required to attend the hearing or testify unless the court specifically orders such attendance or testimony. If the medical report or affidavit, the medical passport, and other evidence are in accord with the requirements of this subsection, the court shall order the dispensing or continuation of psychotropic medication without further testimony or evidence. The court shall further inquire of the department as to whether the additional medical, counseling, or other services that the prescribing physician believes are necessary or would be beneficial for the treatment of the child's medical condition and that the physician expects or advises to be provided to the child in concert with the medication are being provided to the child by the department. The court may require further medical consultation, including obtaining a second opinion, based upon considerations of the best interests of the child, and the court may not order the discontinuation of prescribed psychotropic medication contrary to the decision of the prescribing physician without first obtaining a second opinion from a licensed physician that the psychotropic medication should be discontinued.

(d) The court shall review the medical passport and the status of the child's progress on psychotropic medication at



HB 0261

2003

179 least every 6 months, which may be accomplished during timely
180 scheduled judicial review hearings pursuant to s. 39.701. On its
181 own motion or on good cause shown by any party, including any
182 guardian ad litem, attorney, or attorney ad litem who has been
183 appointed to represent the child or his or her interests, the
184 court may review the status more frequently than required in
185 this paragraph.

186 (e) If at any time the court determines that the statutory
187 requirements for continued use of the psychotropic medication
188 are not being met, the court may, in the best interests of the
189 child, order the department to either produce evidence of
190 compliance with the requirements of this section or obtain a
191 medical opinion that continued use of the medication under the
192 circumstances is safe and medically appropriate. If at any time
193 the court determines that the additional medical, counseling, or
194 other services that the prescribing physician believes are
195 necessary or would be beneficial for the treatment of the
196 child's medical condition and that the physician expects or
197 advises to be provided to the child in concert with the
198 medication are not being provided, the court may, in the best
199 interests of the child, order the department to either produce
200 evidence of compliance with the requirement of providing those
201 services or obtain a medical opinion that such services are not
202 medically appropriate.

203 Section 5. This act shall take effect July 1, 2003.