



CHAMBER ACTION

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The Committee on Future of Florida's Families recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to dependent children; amending s. 39.01, F.S.; defining the term "child resource record"; amending ss. 39.0015, 39.205, 39.302, 39.828, and 419.001, F.S.; conforming cross references; amending s. 39.407, F.S.; specifying conditions under which the Department of Children and Family Services may consent to the dispensing of psychotropic medication to a child in its legal custody prior to a court order; providing requirements for a petition to the court for authority to dispense psychotropic medication to such a child; providing for prior review of the child's medical history and evidence demonstrating that the treatment is appropriate for the child's condition; providing for the burden of proof; providing for further medical consultation, including second opinions, under certain circumstances; providing conditions for discontinuation of prescribed psychotropic medication or for the provision of other services;



29 providing for periodic court review of the child's  
 30 progress; directing the department to adopt rules;  
 31 amending s. 743.0645, F.S.; providing an exception to the  
 32 limitations on the dispensing of psychotropic medications;  
 33 providing an effective date.  
 34

35 Be It Enacted by the Legislature of the State of Florida:  
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37 Section 1. Paragraph (b) of subsection (3) of section  
 38 39.0015, Florida Statutes, is amended to read:

39 39.0015 Child abuse prevention training in the district  
 40 school system.--

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

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

45 Section 2. Subsection (10) of section 39.01, Florida  
 46 Statutes, is amended, subsections (14) through (72) are  
 47 renumbered as subsections (15) through (73), respectively, and a  
 48 new subsection (14) is added to said section, to read:

49 39.01 Definitions.--When used in this chapter, unless the  
 50 context otherwise requires:

51 (10) "Caregiver" means the parent, legal custodian, adult  
 52 household member, or other person responsible for a child's  
 53 welfare as defined in subsection (48) ~~(47)~~.

54 (14) "Child resource record" means a standardized folder  
 55 that contains copies of the basic legal, demographic, and known  
 56 medical information pertaining to a specific child, as well as



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57 | any documents necessary for the child to be provided medical  
58 | treatment.

59 | Section 3. Subsection (5) of section 39.205, Florida  
60 | Statutes, is amended to read:

61 | 39.205 Penalties relating to reporting of child abuse,  
62 | abandonment, or neglect.--

63 | (5) If the department or its authorized agent has  
64 | determined after its investigation that a report is false, the  
65 | department shall, with the consent of the alleged perpetrator,  
66 | refer the report to the local law enforcement agency having  
67 | jurisdiction for an investigation to determine whether  
68 | sufficient evidence exists to refer the case for prosecution for  
69 | filing a false report as defined in s. 39.01~~(27)~~(28). During the  
70 | pendency of the investigation by the local law enforcement  
71 | agency, the department must notify the local law enforcement  
72 | agency of, and the local law enforcement agency must respond to,  
73 | all subsequent reports concerning children in that same family  
74 | in accordance with s. 39.301. If the law enforcement agency  
75 | believes that there are indicators of abuse, abandonment, or  
76 | neglect, it must immediately notify the department, which must  
77 | assure the safety of the children. If the law enforcement agency  
78 | finds sufficient evidence for prosecution for filing a false  
79 | report, it must refer the case to the appropriate state attorney  
80 | for prosecution.

81 | Section 4. Subsection (1) of section 39.302, Florida  
82 | Statutes, is amended to read:

83 | 39.302 Protective investigations of institutional child  
84 | abuse, abandonment, or neglect.--



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85 (1) The department shall conduct a child protective  
86 investigation of each report of institutional child abuse,  
87 abandonment, or neglect. Upon receipt of a report which alleges  
88 that an employee or agent of the department, or any other entity  
89 or person covered by s. 39.01(32)+~~(31)~~ or (48) ~~(47)~~, acting in an  
90 official capacity, has committed an act of child abuse,  
91 abandonment, or neglect, the department shall immediately  
92 initiate a child protective investigation and orally notify the  
93 appropriate state attorney, law enforcement agency, and  
94 licensing agency. These agencies shall immediately conduct a  
95 joint investigation, unless independent investigations are more  
96 feasible. When conducting investigations onsite or having face-  
97 to-face interviews with the child, such investigation visits  
98 shall be unannounced unless it is determined by the department  
99 or its agent that such unannounced visits would threaten the  
100 safety of the child. When a facility is exempt from licensing,  
101 the department shall inform the owner or operator of the  
102 facility of the report. Each agency conducting a joint  
103 investigation shall be entitled to full access to the  
104 information gathered by the department in the course of the  
105 investigation. A protective investigation must include an onsite  
106 visit of the child's place of residence. In all cases, the  
107 department shall make a full written report to the state  
108 attorney within 3 working days after making the oral report. A  
109 criminal investigation shall be coordinated, whenever possible,  
110 with the child protective investigation of the department. Any  
111 interested person who has information regarding the offenses  
112 described in this subsection may forward a statement to the



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113 state attorney as to whether prosecution is warranted and  
114 appropriate. Within 15 days after the completion of the  
115 investigation, the state attorney shall report the findings to  
116 the department and shall include in such report a determination  
117 of whether or not prosecution is justified and appropriate in  
118 view of the circumstances of the specific case.

119 Section 5. Subsections (3) through (14) of section 39.407,  
120 Florida Statutes, are renumbered as subsections (4) through  
121 (15), respectively, a new subsection (3) is added to said  
122 section, and present subsection (4) of said section is amended,  
123 to read:

124 39.407 Medical, psychiatric, and psychological examination  
125 and treatment of child; physical or mental examination of parent  
126 or person requesting custody of child.--

127 (3)(a) If a child in the legal custody of the department  
128 was taking prescribed psychotropic medication at the time the  
129 child was removed from the home, the department may take  
130 possession of the remaining medication when the department takes  
131 the child and may provide consent for the dispensing of that  
132 medication on a temporary basis until the next regularly  
133 scheduled court hearing required under this chapter, other than  
134 the shelter hearing, if such hearing occurs within 60 days after  
135 the time the child was removed.

136 (b) Psychotropic medications may be dispensed in advance  
137 of issuance of a court order if the prescribing physician  
138 indicates in writing that delay in dispensing the medication  
139 could be detrimental to the child. The order required under this  
140 subsection shall be sought by the department at the next



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141 regularly scheduled court hearing required under this chapter,  
142 or within 60 days after the date of the prescription, whichever  
143 is sooner.

144 (c) Psychotropic medications may be dispensed in an acute  
145 care setting.

146 (d) A motion seeking court authority to dispense  
147 psychotropic medication to a child in the legal custody of the  
148 department must be supported by the prescribing physician's  
149 signed medical report indicating:

150 1. The name of the child and the name and range of the  
151 dosage of the psychotropic medication and indicating that there  
152 is a need to prescribe psychotropic medication to the child  
153 based upon a diagnosed condition for which such medication is  
154 indicated and that there is a plan of treatment that addresses  
155 treatment alternatives that are or are not available or  
156 desirable.

157 2. That the psychotropic medication at its prescribed  
158 dosage is appropriate for the treatment of the child's diagnosed  
159 medical condition, as well as the behaviors and symptoms the  
160 medication at its prescribed dosage level is expected to  
161 address.

162 3. That the prescribing physician has provided to the  
163 child, if age-appropriate, the department, and any person  
164 responsible for the child in his or her residential setting a  
165 clinically appropriate explanation of the nature and purpose of  
166 the treatment; the recognized side effects, risks, and  
167 contraindications of the medication; and drug interaction  
168 precautions.



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169 4. Whether the psychotropic medication will replace or  
170 supplement any other currently prescribed medications or  
171 treatments; the length of time the child is expected to be  
172 taking the medication; and any additional medical, counseling,  
173 or other services that the prescribing physician believes are  
174 necessary or would be beneficial for the treatment of the  
175 child's medical condition and that the physician expects or  
176 advises to be provided to the child in concert with the  
177 medication.

178  
179 The department has the burden of compliance with and proof of  
180 compliance with the provisions of this paragraph.

181 (e) At a hearing to determine whether to initially allow  
182 dispensing of psychotropic medication to a child in the legal  
183 custody of the department, or at a hearing for continuation of  
184 such medication, the medical report described in paragraph (d)  
185 is admissible in evidence. The prescribing physician is not  
186 required to attend the hearing or testify unless the court  
187 specifically orders such attendance or testimony. If the medical  
188 report, the child resource record, and other evidence are in  
189 accord with the requirements of this subsection, the court may  
190 order the dispensing or continuation of psychotropic medication  
191 without further testimony or evidence. The court shall further  
192 inquire of the department as to whether additional medical,  
193 counseling, or other services that the prescribing physician  
194 believes are necessary or would be beneficial for the treatment  
195 of the child's medical condition, and that the physician expects  
196 or advises to be provided to the child in concert with the



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197 medication, are being provided to the child by the department.  
198 The court may require further medical consultation, including  
199 obtaining a second opinion, based upon considerations of the  
200 best interests of the child, and the court may not order the  
201 discontinuation of prescribed psychotropic medication contrary  
202 to the decision of the prescribing physician without first  
203 obtaining a second opinion from a licensed psychiatrist, if  
204 available, or, if not available, a physician licensed under  
205 chapter 458 or chapter 459 that the psychotropic medication  
206 should be discontinued.

207 (f) The court shall review the child resource record and  
208 the status of the child's progress on psychotropic medication at  
209 least every 6 months, which may be accomplished during timely  
210 scheduled judicial review hearings pursuant to s. 39.701. On its  
211 own motion or on good cause shown by any party, including any  
212 guardian ad litem, attorney, or attorney ad litem who has been  
213 appointed to represent the child or his or her interests, the  
214 court may review the status more frequently than required in  
215 this paragraph.

216 (g) If at any time the court determines that the statutory  
217 requirements for continued use of the psychotropic medication  
218 are not being met, the court may, in the best interests of the  
219 child, order the department to either produce evidence of  
220 compliance with the requirements of this section or obtain a  
221 medical opinion that continued use of the medication under the  
222 circumstances is safe and medically appropriate. If at any time  
223 the court determines that the additional medical, counseling, or  
224 other services that the prescribing physician believes are





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225 necessary or would be beneficial for the treatment of the  
226 child's medical condition and that the physician expects or  
227 advises to be provided to the child in concert with the  
228 medication are not being provided, the court may, in the best  
229 interests of the child, order the department to either produce  
230 evidence of compliance with the requirement of providing those  
231 services or obtain a medical opinion that such services are not  
232 medically appropriate.

233 (h) The department shall adopt rules to ensure that  
234 children receive timely access to clinically appropriate  
235 psychotropic medications. These rules must, at a minimum,  
236 describe a uniform process for obtaining informed consent and  
237 procedures for obtaining court authorization, including adoption  
238 of uniform forms to be used in requesting court authorization  
239 for use of psychotropic medication.

240 (5)(4) A judge may order a child in an out-of-home  
241 placement to be treated by a licensed health care professional  
242 based on evidence that the child should receive treatment. The  
243 judge may also order such child to receive mental health or  
244 developmental disabilities services from a psychiatrist,  
245 psychologist, or other appropriate service provider. Except as  
246 provided in subsection (6) ~~(5)~~, if it is necessary to place the  
247 child in a residential facility for such services, the  
248 procedures and criteria established in s. 394.467 or chapter 393  
249 shall be used, whichever is applicable. A child may be provided  
250 developmental disabilities or mental health services in  
251 emergency situations, pursuant to the procedures and criteria



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252 contained in s. 394.463(1) or chapter 393, whichever is  
253 applicable.

254 Section 6. Paragraph (a) of subsection (1) of section  
255 39.828, Florida Statutes, is amended to read:

256 39.828 Grounds for appointment of a guardian advocate.--

257 (1) The court shall appoint the person named in the  
258 petition as a guardian advocate with all the powers and duties  
259 specified in s. 39.829 for an initial term of 1 year upon a  
260 finding that:

261 (a) The child named in the petition is or was a drug  
262 dependent newborn as described in s. 39.01(31)(~~30~~)(g);

263 Section 7. Paragraph (d) of subsection (1) of section  
264 419.001, Florida Statutes, is amended to read:

265 419.001 Site selection of community residential homes.--

266 (1) For the purposes of this section, the following  
267 definitions shall apply:

268 (d) "Resident" means any of the following: a frail elder  
269 as defined in s. 400.618; a physically disabled or handicapped  
270 person as defined in s. 760.22(7)(a); a developmentally disabled  
271 person as defined in s. 393.063(12); a nondangerous mentally ill  
272 person as defined in s. 394.455(18); or a child as defined in s.  
273 39.01(15)(~~14~~), s. 984.03(9) or (12), or s. 985.03(8).

274 Section 8. Paragraph (b) of subsection (1) of section  
275 743.0645, Florida Statutes, is amended to read:

276 743.0645 Other persons who may consent to medical care or  
277 treatment of a minor.--

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



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279 | (b) "Medical care and treatment" includes ordinary and  
280 | necessary medical and dental examination and treatment,  
281 | including blood testing, preventive care including ordinary  
282 | immunizations, tuberculin testing, and well-child care, but does  
283 | not include surgery, general anesthesia, provision of  
284 | psychotropic medications, or other extraordinary procedures for  
285 | which a separate court order, power of attorney, or informed  
286 | consent as provided by law is required, except as provided in s.  
287 | 39.407(3)(a).

288 | Section 9. This act shall take effect July 1, 2003.