

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Ryan offered the following:

Amendment (with title amendment)

Between lines 770 and 771, insert:

Section 13. Paragraph (b) of subsection (3) of section 39.0015, Florida Statutes, is amended to read:

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

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

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

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

Amendment No. (for drafter's use only)

28 39.01 Definitions.--When used in this chapter, unless the
29 context otherwise requires:

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

33 (14) "Child resource record" means a standardized folder
34 that contains copies of the basic legal, demographic, and known
35 medical information pertaining to a specific child, as well as
36 any documents necessary for the child to be provided medical
37 treatment.

38 Section 15. Subsection (5) of section 39.205, Florida
39 Statutes, is amended to read:

40 39.205 Penalties relating to reporting of child abuse,
41 abandonment, or neglect.--

42 (5) If the department or its authorized agent has
43 determined after its investigation that a report is false, the
44 department shall, with the consent of the alleged perpetrator,
45 refer the report to the local law enforcement agency having
46 jurisdiction for an investigation to determine whether
47 sufficient evidence exists to refer the case for prosecution for
48 filing a false report as defined in s. 39.01~~(28)~~~~(27)~~. During the
49 pendency of the investigation by the local law enforcement
50 agency, the department must notify the local law enforcement
51 agency of, and the local law enforcement agency must respond to,
52 all subsequent reports concerning children in that same family
53 in accordance with s. 39.301. If the law enforcement agency
54 believes that there are indicators of abuse, abandonment, or
55 neglect, it must immediately notify the department, which must
56 assure the safety of the children. If the law enforcement agency

362229

Amendment No. (for drafter's use only)

57 finds sufficient evidence for prosecution for filing a false
58 report, it must refer the case to the appropriate state attorney
59 for prosecution.

60 Section 16. Subsection (1) of section 39.302, Florida
61 Statutes, is amended to read:

62 39.302 Protective investigations of institutional child
63 abuse, abandonment, or neglect.--

64 (1) The department shall conduct a child protective
65 investigation of each report of institutional child abuse,
66 abandonment, or neglect. Upon receipt of a report which alleges
67 that an employee or agent of the department, or any other entity
68 or person covered by s. 39.01(32)(~~31~~) or (48) (~~47~~), acting in an
69 official capacity, has committed an act of child abuse,
70 abandonment, or neglect, the department shall immediately
71 initiate a child protective investigation and orally notify the
72 appropriate state attorney, law enforcement agency, and
73 licensing agency. These agencies shall immediately conduct a
74 joint investigation, unless independent investigations are more
75 feasible. When conducting investigations onsite or having face-
76 to-face interviews with the child, such investigation visits
77 shall be unannounced unless it is determined by the department
78 or its agent that such unannounced visits would threaten the
79 safety of the child. When a facility is exempt from licensing,
80 the department shall inform the owner or operator of the
81 facility of the report. Each agency conducting a joint
82 investigation shall be entitled to full access to the
83 information gathered by the department in the course of the
84 investigation. A protective investigation must include an onsite
85 visit of the child's place of residence. In all cases, the

362229

Amendment No. (for drafter's use only)

86 department shall make a full written report to the state
87 attorney within 3 working days after making the oral report. A
88 criminal investigation shall be coordinated, whenever possible,
89 with the child protective investigation of the department. Any
90 interested person who has information regarding the offenses
91 described in this subsection may forward a statement to the
92 state attorney as to whether prosecution is warranted and
93 appropriate. Within 15 days after the completion of the
94 investigation, the state attorney shall report the findings to
95 the department and shall include in such report a determination
96 of whether or not prosecution is justified and appropriate in
97 view of the circumstances of the specific case.

98 Section 17. Subsections (3) through (14) of section
99 39.407, Florida Statutes, are renumbered as subsections (4)
100 through (15), respectively, a new subsection (3) is added to
101 said section, and present subsection (4) of said section is
102 amended, to read:

103 39.407 Medical, psychiatric, and psychological examination
104 and treatment of child; physical or mental examination of parent
105 or person requesting custody of child.--

106 (3)(a) If a child in out of home placement with the
107 department was taking prescribed psychotropic medication at the
108 time the child was removed from the home, the department may
109 take possession of the remaining medication when the department
110 takes the child and may provide consent for the dispensing of
111 that medication on a temporary basis until the next regularly
112 scheduled court hearing required under this chapter, other than
113 the shelter hearing, if such hearing occurs within 60 days after
114 the time the child was removed.

362229

Amendment No. (for drafter's use only)

115 (b) If the prescribing physician certifies in the signed
116 medical report required in paragraph (d) that delay in
117 dispensing the prescribed psychotropic medication would more
118 likely than not cause significant harm to the child, the
119 medication may be dispensed in advance of issuance of a court
120 order. In such event, the physician's medical report shall be
121 submitted to the court, the child's guardian ad litem, and all
122 other parties within 3 business days after the commencement of
123 dispensing the medication to the child. The order required under
124 this subsection shall be sought by the department at the next
125 regularly scheduled court hearing required under this chapter,
126 or within 30 days after the date of the prescription, whichever
127 is sooner.

128 (c) Psychotropic medications may be dispensed in an acute
129 care setting.

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

134 1. The name of the child and the name and range of the
135 dosage of the psychotropic medication and indicating that there
136 is a need to prescribe psychotropic medication to the child
137 based upon a diagnosed condition for which such medication is
138 indicated and that there is a plan of treatment that addresses
139 treatment alternatives that are or are not available or
140 desirable.

141 2. That the psychotropic medication at its prescribed
142 dosage is appropriate for the treatment of the child's diagnosed
143 medical condition, as well as the behaviors and symptoms the

362229

Amendment No. (for drafter's use only)

144 medication at its prescribed dosage level is expected to
145 address.

146 3. That the prescribing physician has provided to the
147 child, if age-appropriate, the department, and any person
148 responsible for the child in his or her residential setting a
149 clinically appropriate explanation of the nature and purpose of
150 the treatment; the recognized side effects, risks, and
151 contraindications of the medication; and drug interaction
152 precautions.

153 4. Whether the psychotropic medication will replace or
154 supplement any other currently prescribed medications or
155 treatments; the length of time the child is expected to be
156 taking the medication; and any additional medical, counseling,
157 or other services that the prescribing physician believes are
158 necessary or would be beneficial for the treatment of the
159 child's medical condition and that the physician expects or
160 advises to be provided to the child in concert with the
161 medication.

162
163 The department has the burden of compliance with and proof of
164 compliance with the provisions of this paragraph.

165 (e) At a hearing to determine whether to initially allow
166 dispensing of psychotropic medication to a child in the legal
167 custody of the department, or at a hearing for continuation of
168 such medication, the medical report described in paragraph (d)
169 is admissible in evidence. The prescribing physician is not
170 required to attend the hearing or testify unless the court
171 specifically orders such attendance or testimony. If the medical
172 report, the child resource record, and other evidence are in

362229

Amendment No. (for drafter's use only)

173 accord with the requirements of this subsection, the court may
174 order the dispensing or continuation of psychotropic medication
175 without further testimony or evidence. The court shall further
176 inquire of the department as to whether additional medical,
177 counseling, or other services that the prescribing physician
178 believes are necessary or would be beneficial for the treatment
179 of the child's medical condition, and that the physician expects
180 or advises to be provided to the child in concert with the
181 medication, are being provided to the child by the department.
182 The court may order further medical consultation, including
183 obtaining a second opinion within 5 working days after such
184 order, based upon considerations of the best interests of the
185 child, and the court may not order the discontinuation of
186 prescribed psychotropic medication contrary to the decision of
187 the prescribing physician without first obtaining a second
188 opinion from a licensed psychiatrist, if available, or, if not
189 available, a physician licensed under chapter 458 or chapter 459
190 that the psychotropic medication should be discontinued.

191 (f) The court shall review the child resource record and
192 the status of the child's progress on psychotropic medication at
193 least every 6 months, which may be accomplished during timely
194 scheduled judicial review hearings pursuant to s. 39.701. On its
195 own motion or on good cause shown by any party, including any
196 guardian ad litem, attorney, or attorney ad litem who has been
197 appointed to represent the child or his or her interests, the
198 court may review the status more frequently than required in
199 this paragraph.

200 (g) If at any time the court determines that the statutory
201 requirements for continued use of the psychotropic medication

362229

Amendment No. (for drafter's use only)

202 are not being met, the court may, in the best interests of the
203 child, order the department to either produce evidence of
204 compliance with the requirements of this section or obtain a
205 medical opinion that continued use of the medication under the
206 circumstances is safe and medically appropriate. If at any time
207 the court determines that the additional medical, counseling, or
208 other services that the prescribing physician believes are
209 necessary or would be beneficial for the treatment of the
210 child's medical condition and that the physician expects or
211 advises to be provided to the child in concert with the
212 medication are not being provided, the court may, in the best
213 interests of the child, order the department to either produce
214 evidence of compliance with the requirement of providing those
215 services or obtain a medical opinion that such services are not
216 medically appropriate.

217 (h) The department shall adopt rules to ensure that
218 children receive timely access to clinically appropriate
219 psychotropic medications. These rules must, at a minimum,
220 describe a uniform process for obtaining informed consent and
221 procedures for obtaining court authorization, including adoption
222 of uniform forms to be used in requesting court authorization
223 for use of psychotropic medication.

224 (5)(4) A judge may order a child in an out-of-home
225 placement to be treated by a licensed health care professional
226 based on evidence that the child should receive treatment. The
227 judge may also order such child to receive mental health or
228 developmental disabilities services from a psychiatrist,
229 psychologist, or other appropriate service provider. Except as
230 provided in subsection (6) (5), if it is necessary to place the

362229

Amendment No. (for drafter's use only)

231 child in a residential facility for such services, the
232 procedures and criteria established in s. 394.467 or chapter 393
233 shall be used, whichever is applicable. A child may be provided
234 developmental disabilities or mental health services in
235 emergency situations, pursuant to the procedures and criteria
236 contained in s. 394.463(1) or chapter 393, whichever is
237 applicable.

238 Section 18. Paragraph (a) of subsection (1) of section
239 39.828, Florida Statutes, is amended to read:

240 39.828 Grounds for appointment of a guardian advocate.--

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

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

247 Section 19. Paragraph (d) of subsection (1) of section
248 419.001, Florida Statutes, is amended to read:

249 419.001 Site selection of community residential homes.--

250 (1) For the purposes of this section, the following
251 definitions shall apply:

252 (d) "Resident" means any of the following: a frail elder
253 as defined in s. 400.618; a physically disabled or handicapped
254 person as defined in s. 760.22(7)(a); a developmentally disabled
255 person as defined in s. 393.063(12); a nondangerous mentally ill
256 person as defined in s. 394.455(18); or a child as defined in s.
257 39.01~~(15)~~(14), s. 984.03(9) or (12), or s. 985.03(8).

258 Section 20. Paragraph (b) of subsection (1) of section
259 743.0645, Florida Statutes, is amended to read:

362229

Amendment No. (for drafter's use only)

260 743.0645 Other persons who may consent to medical care or
261 treatment of a minor.--

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

263 (b) "Medical care and treatment" includes ordinary and
264 necessary medical and dental examination and treatment,
265 including blood testing, preventive care including ordinary
266 immunizations, tuberculin testing, and well-child care, but does
267 not include surgery, general anesthesia, provision of
268 psychotropic medications, or other extraordinary procedures for
269 which a separate court order, power of attorney, or informed
270 consent as provided by law is required, except as provided in s.
271 39.407(3)(a).

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274 ===== T I T L E A M E N D M E N T =====

275 Between lines 76 and 77, insert:

276

277 amending s. 39.01, F.S.; defining the term "child resource
278 record"; amending ss. 39.0015, 39.205, 39.302, 39.828, and
279 419.001, F.S.; conforming cross references; amending s. 39.407,
280 F.S.; specifying conditions under which the Department of
281 Children and Family Services may consent to the dispensing of
282 psychotropic medication to a child in out of home placement with
283 the department prior to a court order; providing requirements
284 for a petition to the court for authority to dispense
285 psychotropic medication to such a child; providing for prior
286 review of the child's medical history and evidence demonstrating
287 that the treatment is appropriate for the child's condition;
288 providing for the burden of proof; providing for further medical

Amendment No. (for drafter's use only)

289 consultation, including second opinions, under certain
290 circumstances; providing conditions for discontinuation of
291 prescribed psychotropic medication or for the provision of other
292 services; providing for periodic court review of the child's
293 progress; directing the department to adopt rules; amending s.
294 743.0645, F.S.; providing an exception to the limitations on the
295 dispensing of psychotropic medications;