

Bill No. CS for SB 1578

Amendment No. \_\_\_\_ Barcode 102500

CHAMBER ACTION

Senate

House

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Senator Cowin moved the following ~~amendment to amendment~~  
(313534):

**Senate Amendment (with title amendment)**

On page 8, line 10,

insert:

Section 3. Subsection (1) of section 39.401, Florida  
Statutes, is amended to read:

39.401 Taking a child alleged to be dependent into  
custody; law enforcement officers and authorized agents of the  
department.--

(1) A child may only be taken into custody:

(a) Pursuant to the provisions of this part, based  
upon sworn testimony, either before or after a petition is  
filed; or

(b) By a law enforcement officer, or an authorized  
agent of the department, if the officer or authorized agent  
has probable cause to support a finding:

1. That the child has been abused, neglected, or  
abandoned, or is suffering from or is in imminent danger of

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1 illness or injury as a result of abuse, neglect, or  
2 abandonment;

3 2. That the parent or legal custodian of the child has  
4 materially violated a condition of placement imposed by the  
5 court; or

6 3. That the child has no parent, legal custodian, or  
7 responsible adult relative immediately known and available to  
8 provide supervision and care.

9  
10 The refusal of a parent, legal guardian, or other person  
11 responsible for a child's welfare to administer or consent to  
12 the administration of any psychotropic medication to the child  
13 does not, in and of itself, constitute grounds for the  
14 department to take the child into custody, or for any court to  
15 order that the child be taken into custody by the department,  
16 unless the refusal to administer or consent to the  
17 administration of psychotropic medication causes the child to  
18 be neglected or abused.

19 Section 4. Section 402.3127, Florida Statutes, is  
20 created to read:

21 402.3127 Unauthorized administration of medication.--

22 (1) An employee, owner, household member, volunteer,  
23 or operator of a child care facility, large family child care  
24 home, or family day care home, as defined in s. 402.302,  
25 including a child care program operated by a public or  
26 nonpublic school deemed to be child care under s. 402.3025,  
27 which is required to be licensed or registered, may not,  
28 without written authorization from a child's parent or legal  
29 guardian, administer any medication to a child attending the  
30 child care facility, large family child care home, or family  
31 day care home. The written authorization to administer

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1 medication must include the child's name, the date or dates  
2 for which the authorization is applicable, dosage  
3 instructions, and the signature of the child's parent or legal  
4 guardian.

5       (2) In the event of an emergency medical condition  
6 when a child's parent or legal guardian is unavailable, an  
7 employee, owner, household member, volunteer, or operator of a  
8 licensed or unlicensed child care facility, large family child  
9 care home, or family day care home may administer medication  
10 to a child attending the facility or home without the written  
11 authorization required in subsection (1) if the medication is  
12 administered according to instructions from a prescribing  
13 health care practitioner. The child care facility, large  
14 family child care home, or family day care home must  
15 immediately notify the child's parent or legal guardian of the  
16 emergency medical condition and of the corrective measures  
17 taken. If the parent or legal guardian remains unavailable and  
18 the child's emergency medical condition persists, the child  
19 care facility must immediately notify the child's medical care  
20 provider.

21       (3) As used in this section, the term "emergency  
22 medical condition" means circumstances in which a prudent  
23 layperson acting reasonably would believe that an emergency  
24 medical condition exists.

25       (4)(a) A person who violates this section commits a  
26 felony of the third degree, punishable as provided in s.  
27 775.082 or s. 775.083, if the violation results in serious  
28 injury to the child.

29       (b) A person who violates this section commits a  
30 misdemeanor of the first degree, punishable as provided in s.  
31 775.082 or s. 775.083, if the violation does not result in

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1 serious injury to the child.

2 Section 5. Subsection (8) is added to section  
3 1006.062, Florida Statutes, to read:

4 1006.062 Administration of medication and provision of  
5 medical services by district school board personnel.--

6 (8) Each district school board shall adopt rules that  
7 prohibit all district school board personnel, except  
8 psychiatrists licensed under chapter 458 or chapter 459, from  
9 recommending the use of psychotropic medications for any  
10 student. This subsection does not prohibit district school  
11 board personnel from recommending that a student be evaluated  
12 by an appropriate medical practitioner and does not prohibit  
13 district school board personnel from consulting with such a  
14 practitioner with the consent of the student's parent.

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

18 And the title is amended as follows:

19 On page 9, line 6, after the semicolon,

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21 insert:

22 amending s. 39.401, F.S.; providing that the  
23 refusal of a parent, legal guardian, or other  
24 person responsible for a child's welfare to  
25 administer or consent to the administration of  
26 a psychotropic medication does not by itself  
27 constitute grounds for taking the child into  
28 custody; providing an exception; creating s.  
29 402.3127, F.S.; prohibiting the unauthorized  
30 administration of medication by personnel  
31 associated with child care entities; providing

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1 an exception for emergency medical conditions  
2 when the child's parent or legal guardian is  
3 unavailable; defining the term "emergency  
4 medical condition"; providing penalties for  
5 violations; amending s. 1006.062, F.S.;  
6 requiring district school boards to adopt rules  
7 prohibiting district school board personnel  
8 from recommending the use of psychotropic  
9 medications for any student; allowing such  
10 personnel to recommend that a medical  
11 practitioner evaluate a student and to consult  
12 with such practitioners;

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