

Bill No. CS for SB 1578

Amendment No. \_\_\_\_ Barcode 313534

CHAMBER ACTION

Senate

House

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Senator Smith moved the following amendment:

**Senate Amendment (with title amendment)**

On page 5, between lines 3 and 4,

insert:

Section 2. Section 743.0645, Florida Statutes, is amended to read:

743.0645 Other persons who may consent to medical care or treatment of a minor; Center for Juvenile Psychotropic Studies; creation; purpose; advisory board; report.--

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

(a) "Blood testing" includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) testing and other blood testing deemed necessary by documented history or symptomatology but excludes HIV testing and controlled substance testing or any other testing for which separate court order or informed consent as provided by law is required.

(b) "Medical care and treatment" includes ordinary and necessary medical and dental examination and treatment,

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1 including blood testing, preventive care including ordinary  
2 immunizations, tuberculin testing, and well-child care, but  
3 does not include surgery, general anesthesia, provision of  
4 psychotropic medications, or other extraordinary procedures  
5 for which a separate court order, power of attorney, or  
6 informed consent as provided by law is required.

7 (c) "Person who has the power to consent as otherwise  
8 provided by law" includes a natural or adoptive parent, legal  
9 custodian, or legal guardian.

10 (d) "Psychotropic medication" means a medicine that may  
11 not be dispensed or administered without a prescription which  
12 is used for the treatment of medical disorders, and includes  
13 hypnotics, antipsychotics, antidepressants, antianxiety  
14 agents, sedatives, and mood stabilizers such as lithium,  
15 Depakote, and other anticonvulsants used as mood stabilizers  
16 and psychomotor stimulants. This paragraph expires July 1,  
17 2005.

18 (2) Any of the following persons, in order of priority  
19 listed, may consent to the medical care or treatment of a  
20 minor who is not committed to the Department of Children and  
21 Family Services or the Department of Juvenile Justice or in  
22 their custody under chapter 39, chapter 984, or chapter 985  
23 when, after a reasonable attempt, a person who has the power  
24 to consent as otherwise provided by law cannot be contacted by  
25 the treatment provider and actual notice to the contrary has  
26 not been given to the provider by that person:

27 (a) A person who possesses a power of attorney to  
28 provide medical consent for the minor. A power of attorney  
29 executed after July 1, 2001, to provide medical consent for a  
30 minor includes the power to consent to medically necessary  
31 surgical and general anesthesia services for the minor unless

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1 such services are excluded by the individual executing the  
2 power of attorney.

3 (b) The stepparent.

4 (c) The grandparent of the minor.

5 (d) An adult brother or sister of the minor.

6 (e) An adult aunt or uncle of the minor.

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8 There shall be maintained in the treatment provider's records  
9 of the minor documentation that a reasonable attempt was made  
10 to contact the person who has the power to consent.

11 (3) The Department of Children and Family Services or  
12 the Department of Juvenile Justice caseworker, juvenile  
13 probation officer, or person primarily responsible for the  
14 case management of the child, the administrator of any  
15 facility licensed by the department under s. 393.067, s.  
16 394.875, or s. 409.175, or the administrator of any  
17 state-operated or state-contracted delinquency residential  
18 treatment facility may consent to the medical care or  
19 treatment of any minor committed to it or in its custody under  
20 chapter 39, chapter 984, or chapter 985, when the person who  
21 has the power to consent as otherwise provided by law cannot  
22 be contacted and such person has not expressly objected to  
23 such consent. There shall be maintained in the records of the  
24 minor documentation that a reasonable attempt was made to  
25 contact the person who has the power to consent as otherwise  
26 provided by law.

27 (4) The medical provider shall notify the parent or  
28 other person who has the power to consent as otherwise  
29 provided by law as soon as possible after the medical care or  
30 treatment is administered pursuant to consent given under this  
31 section. The medical records shall reflect the reason consent

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1 as otherwise provided by law was not initially obtained and  
2 shall be open for inspection by the parent or other person who  
3 has the power to consent as otherwise provided by law.

4 (5) The person who gives consent; a physician,  
5 dentist, nurse, or other health care professional licensed to  
6 practice in this state; or a hospital or medical facility,  
7 including, but not limited to, county health departments,  
8 shall not incur civil liability by reason of the giving of  
9 consent, examination, or rendering of treatment, provided that  
10 such consent, examination, or treatment was given or rendered  
11 as a reasonable prudent person or similar health care  
12 professional would give or render it under the same or similar  
13 circumstances.

14 (6) The Center for Juvenile Psychotropic Studies is  
15 created within the Department of Psychiatry of the College of  
16 Medicine of the University of Florida. The purpose of the  
17 center is to collect, track, and assess information regarding  
18 minors in state custody held pursuant to chapter 39, chapter  
19 984, or chapter 985 who have been or are currently being  
20 prescribed psychotropic medications.

21 (a) In addition to determining the number of children  
22 in state custody who are receiving psychotropic medications,  
23 the types and dosages of medication being prescribed to those  
24 children, and any other data relevant to scientifically  
25 assessing the status of minors in state custody who are  
26 receiving psychotropic medications, the center shall evaluate:

27 1. Whether the child received a full and complete  
28 medical evaluation and, to the extent that the medication was  
29 prescribed for a psychiatric condition and it is possible to  
30 determine from available records, whether or not all other  
31 possible physical causes had been ruled out prior to the

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1 prescribing of psychotropic medication.

2 2. What other treatments and services were recommended  
3 for the child in addition to psychotropic medication and  
4 whether or not those services were offered or delivered.

5 3. Whether or not informed consent was received from a  
6 parent, legal guardian, or the court prior to initiating  
7 treatment.

8 4. Whether or not followup monitoring and treatment  
9 appropriate to the child's diagnosis and prescribed medication  
10 were provided to the child.

11 5. In cases where court authorization was sought,  
12 whether a full and complete child resource record was provided  
13 to the court for decisionmaking purposes.

14 6. Whether or not the prescription for and type of  
15 psychotropic medications prescribed for the child were  
16 appropriate for the age and diagnosis of the child and  
17 consistent with the medical standard of care for the treatment  
18 of the child's condition.

19 (b) The director of the Center for Juvenile  
20 Psychotropic Studies shall be appointed by the Dean of the  
21 College of Medicine of the University of Florida.

22 (c) There is created an advisory board that shall  
23 periodically and objectively review and advise the center on  
24 the academic rigor and research parameters of all actions  
25 taken pursuant to this subsection. The board shall consist of  
26 the following nine members who have backgrounds in psychiatric  
27 health:

28 1. The Secretary of Children and Family Services or  
29 his or her designee;

30 2. The Secretary of Juvenile Justice or his or her  
31 designee;

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1           3. The Secretary of Health Care Administration or his  
2 or her designee;

3           4. The Secretary of Health or his or her designee;

4           5. One member appointed by the President of the Senate  
5 from the Florida Psychiatric Society who specializes in  
6 treating children and adolescents;

7           6. One member appointed by the Speaker of the House of  
8 Representatives who is a pediatrician experienced in treating  
9 children and adolescents with psychiatric diseases;

10           7. One member appointed by the President of the  
11 University of Florida who is an epidemiologist; and

12           8. Two members appointed by the Governor, one of whom  
13 has experience serving as a guardian ad litem to children and  
14 adolescents in the custody of the state who have psychiatric  
15 diseases, and one of whom is employed by the Louis de la Parte  
16 Florida Mental Health Institute and has experience in the  
17 academic study of children and adolescents with psychiatric  
18 diseases.

19           (d) The center shall work in conjunction with the  
20 Department of Children and Family Services, the Department of  
21 Juvenile Justice, the Agency for Health Care Administration,  
22 and the Department of Health, and, to the extent allowed by  
23 the privacy requirements of federal and state laws, those  
24 agencies shall work with the center and make available to the  
25 center data regarding such dependent minors, including, but  
26 not limited to:

27           1. Demographic information, including, but not limited  
28 to, age, geographic location, and economic status.

29           2. A family history of each dependent minor,  
30 including, but not limited to, the minor's involvement with  
31 the child welfare system or the juvenile justice system, all

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1 applicable social service records, and all applicable court  
2 records.

3 3. A medical history of each dependent minor,  
4 including, but not limited to, the minor's medical condition.

5 4. All information regarding the medications  
6 prescribed or administered to each minor, including, but not  
7 limited to, information contained in each minor's medication  
8 administration record.

9 5. Practice patterns, licensure, and board  
10 certification of prescribing physicians.

11 (e) All oral and written records, information,  
12 letters, and reports received, made, or maintained by the  
13 center shall be maintained in a manner consistent with all  
14 applicable state and federal law.

15 (f) A privilege against civil liability is granted to  
16 any person furnishing medical records in furtherance of the  
17 charge of the center, unless such person furnishing medical  
18 records acted in bad faith or with malice in providing such  
19 information. A person who participates in the center's  
20 research activities or provides information to the center with  
21 regard to the incompetence, impairment, or unprofessional  
22 conduct of any health care provider licensed under chapter  
23 458, chapter 459, chapter 460, chapter 461, chapter 462,  
24 chapter 463, chapter 464, chapter 465, or chapter 466 may not  
25 be held liable in any civil action for furnishing such medical  
26 records if such person acts without intentional fraud or  
27 malice.

28 (g) By January 1, 2005, the center shall report its  
29 findings regarding psychotropic medications prescribed to  
30 dependent minors in state custody to the President of the  
31 Senate, the Speaker of the House of Representatives, and the

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1 appropriate committee chairs of the Senate and the House of  
2 Representatives.

3 (h) This subsection expires July 1, 2005.

4 ~~(7)(6)~~ The Department of Children and Family Services  
5 and the Department of Juvenile Justice may adopt rules to  
6 implement this section.

7 ~~(8)(7)~~ This section does not affect other statutory  
8 provisions of this state that relate to medical consent for  
9 minors.

10  
11 (Redesignate subsequent sections.)

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

15 And the title is amended as follows:

16 On page 2, line 1, after the semicolon,

17  
18 insert:

19 amending s. 743.0645, F.S.; defining the term  
20 "psychotropic medication"; creating the Center  
21 for Juvenile Psychotropic Studies within the  
22 Department of Psychiatry of the College of  
23 Medicine of the University of Florida;  
24 providing the purpose of the center; providing  
25 for the appointment of a director; creating an  
26 advisory board; providing for board membership;  
27 requiring the center to work with the  
28 Department of Children and Family Services, the  
29 Department of Juvenile Justice, the Agency for  
30 Health Care Administration, and the Department  
31 of Health; requiring certain data relating to



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1 dependent minors for whom psychotropic  
2 medications have been prescribed to be made  
3 available to the center, as legally allowed;  
4 requiring the center to report to legislative  
5 leaders by a specified date; providing for  
6 future repeal;

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