

1 A bill to be entitled
2 An act relating to the prescription of
3 medications to minors; creating s. 1006.0625,
4 F.S.; requiring district school boards to
5 prohibit school district personnel from
6 requiring a student to take certain medication
7 as a condition of attending school or receiving
8 educational services; requiring the State Board
9 of Education to adopt rules; amending s.
10 743.0645, F.S.; defining the term "psychotropic
11 medication"; creating the Center for Juvenile
12 Psychotropic Studies within the Department of
13 Psychiatry of the College of Medicine of the
14 University of Florida; providing the purpose of
15 the center; providing for the appointment of a
16 director; creating an advisory board; providing
17 for board membership; requiring the center to
18 work with the Department of Children and Family
19 Services, the Department of Juvenile Justice,
20 the Agency for Health Care Administration, and
21 the Department of Health; requiring certain
22 data relating to dependent minors for whom
23 psychotropic medications have been prescribed
24 to be made available to the center, as legally
25 allowed; requiring the center to report to
26 legislative leaders by a specified date;
27 providing for future repeal; providing an
28 effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 1006.0625, Florida Statutes, is
2 created to read:

3 1006.0625 Prohibition on requiring certain
4 medication.--

5 (1) Each district school board shall prohibit school
6 district personnel from requiring a student to obtain a
7 prescription for, and take as medication, a controlled
8 substance listed in Schedule II, s. 202(c) of the Controlled
9 Substances Act, 21 U.S.C. s. 812(c), or any psychotropic or
10 similar mind-altering drug as a condition of attending school
11 or receiving educational services provided by the state. This
12 section does not prohibit school district personnel from
13 consulting or sharing classroom-based observations with
14 parents regarding a student's academic performance or behavior
15 in the classroom or school or regarding the need for
16 evaluation for special education or related services.

17 (2) The State Board of Education shall adopt rules to
18 administer this section.

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

21 743.0645 Other persons who may consent to medical care
22 or treatment of a minor; Center for Juvenile Psychotropic
23 Studies; creation; purpose; advisory board; report.--

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

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

1 (b) "Medical care and treatment" includes ordinary and
2 necessary medical and dental examination and treatment,
3 including blood testing, preventive care including ordinary
4 immunizations, tuberculin testing, and well-child care, but
5 does not include surgery, general anesthesia, provision of
6 psychotropic medications, or other extraordinary procedures
7 for which a separate court order, power of attorney, or
8 informed consent as provided by law is required.

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

12 (d) "Psychotropic medication" means a medicine that may
13 not be dispensed or administered without a prescription which
14 is used for the treatment of medical disorders, and includes
15 hypnotics, antipsychotics, antidepressants, antianxiety
16 agents, sedatives, and mood stabilizers such as lithium,
17 Depakote, and other anticonvulsants used as mood stabilizers
18 and psychomotor stimulants. This paragraph expires July 1,
19 2005.

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

29 (a) A person who possesses a power of attorney to
30 provide medical consent for the minor. A power of attorney
31 executed after July 1, 2001, to provide medical consent for a

1 minor includes the power to consent to medically necessary
2 surgical and general anesthesia services for the minor unless
3 such services are excluded by the individual executing the
4 power of attorney.

5 (b) The stepparent.

6 (c) The grandparent of the minor.

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

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

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

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

29 (4) The medical provider shall notify the parent or
30 other person who has the power to consent as otherwise
31 provided by law as soon as possible after the medical care or

1 treatment is administered pursuant to consent given under this
2 section. The medical records shall reflect the reason consent
3 as otherwise provided by law was not initially obtained and
4 shall be open for inspection by the parent or other person who
5 has the power to consent as otherwise provided by law.

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

16 (6) The Center for Juvenile Psychotropic Studies is
17 created within the Department of Psychiatry of the College of
18 Medicine of the University of Florida. The purpose of the
19 center is to collect, track, and assess information regarding
20 minors in state custody held pursuant to chapter 39, chapter
21 984, or chapter 985 who have been or are currently being
22 prescribed psychotropic medications.

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

29 1. Whether the child received a full and complete
30 medical evaluation and, to the extent that the medication was
31 prescribed for a psychiatric condition and it is possible to

1 determine from available records, whether or not all other
2 possible physical causes had been ruled out prior to the
3 prescribing of psychotropic medication.

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

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

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

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

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

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

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

30 1. The Secretary of Children and Family Services or
31 his or her designee;

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

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

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

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

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

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

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

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

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

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1 2. A family history of each dependent minor,
2 including, but not limited to, the minor's involvement with
3 the child welfare system or the juvenile justice system, all
4 applicable social service records, and all applicable court
5 records.

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

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

12 5. Practice patterns, licensure, and board
13 certification of prescribing physicians.

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

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

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1 (g) By January 1, 2005, the center shall report its
2 findings regarding psychotropic medications prescribed to
3 dependent minors in state custody to the President of the
4 Senate, the Speaker of the House of Representatives, and the
5 appropriate committee chairs of the Senate and the House of
6 Representatives.

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

8 ~~(7)(6)~~ The Department of Children and Family Services
9 and the Department of Juvenile Justice may adopt rules to
10 implement this section.

11 ~~(8)(7)~~ This section does not affect other statutory
12 provisions of this state that relate to medical consent for
13 minors.

14 Section 3. This act shall take effect July 1, 2004.

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