

By Senator Smith

14-1256-04

1 A bill to be entitled
2 An act relating to the prescription of
3 psychotropic medications to dependent minors;
4 amending s. 743.0645, F.S.; creating the Center
5 for Juvenile Psychotropic Studies within the
6 Department of Psychiatry of the College of
7 Medicine of the University of Florida;
8 providing the purpose of the center; providing
9 for the appointment of a director; creating an
10 advisory board; providing for board membership;
11 requiring the center to work with the
12 Department of Children and Family Services, the
13 Department of Juvenile Justice, and the Agency
14 for Health Care Administration; requiring
15 certain data relating to dependent minors for
16 whom psychotropic medications have been
17 prescribed to be made available to the center,
18 as legally allowed; requiring the center to
19 report to legislative leaders by a specified
20 date; providing for future repeal; providing an
21 effective date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 743.0645, Florida Statutes, is
26 amended to read:

27 743.0645 Other persons who may consent to medical care
28 or treatment of a minor; Center for Juvenile Psychotropic
29 Studies; creation; purpose; advisory board; report.--

30 (1) As used in this section, the term:
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1 (a) "Blood testing" includes Early Periodic Screening,
2 Diagnosis, and Treatment (EPSDT) testing and other blood
3 testing deemed necessary by documented history or
4 symptomatology but excludes HIV testing and controlled
5 substance testing or any other testing for which separate
6 court order or informed consent as provided by law is
7 required.

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

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

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

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

1 surgical and general anesthesia services for the minor unless
2 such services are excluded by the individual executing the
3 power of attorney.

4 (b) The stepparent.

5 (c) The grandparent of the minor.

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

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

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

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

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

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

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

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

21 (a) 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 (b) There is created an advisory board that shall
25 periodically and objectively review and advise the center on
26 all actions taken pursuant to this act. The board shall
27 include nine members who are experts in psychiatric health,
28 including:

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

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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. One member appointed by the Governor;

6 5. One member appointed by the President of the
7 Senate;

8 6. One member appointed by the Speaker of the House of
9 Representatives;

10 7. One member appointed by the President of the
11 University of Florida; and

12 8. Two members appointed by the Florida Psychiatric
13 Society.

14 (c) The center shall work in conjunction with the
15 Department of Children and Family Services, the Department of
16 Juvenile Justice, and the Agency for Health Care
17 Administration; and, to the extent allowed by the privacy
18 requirements of federal and state laws, those agencies shall
19 work with the center and make available to the center data
20 regarding such dependent minors, including, but not limited
21 to:

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

24 2. A family history of each dependent minor,
25 including, but not limited to, the minor's involvement with
26 the child welfare system or the juvenile justice system.

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

29 4. All information regarding the medications
30 prescribed or administered to each minor, including, but not
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1 limited to, information contained in each minor's medication
2 administration record.

3 5. Practice patterns, licensure, and board
4 certification of prescribing physicians.

5 (d) By January 1, 2005, the center shall report its
6 findings and make recommendations regarding psychotropic
7 medications prescribed to dependent minors in state custody to
8 the President of the Senate, the Speaker of the House of
9 Representatives, and the appropriate committee chairs of the
10 Senate and the House of Representatives.

11 (e) This subsection expires July 1, 2005.

12 ~~(7)(6)~~ The Department of Children and Family Services
13 and the Department of Juvenile Justice may adopt rules to
14 implement this section.

15 ~~(8)(7)~~ This section does not affect other statutory
16 provisions of this state that relate to medical consent for
17 minors.

18 Section 2. This act shall take effect July 1, 2004.

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21 SENATE SUMMARY

22 Creates the Center for Juvenile Psychotropic Studies
23 within the Department of Psychiatry of the College of
24 Medicine of the University of Florida, for the purpose of
25 collecting and assessing information regarding dependent
26 minors in state custody who have been or are currently
27 being prescribed psychotropic medications. Provides for
28 the appointment of a director. Creates an advisory board.
29 Provides for board membership. Requires the center to
30 work with the Department of Children and Family Services,
31 the Department of Juvenile Justice, and the Agency for
Health Care Administration. Requires certain data
relating to dependent minors for whom psychotropic
medication has been prescribed to be made available to
the center, as legally allowed. Requires the center to
report to legislative leaders and to make recommendations
regarding the prescription of psychotropic medications to
dependent minors, by January 1, 2005. Provides for the
repeal of these provisions on July 1, 2005.