

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 209 CS

Administration of Medication to Public School Students

SPONSOR(S): Barreiro

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	8 Y, 0 N, w/CS	Howlette	Mizereck
2) Health Care Regulation Committee			
3) Education Appropriations Committee			
4) Education Council			
5) _____			

SUMMARY ANALYSIS

House bill 209 prohibits recipients of state funds used for educational purposes from requiring a student to be prescribed or administered psychotropic medication as a condition of receiving educational services. It provides requirements for the administration of such medication and restricts school district personnel from initiating or referring student for the diagnosis or treatment of mental disorders.

The bill takes effect upon becoming law.

Substantive Impact

Current law sets standards for the administration of medication and the provision of medical services by district school board personnel. There are no provisions in the section that relate to psychotropic medication. House bill 209 establishes specific requirements for psychotropic medications.

Fiscal Impact

The bill does not appear to have a significant state or local fiscal impact. However, requiring a licensed health care professional to administer psychotropic medication could create a need to hire additional qualified staff. This could result in a fiscal impact on the education providers.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill restricts the ability of state-funded education or school-related services providers to require students to take psychotropic medication.

Safeguard individual liberty – Students receiving state-funded education or school-related services would not be required to take psychotropic medication as a condition of receiving services.

Empower Families – Families of students receiving state-funded education or school-related services would not have to consent to psychotropic medication for their children in order to receive services.

B. EFFECT OF PROPOSED CHANGES:

Current law provides the standards and regulations for assisting students in the administration of prescription medication. House bill 209 defines psychotropic medication and specifically prohibits recipients of state funds used for educational purposes from requiring a student to be prescribed or administered psychotropic medication as a condition of receiving educational services. The bill requires that such medication be administered according to federal privacy protections by a licensed health care professional who is a physician, osteopath, podiatrist, nurse, or pharmacist. The bill also prohibits school or school district personnel from initiating or referring a student for diagnosis or treatment of specified mental disorders.

C. SECTION DIRECTORY:

Section 1: Creates s. 1006.0625, F.S., relating to the administration of psychotropic medication, prohibitions, and conditions.

Section 2: Establishes an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

House bill 209 requires psychotropic medication to be administered by a licensed health care professional. There could be a fiscal impact on education providers if they must hire or contract with such personnel in order to meet the requirements of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The PreK-12 Committee met on February 22, 2005 and adopted two amendments to the bill.

The first amendment deletes the requirement that psychotropic drugs must be administered by licensed health care professionals, and substitutes the requirement that they be administered according to the provisions of s.1006.062, F.S. which governs school board policy for administration of all other medications. It requires that personnel administering prescription medication must be trained by a licensed RN, LPN, physician or physician assistant; written parental permission must be acquired; security and storage requirements must be met; and school districts are not liable for civil damages. The amendment also deletes the requirement that the administration meet federal HIPAA requirements. Since education records are already protected, no reference is necessary. According to the bill analysis from the Department of Health:

“Education records are protected under the federal Family Education Rights and Privacy Act 20 US 1232g as well as Section 1002.22(3)(d), F.S. Accordingly, a record maintained by a school nurse qualifies as an education record under FERPA. HIPAA specifically excludes education records covered under FERPA from its definition of protected health information. Thus, the reference to HIPAA in section 1006.0625(3)(b) of the bill does not afford the protection that it seems to contemplate.”

The second amendment clarifies that nothing in section (4) of the bill shall prevent a teacher or other school district personnel from sharing observations with parents regarding student performance and behavior.