

By Senator Crist

12-1378-06

1 A bill to be entitled
2 An act relating to exceptional student
3 evaluation; amending s. 1003.57, F.S.;
4 requiring consent by a parent before his or her
5 child's evaluation for an emotional,
6 behavioral, or mental disorder, a specific
7 learning disability, or other health
8 impairment; specifying the contents of a
9 statement that must be signed by a parent;
10 providing an effective date.

11
12 WHEREAS, the Individuals with Disabilities in Education
13 Act (IDEA), 20 U.S.C. s. 1414(a)(1)(C)(i), which was first
14 enacted in 1975 and provides for equal access to education for
15 every disabled child, requires that every child referred for
16 exceptional education programs first be evaluated by the
17 school and requires that each state "shall obtain informed
18 consent from the parent of such child before evaluation is
19 conducted," and

20 WHEREAS, rule 6A-6.03311(1)-(3), Florida Administrative
21 Code, entitled "Exceptional Student Education Rules," which
22 implements IDEA, requires that before a student may be
23 evaluated, the parent must be "fully informed of all
24 information relevant to the activity for which consent is
25 sought," that "consent describes the activity," that it must
26 be "informed parental consent," and that the parent must also
27 be informed of "procedural safeguards," and

28 WHEREAS, the legal definition of "informed consent"
29 means, "A person's agreement to allow something to happen,
30 made with full knowledge of the risks involved and the
31 alternatives," and

1 WHEREAS, in practice, school districts throughout this
2 state provide information only on the parent's due process
3 rights and should provide information to parents on the risks
4 or alternatives to the evaluation process and the potential
5 consequences of evaluation, including likely courses of
6 treatment, NOW, THEREFORE,

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

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10 Section 1. Subsection (8) is added to section 1003.57,
11 Florida Statutes, to read:

12 1003.57 Exceptional students instruction.--Each
13 district school board shall provide for an appropriate program
14 of special instruction, facilities, and services for
15 exceptional students as prescribed by the State Board of
16 Education as acceptable, including provisions that:

17 (8) Before a public school student may be evaluated
18 for an emotional, behavioral, or mental disorder, a specific
19 learning disability, or other health impairment, including
20 psychological or psychiatric evaluation, the parent of such
21 student must be fully informed of all known and potential
22 consequences of and alternatives for such evaluation and
23 acknowledge and sign the following statement:

24
25 I understand that my child has been referred to
26 be evaluated for an emotional, behavioral, or
27 mental disorder, a specific learning
28 disability, or other health impairment, that
29 may lead to psychological or psychiatric
30 evaluation. The evaluation may ultimately
31 result in the diagnosis of a "mental disorder"

1 or "syndrome" which is based on the observation
2 and subjective interpretation of my child's
3 behavior as reported by teachers,
4 psychologists, psychiatrists, or others.

5
6 I understand that, unlike most medical
7 diagnostic methods, a diagnosis of mental
8 disorder or syndrome, including, but not
9 limited to, attention deficit hyperactivity
10 disorder (ADHD), bipolar disorder, and
11 depression, is not based on any medical test,
12 such as a brain scan, chemical imbalance test,
13 Xray, biopsy, blood test, or urinalysis, that
14 can scientifically detect a physical
15 abnormality in an infant, child, adolescent, or
16 adult.

17
18 I understand that if my child is diagnosed or
19 labeled with any mental disorder or syndrome,
20 treatment may include prescriptions for
21 psychotropic or psychiatric medications, such
22 as antidepressants or stimulants, which may
23 have side effects and uncertain effectiveness.
24 Most antidepressants are not approved for
25 children by the Food and Drug Administration,
26 and all antidepressants contain warnings of
27 suicide risk. The Food and Drug Administration
28 has also issued warnings that stimulants often
29 prescribed for children may cause suicidal and
30 psychotic behavior or sudden death due to heart
31 failure.

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I understand that I have the right to be informed of all the known side effects of any recommended drug, including the current information concerning the drug in the Physicians' Desk Reference.

I understand that I may request full information on the short-term and long-term benefits and risks of a drug, any interactions the drug has with other medications, the length of time my child will need to take the drug, and all of the up-to-date accumulation of adverse reaction reports of the drug from the FDA. I understand that psychotropic or psychiatric drugs may be addictive and could cause dependency.

I understand that physical problems such as poor nutrition, exposure to toxins, including lead poisoning, or allergies and other medical conditions can cause emotional, behavioral, or mental symptoms and that these causes may be detectible through medical examination, including, but not limited to, blood testing.

I understand that there are alternatives to psychotropic or psychiatric drug treatment and that I should ask the evaluation personnel and my physician about such alternatives. I

1 understand that it is my responsibility to make
2 an informed decision on behalf of my child.

3
4 I acknowledge that I have read and understood
5 the above information and, based on my
6 understanding, I hereby:

7
8 (1) Give my full and informed consent for
9 my child to undergo evaluation for an
10 emotional, behavioral, or mental disorder, a
11 specific learning disability, or other health
12 impairment.

13
14 ...(Signature of Parent)...

15
16 (2) Do not give my consent for my child
17 to undergo evaluation for an emotional,
18 behavioral, or mental disorder, a specific
19 learning disability, or other health
20 impairment.

21
22 ...(Signature of Parent)...

23
24 Section 2. This act shall take effect July 1, 2006.

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27 SENATE SUMMARY

28 Requires consent by a parent before his or her child is
29 evaluated for an emotional, behavioral, mental disorder,
30 a specific learning disability, or other health
31 impairment. Specifies the contents of a statement that
 must be signed by the parent.