



695454

LEGISLATIVE ACTION

Senate	.	House
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Floor: WD	.	
05/06/2011 09:32 AM	.	
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Senator Storms moved the following:

Senate Amendment (with title amendment)

Between lines 140 and 141

insert:

Section 1. Paragraphs (c) and (d) of subsection (3) of section 39.407, Florida Statutes, are amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)

(c) Except as provided in paragraphs (b) and (e), the department must file a motion seeking the court's authorization to initially provide or continue to provide psychotropic



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14 medication to a child in its legal custody. The motion must be
15 supported by a written report prepared by the department which
16 describes the efforts made to enable the prescribing physician
17 to obtain express and informed consent to provide ~~for providing~~
18 the medication to the child and other treatments considered or
19 recommended for the child. ~~In addition,~~ The motion must also be
20 supported by the prescribing physician's signed medical report
21 providing:

22 1. The name of the child, the name and range of the dosage
23 of the psychotropic medication, and the ~~that there is a~~ need to
24 prescribe psychotropic medication to the child based upon a
25 diagnosed condition for which such medication is being
26 prescribed.

27 2. A statement indicating that the physician has reviewed
28 all medical information concerning the child which has been
29 provided.

30 3. A statement indicating that the psychotropic medication,
31 at its prescribed dosage, is appropriate for treating the
32 child's diagnosed medical condition, as well as the behaviors
33 and symptoms the medication, at its prescribed dosage, is
34 expected to address.

35 4. An explanation of the nature and purpose of the
36 treatment; the recognized side effects, risks, and
37 contraindications of the medication; drug-interaction
38 precautions; the possible effects of stopping the medication;
39 and how the treatment will be monitored, followed by a statement
40 indicating that this explanation was provided to the child if
41 age appropriate and to the child's caregiver.

42 5. Documentation addressing whether the psychotropic



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43 medication will replace or supplement any other currently
44 prescribed medications or treatments; the length of time the
45 child is expected to be taking the medication; and any
46 additional medical, mental health, behavioral, counseling, or
47 other services that the prescribing physician recommends.

48 6. For a child 10 years of age or younger who is in an out-
49 of-home placement, the results of a review of the administration
50 of the medication by a child psychiatrist who is licensed under
51 chapter 458 or chapter 459. The review must be provided to the
52 child and the parent or legal guardian before final express and
53 informed consent is given. The review must include a
54 determination of the following:

55 a. The presence of a genetic psychiatric disorder or a
56 family history of a psychiatric disorder;

57 b. Whether the cause of a psychiatric disorder is physical
58 or environmental; and

59 c. The likelihood of the child being an imminent danger to
60 self or others.

61 (d)~~1~~. The department must notify all parties of the
62 proposed action taken under paragraph (c) in writing or by
63 whatever other method best ensures that all parties receive
64 notification of the proposed action within 48 hours after the
65 motion is filed. If any party objects to the department's
66 motion, that party shall file the objection within 2 working
67 days after being notified of the department's motion. If any
68 party files an objection to the authorization of the proposed
69 psychotropic medication, the court shall hold a hearing as soon
70 as possible before authorizing the department to initially
71 provide or to continue providing psychotropic medication to a



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72 child in the legal custody of the department.

73 1. At such hearing and notwithstanding s. 90.803, the
74 medical report described in paragraph (c) is admissible in
75 evidence. The prescribing physician need not attend the hearing
76 or testify unless the court specifically orders such attendance
77 or testimony, or a party subpoenas the physician to attend the
78 hearing or provide testimony.

79 2. If, after considering any testimony received, the court
80 finds that the department's motion and the physician's medical
81 report meet the requirements of this subsection and that it is
82 in the child's best interests, the court may order that the
83 department provide or continue to provide the psychotropic
84 medication to the child without additional testimony or
85 evidence.

86 3. At any hearing held under this paragraph, the court
87 shall ~~further~~ inquire of the department as to whether additional
88 medical, mental health, behavioral, counseling, or other
89 services are being provided to the child by the department which
90 the prescribing physician considers to be necessary or
91 beneficial in treating the child's medical condition and which
92 the physician recommends or expects to provide to the child in
93 concert with the medication. The court may order additional
94 medical consultation, including consultation with the MedConsult
95 line at the University of Florida, if available, or require the
96 department to obtain a second opinion within a reasonable
97 timeframe as established by the court, not to exceed 21 calendar
98 days, ~~after such order~~ based upon consideration of the best
99 interests of the child. The department must make a referral for
100 an appointment for a second opinion with a physician within 1



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101 working day.

102 4. The court may not order the discontinuation of
103 prescribed psychotropic medication if such order is contrary to
104 the decision of the prescribing physician unless the court first
105 obtains an opinion from a licensed psychiatrist, if available,
106 or, if not available, a physician licensed under chapter 458 or
107 chapter 459, stating that more likely than not, discontinuing
108 the medication would not cause significant harm to the child.
109 If, however, the prescribing psychiatrist specializes in mental
110 health care for children and adolescents, the court may not
111 order the discontinuation of prescribed psychotropic medication
112 unless the required opinion is also from a psychiatrist who
113 specializes in mental health care for children and adolescents.
114 The court may also order the discontinuation of prescribed
115 psychotropic medication if a child's treating physician,
116 licensed under chapter 458 or chapter 459, states that
117 continuing the prescribed psychotropic medication would cause
118 significant harm to the child due to a diagnosed nonpsychiatric
119 medical condition.

120 5. If a child who is in out-of-home placement is 10 years
121 of age or younger, psychotropic medication may not be authorized
122 by the court absent a finding of a compelling governmental
123 interest. In making such finding, the court shall consider the
124 findings of the psychiatric review described in subparagraph
125 (c) 6.

126 ~~6.2.~~ The burden of proof at any hearing held under this
127 paragraph shall be by a preponderance of the evidence.

128
129 ===== T I T L E A M E N D M E N T =====



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130 And the title is amended as follows:

131 Delete line 2

132 and insert:

133 An act relating to Medicaid; amending s. 39.407, F.S.;
134 requiring a motion by the Department of Children and
135 Family Services to provide psychotropic medication to
136 a child 10 years of age or younger to include a review
137 by a child psychiatrist; providing that a court may
138 not authorize the administration of such medication
139 absent a finding of compelling state interest based on
140 the review; amending s. 393.0661, F.S.;