

By Senator Montford

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1                                   A bill to be entitled  
2       An act relating to the medical use of marijuana in  
3       schools; amending s. 381.986, F.S.; conforming  
4       provisions to changes made by the act; authorizing a  
5       qualified patient to designate more than one caregiver  
6       to assist with the qualified patient's medical use of  
7       marijuana under certain circumstances; authorizing a  
8       county-designated caregiver to register as a caregiver  
9       for more than one qualified patient under certain  
10      circumstances; conforming cross-references; creating  
11      s. 381.9867, F.S.; defining terms; providing a  
12      procedure for a parent of a student who is a qualified  
13      patient to request that marijuana be administered to  
14      the student during the school day; requiring the  
15      parent to include certain information in the written  
16      request to a school principal; specifying that a  
17      registered caregiver who is authorized by that  
18      student's parent to administer marijuana to the  
19      student during the school day is responsible for  
20      obtaining, accounting for, and storing the marijuana  
21      and any marijuana delivery devices; requiring a school  
22      principal who receives a request authorizing a county-  
23      designated caregiver to administer marijuana to the  
24      student to notify the county health department for the  
25      county in which the school is located; requiring a  
26      county health department that receives such  
27      notification to notify the Department of Health of the  
28      request; requiring the department to designate no more  
29      than two employees of the county health department to

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30 serve as county-designated caregivers; requiring a  
31 county-designated caregiver to follow the procedures  
32 adopted by department rule; requiring the student's  
33 caregiver to provide to a county-designated caregiver  
34 at a certain location an appropriate supply of  
35 marijuana and any marijuana delivery devices needed  
36 during the school day; requiring the county-designated  
37 caregiver to document and account for the marijuana  
38 and any marijuana delivery devices received; requiring  
39 marijuana in its original container and marijuana  
40 delivery devices to be stored under lock and key when  
41 not in use or when being transported for use;  
42 providing that a county-designated caregiver is not  
43 liable for civil damages as a result of his or her  
44 actions if certain criteria are met; requiring a  
45 school principal who receives a request for marijuana  
46 to be administered during the school day to designate  
47 an isolated area on school grounds where marijuana may  
48 be administered to the student; requiring that a  
49 caregiver or a county-designated caregiver  
50 administering marijuana to the student do so in the  
51 area the school principal designates; prohibiting  
52 marijuana and marijuana delivery devices from being  
53 stored on school grounds; prohibiting a school from  
54 obstructing a student who is a qualified patient from  
55 accessing marijuana during the school day; providing  
56 that funding needed to administer this section must be  
57 provided from the Grants and Donations Trust Fund  
58 within the Department of Health from certain fees the

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59 department collects; requiring the department to adopt  
60 rules; amending s. 1006.062, F.S.; deleting a  
61 requirement that each district school board adopt a  
62 policy and a procedure for allowing a student who is a  
63 qualified patient to access marijuana for medical use;  
64 providing an effective date.

65

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

67

68 Section 1. Paragraph (j) of subsection (1), subsection (6),  
69 paragraph (c) of subsection (12), and paragraph (g) of  
70 subsection (14) of section 381.986, Florida Statutes, are  
71 amended to read:

72 381.986 Medical use of marijuana.—

73 (1) DEFINITIONS.—As used in this section, the term:

74 (j) "Medical use" means the acquisition, possession, use,  
75 delivery, transfer, or administration of marijuana authorized by  
76 a physician certification. The term does not include:

77 1. Possession, use, or administration of marijuana that was  
78 not purchased or acquired from a medical marijuana treatment  
79 center.

80 2. Possession, use, or administration of marijuana in the  
81 form of commercially produced food items other than edibles or  
82 of marijuana seeds.

83 3. Use or administration of any form or amount of marijuana  
84 in a manner that is inconsistent with the qualified physician's  
85 directions or physician certification.

86 4. Transfer of marijuana to a person other than the  
87 qualified patient for whom it was authorized or the qualified

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88 patient's caregiver on behalf of the qualified patient.

89 5. Use or administration of marijuana in the following  
90 locations:

91 a. On any form of public transportation, except for low-THC  
92 cannabis not in a form for smoking.

93 b. In any public place, except for low-THC cannabis not in  
94 a form for smoking.

95 c. In a qualified patient's place of employment, except  
96 when permitted by his or her employer.

97 d. In a state correctional institution, as defined in s.  
98 944.02, or a correctional institution, as defined in s. 944.241.

99 e. On the grounds of a preschool, primary school, or  
100 secondary school, except as provided in s. 381.9867 ~~s. 1006.062~~.

101 f. In a school bus, a vehicle, an aircraft, or a motorboat,  
102 except for low-THC cannabis not in a form for smoking.

103 6. The smoking of marijuana in an enclosed indoor workplace  
104 as defined in s. 386.203(5).

105 (6) CAREGIVERS.—

106 (a) The department must register an individual as a  
107 caregiver on the medical marijuana use registry and issue a  
108 caregiver identification card if an individual designated by a  
109 qualified patient meets all of the requirements of this  
110 subsection and department rule.

111 (b) A caregiver must:

112 1. Not be a qualified physician and not be employed by or  
113 have an economic interest in a medical marijuana treatment  
114 center or a marijuana testing laboratory.

115 2. Be 21 years of age or older and a resident of this  
116 state.

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117 3. Agree in writing to assist with the qualified patient's  
118 medical use of marijuana.

119 4. Be registered in the medical marijuana use registry as a  
120 caregiver for no more than one qualified patient, except as  
121 provided in paragraph (d) ~~this paragraph~~.

122 5. Successfully complete a caregiver certification course  
123 developed and administered by the department or its designee,  
124 which must be renewed biennially. The price of the course may  
125 not exceed \$100.

126 6. Pass a background screening pursuant to subsection (9),  
127 unless the patient is a close relative of the caregiver.

128 (c) A qualified patient may not designate ~~no~~ more than one  
129 caregiver to assist with the qualified patient's medical use of  
130 marijuana, unless:

131 1. The qualified patient is a minor and the designated  
132 caregivers are parents or legal guardians of the qualified  
133 patient;

134 2. The qualified patient is an adult who has an  
135 intellectual or developmental disability that prevents the  
136 patient from being able to protect or care for himself or  
137 herself without assistance or supervision and the designated  
138 caregivers are the parents or legal guardians of the qualified  
139 patient;

140 3. The qualified patient is admitted to a hospice program;  
141 ~~or~~

142 4. The qualified patient is participating in a research  
143 program in a teaching nursing home pursuant to s. 1004.4351; or

144 5. The qualified patient is a student whose parent has  
145 requested that a county-designated caregiver assist the student

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146 with the medical use of marijuana during the school day pursuant  
147 to s. 381.9867.

148 (d) A caregiver may not be registered in the medical  
149 marijuana use registry as a designated caregiver for ~~no~~ more  
150 than one qualified patient, unless:

151 1. The caregiver is a parent or legal guardian of more than  
152 one minor who is a qualified patient;

153 2. The caregiver is a parent or legal guardian of more than  
154 one adult who is a qualified patient and who has an intellectual  
155 or developmental disability that prevents the patient from being  
156 able to protect or care for himself or herself without  
157 assistance or supervision;

158 3. All qualified patients whom the caregiver has agreed to  
159 assist are admitted to a hospice program and have requested the  
160 assistance of that caregiver with the medical use of marijuana;  
161 the caregiver is an employee of the hospice; and the caregiver  
162 provides personal care or other services directly to clients of  
163 the hospice in the scope of that employment; ~~or~~

164 4. All qualified patients whom the caregiver has agreed to  
165 assist are participating in a research program in a teaching  
166 nursing home pursuant to s. 1004.4351; or

167 5. The caregiver is a county-designated caregiver and all  
168 qualified patients whom the caregiver has agreed to assist are  
169 students whose parents have requested the assistance of a  
170 county-designated caregiver to assist the students with the  
171 medical use of marijuana during the school day pursuant to s.  
172 381.9867.

173 (e) A caregiver may not receive compensation, other than  
174 actual expenses incurred, for any services provided to the

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175 qualified patient.

176 (f) If a qualified patient is younger than 18 years of age,  
177 only a caregiver may purchase or administer marijuana for  
178 medical use by the qualified patient. The qualified patient may  
179 not purchase marijuana.

180 (g) A caregiver must be in immediate possession of his or  
181 her medical marijuana use registry identification card at all  
182 times when in possession of marijuana or a marijuana delivery  
183 device and must present his or her medical marijuana use  
184 registry identification card upon the request of a law  
185 enforcement officer.

186 (h) The department may adopt rules pursuant to ss.  
187 120.536(1) and 120.54 to implement this subsection.

188 (12) PENALTIES.—

189 (c) A qualified patient who uses marijuana, not including  
190 low-THC cannabis, or a caregiver who administers marijuana, not  
191 including low-THC cannabis, in plain view of or in a place open  
192 to the general public; in a school bus, a vehicle, an aircraft,  
193 or a boat; or on the grounds of a school, except as provided in  
194 s. 381.9867 ~~s. 1006.062~~, commits a misdemeanor of the first  
195 degree, punishable as provided in s. 775.082 or s. 775.083.

196 (14) EXCEPTIONS TO OTHER LAWS.—

197 ~~(g) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or~~  
198 ~~any other provision of law, but subject to the requirements of~~  
199 ~~this section and pursuant to policies and procedures established~~  
200 ~~pursuant to s. 1006.62(8), school personnel may possess~~  
201 ~~marijuana that is obtained for medical use pursuant to this~~  
202 ~~section by a student who is a qualified patient.~~

203 Section 2. Section 381.9867, Florida Statutes, is created

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204 to read:

205 381.9867 Medical use of marijuana in schools.-

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

207 (a) "Caregiver" has the same meaning as in s. 381.986(1).

208 (b) "County-designated caregiver" means a county health  
209 department employee designated by the department pursuant to  
210 subsection (4) who has an identification card and is registered  
211 as a caregiver pursuant to s. 381.986(6).

212 (c) "Marijuana," "marijuana delivery device," "medical  
213 use," "physician certification," and "qualified patient" have  
214 the same meanings as in s. 381.986(1).

215 (2) A parent of a student who is a qualified patient may  
216 request that marijuana obtained pursuant to s. 381.986 be  
217 administered to the student during the school day. The parent  
218 must make the request in writing to the school principal and  
219 must include all of the following information:

220 (a) A copy of the student's current patient identification  
221 card as described in s. 381.986(7)(a).

222 (b) A copy of the student's current physician certification  
223 as described in s. 381.986(4).

224 (c) A statement from the parent which explains the  
225 necessity for administering the marijuana to the student during  
226 the school day, including any occasion when the student is away  
227 from school property attending official school activities.

228 (d) A statement from the parent authorizing the student's  
229 registered caregiver or a county-designated caregiver to  
230 administer marijuana to the student. If the parent is the  
231 student's registered caregiver, the parent may include a  
232 statement of his or her desire to administer marijuana to the



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233 student.

234 (3) If the parent authorizes the student's registered  
235 caregiver to administer marijuana to the student during the  
236 school day, the caregiver is responsible for obtaining,  
237 accounting for, and storing the marijuana and any marijuana  
238 delivery devices as provided in this section and s. 381.986.

239 (4) (a) Upon receiving a request under subsection (2) that  
240 includes a statement authorizing a county-designated caregiver  
241 to administer marijuana to a student, a school principal shall  
242 promptly notify the county health department for the county in  
243 which the school is located. Upon receipt of the notification,  
244 the county health department shall notify the department of the  
245 request, and the department shall designate no more than two  
246 employees of the county health department to serve as county-  
247 designated caregivers. A county-designated caregiver shall  
248 follow the procedures adopted by department rule under  
249 subsection (8).

250 (b) The student's caregiver shall provide to a county-  
251 designated caregiver at a county health department building an  
252 appropriate supply of marijuana and any marijuana delivery  
253 devices necessary for administering the marijuana during the  
254 school day, all of which must be obtained pursuant to s.  
255 381.986. The county-designated caregiver shall document and  
256 account for the marijuana and any marijuana delivery devices  
257 received. The county-designated caregiver is responsible for the  
258 transportation of the marijuana and marijuana delivery devices  
259 used in administering marijuana to the student to and from the  
260 county health department building and the school. When the  
261 marijuana or marijuana delivery devices are not in use or being

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262 transported for use, the marijuana must be placed in its  
263 original container and it and any marijuana delivery devices  
264 must be stored in a secure fashion under lock and key.

265 (c) A county-designated caregiver is not liable for civil  
266 damages arising out of his or her actions taken in connection  
267 with assisting students who are qualified patients with the  
268 medical use of marijuana if the county-designated caregiver acts  
269 as a reasonably prudent person would have acted under the same  
270 or similar circumstances.

271 (5) A school principal who receives a request under  
272 subsection (2) must designate an isolated area on school grounds  
273 where marijuana may be administered to the student. A caregiver  
274 or county-designated caregiver may administer marijuana to the  
275 student on school grounds only in the designated area. Marijuana  
276 and marijuana delivery devices may not be stored on school  
277 grounds.

278 (6) A school may not obstruct a student who is a qualified  
279 patient from accessing marijuana during the school day in  
280 accordance with this section.

281 (7) Funding to administer this section must be provided  
282 through the Grants and Donations Trust Fund within the  
283 Department of Health from fees the department collects under s.  
284 381.986.

285 (8) The department shall adopt rules necessary to  
286 administer this section.

287 Section 3. Subsection (8) of section 1006.062, Florida  
288 Statutes, is amended to read:

289 1006.062 Administration of medication and provision of  
290 medical services by district school board personnel.-

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291       ~~(8) Each district school board shall adopt a policy and a~~  
292 ~~procedure for allowing a student who is a qualified patient, as~~  
293 ~~defined in s. 381.986, to use marijuana obtained pursuant to~~  
294 ~~that section. Such policy and procedure shall ensure access by~~  
295 ~~the qualified patient; identify how the marijuana will be~~  
296 ~~received, accounted for, and stored; and establish processes to~~  
297 ~~prevent access by other students and school personnel whose~~  
298 ~~access would be unnecessary for the implementation of the~~  
299 ~~policy.~~

300       Section 4. This act shall take effect July 1, 2020.