

AN ACT

relating to the refusal to administer or consent to the administration of certain psychiatric or psychological treatment to a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 26, Education Code, is amended by adding Section 26.0091 to read as follows:

Sec. 26.0091. REFUSAL OF PSYCHIATRIC OR PSYCHOLOGICAL TREATMENT OF CHILD AS BASIS OF REPORT OF NEGLECT. (a) In this section, "psychotropic drug" has the meaning assigned by Section 261.111, Family Code.

(b) An employee of a school district may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic drug to the child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect of the child under Subchapter B, Chapter 261, Family Code, unless the employee has cause to believe that the refusal:

(1) presents a substantial risk of death, disfigurement, or bodily injury to the child; or

(2) has resulted in an observable and material impairment to the growth, development, or functioning of the child.

SECTION 2. Subchapter A, Chapter 29, Education Code, is

amended by adding Section 29.0041 to read as follows:

Sec. 29.0041. INFORMATION AND CONSENT FOR CERTAIN PSYCHOLOGICAL EXAMINATIONS OR TESTS. (a) On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. Section 1414 for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, a school district shall provide to the child's parent:

(1) the name and type of the examination or test; and

(2) an explanation of how the examination or test will be used to develop an appropriate individualized education program for the child.

(b) If the district determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent under Subsection (a), the district shall provide the information described by Subsections (a)(1) and (2) to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test.

(c) The time required for the district to provide information and seek consent under Subsection (b) may not be counted toward the 60 calendar days for completion of an evaluation under Section 29.004. If a parent does not give consent under Subsection (b) within 20 calendar days after the date the district provided to the parent the information required by that subsection, the parent's consent is considered denied.

SECTION 3. Subchapter B, Chapter 261, Family Code, is

amended by adding Section 261.111 to read as follows:

Sec. 261.111. REFUSAL OF PSYCHIATRIC OR PSYCHOLOGICAL
TREATMENT OF CHILD. (a) In this section, "psychotropic drug" means
a substance that is:

(1) used in the diagnosis, treatment, or prevention of
a disease or as a component of a medication; and

(2) intended to have an altering effect on perception,
emotion, or behavior.

(b) The refusal of a parent, guardian, or managing or
possessory conservator of a child to administer or consent to the
administration of a psychotropic drug to the child, or to consent to
any other psychiatric or psychological treatment of the child, does
not by itself constitute neglect of the child unless the refusal to
consent:

(1) presents a substantial risk of death,
disfigurement, or bodily injury to the child; or

(2) has resulted in an observable and material
impairment to the growth, development, or functioning of the child.

SECTION 4. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2003.

H.B. No. 320

President of the Senate

Speaker of the House

I certify that H.B. No. 320 was passed by the House on April 2, 2003, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 320 on May 26, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 320 on June 1, 2003, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 320

I certify that H.B. No. 320 was passed by the Senate, with amendments, on May 24, 2003, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 320 on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor