

1-1 By: Grusendorf, Brown of Kaufman, Hupp, et al. H.B. No. 320  
1-2 (Senate Sponsor - Fraser)  
1-3 (In the Senate - Received from the House April 3, 2003;  
1-4 April 7, 2003, read first time and referred to Committee on  
1-5 Jurisprudence; May 21, 2003, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 6, Nays 0;  
1-7 May 21, 2003, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 320 By: Duncan

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to the refusal to administer or consent to the  
1-12 administration of certain psychiatric or psychological treatment  
1-13 to a child.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter A, Chapter 261, Family Code, is  
1-16 amended by adding Section 261.005 to read as follows:

1-17 Sec. 261.005. REFUSAL OF PSYCHIATRIC OR PSYCHOLOGICAL  
1-18 TREATMENT OF CHILD. The refusal of a parent, guardian, or managing  
1-19 or possessory conservator of a child to administer or consent to the  
1-20 administration of a central nervous system stimulant or other drug  
1-21 for treatment of attention deficit hyperactivity disorder to the  
1-22 child, or to consent to any other treatment of the child for  
1-23 attention deficit hyperactivity disorder, does not by itself  
1-24 constitute neglect under this subtitle unless the refusal to  
1-25 consent results in or presents:

1-26 (1) a substantial risk of death, disfigurement, or  
1-27 bodily injury; or

1-28 (2) an observable and material impairment to the  
1-29 growth, development, or functioning of the child.

1-30 SECTION 2. Chapter 26, Education Code, is amended by adding  
1-31 Section 26.0091 to read as follows:

1-32 Sec. 26.0091. REFUSAL OF PSYCHOLOGICAL OR PSYCHIATRIC  
1-33 TESTING OR TREATMENT. (a) The refusal of a parent, guardian, or  
1-34 managing or possessory conservator of a child to administer or  
1-35 consent to the administration of a central nervous system stimulant  
1-36 or other drug for the treatment of attention deficit hyperactivity  
1-37 disorder to the child, or to consent to any testing or treatment of  
1-38 the child for attention deficit hyperactivity disorder, does not by  
1-39 itself constitute neglect under Subtitle E, Title 5, Family Code,  
1-40 unless the refusal to consent results in or presents:

1-41 (1) a substantial risk of death, disfigurement, or  
1-42 bodily injury; or

1-43 (2) an observable and material impairment to the  
1-44 growth, development, or functioning of the child.

1-45 (b) An employee of a school district may not use or threaten  
1-46 to use a parent's refusal under Subsection (a) as the sole basis for  
1-47 making a report under Section 261.103, Family Code, unless the  
1-48 refusal to consent results in or presents:

1-49 (1) a substantial risk of death, disfigurement, or  
1-50 bodily injury; or

1-51 (2) an observable and material impairment to the  
1-52 growth, development, or functioning of the child.

1-53 SECTION 3. Chapter 26.009, Education Code, is amended by  
1-54 adding Subsection (c) to read as follows:

1-55 (c) Prior to obtaining consent under Subsection (a) for the  
1-56 administration of any psychological examination, test, or  
1-57 treatment, including as part of an evaluation of the need for  
1-58 special education, an employee of a school district shall provide  
1-59 the child's parent with:

1-60 (1) the names and types of the examinations, tests,  
1-61 and treatments; and

1-62 (2) an explanation of how such examinations, tests,  
1-63 and treatments would be used in developing an appropriate learning

2-1 plan for the child.

2-2 SECTION 4. This Act takes effect immediately if it receives  
2-3 a vote of two-thirds of all the members elected to each house, as  
2-4 provided by Section 39, Article III, Texas Constitution. If this  
2-5 Act does not receive the vote necessary for immediate effect, this  
2-6 Act takes effect September 1, 2003.

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