

By: Brown of Kaufman, Hupp, Grusendorf,
et al.

H.B. No. 1406

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a recommendation by a school district employee
3 concerning a use of a psychotropic drug by a student or psychiatric
4 evaluation or examination of a student and to refusal by a parent or
5 certain other person to consent to administration of a psychotropic
6 drug to a student or to psychiatric evaluation or examination of a
7 student.

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

9 SECTION 1. Subchapter A, Chapter 38, Education Code, is
10 amended by adding Section 38.016 to read as follows:

11 Sec. 38.016. PSYCHOTROPIC DRUGS AND PSYCHIATRIC
12 EVALUATIONS OR EXAMINATIONS. (a) In this section:

13 (1) "Parent" includes a guardian or other person
14 standing in parental relation.

15 (2) "Psychotropic drug" means a substance that is:

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

18 (B) intended to have an altering effect on
19 perception, emotion, or behavior.

20 (b) A school district employee may not:

21 (1) recommend that a student:

22 (A) use a psychotropic drug; or

23 (B) have a psychiatric evaluation or
24 examination; or

1 (2) use the refusal by a parent to consent to
2 administration of a psychotropic drug to a student or to a
3 psychiatric evaluation or examination of a student as grounds, by
4 itself, for prohibiting the child from attending a class or
5 participating in a school-related activity.

6 (c) Subsection (b) does not:

7 (1) prevent an appropriate referral under the child
8 find system required under 20 U.S.C. Section 1412, as amended; or

9 (2) prohibit a school district employee who is a
10 registered nurse, advanced nurse practitioner, or physician from
11 recommending that a child be evaluated by an appropriate medical
12 practitioner.

13 (d) The board of trustees of each school district shall
14 adopt a policy to ensure implementation and enforcement of this
15 section.

16 SECTION 2. This Act applies beginning with the 2003-2004
17 school year.

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