

AN ACT

relating to a recommendation by a school district employee concerning a use of a psychotropic drug by a student or suggestion of a particular diagnosis and to refusal by a parent or certain other person to consent to administration of a psychotropic drug to a student or to psychiatric evaluation or examination of a student.

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

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

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

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

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

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

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

(b) A school district employee may not:

(1) recommend that a student use a psychotropic drug;
or

(2) suggest any particular diagnosis; or

(3) use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a

1 psychiatric evaluation or examination of a student as grounds, by
2 itself, for prohibiting the child from attending a class or
3 participating in a school-related activity.

4 (c) Subsection (b) does not:

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

7 (2) prohibit a school district employee who is a
8 registered nurse, advanced nurse practitioner, physician, or
9 certified or appropriately credentialed mental health professional
10 from recommending that a child be evaluated by an appropriate
11 medical practitioner; or

12 (3) prohibit a school employee from discussing any
13 aspect of a child's behavior or academic progress with the child's
14 parent or another school district employee.

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

18 (e) An act in violation of Subsection (b) does not override
19 the immunity from personal liability granted in Section 22.051 or
20 other law or the district's sovereign and governmental immunity.

21 SECTION 2. This Act applies beginning with the 2003-2004
22 school year.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1406 was passed by the House on April 30, 2003, by the following vote: Yeas 142, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1406 on May 30, 2003, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1406 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor