

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

H.B. No. 1406

Substitute the following for H.B. No. 1406:

By: Oliveira

C.S.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 licensed health care professional from recommending that a child be  
11 evaluated by an appropriate medical practitioner.

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

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

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