

1-1 By: Brown of Kaufman, et al. H.B. No. 1406  
1-2 (Senate Sponsor - Staples)  
1-3 (In the Senate - Received from the House May 1, 2003;  
1-4 May 6, 2003, read first time and referred to Committee on  
1-5 Education; May 24, 2003, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-7 May 24, 2003, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 1406 By: Van de Putte

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

1-11 relating to a recommendation by a school district employee  
1-12 concerning a use of a psychotropic drug by a student or suggestion  
1-13 of a particular diagnosis and to refusal by a parent or certain  
1-14 other person to consent to administration of a psychotropic drug to  
1-15 a student or to psychiatric evaluation or examination of a student.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-17 SECTION 1. Subchapter A, Chapter 38, Education Code, is  
1-18 amended by adding Section 38.016 to read as follows:

1-19 Sec. 38.016. PSYCHOTROPIC DRUGS AND PSYCHIATRIC  
1-20 EVALUATIONS OR EXAMINATIONS. (a) In this section:

1-21 (1) "Parent" includes a guardian or other person  
1-22 standing in parental relation.

1-23 (2) "Psychotropic drug" means a substance that is:

1-24 (A) used in the diagnosis, treatment, or  
1-25 prevention of a disease or as a component of a medication; and

1-26 (B) intended to have an altering effect on  
1-27 perception, emotion, or behavior.

1-28 (b) A school district employee may not:

1-29 (1) recommend that a student use a psychotropic drug;  
1-30 or

1-31 (2) suggest any particular diagnosis; or

1-32 (3) use the refusal by a parent to consent to  
1-33 administration of a psychotropic drug to a student or to a  
1-34 psychiatric evaluation or examination of a student as grounds, by  
1-35 itself, for prohibiting the child from attending a class or  
1-36 participating in a school-related activity.

1-37 (c) Subsection (b) does not:

1-38 (1) prevent an appropriate referral under the child  
1-39 find system required under 20 U.S.C. Section 1412, as amended; or

1-40 (2) prohibit a school district employee who is a  
1-41 registered nurse, advanced nurse practitioner, physician, or a  
1-42 certified or appropriately credentialed mental health professional  
1-43 from recommending that a child be evaluated by an appropriate  
1-44 medical practitioner; or

1-45 (3) prohibit a school employee from discussing any  
1-46 aspect of a child's behavior or academic progress with the child's  
1-47 parent or another school district employee.

1-48 (d) The board of trustees of each school district shall  
1-49 adopt a policy to ensure implementation and enforcement of this  
1-50 section.

1-51 (e) An act in violation of Subsection (b) does not override  
1-52 the immunity from personal liability granted in Education Code  
1-53 Section 22.051 or other law or the district's sovereign and  
1-54 governmental immunity.

1-55 SECTION 2. This Act applies beginning with the 2003-2004  
1-56 school year.

1-57 SECTION 3. This Act takes effect immediately if it receives  
1-58 a vote of two-thirds of all the members elected to each house, as  
1-59 provided by Section 39, Article III, Texas Constitution. If this  
1-60 Act does not receive the vote necessary for immediate effect, this  
1-61 Act takes effect September 1, 2003.

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