

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.

David Dewhurst

President of the Senate

Jim Cullum

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.

Robert Haney  
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.

Patricia Saw  
Secretary of the Senate

APPROVED: 20 JUN '03

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 PM O'CLOCK

Ann Shea  
JUN 20 2003  
Secretary of State