

SUBJECT: Prohibiting school employees from recommending psychotropic drugs

COMMITTEE: Public Education — committee substitute recommended

VOTE: 5 ayes — Grusendorf, Oliveira, Dawson, Eissler, Griggs

0 nays

4 absent — Branch, Dutton, Hochberg, Madden

WITNESSES: For — John Breeding, Texans for Safe Education; Moira Dolan; Charles Galloway; MerryLynn Gerstenschlager, Texas Eagle Forum; Glenn McIntosh, Suicide and Violence Education Resource Services; Andrew Prough, Citizens Commission on Human Rights; Pam Uhr, American Civil Liberties Union of Texas

Against — Lindsay Gustafson, Texas Classroom Teachers Association; Ted Melina Raab, Texas Federation of Teachers

On — Dennis Price, TCASE and Amarillo ISD; Christian Rewoldt; Stephanie Tabone, Texas Nurses Association

DIGEST: CSHB 1406 would amend Education Code, Ch. 38, to prohibit school district employees from recommending that a student use a psychotropic drug or have a psychiatric evaluation or examination. School district employees would be prohibited from using the refusal of a parent to consent to the administration of a psychotropic drug or psychiatric evaluation as the sole reason for prohibiting a child from attending a class or participating in a school-related activity.

The bill would not prevent referrals under the child find system, required by federal law to evaluate children with disabilities for appropriate education and services. It also would not prohibit district employees who were licensed health care professionals from recommending that a child be evaluated by an appropriate medical practitioner. School districts would be required to adopt a policy to ensure implementation and enforcement of the bill.

CSHB 1406 would apply beginning with the 2003-2004 school year. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1406 would help ensure that teachers, principals, and other non-medical school personnel did not pressure parents to administer psychotropic drugs such as Ritalin to children. Teachers are not medical professionals, and it is inappropriate under any circumstance for a teacher to recommend that a student be placed on any psychotropic drug. The use of these drugs has increased dramatically in recent years, in part because some teachers have begun to depend on the medication of challenging students as a classroom management tool. Parents who would not otherwise consider administering such medication to their children may do so only out of concern that their child otherwise would be excluded from classroom activities. There is still a great deal that is unknown about the long-term effects of these drugs, and parents should not feel pressured to administer them to children by teachers or other school personnel.

Teachers would not be prevented from requesting that a child be evaluated by the school nurse for possible referral to a medical professional. This is the only role that a teacher or other non-medical staff member should play in a medical decision that should be made by parents in consultation with qualified health professionals.

There is a need for clear statutory direction on this issue because school districts have failed to adopt strong policies prohibiting teachers and other non-medical personnel from providing any input, even informal advice, on this matter.

**OPPONENTS
SAY:**

CSHB 1406 improperly would prohibit teachers, principals, and other educators from making any comment to suggest that a student should have a psychiatric evaluation or consider the use of a psychotropic drug. Teachers and other educators often are in the best position to observe a student's behavior, and many parents appreciate getting a teacher's input or suggestions.

This issue should be addressed at the local level, and school districts should retain the authority to adopt policies and procedures regarding the extent to which teachers could communicate with parents.

NOTES:

The committee substitute differs from the bill as introduced by allowing a licensed health professional employed by a school district to recommend that a child be evaluated by an appropriate medical practitioner.

A related bill, HB 320 by Grusendorf, B. Brown, and Hupp, would prohibit the Texas Department of Regulatory Services from considering as neglect the failure of a parent to administer psychotropic drugs or have a child undergo psychiatric evaluation. The bill passed the House by voice vote on April 2 and currently is pending in the Senate Jurisprudence Committee.