

- SUBJECT:** Parental refusal of psychiatric drugs or treatment for children
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 8 ayes — Dutton, Goodman, Baxter, Castro, Hodge, J. Moreno, Morrison, Reyna
- 0 nays
- 1 present not voting — Dunnam
- WITNESSES:** For — David Beinke, Cirkiel & Associates; John Breeding, Ph. D., Texans for Safe Education; Lauren DeWitt, RPh, Citizens' Commission on Human Rights; Roy Getting, Texas Fathers' Alliance; Diane Marie Aziz; Rick Luna; Charles Ragland
- Against — none
- On — Rose Benham, Child Protective Services, Texas Department of Protective and Regulatory Services; Phoebe Knayer, Texas Department of Protective and Regulatory Services; Monica Thyssen, Advocacy, Inc.
- BACKGROUND:** Chapter 261 of the Family Code lists five acts or omissions that can be defined as neglect of a child. Among these is the failure to seek, obtain, or follow through with medical care, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or in the observable and material impairment to the growth, development of functioning of the child.
- Professionals are required to report incidents of neglect within 48 hours, and the Department of Protective and Regulatory Services (DPRS) is required promptly to investigate these reports. The investigation may include an interview with the child, a visit to the child's home, and a medical, psychological, or psychiatric exam.
- DIGEST:** CSHB 320 would amend Family Code, Ch. 261 to specify that the refusal of a parent, guardian, or managing conservator to administer or consent to the

administration of psychotropic drugs to a child, or to consent to any other psychiatric or psychological treatment of the child, would not constitute neglect unless the refusal presented imminent risk of harm to the child.

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 320 would prevent DPRS from opening an investigation of neglect simply because parents or guardians have refused to put a child on psychotropic drugs, such as Ritalin. Parents are under increasing pressure from schools to administer psychotropic drugs to children, even though such medication may be unnecessary and even harmful to the child. Some schools have threatened to report parents to DPRS if the parents refuse to put a child on Ritalin or other drugs. Because a great deal still is not known about the effects of these drugs, parents may be justified in their concerns about administering them to their children.

CSHB 320 would make it clear that this refusal alone would not constitute neglect and therefore would not be sufficient for DPRS to open an investigation. Even though DPRS officials claim that an investigation for refusal to administer Ritalin alone is unlikely, some Texas families have been the subjects of such investigations. The bill includes protections to ensure that a report would be made and investigated if the child were at serious risk of imminent harm.

**OPPONENTS
SAY:**

CSHB 320 is unnecessary because DPRS caseworkers are unlikely to open an investigation of neglect simply because a parent or guardian has refused to administer psychotropic drugs such Ritalin. DPRS is required by law to prioritize cases, and most caseworkers have far more pressing problems to handle. The bill would not prevent schools from pressuring parents to administer psychotropic drugs because it would apply only to DPRS procedures.

NOTES: The committee substitute added the exception that refusal to consent to administration of psychotropic drugs to a child could constitute neglect if the refusal presented an imminent risk of serious harm to the child.