

BILL ANALYSIS

Senate Research Center

C.S.H.B. 320
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Jurisprudence
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Committee Report (Substituted)

DIGEST AND PURPOSE

Under current law, if a child's parent or guardian refuses treatment, whether with a central nervous system stimulant or other drug for treatment of attention deficit hyperactivity disorder, for a child, this alone can constitute neglect and be acted on by the Texas Department of Protective and Regulatory Services (DPRS). Some psychiatrists and psychologists have serious concerns about the wisdom of such treatments, pointing out that some studies show a positive relationship between suicide and the use of some psychotropic drugs. Approximately 15 percent of school age children have been placed on mind- and behavior-altering substances such as Ritalin, and some parents allege that they are threatened with DPRS investigations if they refuse such treatment.

C.S.H.B. 320 insures that a refusal by a parent or guardian to seek a central nervous system stimulant or other drug for treatment of attention deficit hyperactivity disorder would not by itself constitute neglect as defined under Section 261.001 of the Texas Family Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 261, Family Code, by adding Section 261.005, as follows:

Sec. 261.005. REFUSAL OF PSYCHIATRIC OR PSYCHOLOGICAL TREATMENT OF CHILD. Provides that the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a central nervous system stimulant or other drug for treatment of attention deficit hyperactivity disorder to the child, or to consent to any other treatment of the child for attention deficit hyperactivity disorder, does not by itself constitute neglect under this subtitle unless the refusal to consent results in or presents certain problems.

SECTION 2. Amends Chapter 26, Education Code, by adding Section 26.0091, as follows:

Sec. 26.0091. REFUSAL OF PSYCHOLOGICAL OR PSYCHIATRIC TESTING OR TREATMENT. (a) Provides that the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a central nervous system stimulant or other drug for the treatment of attention deficit hyperactivity disorder to the child, or to consent to any testing or treatment of the child for attention deficit hyperactivity disorder, does not by itself constitute neglect under Subtitle E, Title 5, Family Code, unless the refusal to consent results in or presents certain problems.

(b) Prohibits an employee of a school district from using or threatening to use a parent's refusal under Subsection (a) as the sole basis for making a report under

Section 261.103, Family Code, unless the refusal to consent results in or presents certain problems.

SECTION 3. Amends Chapter 26.009, Education Code, by adding Subsection (c), to require an employee of a school district, prior to obtaining consent under Subsection (a) for the administration of any psychological examination, test, or treatment, including as part of an evaluation of the need for special education, to provide the child's parent with certain information.

SECTION 4. Effective date: upon passage or September 1, 2003.