

CS FOR SENATE BILL NO. 48(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/13/06

Referred: Judiciary

Sponsor(s): SENATORS DAVIS, Huggins, Cowdery, Guess, French, Seekins, Elton, Kookesh, Wagoner, Therriault, Ben Stevens

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to recommending or refusing psychotropic drugs or certain types of**
2 **evaluations or treatments for children."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 14.30 is amended by adding new sections to read:

5 **Article 2A. Psychiatric and Behavioral Evaluations and Treatments.**

6 **Sec. 14.30.171. Prohibited actions.** Except as provided in AS 14.30.172 -
7 14.30.176, school personnel may not, unless otherwise authorized by law,

8 (1) recommend to a parent or guardian that a child take or continue to
9 take a psychotropic drug as a condition for attending a public school;

10 (2) require that a child take or continue to take a psychotropic drug as a
11 condition for attending a public school;

12 (3) conduct a psychiatric or behavioral health evaluation of a child;

13 (4) recommend a specific licensed physician, psychologist, or other
14 health specialist to a parent or guardian for a child;

- 1 (5) recommend that a parent or guardian seek or use for a child
 2 (A) a psychotropic medication; or
 3 (B) a psychiatric or psychological treatment; or
 4 (6) except when refusal of consent causes a child to suffer mental
 5 injury or neglect, as defined in AS 47.17.290, make a report of suspected child abuse
 6 or neglect to authorities, including the Department of Health and Social Services,
 7 based solely on the fact that a parent or guardian refuses to give signed consent for
 8 (A) the administration of a psychotropic drug to a child;
 9 (B) a psychiatric, psychological, or behavioral treatment of a
 10 child; or
 11 (C) a psychiatric or behavioral health evaluation of a child.

12 **Sec. 14.30.172. Communication not prohibited.** (a) Nothing in AS 14.30.171
 13 may be construed to prohibit school personnel from

14 (1) consulting or sharing classroom-based observations with parents or
 15 guardians regarding a student's academic and functional performance, behavior in the
 16 classroom or school, or regarding the need for evaluation for special education or
 17 related services as long as school personnel do not

18 (A) make an assertion or recommendation that violates
 19 AS 14.30.171; or

20 (B) denigrate, criticize, punish, or attempt to denigrate,
 21 criticize, or punish, a parent, guardian, or child for a decision made by the
 22 parent or guardian pertaining to whether the child takes, does not take, or
 23 discontinues taking a psychotropic medication; or

24 (2) exercising their authority relating to the placement within the
 25 school or readmission of a child who may be or has been suspended or expelled for a
 26 violation of a school disciplinary and safety program adopted under AS 14.33.110 -
 27 14.33.140.

28 (b) Nothing in AS 14.30.171 may be construed to prevent teachers or other
 29 school personnel from complying with the requirements of AS 47.17.020.

30 **Sec. 14.30.174. Compliance with federal education law.** (a) Notwithstanding
 31 AS 14.30.171(3) and (5), a behavioral or mental health professional working within a

1 public school system may, for the sole purpose of complying with federal education
2 law,

3 (1) recommend, but not require, a psychiatric or behavioral health
4 evaluation of a child;

5 (2) recommend, but not require, psychiatric, psychological, or
6 behavioral treatment for a child; and

7 (3) conduct a psychiatric or behavioral health evaluation of a child
8 with the consent of the child's parent or guardian.

9 (b) In this section,

10 (1) "behavioral health professional" means a person who has a master's
11 degree in psychology, social work, counseling, or a related field with specialization or
12 experience in working with children experiencing behavioral, physical, and emotional
13 disabilities, and is working within the scope of the person's training and experience;
14 "behavioral health professional" does not include a person employed as a teacher;

15 (2) "federal education law" means 20 U.S.C. 1400 - 1487 (Individuals
16 with Disabilities Education Act), 20 U.S.C. 7101 - 7143 (Safe and Drug-Free Schools
17 and Communities Act of 1994), 29 U.S.C. 794 (nondiscrimination under federal grants
18 and programs), and 42 U.S.C. 12101 - 12213 (equal opportunity for individuals with
19 disabilities);

20 (3) "mental health professional" has the meaning given in
21 AS 47.30.915.

22 **Sec. 14.30.176. List of community resources.** Notwithstanding
23 AS 14.30.171(4), a school district may make available to an interested parent or
24 guardian a list of community resources, including mental health services if the list
25 conspicuously states the following: "This list is provided as a resource to you. The
26 school neither recommends nor requires that you use this list or any of the services
27 provided by individuals or entities on the list. It is for you to decide what services, if
28 any, to use and from whom you wish to obtain them."

29 **Sec. 14.30.177. Violations.** (a) A violation of AS 14.30.171 - 14.30.176
30 constitutes substantial noncompliance with a school law of the state for purposes of
31 dismissal of a teacher under AS 14.20.170 or nonretention of a teacher under

1 AS 14.20.175.

2 (b) Each school board shall adopt a bylaw under AS 14.14.100 that provides
3 that violation of AS 14.30.171 - 14.30.176 is grounds for disciplinary action against a
4 person employed by the school district.

5 **Sec. 14.30.179. Definition.** In AS 14.30.171 - 14.30.179, "public school"
6 means a school operated by publicly elected or appointed school officials in which the
7 program and activities are under the control of those officials and that is supported by
8 public funds.