

**HOUSE CS FOR CS FOR SENATE BILL NO. 48(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/6/06

Referred: Finance

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.** (a) Except as provided in AS 14.30.172 -  
7 14.30.176, school personnel may not, unless otherwise authorized by law or a specific  
8 policy adopted by a governing body of a school district,

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

11 (2) require that a child take or continue to take a psychotropic drug as a  
12 condition for attending a public school, except when, in the opinion of the child's  
13 treating physician,

14 (A) the medication is necessary for the mental health of the

1 child; or

2 (B) the child poses a risk of harm to self or others without the  
3 medication;

4 (3) conduct a psychiatric evaluation of a child;

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

7 (5) recommend that a parent or guardian seek or use for a child

8 (A) a psychotropic medication; or

9 (B) a psychiatric or psychological treatment.

10 (b) As used in this section, "school personnel" means persons employed by a  
11 public school or school district to work in a public school, except for a person who  
12 holds a special services type C certificate issued under AS 14.20 that qualifies the  
13 person to be employed to provide related services to students, as described in  
14 regulations adopted by the board.

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

17 (1) consulting or sharing classroom-based observations with parents or  
18 guardians regarding a student's academic and functional performance, behavior in the  
19 classroom or school, or regarding the need for evaluation for special education or  
20 related services as long as school personnel do not make an assertion or  
21 recommendation that violates AS 14.30.171; or

22 (2) exercising their authority relating to the placement within the  
23 school or readmission of a child who may be or has been suspended or expelled for a  
24 violation of a school disciplinary and safety program adopted under AS 14.03.160,  
25 AS 14.30.045, or AS 14.33.110 - 14.33.140.

26 (b) Nothing in AS 14.30.171 may be construed to prevent teachers or other  
27 school personnel from complying with the requirements of AS 47.17.020(a) or (b) or  
28 from filing a report to authorities if a child poses a serious and imminent risk to the  
29 child's or another person's safety.

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

1 a public school system may, in compliance with federal education law or applicable  
2 state law,

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

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

7 (b) In this section,

8 (1) "behavioral health professional" means a person who has a master's  
9 degree in psychology, social work, counseling, or a related field with specialization or  
10 experience in working with children experiencing behavioral, physical, and emotional  
11 disabilities, and is working within the scope of the person's training and experience;

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

17 (3) "mental health professional" has the meaning given in  
18 AS 47.30.915.

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

26 **Sec. 14.30.177. Violations.** Each school board shall adopt a policy that  
27 provides that an employee violating AS 14.30.171 - 14.30.176 may be subject to  
28 disciplinary action.

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

1 public funds.