

Florida Senate Bill sb2286 -----

A bill to be entitled An act relating to exceptional student evaluation; amending s. 1003.57, F.S.; requiring consent by a parent before his or her child's evaluation for an emotional, behavioral, or mental disorder, a specific learning disability, or other health impairment; specifying the contents of a statement that must be signed by a parent; providing an effective date.

WHEREAS, the Individuals with Disabilities in Education Act (IDEA), 20 U.S.C. s. 1414(a)(1)(C)(i), which was first enacted in 1975 and provides for equal access to education for every disabled child, requires that every child referred for exceptional education programs first be evaluated by the school and requires that each state "shall obtain informed consent from the parent of such child before evaluation is conducted," and

WHEREAS, rule 6A-6.03311(1)-(3), Florida Administrative Code, entitled "Exceptional Student Education Rules," which implements IDEA, requires that before a student may be evaluated, the parent must be "fully informed of all information relevant to the activity for which consent is sought," that "consent describes the activity," that it must be "informed parental consent," and that the parent must also be informed of "procedural safeguards," and

WHEREAS, the legal definition of "informed consent" means, "A person's agreement to allow something to happen, made with full knowledge of the risks involved and the alternatives," and

WHEREAS, in practice, school districts throughout this state provide information only on the parent's due process rights and should provide information to parents on the risks or alternatives to the evaluation process and the potential consequences of evaluation, including likely courses of treatment,

NOW, THEREFORE, Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) is added to section 1003.57, Florida Statutes, to read:

1003.57 Exceptional students instruction.--

Each district school board shall provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the State Board of Education as acceptable, including provisions that:

(8) Before a public school student may be evaluated for an emotional, behavioral, or mental disorder, a specific learning disability, or other health impairment, including psychological or psychiatric evaluation, the parent of such student must be fully informed of all known and potential consequences of and alternatives for such evaluation and acknowledge and sign the following statement: I understand that my child has been

http://www.aacap.org/cs/root/legislative_action/legislative_action

referred to be evaluated for an emotional, behavioral, or mental disorder, a specific learning disability, or other health impairment, that may lead to psychological or psychiatric evaluation. The evaluation may ultimately result in the diagnosis of a "mental disorder" or "syndrome" which is based on the observation and subjective interpretation of my child's behavior as reported by teachers, psychologists, psychiatrists, or others. I understand that, unlike most medical diagnostic methods, a diagnosis of mental disorder or syndrome, including, but not limited to, attention deficit hyperactivity disorder (ADHD), bipolar disorder, and depression, is not based on any medical test, such as a brain scan, chemical imbalance test, Xray, biopsy, blood test, or urinalysis, that can scientifically detect a physical abnormality in an infant, child, adolescent, or adult. I understand that if my child is diagnosed or labeled with any mental disorder or syndrome, treatment may include prescriptions for psychotropic or psychiatric medications, such as antidepressants or stimulants, which may have side effects and uncertain effectiveness. Most antidepressants are not approved for children by the Food and Drug Administration, and all antidepressants contain warnings of suicide risk. The Food and Drug Administration has also issued warnings that stimulants often prescribed for children may cause suicidal and psychotic behavior or sudden death due to heart failure. I understand that I have the right to be informed of all the known side effects of any recommended drug, including the current information concerning the drug in the Physicians' Desk Reference. I understand that I may request full information on the short-term and long-term benefits and risks of a drug, any interactions the drug has with other medications, the length of time my child will need to take the drug, and all of the up-to-date accumulation of adverse reaction reports of the drug from the FDA. I understand that psychotropic or psychiatric drugs may be addictive and could cause dependency. I understand that physical problems such as poor nutrition, exposure to toxins, including lead poisoning, or allergies and other medical conditions can cause emotional, behavioral, or mental symptoms and that these causes may be detectable through medical examination, including, but not limited to, blood testing. I understand that there are alternatives to psychotropic or psychiatric drug treatment and that I should ask the evaluation personnel and my physician about such alternatives. I understand that it is my responsibility to make an informed decision on behalf of my child. I acknowledge that I have read and understood the above information and, based on my understanding, I hereby:

(1) Give my full and informed consent for my child to undergo evaluation for an emotional, behavioral, or mental disorder, a specific learning disability, or other health impairment. ...(Signature of Parent)...

(2) Do not give my consent for my child to undergo evaluation for an emotional, behavioral, or mental disorder, a specific learning disability, or other health impairment. ...(Signature of Parent)...

Section 2. This act shall take effect July 1, 2006.

***** SENATE SUMMARY Requires consent by a parent before his or her child is evaluated for an emotional, behavioral,

mental disorder, a specific learning disability, or other health impairment. Specifies the contents of a statement that must be signed by the parent.