

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

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Amended: 5/8/06**

**Offered: 5/6/06**

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

**REPRESENTATIVE Gardner**

**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

child; or

(B) the child poses a risk of harm to self or others without the

medication;

(3) conduct a psychiatric evaluation of a child;

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

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

(A) a psychotropic medication; or

(B) a psychiatric or psychological treatment.

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

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

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

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

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

**Sec. 14.30.174. Compliance with federal education law.** (a) Notwithstanding 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.** (a) 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 (b) A list provided under (a) of this section must include the name, specialty,  
27 and credential of each mental health service provider listed.

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

31 **Sec. 14.30.179. Definition.** In AS 14.30.171 - 14.30.179, "public school"

1 means a school operated by publicly elected or appointed school officials in which the  
2 program and activities are under the control of those officials and that is supported by  
3 public funds.