

**2001 DRAFTING REQUEST**

**Bill**

Received: 08/30/2001

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Stephen Nass (608) 266-5715

By/Representing: mike

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters: malaigm

Subject: Children - miscellaneous  
Education - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Nass@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Prohibiting school personnel from recommending the use of psychotropic drugs to pupils

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mlief 09/06/2001	rschluet 09/27/2001	pgreensl 09/27/2001	_____	lrb_docadmin 09/27/2001	lrb_docadmin 12/12/2001	

FE Sent For:

<END>

→ Not Needed

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1/?	mlief	LS # 9-18-01	9/20 p8	9/27 KJK/p8			

FE Sent For:

<END>

  
**Stephen L. Nass**  
Wisconsin State Representative

TO: Peter Grant  
LRB Drafting

FROM: Rep. Steve Nass

DATE: August 17, 2001

RE: Draft on Psychotropic Drugs and School Staff

I am requesting a bill draft that would do the following:

48.13(11)  
48.31(4)

- 1.) Statutorily prohibit school personnel from recommending the use of psychotropic drugs for any child. Require each school board to adopt and implement policies prohibiting school personnel from recommending the use of psychotropic drugs for any child.
- a.) The statute and school board policies shall not prohibit school medical staff from recommending to parents or guardians that the child be evaluated by an appropriate medical practitioner.
- b.) The statute and school board policies should allow school personnel to consult with such medical practitioners with the written consent of the parents or guardian of such a child.

51.61(1)(g)  
118.29

48.599(2) -  
act of psych.  
med

- 2.) Statutorily allow a parent or guardian to refuse to seek a prescription for psychotropic drugs, to administer or consent to the administration of any psychotropic drug to their child and prohibit school personnel from taking any action against the parent, guardian or child, solely based on such refusal. The school board policies should reference that a parent or guardian has this statutory right and prohibit school personnel from taking any action against the parent, guardian or child, solely based on such refusal.

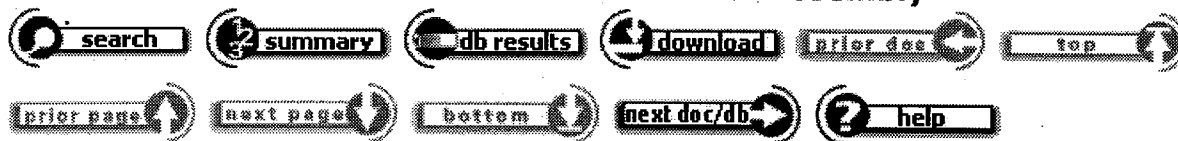
parent  
under common  
law  
has rt to  
accept or  
refuse  
treatment  
for a child  
- except  
for adm.  
to in put  
facility for  
child  
14 or older

If you have any questions on this drafting request, please contact Mike Mikalsen on my staff.

Tc to Mike on 8/24 - Not in. I left message to call  
me back re: bill request.

Tc w/ Mike 8/24 - Wants leg to prevent sch off from covering  
or intimidating parent - concerned that S.d. personnel →

## Connecticut General Assembly



## Public Act 1 of 2

Year: 2001

Number: 124

Name: 2001PA-00124-R00HB-05701-PA

Title: AN ACT CONCERNING RECOMMENDATIONS FOR AND REFUSALS OF THE USE OF PSYCHOTROPIC DRUGS BY CHILDREN AND UTILIZATION REVIEW DETERMINATIONS RELATED TO MENTAL AND NERVOUS CONDITIONS

Go to first hit:

*Substitute House Bill No. 5701**Public Act No. 01-124*

**AN ACT CONCERNING RECOMMENDATIONS FOR AND REFUSALS OF THE USE OF PSYCHOTROPIC DRUGS BY CHILDREN AND UTILIZATION REVIEW DETERMINATIONS RELATED TO MENTAL AND NERVOUS CONDITIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

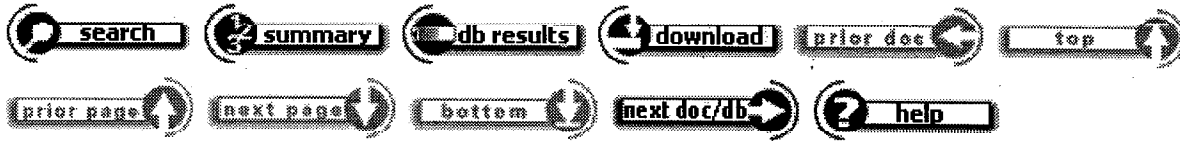
Section 1. (NEW) Each local and regional board of education shall adopt and implement policies prohibiting any school personnel from recommending the use of psychotropic drugs for any child. The provisions of this section shall not prohibit school medical staff from recommending that a child be evaluated by an appropriate medical practitioner, or prohibit school personnel from consulting with such practitioner with the consent of the parents or guardian of such child.

Sec. 2. (NEW) The refusal of a parent or other person having control of a child to administer or consent to the administration of any psychotropic drug to such child shall not, in and of itself, constitute grounds for the Department of Children and Families to take such child into custody or for any court of competent jurisdiction to order that such child be taken into custody by the department, unless such refusal causes such child to be neglected or abused, as defined in section 46b-120 of the general statutes.

Sec. 3. Subdivision (12) of subsection (a) of section 38a-226c of the general statutes is repealed and the following is substituted in lieu thereof:

(12) Each utilization review company shall annually file with the commissioner (A) the names of all managed care organizations, as defined in section 38a-478, that the utilization review company services in Connecticut, (B) any utilization review services for which the utilization review company has contracted out for services and the name of such company providing the

services, and (C) the number of utilization review determinations not to certify an admission, service, procedure or extension of stay and the outcome of such determination upon appeal within the utilization review company. Determinations related to mental or nervous conditions, as defined in section 38a-514, shall be reported separately from all other determinations reported under this subdivision.





### 2001 BILL

~~prohibiting a county department of human services or social services from determining that child abuse or neglect has occurred based solely on the fact that the child's parent, guardian, or legal custodian refuses to seek a prescription for psychotropic medication for the child or to administer or consent to the administration of~~

Gen

Insert 1-2

1 AN ACT relating to: prohibiting school personnel from recommending the use  
2 of psychotropic ~~drugs~~ <sup>medications</sup> to pupils

examine

#### Analysis by the Legislative Reference Bureau

This bill prohibits a school district employee from recommending to a pupil or the pupil's parent or guardian that the pupil obtain a prescription for a psychotropic medication or from coercing a pupil or the pupil's parent or guardian into seeking such a prescription. A school district employee may, however, recommend to the parent or guardian of a pupil that a physician examine the pupil and may consult a physician about the pupil if the pupil's parent or guardian provides written consent.

Insert A

Insert 1-3

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 118.292 of the statutes is created to read:  
4 118.292 Psychotropic medication; recommendations prohibited. (1)  
5 No school district employee may:  
6 (a) Recommend to a pupil or the pupil's parent or guardian that the pupil obtain  
7 a prescription for a psychotropic medication, as defined in s. 48.599 (2).

**BILL**

1 (b) Coerce the pupil or the pupil's parent or guardian into seeking a prescription  
2 for a psychotropic medication for the pupil.

3 (2) A school district employee is not prohibited from recommending to the  
4 parent or guardian of a pupil that a physician ~~exam~~ <sup>examine</sup> the pupil or from consulting a  
5 physician about the pupil if the parent or guardian of a pupil provides written  
6 consent.

7 (3) Each school board shall ~~shall~~ <sup>oops, keep "a"</sup> adopt written policies concerning the  
8 prohibitions in sub. (1).

(END)

9

Insert  
2-8



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3691/lins  
GMM.....

(INSERT 1-2)

and prohibiting a county department of human services or social services from determining that child abuse or neglect has occurred, a juvenile court from ordering a child to be taken into custody or finding that a child is in need of protection or services, and a law enforcement officer from taking a child into custody based solely on the fact that the child's parent, guardian, or legal custodian refuses to administer or consent to the administration of psychotropic medication for the child ✓

(END OF INSERT)

(INSERT 1-3)

**SECTION 1.** 48.19 (1) (c) of the statutes is amended to read:

48.19 (1) (c) An order of the judge if made upon a showing satisfactory to the judge that the welfare of the child demands that the child be immediately removed from his or her present custody. A judge may not order a child to be taken into custody under this paragraph based solely on the refusal of the child's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication, as defined in s. 48.599 (2), for the child. The order shall specify that the child be held in custody under s. 48.207 (1).

~~History: 1977 c. 354, 449; 1979 c. 300; 1985 a. 176; 1989 a. 31, 56, 107; 1993 a. 16, 56, 377, 490; 1995 a. 27, 77; 1997 a. 292.~~

**SECTION 2.** 48.19 (1) (d) 5. of the statutes is amended to read:

48.19 (1) (d) 5. The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary. § A law enforcement officer may not take a child into custody under this subdivision based solely on the refusal of the child's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication, as defined in s. 48.599 (2), for the child.

~~History: 1977 c. 354, 449; 1979 c. 300; 1985 a. 176; 1989 a. 31, 56, 107; 1993 a. 16, 56, 377, 490; 1995 a. 27, 77; 1997 a. 292.~~

**SECTION 3.** 48.31 (4) of the statutes is renumbered 48.31 (4) (a) and amended to read:

48.31 (4) (a) The court or jury shall make findings of fact and the court shall make conclusions of law relating to the allegations of a petition filed under s. 48.13, 48.133, or 48.42, except that the court shall make findings of fact relating to whether the child or unborn child is in need of protection or services ~~which~~ that can be ordered by the court.

(b) In cases alleging a child to be in need of protection or services under s. 48.13 (11), the court may not find that the child is suffering emotional damage unless a licensed physician specializing in psychiatry or a licensed psychologist appointed by the court to examine the child has testified at the hearing that in his or her opinion the condition exists, and adequate opportunity for the cross-examination of the physician or psychologist has been afforded. The judge may use the written reports if the right to have testimony presented is voluntarily, knowingly, and intelligently waived by the guardian ad litem or legal counsel for the child and the parent or guardian. The court may not find that a child is in need of protection or services under s. 48.13 (11) based solely on the refusal of the child's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication, as defined in s. 48.599 (2), for the child.

(c) In cases alleging a child to be in need of protection or services under s. 48.13 (11m) or an unborn child to be in need of protection or services under s. 48.133, the court may not find that the child or the expectant mother of the unborn child is in need of treatment and education for needs and problems related to the use or abuse of alcohol beverages, controlled substances, or controlled substance analogs and its medical, personal, family, or social effects unless an assessment for alcohol and other

drug abuse that conforms to the criteria specified under s. 48.547 (4) has been conducted by an approved treatment facility.

~~History: 1977 c. 354, 447; 1979 c. 32 s. 92 (13); 1979 c. 300, 331, 355, 357, 359; 1983 a. 197; 1985 a. 262 s. 8; 1987 a. 339; 1993 a. 481; 1995 a. 77, 275, 404, 448; 1997 a. 3, 35, 292; 1999 a. 103.~~

**SECTION 4.** 48.981 (3) (c) 4. of the statutes is amended to read:

48.981 (3) (c) 4. The county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall determine, within 60 days after receipt of a report, whether abuse or neglect has occurred or is likely to occur. The determination shall be based on a preponderance of the evidence produced by the investigation. A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian, or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child or solely on the fact that the child's parent, guardian, or legal custodian refuses to administer or consent to the administration of a psychotropic medication, as defined in s. 48.599 (2), for the child. In making a determination that emotional damage has occurred, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall give due regard to the culture of the subjects. This subdivision does not prohibit a court from ordering medical services for the child if the child's health requires it.

~~History: Sup. Ct. Order 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 2200 (56); 1985 a. 176, 234; 1987 a. 27, 130, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 393, 403; 1989 a. 31, 71, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; s. 13.93 (2) (c).~~

(END OF INSERT)

(INSERT 2-8)

**SECTION 5.** 938.19 (1) (c) of the statutes is amended to read:

938.19 (1) (c) An order of the judge if made upon a showing satisfactory to the judge that the welfare of the juvenile demands that the juvenile be immediately removed from his or her present custody. A judge may not order a juvenile to be taken into custody under this paragraph based solely on the refusal of the juvenile's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication, as defined in s. 48.599 (2), for the juvenile. The order shall specify that the juvenile be held in custody under s. 938.207.

~~History: 1995 a. 77.~~

**SECTION 6.** 938.19 (1) (d) 5. of the statutes is amended to read:

938.19 (1) (d) 5. The juvenile is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary. A law enforcement officer may not take a juvenile into custody under this subdivision based solely on the refusal of the juvenile's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication, as defined in s. 48.599 (2), for the juvenile.

~~History: 1995 a. 77.~~

**SECTION 7. Initial applicability.**

(1) CHILDREN OR JUVENILES TAKEN INTO CUSTODY BY JUVENILE COURT ORDER. The treatment of sections 48.19 (1) (c) and 938.19 (1) (c) of the statutes first applies to orders under those sections entered on the effective date of this subsection.

(2) CHILDREN OR JUVENILES TAKEN INTO CUSTODY BY LAW ENFORCEMENT OFFICER. The treatment of sections 48.19 (1) (d) 5. and 938.19 (1) (d) 5. of the statutes first applies to children or juveniles taken into custody under those sections on the effective date of this subsection.

(3) CHILDREN IN NEED OF PROTECTION OR SERVICES. The treatment of section 48.31 (4) of the statutes first applies to petitions under section 48.13 (11) of the statutes filed on the effective date of this subsection.

(4) CHILD ABUSE OR NEGLECT DETERMINATIONS. The treatment of section 48.981 (3) (c) 4. of the statutes first applies to determinations that child abuse or neglect has occurred made on the effective date of ~~that section~~.

(END OF INSERT)

(INSERT A)

*This subsection*

Under current law, certain persons, such as medical professionals, social workers, and school teachers, administrators, and counselors, having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected must report the facts and circumstances contributing to that suspicion to the county department of human services or social services (county department) or, in a county having a population of 500,000 or more, the department of health and family services (DHFS). Current law defines "abuse" to include emotional damage for which the child's parent, guardian, or legal custodian has neglected, refused, or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms. After receiving a report of suspected abuse or neglect, the county department or DHFS must investigate the report and determine whether abuse or neglect has occurred. If the county department or DHFS determines that the child is in need of services, the county department or DHFS must offer to provide appropriate services. If the child's parent, guardian, or legal custodian refuses to accept the services, the county department or DHFS may request that a petition be filed with the court assigned to exercise jurisdiction under the Children's Code (juvenile court) alleging that the child is in need of protection or services that may be ordered by the juvenile court. If the welfare of the child demands that the child be immediately removed from his or her present custody, the juvenile court may order the child to be taken into custody. If the child is suffering from illness or injury or is immediately danger ~~of~~ <sup>in</sup> his or her surroundings and removal from those surroundings in necessary, a law enforcement officer may take the child into custody.

This bill prohibits a county department or DHFS from determining that abuse or neglect has occurred based solely on the fact that the child's parent, guardian, or legal custodian refuses to administer or consent to the administration of psychotropic medication for the child. The bill also prohibits a juvenile court from finding that a child is in need of protection or services based solely on the refusal of the child's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication for the child. Finally, the bill prohibits

a juvenile court from ordering a child to be taken into custody and a law enforcement officer from taking a child into custody based solely of the refusal of the child's parent, guardian, or legal custodian to administer or consent to the administration of a psychotropic medication for the child.

(END OF INSERT)



**Barman, Mike**

---

**From:** Lief, Madelon  
**Sent:** Wednesday, December 12, 2001 3:31 PM  
**To:** Barman, Mike  
**Subject:** FW: Rep. Nass Draft LRB-3691/1

-----Original Message-----

**From:** Mikalsen, Mike  
**Sent:** Wednesday, December 12, 2001 3:30 PM  
**To:** Lief, Madelon  
**Subject:** Rep. Nass Draft LRB-3691/1

Rep. Nass would like to jacket LRB-3691/1, relating to Psychotropic Drugs and K-12 students.