

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Administration of Psychotropic Medications to Children Act.

6 Section 2. Legislative Findings. The General Assembly
7 recognizes that:

8 (a) Mental illnesses among children and adolescents can be
9 severely debilitating and, if untreated, can have a negative
10 effect on their education, their families and communities, and
11 their future lives as productive citizens of Illinois.

12 (b) Psychotropic medications, when used carefully and
13 appropriately, can be safe and effective treatments for
14 children with serious mental illnesses.

15 (c) Psychotropic medications, like most other medications,
16 may pose serious risks and side effects, particularly if their
17 use is not carefully monitored.

18 (d) Under Illinois law, minors cannot give consent to
19 medical treatment, including psychotropic medications.

20 (e) Under Illinois law, in the absence of an emergency,
21 medical treatment, including the administration of
22 psychotropic medications, may only be provided to a minor with
23 the consent of a parent, a guardian, or some other person

1 authorized by law to give consent.

2 (f) The Department of Children and Family Services has
3 responsibility for providing informed consent for medical
4 treatment, including the administration of psychotropic
5 medications, for thousands of children and adolescents.

6 (g) The health, safety, and well-being of children and
7 adolescents who are the legal responsibility of the Department
8 depend on the existence and enforcement of appropriate
9 standards and procedures through which the Department may
10 determine when the use of psychotropic medications is
11 appropriate for these children and adolescents.

12 Section 5. Administration of psychotropic medications. On
13 or before October 1, 2011, the Department of Children and
14 Family Services shall promulgate final rules, amending its
15 current rules establishing and maintaining standards and
16 procedures to govern the administration of psychotropic
17 medications. Such amendments to its rules shall include, but
18 are not limited to, the following:

19 (a) The role of the Department in the administration of
20 psychotropic medications to youth for whom it is legally
21 responsible and who are in facilities operated by the Illinois
22 Department of Corrections or the Illinois Department of
23 Juvenile Justice.

24 (b) Provisions regarding the administration of
25 psychotropic medications for youth for whom the Department is

1 legally responsible and who are in residential facilities,
2 group homes, transitional living programs, or foster homes
3 where the youth is under the age of 18 or where the youth is 18
4 or older and has provided the Department with appropriate
5 consent.

6 (c) Provisions regarding the administration of
7 psychotropic medications for youth for whom the Department is
8 legally responsible and who are in psychiatric hospitals.

9 (d) Provisions concerning the emergency use of
10 psychotropic medications, including appropriate and timely
11 reporting.

12 (e) Provisions prohibiting the administration of
13 psychotropic medications to persons for whom the Department is
14 legally responsible as punishment for bad behavior, for the
15 convenience of staff or caregivers, or as a substitute for
16 adequate mental health care or other services.

17 (f) The creation of a committee to develop, post on a
18 website, and periodically review materials listing which
19 psychotropic medications are approved for use with youth for
20 whom the Department has legal responsibility. The materials
21 shall include guidelines for the use of psychotropic
22 medications and may include the acceptable range of dosages,
23 contraindications, and time limits, if any, and such other
24 topics necessary to ensure the safe and appropriate use of
25 psychotropic medications.

26 (g) Provisions regarding the appointment, qualifications,

1 and training of employees of the Department who are authorized
2 to consent to the administration of psychotropic medications to
3 youth for whom the Department has legal responsibility,
4 including the scope of the authority of such persons.

5 (h) Provisions regarding training and materials for
6 parents, foster parents, and relative caretakers concerning
7 the rules governing the use of psychotropic medications with
8 youth for whom the Department has legal responsibility.

9 (i) With respect to any youth under the age of 18 for whom
10 the Department has legal responsibility and who does not assent
11 to the administration of recommended psychotropic medication,
12 provisions providing standards and procedures for reviewing
13 the youth's concerns. With respect to any youth over the age of
14 18 for whom the Department has legal responsibility and who
15 does not consent to the administration of recommended
16 psychotropic medication, provisions providing standards and
17 procedures for reviewing the youth's concerns upon the youth's
18 request and with the youth's consent. Standards and procedures
19 developed under this subsection shall not be inconsistent with
20 the Mental Health and Developmental Disabilities Code.

21 (j) Provisions ensuring that, subject to all relevant
22 confidentiality laws, service plans for youth for whom the
23 Department has legal responsibility include the following
24 information:

25 (1) Identification by name and dosage of the
26 psychotropic medication known by the Department to have

1 been administered to the youth since the last service plan.

2 (2) The benefits of the psychotropic medication.

3 (3) The negative side effects of the psychotropic
4 medication.

5 Section 10. Failure to comply with Department rules. The
6 Department must establish and maintain rules designed to ensure
7 compliance with any rules promulgated pursuant to Section 5 of
8 this Act. Such rules shall include, but are not limited to, the
9 following:

10 (a) Standards and procedures for notifying physicians,
11 residential treatment facilities, and psychiatric hospitals
12 when they have violated any rule enacted or maintained pursuant
13 to Section 5 of this Act.

14 (b) Standards and procedures for issuing written warnings
15 to physicians, residential treatment facilities, and
16 psychiatric hospitals when they have violated any rule enacted
17 or maintained pursuant to Section 5 of this Act.

18 (c) Standards and procedures for notifying the Department
19 of Financial and Professional Regulation when a physician has
20 repeatedly violated any rule enacted or maintained pursuant to
21 Section 5 of this Act after having received a written warning
22 on one or more occasions. This subsection is not intended to
23 limit the Department's authority to make a report to the
24 Department of Financial and Professional Regulation when a
25 physician has violated a rule and has not received a written

1 warning when the Department determines it is in the minor's and
2 society's interest to make the report.

3 (d) Standards and procedures for notifying the Department
4 of Public Health when any facility licensed by that Department
5 has repeatedly violated any rule enacted or maintained pursuant
6 to Section 5 of this Act after having received a written
7 warning on one or more occasions. This subsection is not
8 intended to limit the Department's authority to make a report
9 to the Department of Public Health when a facility has violated
10 a rule and has not received a written warning when the
11 Department determines it is in the minor's and society's
12 interest to make the report.

13 (e) Standards and procedures for notifying the guardian ad
14 litem appointed pursuant to Section 2-17 of the Juvenile Court
15 Act of 1987, of a ward who has been administered psychotropic
16 medication in violation of any rule enacted or maintained
17 pursuant to Section 5 of this Act, where the guardian ad litem
18 has requested notification and provides the Department with
19 documentation verifying that pursuant to the Mental Health and
20 Developmental Disabilities Confidentiality Act, the court has
21 entered an order granting the guardian ad litem authority to
22 receive and review this information.

23 (f) Standards and procedures for notifying the
24 Department's licensing division when a residential facility or
25 group home licensed by the Department has repeatedly violated
26 any rule enacted or maintained pursuant to Section 5 of this

1 Act.

2 Section 15. Annual report.

3 (a) No later than December 31 of each year, the Department
4 shall prepare and submit an annual report, covering the
5 previous fiscal year, to the General Assembly concerning the
6 administration of psychotropic medication to persons for whom
7 it is legally responsible. This report shall include, but is
8 not limited to, the following:

9 (1) The number of violations of any rule enacted
10 pursuant to Section 5 of this Act.

11 (2) The number of warnings issued pursuant to
12 subsection (b) of Section 10 of this Act.

13 (3) The number of physicians who have been issued
14 warnings pursuant to subsection (b) of Section 10 of this
15 Act.

16 (4) The number of physicians who have been reported to
17 the Department of Financial and Professional Regulation
18 pursuant to subsection (c) of Section 10 of this Act, and,
19 if available, the results of such reports.

20 (5) The number of facilities that have been reported to
21 the Department of Public Health pursuant to subsection (d)
22 of Section 10 of this Act and, if available, the results of
23 such reports.

24 (6) The number of Department-licensed facilities that
25 have been the subject of licensing complaints pursuant to

1 subsection (f) of Section 10 of this Act, and if available,
2 the results of the complaint investigations.

3 (7) Any recommendations for legislative changes or
4 amendments to any of its rules or procedures established or
5 maintained in compliance with this Act.

6 (b) The requirement for reporting to the General Assembly
7 shall be satisfied by filing copies of the report with the
8 Speaker, the Minority Leader, and the Clerk of the House of
9 Representatives, the President, the Minority Leader, and the
10 Secretary of the Senate, and the Legislative Research Unit, as
11 required by Section 3.1 of the General Assembly Organization
12 Act and by filing additional copies with the State Government
13 Report Distribution Center for the General Assembly as required
14 under paragraph (t) of Section 7 of the State Library Act.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.