

Senate Bill 277

By: Senators Schaefer of the 50th, Brown of the 26th, Rogers of the 21st, Shafer of the 48th, Hill of the 32nd and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as to provide definitions; to prohibit universal mental health testing and psychiatric or socioemotional screening of juveniles except under certain circumstances; to provide that a local school system cannot use the refusal of a child's or student's parent, guardian, or custodian to consent to the administration of psychotropic medication or psychiatric or mental health screening, testing, evaluation, or examination as grounds for prohibiting the child or student from attending class or participating in school-related activities or as the basis for a report of child abuse or neglect; to provide for certain notifications; to require consent from a parent, guardian, or custodian before certain treatments; to provide for certain exceptions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended by adding a new Article 7 to read as follows:

"ARTICLE 7

15-11-220.

(a) As used in this article, the term "universal mental health testing" or "psychiatric or socioemotional screening" means any psychiatric or socioemotional screening program in which a set of individuals, other than individuals serving a sentence resulting from a conviction for a criminal offense, is automatically screened without regard to whether there was a prior indication of a need for psychiatric treatment.

(b) Except as provided in subsection (c) of this Code section, universal mental health testing and psychiatric or socioemotional screening of children is prohibited in the State of Georgia.

(c) Mental health testing or psychiatric or socioemotional screening in individual cases may occur under the following circumstances:

(1) A child's parent, guardian, or custodian has provided written, active, informed, voluntary, signed consent which may be withdrawn at any time by the parent, guardian, or custodian;

(2) A court requires the psychiatric, socioemotional, or mental health screening, evaluation, examination, or testing; or

(3) Emergency testing or screening of an individual under Article 3 of Chapter 3 of Title 37 or testing or screening done in connection with a disaster or epidemic.

15-11-221.

(a) As used in this Code section, the term 'psychotropic medication' means a substance that is:

(1) Used in the diagnosis, treatment, or prevention of disease or as a component of a medication; and

(2) Intended to have an altering effect on perception, emotion, or behavior.

(b) Notwithstanding the provisions of any law to the contrary, a local school system shall not use a parent's, guardian's, or custodian's refusal to consent to the administration of a psychotropic medication to a child or student or to the administration of a psychiatric screening, evaluation, testing, or examination of a child or student as a ground or grounds for prohibiting the child or student from attending class or participating in a school-related activity or as the basis for reporting or charging child abuse, child neglect, educational neglect, or medical neglect. A local school system shall not use or threaten use of administering school sanctions to a child or student to coerce the consent of the child's or student's parent, guardian, or custodian to a psychiatric screening, evaluation, testing, or examination. A person employed by a local school system may not require that a child or student be evaluated or treated with any psychotropic medication or for a particular mental health diagnosis. Only the following local school system personnel may recommend an evaluation, testing, or examination for psychiatric diagnosis or treatment of a child or student with the written, active, informed, voluntary, signed consent of the child's or student's parent, guardian, or custodian which may be withdrawn at any time by such parent, guardian, or custodian:

1 (1) Psychiatrist;

2 (2) Physician with expertise in psychiatry as determined by training, education, or
3 experience;

4 (3) Advanced practice nurse with special certification in mental health or psychiatric
5 nursing;

6 (4) Advanced practice nurse with expertise in mental health or psychiatric nursing as
7 determined by training, education, or experience;

8 (5) Psychologist;

9 (6) Licensed professional counselor; or

10 (7) Licensed clinical social worker.

11 (c) Written, active, informed, voluntary, signed consent of a child's or student's parent,
12 guardian, or custodian that may be withdrawn at any time by such parent, guardian, or
13 custodian shall also be obtained before proceeding with any psychiatric treatment
14 recommendations resulting from any psychiatric, mental health, or socioemotional
15 screening, evaluation, testing, or examination.

16 (d) The provisions of subsections (b) and (c) of this Code section shall not be construed
17 to:

18 (1) Prevent an appropriate referral under the child find system required under 20 U.S.C.
19 Section 1412, as amended, with appropriate parental consent procedures as required
20 under 20 U.S.C. Section 1414(a)(1)(D)(i);

21 (2) Prohibit a local school system from discussing any aspect of a child's or student's
22 behavior or academic progress with the child's or student's parent, guardian, or custodian
23 or another school system employee, consistent with federal and state law, including the
24 requirement of prior parental consent for the disclosure of any educational records.
25 Nothing in this paragraph shall be construed to modify or affect parental notification
26 requirements for programs authorized under the federal Elementary and Secondary
27 Education Act of 1965, as amended by the federal No Child Left Behind Act of 2001,
28 P.L. 107-110; or

29 (3) Prohibit referrals, counseling, or support in the event of an emergency or urgent
30 situation to include, but not be limited to, the death, suicide, attempted suicide, murder,
31 attempted murder, serious injury, or serious illness of a student, teacher, staff, member
32 of the administration, superintendent, or any other school personnel or significant
33 individual.

34 (e) Each local school system shall inform each parent, guardian, or custodian of their rights
35 pursuant to this article and shall provide a copy of the local school system policy on the
36 rights of parents and students and a copy of the Protection of Pupil Rights, 20 U.S.C.
37 Section 1232h, commonly referred to as the Tiahrt Amendment, as amended by the Parents

1 Rights Restoration Amendment to Goals 2000, March 31, 1994, P.L. 103-227, Section
2 1017, and included in the federal No Child Left Behind Law, 20 U.S.C. Section 6301, et
3 seq.

4 (f) The board of education of each local school system shall adopt such policies as may
5 be reasonable and necessary to ensure implementation and enforcement of this article.
6 Each board of education shall report to the State Board of Education by July 1, 2008, on
7 the impact of this article."

8 **SECTION 2.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law
10 without such approval.

11 **SECTION 3.**

12 All laws and parts of laws in conflict with this Act are repealed.