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## Education Committee

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### SB 5448

**Brief Description:** Concerning no required psychotropic medication use for students.

**Sponsors:** Senators Rivers, Chase, Zeiger, Walsh, Miloscia, Fain, Warnick and Becker.

#### Brief Summary of Bill

- Requires school district boards of directors to adopt policies prohibiting school staff from denying students access to programs or services because the parent or guardian has refused to place the student on psychotropic medication.
- Prohibits school staff from requiring a student to undergo psychological screening unless the parent or guardian gives prior written consent before each screening.
- Modifies provisions governing the taking of an abused or neglected child into custody by a law enforcement officer to specify that a child may not be taken into custody solely on the grounds that the child's parent or guardian refuses to consent to the administration of a psychotropic medication to the child.
- Defines "psychotropic medication" as a drug that is not dispensed or administered without a prescription and whose primary indication is for the treatment of mental disorders.

**Hearing Date:** 3/20/17

**Staff:** Ethan Moreno (786-7386).

#### **Background:**

##### Education Access and Attendance.

Article IX of the Washington State Constitution requires the state to make ample provision for the education of all children residing within its borders. Access to the state's basic education program in public schools is ensured through statutory provisions specifying that each school district's kindergarten through grade 12 basic educational program must be accessible to all students who are 5 years of age and less than 21 years of age.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Parents and guardians of children who are 8 years of age and under 18 years of age must compel their child or children to attend the public school of the district within which the child or children reside. Exceptions to this requirement are established for children attending private schools, children receiving home-based instruction, children who have been excused from attendance by the district superintendent because the child is physically or mentally unable to attend school, and for other specified reasons.

#### Medically-Related Requirements for Attendance and Prohibitions on Mandatory Medication.

Although state law provides that common schools must be open to the admission of all persons who are 5 years of age and less than 21 years, the attendance of each child at public and private schools is conditioned upon the presentation of proof of immunization requirements of the State Board of Health or a certificate of exemption.

Additionally, the initial attendance of every student at every public school who has a life-threatening health condition is conditioned upon the presentation by the parent of a medication or treatment order addressing any life-threatening health condition the child has that may require medical services to be performed at the school.

Medically-related requirements for attendance cannot require students to take prescription medicines. School district personnel are prohibited by administrative rules of the Office of the Superintendent of Public Instruction (OSPI) from requiring parents to obtain a prescription for qualifying federally controlled substances for a student as a condition of attending school, receiving an evaluation, or receiving special education services. This prohibition does not bar teachers and other school personnel from 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 the need for evaluation for special education or related services.

#### Psychotropic Medications - Definition and Agency Duties.

According to the National Institute of Mental Health, psychotropic medications are medications that affect the brain chemicals associated with mood and behavior. Psychotropic medications are available by prescription and include different classifications of drugs, such as: antipsychotics, antidepressants, anti-anxiety medications, mood stabilizers, and stimulants. "Psychotropic medication" is defined in administrative rules of the Department of Social and Health Services (DSHS) governing foster homes as a type of medicine that is prescribed to affect or alter thought processes, mood, sleep or behavior. The administrative definition specifies that these medications include antipsychotic, antidepressant and anti-anxiety medications.

The Washington State Health Care Authority (HCA) is required to review the psychotropic medications of all children under 5 years old and to establish one or more mechanisms to evaluate the appropriateness of the medication these children are using. The HCA is also required to track prescriptive practices with respect to psychotropic medications with the goal of reducing the use of medication.

#### Screening for Emotional or Behavioral Distress in Students.

School districts are required to adopt plans for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible

substance abuse, violence, youth suicide, and sexual abuse. The plans must satisfy specified requirements, including addressing:

- how to use the expertise of district staff who have been trained in recognition, screening, and referral;
- how staff should respond to suspicions, concerns, or warning signs of emotional or behavioral distress in students;
- identification and development of partnerships with community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services; and
- protocols and procedures for communication with parents and guardians.

#### Abuse or Neglect of a Child - Taking Child into Custody.

A court may order a law enforcement officer, probation counselor, or child protective services official to take a child into custody if:

- a petition is filed with the juvenile court alleging that the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody;
- an affidavit or declaration is filed by the DSHS in support of the petition setting forth specific factual information evidencing reasonable grounds that the child's health, safety, and welfare will be seriously endangered if not taken into custody and at least one of the grounds set forth demonstrates a risk of imminent harm to the child; and
- the court finds reasonable grounds to believe the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody.

Law enforcement officers, however, may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected, and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order.

#### **Summary of Bill:**

##### District Policies and Practices Regarding Psychotropic Medication and Psychological Screenings.

Each school district board of directors must adopt a policy that prohibits school staff from denying students access to programs or services because the parent or guardian has refused to place the student on psychotropic medication.

School staff are prohibited from requiring a student to undergo psychological screening unless the parent or guardian gives prior written consent before each instance of psychological screening.

Neither the newly required district policy for psychotropic medications nor the prohibition on psychological screening without specified approval bar school staff from sharing classroom-based observations with a parent or guardian regarding:

- a student's academic and functional performance;
- a student's behavior in the classroom or school; or
- the need for evaluation for special education or related services.

##### Abuse or Neglect of a Child - Taking Child into Custody, Psychotropic Medication Provisions.

Provisions governing law enforcement officer actions to take into custody a child believed to be abused or neglected without first obtaining a court order are modified. A child may not be taken into custody solely on the grounds that the child's parent or guardian refuses to consent to the administration of a psychotropic medication to the child.

Definition of Psychotropic Medication.

"Psychotropic medication," for purposes of the school-related and custody provisions, is defined as a drug that is not dispensed or administered without a prescription and whose primary indication is for the treatment of mental disorders.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.