



**House
Legislative
Analysis
Section**

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**REFUSAL TO ADMINISTER
PSYCHOTROPIC DRUGS**

**House Bill 5087 (Substitute H-4)
First Analysis (10-23-01)**

**Sponsor: Rep. Doug Hart
Committee: Family and Children
Services**

THE APPARENT PROBLEM:

According to recent studies, approximately six million children throughout the United States - roughly one child in every eight - are taking a drug called Ritalin. In 1975, when the Food and Drug Administration first approved the drug for behavioral problems, there were approximately 175,000 children on Ritalin. By 1988, it was estimated that a million children were on Ritalin. Within the last decade, the production and use of Ritalin has increased by 700 percent. It is estimated that the United States accounts for nearly 85 percent of the world's Ritalin consumption. While the use of Ritalin is not nearly as great in Europe or Japan, reports from Canada and Australia reveal that the number of prescriptions and use of the drug has increased significantly in recent years. Nationally, Michigan ranks third among per capita Ritalin use, according to the Drug Enforcement Agency.

Ritalin, or methylphenidate, is just one of several psychotropic drugs generally used to treat a variety of psychological diseases and conditions. In general, however, a psychotropic drug is one that affects psychic function, behavior, or experience. Many psychiatrists use the term psychotropic drug for drugs whose purpose is to alter a person's mood, behavior, or cognition in some clinically useful way. Psychotropic drugs include anti-depressants and stimulants, with Prozac and Ritalin being two of the most common drugs used. In addition for use in treating ADHD (see below), psychotropic drugs may also be used to treat schizophrenia and even epilepsy.

Ritalin is the primary medication used to treat children and adults who have poor sustained attention to tasks, impaired impulse control, and excessive activity, which are the main symptoms of Attention Deficit/Hyperactivity Disorder (ADHD). While most school-aged children will exhibit these symptoms at some point early on, for children diagnosed with ADHD these symptoms are excessive and pervasive, appear before the child reaches seven years of age,

and continue for a period of at least six months. In addition, these behaviors must create a real handicap in at least two areas of a person's life, such as school and home.

Ritalin and other psychostimulant drugs such as Dexedrine and Adderall are by far the most widely prescribed medications used to treat ADHD. Surprisingly enough, these stimulants, have a calming effect on individuals diagnosed with ADHD. It is believed that these stimulants increase the brain activity to more normal levels of those areas of the brain responsible for inhibiting responses, which is thought to be under aroused in those with ADHD.

Like all drugs, Ritalin has side effects. The most common side effects of Ritalin are nervousness, insomnia, and loss of appetite. However, reducing the medication can control these adverse reactions. Other reactions to the drug may include headache, nausea, vomiting, stomach or abdominal pain, weight loss, and growth suppression. It is also thought that there may be links between Ritalin use and certain cardiovascular conditions, though there are very few studies making this connection. It is believed that in extremely rare instances Ritalin usage can be attributed to jaundice, anemia, and blurred vision.

It is argued that parents should have the right to weigh the benefits of Ritalin against the possible risks of the drug in determining whether or not their child should be placed on the drug. It is believed by some that by withholding a child's Ritalin medication, it is possible that the child's parents could face neglect charges. Current Family Independence Agency policies include provisions relating to medical neglect, but they do not specify what constitutes medical neglect, nor do they address this particular issue. Thus, legislation has been introduced that would specifically exclude the refusal to administer a psychotropic drug, unless in instances

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where the child faced a life-threatening illness, from the definition of child neglect.

THE CONTENT OF THE BILL:

The bill would amend the Child Protection Law. Under the bill, a parent's or legal guardian's refusal to administer or consent to the administration of a psychotropic drug to his or her child in and of itself would not be considered to be reasonable cause to suspect that child abuse or child neglect has occurred. However, if a child's parents or legal guardians refuse to administer a psychotropic drug to their child, and a physician reasonably believes that without the medication the child presents a substantial risk of physical harm to himself, herself, or another person, the physician would be required to report to the Family Independence Agency under the provisions of the Child Protection Law (which requires certain individuals – medical personnel, social services personnel, educators, and child care providers – to report suspected child abuse or neglect).

The bill would define a “psychotropic drug” to mean a medication administered for the primary purpose of treating or ameliorating a disorder of thought, mood, or behavior.

MCL 600.2972

BACKGROUND INFORMATION:

ADHD. ADHD has been known by a variety of names, each recognizing an important facet of the condition. ADHD was known as hyperkinesis and hyperactivity during the 1970's. During the 1980's the name was changed to Attention Deficit Disorder (ADD), to emphasize the inattentiveness of the disorder. ADD could have been diagnosed with or without hyperactivity associated with it. Since 1987, the name has been ADHD. Recent definitions have included varying types of ADHD, which have allowed for the inclusion of the inattentiveness and/or the hyperactivity-impulsivity. A person diagnosed as having ADHD may have one symptom more prevalent than another. In other western countries, the disorder is known as “hyperkinetic disorder”.

The causes of ADHD are unclear. What is known, however, is that ADHD is usually not caused by too much television, food allergies, excess sugar, poor home life, or poor schools. Recent research has shown that ADHD tends to run in families. Children who have ADHD are likely to have a close relative

who also has ADHD. Research also shows that in instances where one twin has ADHD, it is likely that the other twin does as well.

A recent report in the *Journal of the American Medical Association* has reported that the number of preschoolers diagnosed with ADHD has increased. Diagnosis on these children is very difficult. Many children at this age will display symptoms of ADHD, but actually do not have a problem per se. Medicating children so young can be potentially dangerous and should only be done in extreme cases.

ADHD is often associated with other conditions as well, the most common being learning disabilities. As expected, if a child has difficulty paying attention in class, his or her schoolwork will suffer. ADHD is covered under the Individuals with Disability Education Act (IDEA). As a result, school districts are required to provide educational services to ADHD students in the least restrictive environment that will meet a child's needs. It should be noted, however, that ADHD in itself is not a learning disability.

While there is no known cure for ADHD, medication (namely Ritalin) is generally believed to be a safe and effective way of controlling the symptoms associated with ADHD. Doses of Ritalin generally range from 5 to 20 mg given two or three times a day. Often, doses may be not given during weekends or school holidays. It should be noted, however, that medication should not be the sole treatment for ADHD. The American Academy of Pediatrics reports that most school-aged children can control their symptoms with a combination of medication and behavior therapy.

Threat of Neglect. Recently, there was a case in New York in which the parents of a child were pressured by a judge to give their child Ritalin after the school petitioned the court. In this case, the parents of the child on Ritalin wanted to take their son off of it for a few weeks after he exhibited signs of insomnia and loss of appetite. After the parents informed the school of their decision, they were accused of educational neglect under New York law. Faced with the theoretical threat of losing custody of their child, the parents agreed to have their child remain on Ritalin.

Child Neglect and Medical Neglect. Under current law, a parent or guardian may be charged with child neglect. Under the Child Protection Law (MCL 722.622), child neglect is defined to be harm or threatened harm to a child's health or welfare by a

parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following: (a) negligent treatment, including failure to provide adequate food, clothing, shelter, or medical care, or (b) placing the child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

The Child Protective Services Manual from the FIA defines "medical neglect" to mean the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement or bodily harm or with the failure resulting in an observable and material impairment to the growth, development or functioning of the child.

Parental Objections. Current law allows parental objections, in certain instances, to medical treatment for their children. Under the Public Health Code (MCL 333.9215), a parent, guardian, or person in loco parentis may object to the immunization of his or her child based on religious tenets or other reasons. Under the Mental Health Code (MCL 330.1498m), a parent, guardian, or person in loco parentis may object to his or her child's hospitalization. Under the Child Care Organization Act (MCL 722.127), no rules adopted pursuant to the act can authorize or require medical examination, immunization, or treatment for any child whose parents object based on religious tenets.

Related Legislation. House Bills 5083-5086, currently pending in the House Education Committee, would amend the Public Health Code and the Revised School Code and also concern the use of psychotropic medication by schoolchildren.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 5087 would have a negligible impact on state costs. (10-18-01)

ARGUMENTS:

For:

This is an issue of parental rights. Parents ought to have the right to determine their child's medication in instances when the child's life is not at stake. Threatening parents with child neglect charges

encroaches on their personal liberty to raise their child as they see fit. Psychotropic drugs have side effects, and parents ought to be given the opportunity to weigh these factors against the possible benefits of the drug, and make a decision accordingly, without the possibility of the threat of neglect.

Against:

While the bill still allows for FIA intervention in certain instances when a parent refuses to administer a psychotropic drug, it also affords the parents wide latitude when deciding how to medicate their children. Under the bill, a parent can go against the decisions of trained physicians and psychiatrists and stop his or her child from taking the psychotropic drug. The decision of whether a child should be on a particular medication is a medical decision and should be left to a person in the medical profession.

POSITIONS:

The Michigan Association of School Social Workers supports the bill. (10-16-01)

The Michigan Association of School Psychologists supports the bill. (10-16-01)

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.