

CHAPTER 182
HB 120 - FINAL VERSION

7Apr2021... 0517h
04/29/2021 1179s
24Jun2021... 2064EBA

2021 SESSION

21-0052
05/06

HOUSE BILL ***120***

AN ACT relative to administration of psychotropic medications to children in foster care.

SPONSORS: Rep. Marsh, Carr. 8; Rep. P. Schmidt, Straf. 19; Rep. Gay, Rock. 8; Rep. Salloway, Straf. 5; Rep. Crawford, Carr. 4; Rep. Schapiro, Ches. 16; Rep. Cushman, Hills. 2; Rep. Deshaies, Carr. 6; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Sen. Whitley, Dist 15

COMMITTEE: Children and Family Law

ANALYSIS

This bill requires the department of health and human services to provide medication monitoring for children in foster care and to ensure that the use of medication restraint conforms with the limitations of RSA 126-U.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to administration of psychotropic medications to children in foster care.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 182:1 New Paragraphs; Delinquent Children; Definitions Added. Amend RSA 169-B:2 by
2 inserting after paragraph XIII the following new paragraphs:

3 XIII-a. "Psychotropic medication" means a drug prescribed by a licensed medical
4 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

5 XIII-b. "Medication restraint" means the involuntary administration of any medication,
6 including psychotropic medication, for the purpose of immediate control of behavior.

7 182:2 Delinquent Children; Treatment Plan Involving the Use of Psychotropic Medication.
8 Amend RSA 169-B:23 to read as follows:

9 169-B:23 Orders for ~~[Physical]~~ **Health** Examination and Treatment. If it is alleged in any
10 petition, or it appears at any time during the progress of the case, that a delinquent is in need of
11 ~~[physical]~~ **health** treatment, the failure to receive which is a contributing cause of delinquency, due
12 notice of that fact shall be given as provided in RSA 169-B:7. If the court, upon hearing, finds that
13 such treatment is reasonably required, it shall be ordered and the expense thereof shall be borne as
14 provided in RSA 169-B:40.

15 182:3 New Paragraphs; Child Protection Act; Definitions Added. Amend RSA 169-C:3 by
16 inserting after paragraph XXV-a the following new paragraphs:

17 XXV-b. "Psychotropic medication" means a drug prescribed by a licensed medical
18 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

19 XXV-c. "Medication restraint" means the involuntary administration of any medication,
20 including a psychotropic medication, for the purpose of immediate control of behavior.

21 182:4 New Paragraph; Duties of the Department of Health and Human Services Under the
22 Child Protection Act; Oversight of Children in Foster Care Receiving Psychotropic Medication.
23 Amend RSA 169-C:34 by inserting after paragraph VIII the following new paragraph:

24 IX. The use of medication restraint shall be limited as provided in RSA 126-U.

25 182:5 New Paragraphs; Children in Need of Services (CHINS); Definitions Added. Amend RSA
26 169-D:2 by inserting after paragraph XIII the following new paragraphs:

27 XIII-a. "Psychotropic medication" means a drug prescribed by a licensed medical
28 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

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1 XIII-b. “Medication restraint” means the involuntary administration of any medication,
2 including a psychotropic medication, for the purpose of immediate control of behavior.

3 182:6 New Paragraph; Children in Need of Services; Oversight of Children in Foster Care
4 Receiving Psychotropic Medication. Amend RSA 169-D:17 by inserting after paragraph VIII the
5 following new paragraph:

6 IX. The department shall ensure that, when psychotropic medication is prescribed for
7 children in foster care, appropriate medication monitoring is provided pursuant to current American
8 Academy of Child and Adolescent Psychiatry (AACAP) Standards.

9 182:7 New Subparagraph; Residential Care and Child Placing Agency Licensing; Compliance
10 with Rules Relative to the Use of Psychotropic Medication in Children. Amend RSA 170-E:34, I by
11 inserting after subparagraph (h) the following new subparagraph:

12 (i) Compliance with RSA 126-U, regarding the use of physical and medication restraint.

13 182:8 New Paragraphs; Services for Children, Youth and Families; Definitions Added. Amend
14 RSA 170-G:1 by inserting after paragraph VII the following new paragraphs:

15 VIII. “Psychotropic medication” means a drug prescribed by a licensed medical practitioner,
16 to treat illnesses that affect psychological functioning, perception, behavior, or mood.

17 IX. “Medication restraint” means the involuntary administration of any medication,
18 including a psychotropic medication, for the purpose of immediate control of behavior.

19 182:9 New Paragraph; Duties of the Department of Health and Human Services; Medication
20 Monitoring for Children in Foster Care Receiving Psychotropic Medication. Amend RSA 170-G:4 by
21 inserting after paragraph XXII the following new paragraph:

22 XXIII. Ensure that division for children, youth and families (DCYF) district office nurses
23 provide medication monitoring for children in foster care receiving psychotropic medication pursuant
24 to current American Academy of Child and Adolescent Psychiatry (AACAP) Standards, which shall
25 include providing relevant health education and guidance to caregivers and DCYF field staff, and
26 that any use of medication restraint conforms with the limitations in RSA 126-U.

27 182:10 New Subparagraph; Confidentiality of Department Case Records; Access by Licensed
28 Medical Practitioner. Amend RSA 170-G:8-a, II(b) by inserting after subparagraph (5) the following
29 new subparagraph:

30 (6) A licensed medical practitioner who is overseeing the use of psychotropic
31 medication prescribed to the child.

32 182:11 New Paragraph; Foster Care Children's Bill of Rights. Amend RSA 170-G:21 by
33 inserting after paragraph II the following new paragraph:

34 II-a. To receive appropriate medical supervision of any prescribed psychotropic medications.

35 182:12 New Section; Assessment for the Use of Psychotropic Medications. Amend RSA 170-G by
36 inserting after section 4-h the following new section:

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1 170-G:4-i Assessment for the Use of Psychotropic Medications. For children in out-of-home care
2 with the department, prior to seeking a prescription or renewal for psychotropic medication, the
3 department shall ensure the undertaking of, and guidance from, a recent comprehensive medical
4 assessment to rule out an underlying physical cause and a comprehensive psychosocial assessment
5 to address psychosocial issues. The prescribing of any medication shall include consultation with the
6 child's caregiver or legal guardian and the division for children, youth and families (DCYF) district
7 nurse. The use of medication restraint shall be limited as provided in RSA 126-U.

8 182:13 Effective Date.

9 I. Section 12 of this act shall take effect January 1, 2023.

 II. The remainder of this act shall take effect January 1, 2022.

Approved: August 10, 2021

Effective Date:

I. Section 12 shall take effect January 1, 2023.

II. Remainder shall take effect January 1, 2022.