

HB 120 - AS AMENDED BY THE HOUSE

7Apr2021... 0517h

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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 1 New Paragraphs; Delinquent Children; Definitions Added. Amend RSA 169-B:2 by inserting
2 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, without a clinical diagnosis for the purpose of controlling
7 behavior, unless it is to ensure the immediate physical safety of persons when there is substantial
8 and imminent risk of serious bodily harm to the child or others.

9 2 Delinquent Children; Treatment Plan Involving the Use of Psychotropic Medication. Amend
10 RSA 169-B:23 to read as follows:

11 169-B:23 Orders for [~~Physical~~] **Health** Examination and Treatment. If it is alleged in any
12 petition, or it appears at any time during the progress of the case, that a delinquent is in need of
13 [~~physical~~] **health** treatment, the failure to receive which is a contributing cause of delinquency, due
14 notice of that fact shall be given as provided in RSA 169-B:7. If the court, upon hearing, finds that
15 such treatment is reasonably required, it shall be ordered and the expense thereof shall be borne as
16 provided in RSA 169-B:40. ***Prior to prescribing psychotropic medication, the prescriber shall***
17 ***ensure the undertaking of, and guidance from, a recent comprehensive medical assessment***
18 ***to rule out an underlying physical cause and a comprehensive psychosocial assessment to***
19 ***address psychosocial issues. The prescribing of any medication shall include consultation***
20 ***with the child’s caregiver or legal guardian and the division for children, youth and***
21 ***families (DCYF) district nurse. The use of medication restraint shall be limited as***
22 ***provided in RSA 126-U.***

23 3 New Paragraphs; Child Protection Act; Definitions Added. Amend RSA 169-C:3 by inserting
24 after paragraph XXV-a the following new paragraphs:

25 XXV-b. “Psychotropic medication” means a drug prescribed by a licensed medical
26 practitioner, to treat illnesses that affect psychological functioning, perception, behavior, or mood.

27 XXV-c. “Medication restraint” means the involuntary administration of any medication,
28 including a psychotropic medication, without a clinical diagnosis for the purpose of controlling
29 behavior, unless it is to ensure the immediate physical safety of persons when there is substantial
30 and imminent risk of serious bodily harm to the child or others.

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1 4 New Paragraph; Duties of the Department of Health and Human Services Under the Child
2 Protection Act; Oversight of Children in Foster Care Receiving Psychotropic Medication. Amend
3 RSA 169-C:34 by inserting after paragraph VIII the following new paragraph:

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

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

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

9 XIII-b. "Medication restraint" means the involuntary administration of any medication,
10 including a psychotropic medication, without a clinical diagnosis for the purpose of controlling
11 behavior, unless it is to ensure the immediate physical safety of persons when there is substantial
12 and imminent risk of serious bodily harm to the child or others.

13 6 New Paragraph; Children in Need of Services; Oversight of Children in Foster Care Receiving
14 Psychotropic Medication. Amend RSA 169-D:17 by inserting after paragraph VIII the following new
15 paragraph:

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

19 7 New Subparagraph; Residential Care and Child Placing Agency Licensing; Compliance with
20 Rules Relative to the Use of Psychotropic Medication in Children. Amend RSA 170-E:34, I by
21 inserting after subparagraph (h) the following new subparagraph:

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

23 8 New Paragraphs; Services for Children, Youth and Families; Definitions Added. Amend RSA
24 170-G:1 by inserting after paragraph VII the following new paragraphs:

25 VIII. "Psychotropic medication" means a drug prescribed by a licensed medical practitioner,
26 to treat illnesses that affect psychological functioning, perception, behavior, or mood.

27 IX. "Medication restraint" means the involuntary administration of any medication,
28 including a psychotropic medication, without a clinical diagnosis for the purpose of controlling
29 behavior, unless it is to ensure the immediate physical safety of persons when there is substantial
30 and imminent risk of serious bodily harm to the child or others.

31 9 New Paragraph; Duties of the Department of Health and Human Services; Medication
32 Monitoring for Children in Foster Care Receiving Psychotropic Medication. Amend RSA 170-G:4 by
33 inserting after paragraph XXII the following new paragraph:

34 XXIII.(a) Ensure that division for children, youth and families (DCYF) district office nurses
35 provide medication monitoring for children in foster care receiving psychotropic medication pursuant
36 to current American Academy of Child and Adolescent Psychiatry (AACAP) Standards, which shall

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1 include providing relevant health education and guidance to caregivers and DCYF field staff, and
2 that any use of medication restraint conforms with the limitations in RSA 126-U.

3 (b) Beginning November 1, 2022, and annually thereafter, report to the joint legislative
4 oversight committee on health and human services established under RSA 126-A:13 and the office of
5 the child advocate established under RSA 21-V, regarding the use of psychotropic medications by
6 children in foster care and compliance with the limitations on medication restraint in RSA 126-U.
7 Such report shall include a description of progress during the preceding fiscal year toward
8 compliance with the recommendations of the September 2018 report of the United States
9 Department of Health and Human Services, Office of the Inspector General entitled "Treatment
10 Planning and Medication Monitoring Were Lacking for Children in Foster Care Receiving
11 Psychotropic Medication." Such description shall include statistical information regarding the
12 number of children in foster care, the number of such children receiving treatment with psychotropic
13 medications, the total Medicaid expenditures for psychotropic medications for such children, and the
14 diagnoses of such children. In addition, the report shall include statistical information regarding the
15 number of children in foster care receiving treatment with psychotropic medications who have
16 treatment plans and medication monitoring as required by statute, regulation, and department
17 procedures.

18 10 New Subparagraph; Confidentiality of Department Case Records; Access by Licensed Medical
19 Practitioner. Amend RSA 170-G:8-a, II(b) by inserting after subparagraph (5) the following new
20 subparagraph:

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

23 11 New Paragraph; Foster Care Children's Bill of Rights. Amend RSA 170-G:21 by inserting
24 after paragraph II the following new paragraph:

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

26 12 Effective Date. This act shall take effect January 1, 2022.