MODEL STATE LEGISLATION

A bill to address the health and well-being of school-aged children to help maximize their academic and functional achievement and to emphasize the critical role that parents* must play in all decisions related to the screening, assessment and evaluation of students for mental health services.

A bill prohibiting schools from requiring a student to take psychotropic medication as a condition for attending school and addressing the critical need for open communication between parents and school personnel related to the health and well-being of students.

SECTION 1. FINDINGS

Serious emotional disorders in children are real. Empirical research in neuroscience and the behavioral sciences is advancing our understanding of the etiology of these disorders. (Mental Health: A Report of the Surgeon General, 1999).

1. Treatment of many disorders is effective. Psychotherapy, behavioral interventions, psychopharmacology and other interventions have been demonstrated as efficacious for many disorders, such as AD/HD, depression, and bipolar disorder. (Mental Health: A Report of the Surgeon General, 1999).

2. Families play a crucial role in the identification and treatment of children's disorders and must be active partners if we are to achieve positive outcomes for our children. (Supporting citation would be desirable.)

3. Untreated, these disorders can lead to devastating consequences for our children.
    a. Unidentified and untreated mental disorders can mean the loss of critical developmental years and can lead to youth suicide, school failure and involvement with the juvenile justice and criminal justice systems.
    b. Approximately 50% of students with a mental disorder age 14 and older drop out of high school; this is the highest dropout rate of any disability group (U.S. Department of Education, 2001).
    c. Suicide remains a serious public health concern and is the third leading cause of death in youth aged 10 to 24. More youth and young adults die from suicide than from cancer, heart disease, AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease <u>combined</u> (National Strategy for Suicide Prevention, 2001).
    d. 70% of youth involved in state and local juvenile justice systems throughout the country suffer from mental disorders, with at least 20% experiencing disorders so severe that their ability to function is significantly impaired (Blueprint for Change, National Center for Mental Health and Juvenile Justice, 2006).

* All references to parent(s) in the bill include a child's parents or legal guardian.

SECTION 2. VOLUNTARY MENTAL HEALTH SCREENING AND MANDATORY PARENTAL CONSENT

Mental health screening allows for early identification of children with psychiatric disorders, resulting in earlier interventions, better academic performance, lower drop out rates, and fewer youth suicides.

(a) All school-based mental health screening must be voluntary. Parents and students must always be given the opportunity to decide whether they wish to participate or to opt-out of mental health screening.

(b) The decision by a parent or student to not participate in mental health screening must not result in any adverse action or effects for that student and/or family.

(c) Written consent for mental health screening must be obtained from the parent of every student participating in a screening program before the screening is done.

SECTION 3. PROHIBITION ON MANDATORY MEDICATION

The decision to place a child on medication must always be made by the parents and the treating physician, and not by the school system. Current federal law prohibits a school system from requiring medication.

(a) In general.--The state educational agency shall prohibit state and local educational agency personnel from requiring a child to obtain a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving services or an evaluation under the federal Individuals with Disabilities Education Act (IDEA) or state special education law.

(b) Rule of construction.--Nothing in subparagraph (a) shall be construed to create a prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services.

SECTION 4. SCHOOL AND PARENT COLLABORATION

Collaboration and open communication between parents and school personnel are essential if parents are to make informed decisions for their children.

(a) If school personnel observe that a student is struggling with academic and/or functional performance or if requested by a parent, appropriate school personnel may do any of the following:
    i. Discuss and describe observations related to a student's academic and/or functional performance, or behavior in the classroom or school with the

student's parent and develop a plan to improve the student's functioning and/or behavior.

ii. Refer the student for an educational evaluation with parental notification and consent.

iii. Recommend to the student's parents that the student be referred to and evaluated by an appropriate health care provider.

iv. If academic and/or functional performance and/or behavior fail to improve for a student after taking the steps included in subparagraphs i. through v. above, school personnel should follow local procedures to provide specialized educational services for the student.

(b) School personnel, with the exception of school-based physicians, shall not do any of the following:

i. Make a medical diagnosis for any student.

ii. Recommend a prescription medication for any student (see also section 3).

END