

# Committee Report

# CONSENT CALENDAR

March 11, 2021

## HOUSE OF REPRESENTATIVES

### REPORT OF COMMITTEE

The Committee on Children and Family Law to which was referred HB 120,

AN ACT relative to administration of psychotropic medications to children in foster care. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Josh Yokela

FOR THE COMMITTEE

## COMMITTEE REPORT

Committee:	Children and Family Law
Bill Number:	HB 120
Title:	relative to administration of psychotropic medications to children in foster care.
Date:	March 11, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-0517h

### STATEMENT OF INTENT

The majority believes this bill as amended will better protect NH children from the inappropriate use of psychotropic drugs and decrease the amount of money NH Medicaid spends on psychotropic drugs. This bill was filed in response to the United States Inspector General's Sept 2018 report "Treatment Planning and Medication Monitoring were Lacking for Children in Foster Care Receiving Psychotropic Medication." The Inspector General found that 23.4% of NH children in foster care receiving psychotropic medications had no treatment plan while 37.9% had a treatment plan, but no diagnosis on their treatment plan. It was also found that 21.8% of these children did not receive medication monitoring by a prescribing professional. Amendment 0517h addresses specific concerns brought forward by the NH Psychiatric Society.

Vote 15-0.

Rep. Josh Yokela  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Children and Family Law

**HB 120**, relative to administration of psychotropic medications to children in foster care. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Josh Yokela for Children and Family Law. The majority believes this bill as amended will better protect NH children from the inappropriate use of psychotropic drugs and decrease the amount of money NH Medicaid spends on psychotropic drugs. This bill was filed in response to the United States Inspector General's Sept 2018 report "Treatment Planning and Medication Monitoring were Lacking for Children in Foster Care Receiving Psychotropic Medication." The Inspector General found that 23.4% of NH children in foster care receiving psychotropic medications had no treatment plan while 37.9% had a treatment plan, but no diagnosis on their treatment plan. It was also found that 21.8% of these children did not receive medication monitoring by a prescribing professional. Amendment 0517h addresses specific concerns brought forward by the NH Psychiatric Society.

**Vote 15-0.**

Original: House Clerk  
Cc: Committee Bill File

Amendment to HB 120

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Paragraphs; Delinquent Children; Definitions Added. Amend RSA 169-B:2 by inserting  
4 after paragraph XIII the following new paragraphs:

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

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

11 2 Delinquent Children; Treatment Plan Involving the Use of Psychotropic Medication. Amend  
12 RSA 169-B:23 to read as follows:

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

25 3 New Paragraphs; Child Protection Act; Definitions Added. Amend RSA 169-C:3 by inserting  
26 after paragraph XXV-a the following new paragraphs:

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

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

Amendment to HB 120

- Page 2 -

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

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.

# Voting Sheets



**HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW**

**EXECUTIVE SESSION on HB 120**

**BILL TITLE:** relative to administration of psychotropic medications to children in foster care.

**DATE:** March 11, 2021

**LOB ROOM:** remote

**MOTIONS: OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Yokela                                Seconded by Rep. Lewicke                                AM Vote: 15-0

    Amendment # 2021-0517h

Moved by Rep. Yokela                                Seconded by Rep. Lewicke                                Vote: 15-0

**CONSENT CALENDAR: YES**

**Statement of Intent:**                Refer to Committee Report

Respectfully submitted,

Rep Caroletta Alicea, Clerk

STATE OF  
NEW  
HAMPSHIRE  
OFFICE OF  
THE HOUSE  
CLERK



1/22/2021 9:54:23 AM  
Roll Call Committee Registers  
Report

2021  
SESSION

Children  
and  
Family  
Law

Exec  
Session  
Date: 3-11-2021.

Motion: Adoption of Amendment OTP/A

Bill  
#: 120.

AM  
#: 0507H.

Members	YEAS	Nays	NV
Rice, Kimberly A. Chairman	✓		
DeSimone, Debra L. Vice Chairman	✓		
Yokela, Josh S.	✓		
Lewicke, John	✓		
Belanger, Cody M.	✓		
Cross, Kenna E. Rep Hill	✓		
Litchfield, Melissa A.	✓		
Smith, Denise M. Rep Johnson	✓		
Long, Patrick T.	✓		
Alicea, Caroletta C. Clerk	✓		
Grossman, Gaby M.	✓		
Levesque, Cassandra N.	✓		
Wazir, Safiya	✓		
Petrigno, Peter	✓		
Altschiller, Debra	✓		
<b>TOTAL VOTE:</b>			

15 - 0



2021 SESSION

Children and Family Law

0517H

Bill #: 120 Motion: Adoption of Amendment AM #: 0517H Exec Session Date: 3-11-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Rice, Kimberly A. Chairman	✓		
DeSimone, Debra L. Vice Chairman	✓		
Yokela, Josh S.	✓		
Lewicke, John	✓		
Belanger, Cody M.	✓		
Cross, Kenna E. Rep Hill	✓		
Litchfield, Melissa A.	✓		
Smith, Denise M. Rep Johnson	✓		
Long, Patrick T.	✓		
Alicea, Caroletta C. Clerk	✓		
Grossman, Gaby M.	✓		
Levesque, Cassandra N.	✓		
Wazir, Safiya	✓		
Petrigno, Peter	✓		
Altschiller, Debra	✓		
<b>TOTAL VOTE:</b>	15	0	

STATE OF  
NEW  
HAMPSHIRE  
OFFICE OF  
THE HOUSE  
CLERK



1/22/2021 9:54:23 AM  
Roll Call Committee Registers  
Report

2021  
SESSION

Children  
and  
Family  
Law

Exec  
Session  
Date: 3-11-2021

Motion: Adoption of Amendment OTP/A

Bill  
#: 120.

AM  
#: OSMH.

Members	YEAS	Nays	NV
Rice, Kimberly A. Chairman	✓		
DeSimone, Debra L. Vice Chairman	✓		
Yokela, Josh S.	✓		
Lewicke, John	✓		
Belanger, Cody M.	✓		
Cross, Kenna E. Rep Hill	✓		
Litchfield, Melissa A.	✓		
Smith, Denise M. Rep Johnson	✓		
Long, Patrick T.	✓		
Alicea, Caroletta C. Clerk	✓		
Grossman, Gaby M.	✓		
Levesque, Cassandra N.	✓		
Wazir, Safiya	✓		
Petrigno, Peter	✓		
Altschiller, Debra	✓		
<b>TOTAL VOTE:</b>			

15 - 0

# Public Hearing

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 120

**BILL TITLE:** relative to administration of psychotropic medications to children in foster care.

**DATE:** March 4, 2021

**LOB ROOM:** 210 **Time Public Hearing Called to Order:** 10:50 AM

**Time Adjourned:** 1:34 PM

**Committee Members:** Reps. DeSimone, Alicea, Yokela, Lewicke, Belanger, Litchfield, D. Smith, Long, Grossman, Levesque, Wazir, Petrigno and Altschiller

**Bill Sponsors:**

Rep. Marsh

Rep. P. Schmidt

Rep. Gay

Rep. Salloway

Rep. Crawford

Rep. Schapiro

Rep. Cushman

Rep. Deshaies

Sen. Sherman

Sen. Bradley

Sen. Rosenwald

Sen. Whitley

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**\*Rep. Marsh**

- New Hampshire has 3<sup>rd</sup> highest – as adr.- the majority of kids in foster care
- 61% had no issue

**Moira O’neill – State Child Advocate – Support**

- Very grateful to Rep. Marsh
- We have few children from abuse neglect, communication disorders
- Generally removal from homes are for safety
- Would like amendment – orders for health treatment – language changes- physical + mental, prior to prescribing psych drugs medical assessment, psychosocial assessment include guidance + at least a nurse

**Q:** Rep. Lewicke – Do you know if DCYF has the resources for this

**A:** Yes.

**Q:** Rep. Belanger – Censuses approximately 12. Around 10 last 8 months

**Q:** Rep. Long – On the amendment 0

**A:** Who ever is with the child knows if it’s safe and effective

**Q:** Rep. Long – Do you want foster parents to be involved as well? Do you see DCYF oversight?

**Q:** Rep. Altschiller– Rep. Long asked all my questions. I’m good!

**\*Dr Patrick Mo – President of Psych. Evidence-based treatment**

- mediators are appropriate for the children support

**Rebecca Ross – General counsel for children youthful families**

- Have doctors engaged for this express issue – most other states do not
- We want to do better. We have nurses to monitor psychotropic drugs
- 126 u does misuse the use of psychotropic drugs

**Q:** Rep. Long – Commend the state of NH for including everyone

**A:** Yes, looking at the u is important – looking at then would

**Q:** Rep. Yokela – You said it is duplicator because we have a – this seems to be a broader use it is only used for restricting

**A:** When not used properly in violation of 126 u

Q: Rep. Lewicke – How many children do we have in DCYF + How many are on psychotropic drugs?

A: I will provide you with the information

**Mr Skibble – Policy director of Disability Rights**

- Thank you, Rep. Ross, - very significant issue
- Comment: extremely high rate of disability can cause stress in the family. Proper diagnosis comes from reliable caregiver
- Have not seen the amendment, hope there is an open discussion

Q: Rep. Long – With respect to the assessments, \*\*Unreadable\*\* recent assessment

A: Restraints will be limited

**\*Cheryl Avery – Policy Coordinator for Health at New Futures**

- Request OTP

Respectfully submitted,

Rep. Charoletta Alicea

# House Remote Testify

## Children and Family Law Committee Testify List for Bill HB120 on 2021-03-0

Support: 80 Oppose: 0 Neutral: 1 Total to Testify: 3

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<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	
O'Neill, Moira	Concord, NH moira.k.oneill@childadvocate.nh.gov	State Agency Staff	Office of the Child Advocate	Support	Yes (8m)	No	:
Marsh, William	Wolfeboro, NH wmarshmd@gmail.com	An Elected Official	Carroll 8	Support	Yes (4m)	No	:
Ho, Patrick	Lebanon, NH patrick.a.ho@hitchcock.org	A Member of the Public	NH Psychiatric Society, NH Medical Society	Support	Yes (0m)	No	:
Cutshall, Catherine	Bedford, NH vivadofamily@aol.com	A Member of the Public	Myself	Support	No	No	:
York, Kelda	Bedford, NH Keldamyork@gmail.com	A Member of the Public	Myself	Support	No	No	:
Thomas, Sally	Bedford, NH Sallythomas@comcast.net	A Member of the Public	Myself	Support	No	No	:
Wyatt, Timothy	HUDSON, NH timwyatt1@juno.com	A Member of the Public	Myself	Support	No	No	:
Carole, Kimberly	Bedford, NH Mskimberlycarole@gmail.com	A Member of the Public	Myself	Support	No	No	:
Lanigan, Cathy	Peterborough, NH Clanigan@comcast.net	A Member of the Public	Myself	Support	No	No	:
Donovan, Julie	BEDFORD, NH julie.donovan@juno.com	A Member of the Public	Myself	Support	No	No	:
Hope, Lucinda	Tilton, NH lmhope46@gmail.com	A Member of the Public	Myself	Support	No	No	:
Padmore, Michael	Manchester, NH michael.padmore@nhms.org	A Lobbyist	NH Medical Society	Support	No	No	:
Norton, Kenneth	Concord, NH knorton@naminh.org	A Lobbyist	NAMI NH The National Alliance On Mental Illness	Support	No	No	:
Waterman, Raymond	Merrimack, NH prwaterman@aol.com	A Member of the Public	Myself	Support	No	No	:
Waterman, Patricia	Merrimack, NH prwaterman@aol.com	A Member of the Public	Myself	Support	No	No	:
Dewey, Karen	Newport, NH pkdewey@comcast.net	A Member of the Public	Myself	Support	No	No	:
Hayes, Randy	Canterbury, NH rcompostr@gmail.com	A Member of the Public	Myself	Support	No	No	:
Schissel, Mary	Newport, NH schissell@comcast.net	A Member of the Public	Myself	Support	No	No	:
Hanauer, Gerald & Benette	Bedford, NH gshanauer@yahoo.com	A Member of the Public	Myself & My Spouse	Support	No	No	:
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	:
St Germain, Diane	Bedford, NH diane.stgermain33@gmail.com	A Member of the Public	Myself	Support	No	No	:
Schmitt, Cheri	Bedford, NH cherischmitt@comcast.net	A Member of the Public	Myself	Support	No	No	:



Platt, Elizabeth-Anne	CONCORD, NH lizanneplatt09@gmail.com	A Member of the Public	Myself	Support	No	No	:
Bergevin, Leslie	Loudon, NH Leslie.bergevin@gmail.com	A Member of the Public	Myself	Support	No	No	:
Jachim, Nancy	Newport, NH nancyjachim@gmail.com	A Member of the Public	Myself	Support	No	No	:
Petrucelli, Maxine	Webster, NH maxinepet@gmail.com	A Member of the Public	Myself	Support	No	No	:
Petrucelli, Charles	Webster, NH chasmxpet@gmail.com	A Member of the Public	Myself	Support	No	No	:
ellermann, maureen	CONCORD, NH ellermannf@aol.com	A Member of the Public	Myself	Support	No	No	:
Leach, Kyle	Farmington, NH outleft@metrocast.net	A Member of the Public	Myself	Support	No	No	:
Avery, Cheryl	Laconia, NH cavery@new-futures.org	A Lobbyist	New Futures - Children's Behavioral Health	Support	No	No	:
Vivado, Mauricio	Bedford, NH maumajo@aol.com	A Member of the Public	Myself	Support	No	No	:
perez, maria	Milford, NH mariaeli63@gmail.com	An Elected Official	Myself	Support	No	No	:
Sherman, Senator Ton	SD24, NH jennifer.horgan@leg.state.nh.us	An Elected Official	SD24	Support	No	No	:
Clark, Denise	Milford, NH denise.m.clark03055@gmail.com	A Member of the Public	Myself	Support	No	No	:
Henrichon, Margaret	Bedford, NH mhenrichon@comcast.net	A Member of the Public	Myself	Support	No	No	:
Ross, Rebecca	Concord, NH rebecca.ross@dhhs.nh.gov	State Agency Staff	DHHS - DCYF	Neutral	No	No	:
LaFontaine, Mildred	Concord, NH Lafontainefamily@comcast.net	A Member of the Public	Myself	Support	No	No	:
Deshaies, Brodie	Wolfeboro, NH BrodieforNH@gmail.com	An Elected Official	Carroll 6, Wolfeboro	Support	No	No	:
Whitley, Becky	District 15, NH becky.whitley@leg.state.nh.us	An Elected Official	Senate District 15	Support	No	No	:
Rosenwald, Cindy	Concord, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	:
Mardin, Jennifer	Jefferson, NH jennifermardin@aol.com	A Member of the Public	Myself	Support	No	No	:
Lewandowski, Jean	Nashua, NH jlewando@hotmail.com	A Member of the Public	Myself	Support	No	No	:
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Support	No	No	:
Cotton, Bev	Weare, NH bevcott@gmail.com	A Member of the Public	Myself	Support	No	No	:
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Support	No	No	:
Clark, Martha	Canterbury, NH mctraveler1@comcast.net	A Member of the Public	Myself	Support	No	No	:
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	:
Corell, Elizabeth	Concord, NH Elizabeth.j.corell@gmail.com	A Member of the Public	Myself	Support	No	No	:
barnes, ken	hopkinton, NH kbarnes@kenbarneslaw.com	A Member of the Public	Myself	Support	No	No	:

Pedersen, Michael	Nashua, NH PedersenUSA@aim.com	An Elected Official	Hillsborough 32	Support	No	No	:
st.martin, tom	candia, NH rockygorgenh@gmail.com	A Member of the Public	Myself	Support	No	No	:
Dunlap, Bernice	Laconia, NH bernicerd@gmail.com	A Member of the Public	Myself	Support	No	No	:
Garen, June	Gilmanton, NH jzanesgaren@gmail.com	A Member of the Public	Myself	Support	No	No	:
Straiton, Marie	Pembroke, NH m.straiton@comcast.net	A Member of the Public	Myself	Support	No	No	:
Carter, Lilian	Deering, NH lcarter0914@gmail.com	A Member of the Public	Myself	Support	No	No	:
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Support	No	No	:
Mattlage, Linda	Concord, NH l.mattlage@gmail.com	A Member of the Public	Myself	Support	No	No	:
Gupta, Jay	Nashua, NH j.gupta@nhpartnership.org	A Member of the Public	Myself	Support	No	No	:
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Support	No	No	:
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Support	No	No	:
elsayed, jana	hudson, NH thejanaelsayed@gmail.com	A Member of the Public	Myself	Support	No	No	:
Ely, Alice	Grantham, NH alice_ely@hotmail.com	A Member of the Public	Myself	Support	No	No	:
Podlipny, Ann	Chester, NH apodlipny57@comcast.net	A Member of the Public	Myself	Support	No	No	:
Martin, Joelle	Milford, NH Joelle4milford@gmail.com	A Member of the Public	Myself	Support	No	No	:
Jakubowski, Deborah	Loudon, NH Dendeb146@gmail.com	A Member of the Public	Myself	Support	No	No	:
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	:
Falk, Cheri	Wilton, NH Falk.cj@gmail.com	A Member of the Public	Myself	Support	No	No	:
Hampton, Doris	Canterbury, NH dandmhamp38@gmail.com	A Member of the Public	Myself	Support	No	No	:
jakubowski, dennis	Loudon, NH dendeb146@gmail.com	A Member of the Public	Myself	Support	No	No	:
Hinebauch, Mel	Concord, NH melhinebauch@gmail.ocm	A Member of the Public	Myself	Support	No	No	:
Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Support	No	No	:
Chase, Wendy	Rollinsford, NH wendy.chase@leg.state.nh.us	An Elected Official	Myself	Support	No	No	:
Rettew, Annie	CONCORD, NH abrettew@gmail.com	A Member of the Public	Myself	Support	No	No	:
Sherman, Senator Tom	SD24, NH jennifer.horgan@leg.state.nh.us	An Elected Official	SD24	Support	No	No	:
Spielman, Kathy	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Support	No	No	:
hatch, sally	Concord, NH sallyhatch@comcast.net	A Member of the Public	Myself	Support	No	No	:

Keeler, Margaret	New London, NH peg5keeler@gmail.com	A Member of the Public	Myself	Support	No	No	:
Higgins, Patricia	HANOVER, NH phiggins47@gmail.com	A Member of the Public	Myself	Support	No	No	:
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	:
Spielman, James	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Support	No	No	:
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	No	:

# Testimony



## NH House Remote Testi...



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Moira O'Neill  
Child Advocate

## State of New Hampshire

Office of the Child Advocate



Testimony of  
Moira O'Neill, PhD  
The Child Advocate  
before

The New Hampshire House Children and Family Law Committee  
March 4, 2021

Good afternoon Chairwoman Rice, Vice Chairwoman DiSimone and esteemed members of the Children and Family Law Committee. My name is Moira O'Neill and I am the State Child Advocate. The Office of the Child Advocate is an independent state oversight agency. Recently the Office's jurisdiction expanded by RSA 21-V to all children's services provided or arranged for by the State. However, a focus of our work will always be children involved with or at risk of needing child protection or juvenile justice services. Thank you for the opportunity to present this written testimony in opposition of **House Bill 562, exempting victims of trafficking in persons from participating in children in need of services proceedings.**

HB 562 exempts victims of human trafficking from being involved in children in needs of services (CHINS) proceedings under RSA chapter 169-D when the conduct in question was committed as a direct result of being trafficked. The Office of the Child Advocate appreciates the intent of this bill in preventing children who are victims of trafficking from being held accountable for actions perpetrated against them. However, the Office opposes the bill based upon its potential impact on access to services for children.

New Hampshire has a long history of children receiving needed services through involvement with juvenile justice proceedings. Although the state is in the process of building out a community-based system of care designed to meet children's mental health needs, including those who have suffered trauma and abuse from experiences such as trafficking, the system is not yet at full capacity. This leaves a gap in the ability of some children and families to access needed services. Having the option of obtaining services through the CHINS statute gives some children the opportunity to receive services they might not otherwise be able to.

In addition, even when the children's system of care is fully operational, there may still be times when it would be helpful to have court ordered services for a child victim of trafficking. For example, there could be situations in which the child is unwilling, or is otherwise afraid, to leave the trafficker. There could also be situations in which parents are not supportive of beneficial treatment or care for the child. We trust that use of CHINS options will be limited as the system of care expands. However, we would not completely limit options that could be lifesaving. Furthermore, these children would and should be referred to the Care Management Entity (CME) for accessing care and to be tracked for progress in order to limit court involvement.

For these reasons, the Office of the Child Advocate urges the Committee not to pass **HB 562, exempting victims of trafficking in persons from participating in children in need of services proceedings.**

Thank you very much for considering my testimony. Please feel free to contact me at (603) 848-0413 or [Moira.K.ONeill@ChildAdvocate.nh.gov](mailto:Moira.K.ONeill@ChildAdvocate.nh.gov) with any questions you may have.

Governor Hugh Gallen Office Park, Johnson Hall, 107 Pleasant Street, Concord New Hampshire 03301  
(603) 271-7773/Toll Free (833) NHCHILD





## New Hampshire Psychiatric Society

7 N. State St., Concord, NH 03301

Patrick Ho, MD, MPH  
President

Catrina Watson  
Executive Director

To: NH House Committee on Children and Family Law

From: Patrick Ho, MD, MPH, President, New Hampshire Psychiatric Society

Re: HB 120 - Relative to administration of psychotropic medications to children in foster care.

Date: March 4 2021

Good morning madame chairman and members of the committee. For the record, my name is Patrick Ho and I am the president of the NH Psychiatric Society. My testimony represents the NH Psychiatric Society and the NH Medical Society, of which I am an executive council member.

I intended to keep my testimony short in order to cede much of my time to Moira O'Neill at the NH office of the child advocate, but I wanted to thank Dr. Marsh for his leadership on this issue and his enthusiasm in working with the NH Psychiatric Society and the NH Office of the Child Advocate. We believe, as does Dr. Marsh, that it is important to ensure that children in foster care are able to access evidence based treatment for general health and mental health disorders. As it pertains to psychotropic medications, it is important to note that in many cases these medications are appropriate for mental health disorders in children. However, we as a state have a shortage of psychiatrists, and an even more pronounced shortage of psychiatrists with specific child and adolescent training. Our work with Dr. Marsh ensures that this bill will protect the welfare of our state's children in foster care while not impeding the ability of physicians to treat children in foster care with evidence-based measures. With the amendments outlined in Moira O'Neill's, we are in full support of this legislation and urge you to vote ought to pass. Thank you for your time, and please reach out to me with any questions.

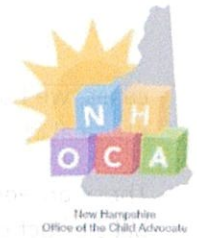
Thank you,  
Patrick Ho, MD, MPH  
President, New Hampshire Psychiatric Society





# State of New Hampshire

Office of the Child Advocate



Moira O'Neill  
Child Advocate

**Testimony of  
Moira O'Neill, PhD  
The Child Advocate  
before  
The New Hampshire House Children and Family Law Committee  
March 4, 2021**

Good morning Chairwoman Rice, Vice Chairwoman DiSimone and esteemed members of the Children and Family Law Committee. My name is Moira O'Neill and I am the State Child Advocate. The Office of the Child Advocate is an independent state oversight agency. Recently the Office's jurisdiction expanded by RSA 21-V, to all children's services provided or arranged for by the State. However, a focus of our work will always be children involved with or at risk of needing child protection and being placed in foster care. Thank you for the opportunity to speak to you today in support of **House Bill 120, relative to administration of psychotropic medications to children in foster care.**

The Office of the Child Advocate supports HB 120 with suggested amendments we have developed in collaboration with the New Hampshire Psychiatric Society. These amendments are aligned with the stated purpose of the bill to provide medication monitoring for children in foster care.

Monitoring of psychotropic medications for children in foster care is an urgent matter. The 2018 U.S. Office of Inspector General's report entitled "Treatment Planning and Medication Monitoring Were Lacking for Children in Foster Care Receiving Psychotropic Medication" (Inspector General's Report) found that twenty-two percent of children in foster care in New Hampshire "did not receive medication monitoring by a prescribing professional."<sup>1</sup> The report further pointed out that New Hampshire was one of five states with the highest percentages of "children in foster care who were treated with psychotropic medications in FY 2013, the most recent year for which there was complete data available in the Medicaid Statistical Information System."<sup>2</sup>

Children in DCYF custody are predominantly children who are victims of abuse, neglect, or other family dysfunction causing high rates of adverse childhood experiences (ACEs). ACEs are associated with mental illness and communication disorders that manifest as problem behavior.<sup>3</sup> Generally, removal from home is a response to the need for safety. Treatment is prompted by persistent symptoms of mental illness or problem behavior. The Inspector General's report, and others before it,<sup>4</sup> indicate that the response to these distressed children has been to medicate them with psychotropic drugs. Anecdotally, the Office of the Child Advocate has reviewed children's cases in which problematic changes in a child's behavior appear primarily addressed with medication changes. In some of those

<sup>1</sup> Available at <https://oig.hhs.gov/oei/reports/oei-07-15-00380.pdf>.

<sup>2</sup> Available at <https://oig.hhs.gov/oei/reports/oei-07-15-00380.pdf>.

<sup>3</sup> Felitti, VJ, Anda, RF, Nordenberg, D, Edwards, V, Koss, MP, Marks, JS (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The adverse childhood experiences (ACE) study. *American Journal of Preventive Medicine*, 14 (4): P245-258. DOI: [https://doi.org/10.1016/S0749-3797\(98\)00017-8](https://doi.org/10.1016/S0749-3797(98)00017-8).

<sup>4</sup> Stambaugh, L.F., Leslie, L.K., Ringeisen, H., Smith, K., & Hodgkin, D. (2012). *Psychotropic medication use by children in child welfare*. OPRE Report #2012-33, Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

cases, we have seen it later discovered that the manifested behaviors were in fact caused by underlying physical conditions.

These amendments we proposed with the New Hampshire Psychiatric Society would strengthen the bill's effect on protecting children by providing the kind of monitoring and oversight that most children experience by their own parents. While parents are not necessarily health care experts, they administer medications to their children with care and guidance from medical professionals. They are invested in watching for side effects or ineffectiveness of the drugs. When there are concerns for a parent's lack of attention to a child's medication, there are systems in place to protect children. Our suggestions demand that same care and level of protection for children in foster care.

We first recommend amending the definition of "medication restraint" to make the proposals in HB 120 consistent with definition of "medication" restraint already found in RSA chapter 126-U. To do this, we suggest amending page 1, lines 5-6, lines 19-20, and lines 29-30, and page 2, lines 15-15 to define "medication restraint as **the *involuntary administration of any medication, including* psychotropic medication, without a clinical diagnosis for the purpose of controlling behavior unless it is to ensure the immediate physical safety or persons when there is substantial and imminent risk of serious bodily harm to the child or others.**"

We next suggest amending the title of RSA 169-B:23 on page 1, line 9 to "Orders for **Health** Examination and Treatment" and the term "physical treatment" as used on page 1, lines 10-11 to "**health** treatment." These changes will encompass both physical and mental health treatment, but not contribute to the stigma associated with mental health treatment caused by separating out physical and mental health. It will also reduce the risk of missing physical ailments with behavioral manifestations.

We further recommend that prior to prescribing psychotropic medications, prescribing providers must first ensure two assessments are or have been recently conducted:

- a. A comprehensive medical assessment to rule out any physical or organic condition underlying the symptoms the medication is intended to treat. This ensures a holistic approach, effective diagnostics and treatment, while minimizing exposure to potential side effects of medication.
- b. A comprehensive psychosocial assessment and planned or implemented evidence based treatments. Especially in cases of young children, the professional consensus is to address psychosocial issues prior to or at least in concert with prescribing medication.

Additionally, due to the unfortunate trends in inconsistency of placement, children's health care is not always consistently followed by any one provider or parent-like proxy. We feel that when a child sees a provider who prescribes psychotropic medications, the consultation should include the child's guardian and a DCYF nurse to ensure they are aware and informed of the reason for the medication, the therapeutic intention of the medication, and any potential side effects that should be monitored. We also suggest that the bill include the expectation that any child in foster care who is prescribed psychotropic medications be referred to the DCYF district office nurse for their monitoring of care and provision of informational support and guidance to DCYF field staff and caregivers. This provides for consistent oversight of a child's medication regime.

To incorporate these suggestions, we recommend adding the following language to the proposed amendment of RSA 169-B:23 on page 1 at line 14, before the language regarding the use of medication being limited as provided in RSA 126-U: **Prior to prescribing psychotropic medications, the prescriber will ensure the undertaking of, and guidance from a recent comprehensive medical assessment to rule out underlying physical cause and a comprehensive psychosocial assessment to address psychosocial issues. Prescribing of medication shall include consultation with the child's caregiver or legal guardian and the DCYF District Nurse.**



We then recommend amending section 9 of the bill on page 2 at line 17; “Duties of the Department ... XXIII. (a) Ensure that **DCYF District Office nurses provide** medication monitoring for children in foster care receiving psychotropic medication pursuant to current American Academy of Child and Adolescent Psychiatry (AACAP) Standards **to include providing relevant health education and guidance to caregivers and DCYF field staff**, and that any use of medication conforms with the limitations in RSA 126-U.”

HB 120 makes no distinction of who prescribes psychotropic medications to children in foster care. This flexibility is necessary as it is well understood that New Hampshire has a chronic shortage of child psychiatrists. If codifying the use of psychotropic medications, it would be neglectful not to be sure that anyone prescribing the medications has access to expertise and guidance to make the best decisions for children. There are excellent models of support for primary care pediatricians who are willing to prescribe psychotropic medications with adequate support and guidance. [The Massachusetts Child Psychiatry Access Project](#) (MCPAP) is one such model that provides remote consultations and educational supports on best practices. DCYF currently contracts with Dartmouth Hitchcock Medical Center for the services of a psychiatrist at the Sununu Youth Services Center. Because there have been so few children at SYSC, it is our understanding the psychiatrist has conducted medication reviews for other children in State care. His contract is not adequate to provide the level of support as required by a program like MCPAP, however, it is a place to start. This service could benefit all children, not just those in foster care, by being a resource to all primary care providers. That, combined with the expanding community based system of care being implemented from Senate Bill 14 of 2019 would act as a prevention mechanism to keep children out of State care by meeting needs better and sooner.

Finally, centralized oversight of children’s care is essential to identify trends across child experience is essential. The bill calls for reporting to the joint legislative oversight committee on health and human services. While reporting to legislative committees is important as a matter of informing policy, two-year terms interfere with consistent monitoring. We recommend the Office of the Child Advocate also receive annual reports as a means for oversight. To do this, we suggest adding in “and the Office of the Child Advocate established under RSA 21-V” on page 2, line 25 after the reference to “RSA 126-A:13.”

For these reasons, the Office of the Child Advocate urges the Committee to pass, with amendments, **HB 120, relative to administration of psychotropic medications to children in foster care.**

Thank you very much for taking my testimony. I welcome any questions you may have.

**FYI: Side Effects of Psychotropic Medications**

The effects of psychotropic medications in children are not entirely understood, and because of the nature of their developing brains, there have been few clinical trials of the drugs on children. I provide a simple table of known side effects to demonstrate the importance of monitoring. There are three categories of side effects with the various types of psychotropic drugs including stimulants, antipsychotics and mood stabilizers.<sup>5</sup>

Minor	Headaches, drowsiness, thirst and increased urination, dry or metallic taste in mouth
Moderate	Decreased appetite, restlessness, nausea, vomiting, diarrhea, trembling, acne, hair loss, dizziness, irritability, blood sugar fluctuations
Severe	Obesity, hypertension, seizures, bed wetting, abnormal kidney, liver, thyroid, and parathyroid function, increased white blood cells, cardiac arrhythmias, suicidality

<sup>5</sup> American Academy of Child & Adolescent Psychiatry (2012). A Guide for Community Child Serving Agencies on Psychotropic Medications for Children and Adolescents. [http://www.aacap.org/App\\_Themes/AACAP/docs/press/guide\\_for\\_community\\_child\\_serving\\_agencies\\_on\\_psychotropic\\_medications\\_for\\_children\\_and\\_adolescents\\_2012.pdf](http://www.aacap.org/App_Themes/AACAP/docs/press/guide_for_community_child_serving_agencies_on_psychotropic_medications_for_children_and_adolescents_2012.pdf)

From: HCS HCS@leg.state.nh.us

Subject: FW: HB 120 Testimony Child Advocate on  
psychotropic meds and foster care

Date: Mar 4, 2021 at 8:03:26 AM

To: ~House Children and Family Law Committee  
CFL@leg.state.nh.us

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**From:** O'Neill, Moira <[Moira.K.ONeill@ChildAdvocate.nh.gov](mailto:Moira.K.ONeill@ChildAdvocate.nh.gov)>

**Sent:** Wednesday, March 3, 2021 8:50 PM

**To:** HCS <[HCS@leg.state.nh.us](mailto:HCS@leg.state.nh.us)>

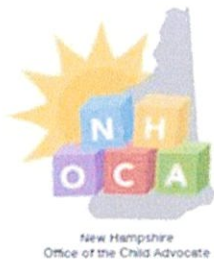
**Subject:** HB 120 Testimony Child Advocate on psychotropic meds and foster care

Hello.

Please find attached my testimony in support of HB 120.

Thank you for your assistance.

Moira



Moira K. O'Neill, Child Advocate  
She/her  
Office of the Child Advocate  
State of New Hampshire  
Johnson Hall  
107 Pleasant Street  
Concord, New Hampshire 03301  
603-271-7773 (Office)  
603-848-0413 (Cell)



[Childadvocate.nh.gov](http://Childadvocate.nh.gov)

**If you think a child is in danger, call 9-1-1 immediately. To report suspected abuse/neglect call [1-800-894-5533](tel:1-800-894-5533).**

**Statement of Confidentiality**

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HB 120 Test...ic Meds.pdf  
776 KB



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March 4, 2021

The Honorable Kim Rice, Chair  
NH House Child and Family Law Committee  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

Re: New Futures' Support for HB s120 re: to Psychotropic medications for children in foster care

Dear Chairman Rice and Honorable Members of the Committee,

My name is Cheryl Avery and I'm the Policy Coordinator for Children's Behavioral Health at New Futures. New Futures appreciates the opportunity to testify in support of [HB 120 with today's Amendment 0517H](#), relative to [psychotropic medications for children in foster care](#).

New Futures is a nonpartisan, nonprofit organization that advocates, educates and collaborates to improve the health and wellness of all New Hampshire residents. We work extensively with policy makers, care providers and families to address behavioral health issues facing our state.

I'm here today in strong support of House Bill 120 as amended. This important legislation will go a long way in the effort to limit and reduce the use of psychotropic medications for children in New Hampshire's care. Similar legislation in other states has shown a dramatic decrease in the use of psychotropic medications.

By tightening oversight and ensuring that every child who is prescribed medication has a proper diagnosis and a corresponding treatment plan, we can be more confident that every child in New Hampshire's state care is receiving the appropriate treatment.

For the well-being of New Hampshire's children, we respectfully request that the Committee recommend HB 120 Ought to Pass.

Thank you for your time and your consideration of this very important matter. Please don't hesitate to contact me if you have any questions.

Respectfully submitted,

Cheryl L. Avery, Policy Coordinator  
Children's Behavioral Health, New Futures  
[cavery@new-futures.org](mailto:cavery@new-futures.org)  
603/217-7982

2

March 4, 2021

The Honorable Kim Rice, Chair  
NH House Child and Family Law Committee  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

Re: New Futures' Support for HB s120 re: to Psychotropic medications for children in foster care

Dear Chairman Rice and Honorable Members of the Committee,

My name is Cheryl Avery and I'm the Policy Coordinator for Children's Behavioral Health at New Futures. New Futures appreciates the opportunity to testify in support of [HB 120 with today's Amendment 0517H](#), relative to [psychotropic](#) medications for children in foster care.

New Futures is a nonpartisan, nonprofit organization that advocates, educates and collaborates to improve the health and wellness of all New Hampshire residents. We work extensively with policy makers, care providers and families to address behavioral health issues facing our state.

I'm here today in strong support of House Bill 120 as amended. This important legislation will go a long way in the effort to limit and reduce the use of psychotropic medications for children in New Hampshire's care. Similar legislation in other states has shown a dramatic decrease in the use of psychotropic medications.

By tightening oversight and ensuring that every child who is prescribed medication has a proper diagnosis and a corresponding treatment plan, we can be more confident that every child in New Hampshire's state care is receiving the appropriate treatment.

For the well-being of New Hampshire's children, we respectfully request that the Committee recommend HB120 Ought to Pass.

Thank you for your time and your consideration of this very important matter. Please don't hesitate to contact me if you have any questions.

Respectfully submitted,

Cheryl L. Avery, Policy Coordinator  
Children's Behavioral Health, New Futures  
[cavery@new-futures.org](mailto:cavery@new-futures.org)  
603/217-7982

Bill as  
Introduced

HB 120 - AS INTRODUCED

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

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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.

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

1           6 New Paragraph; Children in Need of Services; Oversight of Children in Foster Care Receiving  
2 Psychotropic Medication. Amend RSA 169-D:17 by inserting after paragraph VIII the following new  
3 paragraph:

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

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

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

11           8 New Paragraphs; Services for Children, Youth and Families; Definitions Added. Amend RSA  
12 170-G:1 by inserting after paragraph VII the following new paragraphs:

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

15           IX. "Medication restraint" means the prescribing of a psychotropic medication without a  
16 clinical diagnosis for the purpose of controlling behavior.

17           9 New Paragraph; Duties of the Department of Health and Human Services; Medication  
18 Monitoring for Children in Foster Care Receiving Psychotropic Medication. Amend RSA 170-G:4 by  
19 inserting after paragraph XXII the following new paragraph:

20           XXIII.(a) Ensure that medication monitoring is provided for children in foster care receiving  
21 psychotropic medication pursuant to current American Academy of Child and Adolescent Psychiatry  
22 (AACAP) Standards and that any use of medication restraint conforms with the limitations in RSA  
23 126-U.

24           (b) Beginning November 1, 2022, and annually thereafter, report to the joint legislative  
25 oversight committee on health and human services established in RSA 126-A:13 regarding the use of  
26 psychotropic medications by children in foster care and compliance with the limitations on  
27 medication restraint in RSA 126-U. Such report shall include a description of progress during the  
28 preceding fiscal year toward compliance with the recommendations of the September 2018 report of  
29 the United States Department of Health and Human Services, Office of the Inspector General  
30 entitled "Treatment Planning and Medication Monitoring Were Lacking for Children in Foster Care  
31 Receiving Psychotropic Medication." Such description shall include statistical information regarding  
32 the number of children in foster care, the number of such children receiving treatment with  
33 psychotropic medications, the total Medicaid expenditures for psychotropic medications for such  
34 children, and the diagnoses of such children. In addition, the report shall include statistical  
35 information regarding the number of children in foster care receiving treatment with psychotropic  
36 medications who have treatment plans and medication monitoring as required by statute,  
37 regulation, and department procedures.