

1                   A bill to be entitled  
2           An act relating to medical use of marijuana in  
3           schools; amending s. 381.986, F.S.; conforming  
4           provisions to changes made by the act; authorizing a  
5           qualified patient to designate more than one caregiver  
6           to assist with the medical use of marijuana if the  
7           qualified patient is a student whose parent has  
8           requested that a county-designated caregiver assist  
9           him or her with the medical use of marijuana during  
10          the school day; authorizing a county-designated  
11          caregiver to register as a caregiver for more than one  
12          qualified patient who is a student under certain  
13          conditions; conforming cross-references; creating s.  
14          381.9867, F.S.; providing definitions; providing a  
15          procedure for a parent of a student who is a qualified  
16          patient to request that marijuana be administered to  
17          the student during the school day; requiring certain  
18          information to be included in the written request to a  
19          school principal; specifying that a registered  
20          caregiver of a student who is authorized by that  
21          student's parent to administer marijuana to the  
22          student during the school day is responsible for  
23          obtaining, accounting for, and storing the marijuana  
24          and any marijuana delivery devices; requiring a school  
25          principal who receives a request authorizing a county-

26 designated caregiver to administer marijuana to the  
27 student to notify the county health department;  
28 requiring a county health department that has received  
29 such notification to notify the Department of Health  
30 of the request; requiring the department to designate  
31 no more than two county health department employees to  
32 serve as county-designated caregivers; requiring such  
33 employees to obtain registration and to meet certain  
34 criteria; requiring a county-designated caregiver to  
35 follow procedures adopted by department rule;  
36 requiring the caregiver of the student to provide an  
37 appropriate supply of marijuana and any marijuana  
38 delivery devices needed to be administered during the  
39 school day to a county-designated caregiver at a  
40 county health department building; requiring the  
41 county-designated caregiver to receive, document, and  
42 account for the marijuana and any marijuana delivery  
43 devices; requiring marijuana and marijuana delivery  
44 devices to be securely stored; providing that a  
45 county-designated caregiver is not liable for civil  
46 damages as a result of his or her actions if certain  
47 criteria are met; requiring a school principal to  
48 designate an area on school grounds for administering  
49 marijuana; prohibiting storage of marijuana and  
50 marijuana delivery devices on school grounds;

51 prohibiting a school from obstructing a student who is  
52 a qualified patient from accessing marijuana during  
53 the school day; providing that funding needed to  
54 administer this section shall be provided from the  
55 Grants and Donations Trust Fund within the Department  
56 of Health from certain fees collected by the  
57 department; requiring the department to adopt rules;  
58 amending s. 1006.062, F.S.; deleting a requirement  
59 that each district school board adopt a policy and a  
60 procedure for allowing a student who is a qualified  
61 patient to access marijuana for medical use; providing  
62 an effective date.

63  
64 Be It Enacted by the Legislature of the State of Florida:

65  
66 Section 1. Paragraph (j) of subsection (1), subsection  
67 (6), paragraph (c) of subsection (12), and paragraphs (f) and  
68 (g) of subsection (14) of section 381.986, Florida Statutes, are  
69 amended to read:

70 381.986 Medical use of marijuana.—

71 (1) DEFINITIONS.—As used in this section, the term:

72 (j) "Medical use" means the acquisition, possession, use,  
73 delivery, transfer, or administration of marijuana authorized by  
74 a physician certification. The term does not include:

75 1. Possession, use, or administration of marijuana that

76 | was not purchased or acquired from a medical marijuana treatment  
 77 | center.

78 |         2. Possession, use, or administration of marijuana in a  
 79 | form for smoking, in the form of commercially produced food  
 80 | items other than edibles, or of marijuana seeds or flower,  
 81 | except for flower in a sealed, tamper-proof receptacle for  
 82 | vaping.

83 |         3. Use or administration of any form or amount of  
 84 | marijuana in a manner that is inconsistent with the qualified  
 85 | physician's directions or physician certification.

86 |         4. Transfer of marijuana to a person other than the  
 87 | qualified patient for whom it was authorized or the qualified  
 88 | patient's caregiver on behalf of the qualified patient.

89 |         5. Use or administration of marijuana in the following  
 90 | locations:

91 |             a. On any form of public transportation, except for low-  
 92 | THC cannabis.

93 |             b. In any public place, except for low-THC cannabis.

94 |             c. In a qualified patient's place of employment, except  
 95 | when permitted by his or her employer.

96 |             d. In a state correctional institution, as defined in s.  
 97 | 944.02, or a correctional institution, as defined in s. 944.241.

98 |             e. On the grounds of a preschool, primary school, or  
 99 | secondary school, except as provided in s. 381.9867 ~~s. 1006.062~~.

100 |             f. In a school bus, a vehicle, an aircraft, or a

101 motorboat, except for low-THC cannabis.

102 (6) CAREGIVERS.—

103 (a) The department must register an individual as a  
 104 caregiver on the medical marijuana use registry and issue a  
 105 caregiver identification card if an individual designated by a  
 106 qualified patient meets all of the requirements of this  
 107 subsection and department rule.

108 (b) A caregiver must:

109 1. Not be a qualified physician and not be employed by or  
 110 have an economic interest in a medical marijuana treatment  
 111 center or a marijuana testing laboratory.

112 2. Be 21 years of age or older and a resident of this  
 113 state.

114 3. Agree in writing to assist with the qualified patient's  
 115 medical use of marijuana.

116 4. Be registered in the medical marijuana use registry as  
 117 a caregiver for no more than one qualified patient, except as  
 118 provided in this paragraph.

119 5. Successfully complete a caregiver certification course  
 120 developed and administered by the department or its designee,  
 121 which must be renewed biennially. The price of the course may  
 122 not exceed \$100.

123 6. Pass a background screening pursuant to subsection (9),  
 124 unless the patient is a close relative of the caregiver.

125 (c) A qualified patient may not designate ~~no~~ more than one

126 caregiver to assist with the qualified patient's medical use of  
 127 marijuana, unless:

128 1. The qualified patient is a minor and the designated  
 129 caregivers are parents or legal guardians of the qualified  
 130 patient;

131 2. The qualified patient is an adult who has an  
 132 intellectual or developmental disability that prevents the  
 133 patient from being able to protect or care for himself or  
 134 herself without assistance or supervision and the designated  
 135 caregivers are the parents or legal guardians of the qualified  
 136 patient; ~~or~~

137 3. The qualified patient is admitted to a hospice program;  
 138 or

139 4. The qualified patient is a student whose parent has  
 140 requested that a county-designated caregiver assist the student  
 141 with the medical use of marijuana during the school day pursuant  
 142 to s. 381.9867.

143 (d) A caregiver may not be registered in the medical  
 144 marijuana use registry as a designated caregiver for ~~no~~ more  
 145 than one qualified patient, unless:

146 1. The caregiver is a parent or legal guardian of more  
 147 than one minor who is a qualified patient;

148 2. The caregiver is a parent or legal guardian of more  
 149 than one adult who is a qualified patient and who has an  
 150 intellectual or developmental disability that prevents the

151 patient from being able to protect or care for himself or  
152 herself without assistance or supervision; ~~or~~

153 3. All qualified patients who the caregiver has agreed to  
154 assist are admitted to a hospice program and have requested the  
155 assistance of that caregiver with the medical use of marijuana;  
156 the caregiver is an employee of the hospice; and the caregiver  
157 provides personal care or other services directly to clients of  
158 the hospice in the scope of that employment; or

159 4. All qualified patients who the caregiver has agreed to  
160 assist are students whose parents have requested the assistance  
161 of a county-designated caregiver to assist them with the medical  
162 use of marijuana during the school day pursuant to s. 381.9867,  
163 and the caregiver is a county-designated caregiver.

164 (e) A caregiver may not receive compensation, other than  
165 actual expenses incurred, for any services provided to the  
166 qualified patient.

167 (f) If a qualified patient is younger than 18 years of  
168 age, only a caregiver may purchase or administer marijuana for  
169 medical use by the qualified patient. The qualified patient may  
170 not purchase marijuana.

171 (g) A caregiver must be in immediate possession of his or  
172 her medical marijuana use registry identification card at all  
173 times when in possession of marijuana or a marijuana delivery  
174 device and must present his or her medical marijuana use  
175 registry identification card upon the request of a law

176 enforcement officer.

177 (h) The department may adopt rules pursuant to ss.  
178 120.536(1) and 120.54 to implement this subsection.

179 (12) PENALTIES.—

180 (c) A qualified patient who uses marijuana, not including  
181 low-THC cannabis, or a caregiver who administers marijuana, not  
182 including low-THC cannabis, in plain view of or in a place open  
183 to the general public; in a school bus, a vehicle, an aircraft,  
184 or a boat; or on the grounds of a school except as provided in  
185 s. 381.9867 ~~s. 1006.062~~, commits a misdemeanor of the first  
186 degree, punishable as provided in s. 775.082 or s. 775.083.

187 (14) EXCEPTIONS TO OTHER LAWS.—

188 ~~(f) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or~~  
189 ~~any other provision of law, but subject to the requirements of~~  
190 ~~this section and pursuant to policies and procedures established~~  
191 ~~pursuant to s. 1006.62(8), school personnel may possess~~  
192 ~~marijuana that is obtained for medical use pursuant to this~~  
193 ~~section by a student who is a qualified patient.~~

194 (f) ~~(g)~~ Notwithstanding s. 893.13, s. 893.135, s. 893.147,  
195 or any other provision of law, but subject to the requirements  
196 of this section, a research institute established by a public  
197 postsecondary educational institution, such as the H. Lee  
198 Moffitt Cancer Center and Research Institute, Inc., established  
199 under s. 1004.43, or a state university that has achieved the  
200 preeminent state research university designation under s.



201 1001.7065 may possess, test, transport, and lawfully dispose of  
202 marijuana for research purposes as provided by this section.

203 Section 2. Section 381.9867, Florida Statutes, is created  
204 to read:

205 381.9867 Medical use of marijuana in schools.—

206 (1) For purposes of this section:

207 (a) The term "caregiver" has the same meaning as in s.  
208 381.986(1).

209 (b) The term "county-designated caregiver" means an  
210 employee of a county health department designated by the  
211 department pursuant to subsection (4) who has an identification  
212 card and is registered as a caregiver pursuant to 381.986(6).

213 (c) The terms "marijuana," "marijuana delivery device,"  
214 "medical use," "physician certification," and "qualified  
215 patient" have the same meanings as in s. 381.986(1).

216 (2) A parent of a student who is a qualified patient may  
217 request that marijuana obtained pursuant to s. 381.986 be  
218 administered to the student during the school day. A request  
219 must be made in writing to the school principal and must include  
220 all of the following information:

221 (a) A copy of the student's current patient identification  
222 card as described in s. 381.986(7)(a).

223 (b) A copy of the student's current physician  
224 certification as described in s. 381.986(4).

225 (c) A statement that explains the necessity for

226 administration of the marijuana during the school day, including  
227 any occasion when the student is away from school property on  
228 official school business.

229 (d) A statement authorizing a registered caregiver of the  
230 student or a county-designated caregiver to administer marijuana  
231 to the student. If the parent is the registered caregiver of the  
232 student, the parent may include a statement of his or her desire  
233 to administer marijuana to the student.

234 (3) If the parent authorizes the registered caregiver of  
235 the student to administer marijuana to the student during the  
236 school day, the caregiver is responsible for obtaining,  
237 accounting for, and storing the marijuana and any marijuana  
238 delivery devices as provided in this section and s. 381.986.

239 (4) (a) Upon receiving a request that includes a statement  
240 authorizing a county-designated caregiver to administer  
241 marijuana to a student, a school principal shall promptly notify  
242 the county health department for the county in which the school  
243 is located. The county health department shall notify the  
244 department of the request and the department shall designate no  
245 more than two employees of the county health department to serve  
246 as county-designated caregivers. A county-designated caregiver  
247 shall follow any procedures adopted by department rule under  
248 subsection (8).

249 (b) The caregiver of the student shall provide to a  
250 county-designated caregiver at a county health department

251 building an appropriate supply of marijuana and any marijuana  
252 delivery devices necessary for administration of the marijuana  
253 during the school day, all of which must be obtained pursuant to  
254 s. 381.986. The county-designated caregiver shall document and  
255 account for the marijuana and any marijuana delivery devices  
256 received. The county-designated caregiver is responsible for the  
257 transportation of the marijuana and marijuana delivery devices  
258 to and from the county health department building and the  
259 school, for administering marijuana to the student. When the  
260 marijuana or marijuana delivery devices are not in use or are  
261 not being transported for use, the marijuana must be placed in  
262 its original container and it and any marijuana delivery devices  
263 must be stored in a secure fashion under lock and key.

264 (c) A county-designated caregiver is not liable for civil  
265 damages as a result of his or her actions arising out of  
266 assisting students who are qualified patients with the medical  
267 use of marijuana if the county-designated caregiver acts as a  
268 reasonably prudent person would have acted under the same or  
269 similar circumstances.

270 (5) A school principal who has received a request under  
271 subsection (2) must designate an isolated area on school grounds  
272 where marijuana may be administered to the student. A caregiver  
273 or county-designated caregiver may administer marijuana to the  
274 student on school grounds only in the designated area. Marijuana  
275 and marijuana delivery devices may not be stored on school

HB 1291

2018

276 grounds.

277 (6) A school may not obstruct a student who is a qualified  
278 patient from accessing marijuana during the school day in  
279 accordance with this section.

280 (7) Funding to administer this section shall be provided  
281 through the Grants and Donations Trust Fund within the  
282 Department of Health from fees collected by the department under  
283 s. 381.986.

284 (8) The department shall adopt rules necessary to  
285 administer this section.

286 Section 3. Subsection (8) of section 1006.062, Florida  
287 Statutes, is amended to read:

288 1006.062 Administration of medication and provision of  
289 medical services by district school board personnel.—

290 ~~(8) Each district school board shall adopt a policy and a~~  
291 ~~procedure for allowing a student who is a qualified patient, as~~  
292 ~~defined in s. 381.986, to use marijuana obtained pursuant to~~  
293 ~~that section. Such policy and procedure shall ensure access by~~  
294 ~~the qualified patient; identify how the marijuana will be~~  
295 ~~received, accounted for, and stored; and establish processes to~~  
296 ~~prevent access by other students and school personnel whose~~  
297 ~~access would be unnecessary for the implementation of the~~  
298 ~~policy.~~

299 Section 4. This act shall take effect July 1, 2018.