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# A BILL FOR AN ACT

RELATING TO MINORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that minors who are  
2 living on their own without parental support or guidance find it  
3 difficult, if not impossible, to obtain general medical care  
4 without the consent of a parent or guardian. Minors living on  
5 their own who cannot obtain parental consent for medical  
6 treatment include runaway, homeless, and street youth, as well  
7 as young people from Micronesia and other Pacific Islands who  
8 have moved to Hawaii on their own. Physicians or clinics that  
9 provide treatment to minors without parental consent face  
10 possible legal action. Without consent from a parent or  
11 guardian, this population of young people is left suffering when  
12 in need of medical treatment.

13           Currently in this state, youth aged fourteen and older may  
14 consent to family planning and contraceptive care,  
15 pregnancy-related care, and treatment for sexually transmitted  
16 diseases. Approximately forty-nine per cent of the fifty states  
17 and the District of Columbia allow minors some form of access to  
18 general medical care.



1           The purpose of this Act is to allow a minor to consent to  
2 the provision of medical care and services if a licensed  
3 physician determines that the minor has sufficient mental  
4 capacity to understand the nature and consequence of the  
5 proposed medical care and services and that the medical care and  
6 services are for the minor's benefit.

7           SECTION 2. Section 577A-1, Hawaii Revised Statutes, is  
8 amended by amending the definition of "medical care and  
9 services" to read as follows:

10           "Medical care and services" means ~~[the diagnosis,~~  
11 ~~examination, and administration of medication in the treatment~~  
12 ~~of venereal diseases, pregnancy, and family planning services.~~  
13 ~~It shall not include surgery or any treatment to induce~~  
14 ~~abortion]~~ any care, treatment, service, or procedure, including  
15 the administration of medication, to maintain, diagnose, or  
16 otherwise affect a person's physical condition but shall not  
17 include elective-cosmetic surgery."

18           SECTION 3. Section 577A-2, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "**§577A-2 Consent valid.** ~~[The consent]~~ (a) A minor may:  
21           (1) Consent to the provision of medical care and services  
22           in the treatment of venereal diseases, pregnancy, or



1           family planning services by public and private  
2           hospitals or public and private clinics, or the  
3           ~~[performance]~~ provision of medical care and services  
4           in the treatment of venereal diseases, pregnancy, or  
5           family planning services by a physician licensed to  
6           practice medicine ~~[, when executed by a]~~ if the minor  
7           is:

8           (A) A female minor who is or professes to be  
9           pregnant ~~[, or by a]~~ ;

10          (B) A minor who is or professes to be afflicted with  
11          a venereal disease ~~[, or a]~~ ; or

12          (C) A minor seeking family planning services;

13          and

14          (2) Consent to the provision of all other forms of medical  
15          care and services by public and private hospitals or  
16          public and private clinics, or the provision of  
17          medical care and services by a physician licensed to  
18          practice medicine if the physician determines that:

19          (A) The minor understands the significant benefits  
20          and risks of the proposed medical care and  
21          services and can communicate a decision; and



1           (B) The medical care and services are for the minor's  
2           benefit.

3           (b) Any consent given under this section shall be valid  
4 and binding as if the minor had [~~achieved his or her~~] reached  
5 the age of majority [~~as the case may be; that is, a female minor~~  
6 ~~who is, or professes to be pregnant, or a minor who is, or~~  
7 ~~professes to be afflicted with a venereal disease, or a minor~~  
8 ~~seeking family planning services] and the minor shall be deemed  
9 to have, and shall have the same legal capacity to act, and the  
10 same legal obligations with regard to the giving of such consent  
11 [~~to such hospitals and such clinics or medical care and services~~  
12 ~~to be provided by a physician licensed to practice medicine,~~] as  
13 a person of full legal age and capacity, the infancy of the  
14 minor, and any contrary provisions of law notwithstanding [~~and~~  
15 ~~such~~].~~

16           (c) The consent given under this section shall not be  
17 subject to later disaffirmance by reason of [~~such~~] the patient's  
18 minority [~~and the~~].

19           (d) No consent of [~~no~~] any other person or persons [~~+~~],  
20 including [~~but not limited to~~] a spouse, parent, custodian, or  
21 guardian [~~+~~], shall be necessary [~~in order~~] to authorize [~~such~~]  
22 hospitals or [~~such~~] clinics to provide care to, or medical care

1 and services to be provided by a physician licensed to practice  
2 medicine, to [~~such~~] a minor under this section.

3 (e) Any person who in good faith renders medical care and  
4 services to a minor in reliance upon a physician's determination  
5 made in accordance with subsection (a)(2) shall have immunity  
6 from any civil or criminal liability based on that  
7 determination; provided that a person may be liable for any  
8 damages resulting from the person's gross negligence or wanton  
9 acts or omissions."

10 SECTION 4. Section 577A-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "(a) If a minor consents to receive medical care and  
13 services, the spouse, parent, custodian, or guardian of the  
14 minor patient shall not be liable for the legal obligations  
15 resulting from the furnishing of medical care and services  
16 provided by the public and private hospital, or public and  
17 private clinic or physician licensed to practice medicine. A  
18 minor who consents to the provision of medical care and services  
19 under this [~~section~~] chapter shall assume financial  
20 responsibility for the costs of such medical care and services.  
21 Any other law to the contrary notwithstanding, no spouse,  
22 parent, custodian, or guardian whose consent has not been



1 obtained or who has no prior knowledge that the minor has  
2 consented to the provision of such medical care and services  
3 shall be liable for the costs incurred by virtue of the minor's  
4 consent.

5 (b) If a claim for medical care or services obtained under  
6 this chapter is filed with a managed care plan or health  
7 insurance plan under which the minor is enrolled, and the minor  
8 does not want the plan to disclose information regarding the  
9 claim to the spouse, parent, custodian, or guardian of the  
10 minor, the minor, or on behalf of the minor, the physician  
11 rendering the medical or services, shall notify the plan prior  
12 to submission of the claim. The plan may require that the  
13 request for confidential communication be made in writing and  
14 contain a statement that disclosure of all or part of the  
15 information to which the request pertains could endanger the  
16 minor. The plan may accommodate requests by the minor or the  
17 physician to receive communications related to the medical care  
18 and services by alternative means or at alternative locations.

19 ~~[(b)]~~ (c) Medical care and services shall include  
20 individual counseling for each minor patient by a physician  
21 licensed to practice medicine. Such counseling shall seek to  
22 open the lines of communication between parent and child."



1           SECTION 5   Statutory material to be repealed is bracketed  
2 and stricken.   New statutory material is underscored.

3           SECTION 6.   This Act shall take effect upon its approval.



**Report Title:**

Minor; Legal Capacity; Medical Care and Services

**Description:**

Gives minors access to general medical care by allowing the minor under certain circumstances to consent to the provision of medical care and services. (HB2076 HD2)

