
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 consent from 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. Licensed or registered
9 health care practitioners or clinics that provide treatment to
10 minors without parental consent face possible legal action.
11 Without consent from a parent or guardian, this population of
12 young people is left suffering when in need of medical
13 treatment.

14 Currently in this state, youth aged fourteen and older may
15 consent to family planning and contraceptive care,
16 pregnancy-related care, and treatment for sexually transmitted
17 diseases. Approximately forty-nine per cent of the fifty states



1 and the District of Columbia allow minors some form of access to
2 general medical care.

3 The purpose of this Act is to allow certain minors to
4 consent to the provision of medical care and services if a
5 licensed or registered health care practitioner determines that
6 the minor has sufficient mental capacity to understand the
7 nature and consequence of the proposed medical care and services
8 and if the medical care and services are for the minor's
9 benefit.

10 SECTION 2. Section 577A-1, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By adding three new definitions to be appropriately
13 inserted and to read:

14 "Licensed or registered health care practitioner" means an
15 individual licensed under chapter 453, 457, or 457A.

16 "Preventive medical care and services" means health
17 services that include screening, counseling, immunizations,
18 treatment, or medication determined to be effective in
19 preventing or detecting disease.

20 "Primary medical care and services" means basic, entry-
21 level health care provided by licensed or registered health care



1 practitioners that is generally provided in an outpatient
2 setting."

3 2. By amending the definition of "medical care and
4 services" to read:

5 "Medical care and services" means the diagnosis,
6 examination, and administration of medication in the treatment
7 of venereal diseases, pregnancy, and family planning services.
8 [~~It shall not include surgery or any treatment to induce~~
9 ~~abortion.~~]"

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

12 "**§577A-2 Consent valid.** [~~The consent~~] (a) A minor may:

13 (1) Consent to the provision of medical care and services
14 by public and private hospitals or public and private
15 clinics, or the [~~performance~~] provision of medical
16 care and services by a [~~physician~~] licensed [~~to~~
17 ~~practice medicine, when executed by a~~] or registered
18 health care practitioner if the minor is:

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

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



1 (C) A minor seeking family planning services;
2 or
3 (2) Consent to the provision of primary or preventive
4 medical care and services by public and private
5 hospitals or public and private clinics, or the
6 provision of primary or preventive medical care and
7 services by a licensed or registered health care
8 practitioner if the practitioner reasonably believes
9 that:

10 (A) The minor understands the significant benefits
11 and risks of the proposed primary or preventive
12 medical care and services and can communicate a
13 decision;

14 (B) The primary or preventive medical care and
15 services are for the minor's benefit; and

16 (C) The minor is living on the minor's own, or that
17 the minor's parent, custodian, or legal guardian
18 is not readily available to provide consent.

19 (b) Any consent given under this section shall be valid
20 and binding as if the minor had [~~achieved his or her~~] reached
21 the age of majority [~~as the case may be; that is, a female minor~~
22 ~~who is, or professes to be pregnant, or a minor who is, or~~

1 ~~professes to be afflicted with a venereal disease, or a minor~~
2 ~~seeking family planning services]~~ and the minor shall be deemed
3 to have, and shall have the same legal capacity to act, and the
4 same legal obligations with regard to the giving of [~~such~~]
5 consent [~~to such hospitals and such clinics or medical care and~~
6 ~~services to be provided by a physician licensed to practice~~
7 ~~medicine,~~] as a person of full legal age and capacity, the
8 infancy of the minor and any contrary provisions of law
9 notwithstanding [~~, and such~~].

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

13 (d) No consent of [no] any other person or persons,
14 [~~(+)including[, but not limited to]~~] a spouse, parent, custodian,
15 or guardian[~~(+)~~], shall be necessary [~~in order~~] to authorize
16 [~~such~~] hospitals or [~~such~~] clinics or medical care and services
17 provided by a [~~physician~~] licensed [~~to practice medicine,~~] or
18 registered health care practitioner, to [~~such~~] a minor[~~(-)~~] under
19 this section.

20 (e) Any licensed or registered health care practitioner
21 who in good faith renders primary or preventive medical care and
22 services to a minor in accordance with subsection (a)(2) shall



1 have immunity from any civil or criminal liability based on that
2 determination; provided that a person may be liable for any
3 damages resulting from the person's negligence or wanton acts or
4 omissions."

5 SECTION 4. Section 577A-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§577A-3 Providing information.** Public and private
8 hospitals, or public and private clinics or [~~physicians~~]
9 licensed [~~to practice medicine~~] or registered health care
10 practitioners may, at the discretion of the treating
11 [~~physician,~~] licensed or registered health care practitioner,
12 inform the spouse, parent, custodian, or guardian of any minor
13 patient of the provision of medical care and services, or
14 primary or preventive medical care and services, to the minor or
15 disclose any information pertaining to such care and services
16 after consulting with the minor patient to whom such medical
17 care and services, or primary or preventive medical care and
18 services, have been provided under this chapter.

19 If the minor patient is not diagnosed as being pregnant or
20 afflicted with venereal disease, such information as well as the
21 application for diagnosis may be disclosed, at the discretion of



1 the treating [~~physician~~] licensed or registered health care
2 practitioner after consulting with the minor patient."

3 SECTION 5. Section 577A-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§577A-4 Financial responsibility; counseling.** (a) If a
6 minor consents to receive medical care and services, or primary
7 or preventive medical care and services, the spouse, parent,
8 custodian, or guardian of the minor patient shall not be liable
9 for the legal obligations resulting from the furnishing of
10 medical care and services or primary or preventive medical care
11 and services provided by the public and private hospital, or
12 public and private clinic or [~~physician~~] licensed [~~to practice~~
13 ~~medicine.~~] or registered health care practitioner. A minor who
14 consents to the provision of medical care and services, or
15 primary or preventive medical care and services, under this
16 [~~section~~] chapter shall assume financial responsibility for the
17 costs of [~~such~~] the medical care and services. Any other law to
18 the contrary notwithstanding, no spouse, parent, custodian, or
19 guardian whose consent has not been obtained or who has no prior
20 knowledge that the minor has consented to the provision of
21 [~~such~~] medical care and services or primary or preventive



1 medical care and services shall be liable for the costs incurred
2 by virtue of the minor's consent.

3 (b) If a claim for medical care and services or primary or
4 preventive medical care and services obtained under this chapter
5 is filed with a managed care plan or health insurance plan under
6 which a minor is enrolled, and the minor does not want the plan
7 to disclose information regarding the claim to the spouse,
8 parent, custodian, or guardian of the minor, the minor or, on
9 behalf of the minor, the licensed or registered health care
10 practitioner rendering the medical care and services or primary
11 or preventive medical care and services shall notify the plan
12 prior to the submission of the claim. The plan may require that
13 a 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 licensed or registered health care practitioner to receive
18 communications related to the medical care and services or
19 primary or preventive medical care and services by alternative
20 means or at alternative locations.

21 [~~b~~] (c) Medical care and services or primary or
22 preventive medical care and services shall include individual



1 counseling for each minor patient by a [~~physician~~] licensed [~~to~~
2 ~~practice medicine.~~] or registered health care practitioner.

3 Such counseling shall seek to open the lines of communication
4 between parent and child[~~er~~], when appropriate."

5 SECTION 6 Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 7. This Act shall take effect upon its approval.



SB 2166
SD 2
HD1

Report Title:

Minor; Legal Capacity; Medical Care and Services

Description:

Allows a minor under certain circumstances to consent to the provision of medical care and services or primary or preventive medical care and services. (SB2166 HD1)

