
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 a minor to consent to
4 the provision of primary or preventive medical care and services
5 if a licensed or registered health care practitioner determines
6 that:

- 7 (1) The minor has sufficient mental capacity to understand
8 the nature and consequence of the proposed medical
9 care and services;
- 10 (2) The medical care and services are for the minor's
11 benefit; and
- 12 (3) The minor is not under a parent's, custodian's, or
13 legal guardian's care, custody or control, or
14 obtaining appropriate legal consent is not practical.

15 SECTION 2. Section 577A-1, Hawaii Revised Statutes, is
16 amended by adding three new definitions to be appropriately
17 inserted and to read:

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

20 "Preventive medical care and services" means health
21 services that include screening, counseling, immunizations,



1 treatment, or medication determined to be effective in
2 preventing or detecting disease.

3 "Primary medical care and services" means basic, entry-
4 level health care provided by licensed or registered health care
5 practitioners that is generally provided in an outpatient
6 setting."

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

9 **"§577A-2 Consent valid.** [~~The consent~~] (a) A minor may:
10 (1) Consent to the provision of medical care and services
11 by public and private hospitals or public and private
12 clinics, or the [~~performance~~] provision of medical
13 care and services by a [~~physician~~] licensed [~~to~~
14 ~~practice medicine, when executed by a~~] or registered
15 health care practitioner if the minor is:
16 (A) A female minor who is or professes to be
17 pregnant [~~, or by a~~];
18 (B) A minor who is or professes to be afflicted with
19 a venereal disease [~~, or a~~]; or
20 (C) A minor seeking family planning services;
21 or



1 (2) Consent to the provision of primary or preventive
2 medical care and services by public and private
3 hospitals or public and private clinics, and by a
4 licensed or registered health care practitioner if the
5 practitioner reasonably believes that:

6 (A) The minor understands the significant benefits
7 and risks of the proposed primary or preventive
8 medical care and services and can communicate a
9 decision;

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

12 (C) The minor is not under the care, custody, or
13 control of a parent, custodian, or legal
14 guardian, or obtaining appropriate legal consent
15 is not practical.

16 (b) Any consent given under this section shall be valid
17 and binding as if the minor had [~~achieved his or her~~] reached
18 the age of majority [~~as the case may be; that is, a female minor~~
19 ~~who is, or professes to be pregnant, or a minor who is, or~~
20 ~~professes to be afflicted with a venereal disease, or a minor~~
21 ~~seeking family planning services] and the minor shall be deemed
22 to have, and shall have the same legal capacity to act, and the~~

1 same legal obligations with regard to the giving of [~~such~~]
2 consent [~~to such hospitals and such clinics or medical care and~~
3 ~~services to be provided by a physician licensed to practice~~
4 ~~medicine,~~] as a person of full legal age and capacity, the
5 infancy of the minor and any contrary provisions of law
6 notwithstanding [~~and such~~].

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

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

18 (e) Any licensed or registered health care practitioner
19 who in good faith renders primary or preventive medical care and
20 services to a minor in accordance with subsection (a) (2) shall
21 have immunity from any civil or criminal liability based on that
22 determination; provided that a licensed or registered health



1 care practitioner whose determination is the result of gross
2 negligence or willful or wanton acts or omissions shall be
3 liable for damages resulting from such gross negligence or
4 willful or wanton acts or 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
4 or preventive medical care and services obtained under this
5 chapter is filed with a managed care plan or health insurance
6 plan under which a minor is enrolled, and the minor does not
7 want the plan to disclose information regarding the claim to the
8 spouse, parent, custodian, or guardian of the minor, the minor
9 or, on behalf of the minor, the licensed or registered health
10 care practitioner rendering the medical care and services, or
11 primary or preventive medical care and services shall notify the
12 plan prior to the submission of the claim. The plan may require
13 that a request for confidential communication be made in writing
14 and 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[~~-~~], 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 on July 1, 2050.



SB 2166 SD2
HD2

Report Title:

Minor; Legal Capacity; Medical Care and Services

Description:

Allows a minor under certain circumstances to consent to the provision of primary or preventive medical care and services.
(SB2166 HD2)

