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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 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 health care  
9 practitioners or clinics that provide treatment to minors  
10 without parental consent face possible legal action. Without  
11 consent from a parent or guardian, this population of young  
12 people is left suffering when 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 primary or preventive medical care and  
3 services, in addition to the medical care and services currently  
4 allowed by law under chapter 577A, Hawaii Revised Statutes, if a  
5 licensed health care practitioner determines that:

6           (1) The minor has sufficient mental capacity to understand  
7           the nature and consequence of the proposed medical  
8           care and services;

9           (2) The medical care and services are for the minor's  
10          benefit; and

11          (3) The minor is not under a parent's, custodian's, or  
12          legal guardian's care, supervision or control, or  
13          obtaining appropriate legal consent is not practical.

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

16          1. By adding a new definition to be appropriately  
17 inserted and to read:

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

20          2. By amending the definition of "medical care and  
21 services" to read as follows:



1        "Medical care and services" means [~~the diagnosis,~~  
2 ~~examination, and administration of medication in the treatment~~  
3 ~~of venereal diseases, pregnancy, and family planning services.~~  
4 ~~It shall not include surgery or any treatment to induce~~  
5 ~~abortion.~~] any care, treatment, service, or procedure, including  
6 the administration of medication, to maintain, diagnose, or  
7 otherwise affect a person's physical condition."

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

10        "**§577A-2 Consent valid.** [~~The consent]~~ (a) A minor may:  
11        (1) Consent to the provision of medical care and services  
12        in the treatment of sexually transmitted diseases,  
13        pregnancy, or as part of family planning services by  
14        public and private hospitals or public and private  
15        clinics, or the [~~performance]~~ provision of medical  
16        care and services in the treatment of sexually  
17        transmitted diseases, pregnancy, or as part of family  
18        planning services by a [~~physician]~~ licensed [~~to~~  
19        ~~practice medicine, when executed by a]~~ health care  
20        practitioner if the minor:  
21        (A) Is a female [minor] who is or professes to be  
22        pregnant [~~or by a minor who is~~];



1           (B) Is or professes to be afflicted with a [~~venereal~~  
2                   sexually transmitted disease[~~, or a minor~~  
3                   seeking]; or

4           (C) Is seeking family planning services;  
5           or

6       (2) Consent to the provision of primary or preventive  
7       medical care and services by public and private  
8       hospitals or public and private clinics, and by a  
9       licensed health care practitioner if the practitioner  
10       reasonably believes that:

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

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

17           (C) The minor is not under the care, supervision, or  
18                   control of a parent, custodian, or legal  
19                   guardian, or obtaining appropriate legal consent  
20                   is not practical.

21       (b) Any consent given under this section shall be valid  
22       and binding as if the minor had [~~achieved his or her~~] reached



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

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

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



1       (e) Any licensed health care practitioner who in good  
2 faith renders primary or preventive medical care and services to  
3 a minor in accordance with subsection (a)(2) shall have immunity  
4 from any civil or criminal liability based on that  
5 determination; provided that a licensed health care practitioner  
6 whose determination is the result of gross negligence or wilful  
7 or wanton acts or omissions shall be liable for damages  
8 resulting from such gross negligence or wilful or wanton acts or  
9 omissions."

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

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



1           If the minor patient is not diagnosed as being pregnant or  
2 afflicted with ~~[venereal]~~ a sexually transmitted disease, such  
3 information as well as the application for diagnosis may be  
4 disclosed, at the discretion of the treating ~~[physician]~~  
5 licensed health care practitioner after consulting with the  
6 minor patient."

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

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



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

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

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





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

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



**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. (SB2166 HD3)

