

JAN 23 2006

S.B. NO. 2166

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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. 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 for 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 if the medical care and  
6 services are for the minor's benefit.

7           SECTION 2. Section 577A-1, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§577A-1 Definitions.** For the purpose of this chapter,  
10 the following terms shall be defined as follows:

11           "Family planning services" includes counseling and medical  
12 care designed to facilitate family planning.

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

20           "Minor" shall be any person from the age of fourteen to  
21 seventeen inclusive."



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

3 "**§577A-2 Consent valid.** [~~The consent~~] (a) A minor may:

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

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

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

17 (C) A minor seeking family planning services; and

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



1           (A) The minor understands the significant benefits  
2                   and risks of the proposed medical care and  
3                   services and can communicate a decision; and

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

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

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

1        (d) No consent of ~~no~~ any other person or persons,  
 2        [+]including[~~, but not limited to~~] a spouse, parent, custodian,  
 3        or guardian[+], shall be necessary in order to authorize ~~such~~  
 4        hospitals or ~~such~~ clinics to provide care to, or medical care  
 5        and services to be provided by a physician licensed to practice  
 6        medicine, to ~~such~~ a minor under this section.

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

14       SECTION 4. Section 577A-4, Hawaii Revised Statutes, is  
 15       amended by amending subsection (a) to read as follows:

16       "(a) If a minor consents to receive medical care and  
 17       services, the spouse, parent, custodian, or guardian of the  
 18       minor patient shall not be liable for the legal obligations  
 19       resulting from the furnishing of medical care and services  
 20       provided by the public and private hospital, or public and  
 21       private clinic or physician licensed to practice medicine. A  
 22       minor who consents to the provision of medical care and services



1 under this [~~section~~] chapter shall assume financial  
2 responsibility for the costs of such medical care and services.  
3 Any other law to the contrary notwithstanding, no spouse,  
4 parent, custodian, or guardian whose consent has not been  
5 obtained or who has no prior knowledge that the minor has  
6 consented to the provision of such medical care and services  
7 shall be liable for the costs incurred by virtue of the minor's  
8 consent."

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

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

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INTRODUCED BY: Erzanne Chun Oakland



SB2166

**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.

