

PROPOSED

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2166
S.D. 2

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 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.

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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 shall not include surgery or any treatment to induce~~
17 ~~abortion.~~] any care, treatment, service, or procedure, including
18 the administration of medication, to maintain, diagnose, or
19 otherwise affect a person's physical condition.

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~~]
14 consent [~~to such hospitals and such clinics or medical care and~~
15 ~~services to be provided by a physician licensed to practice~~
16 ~~medicine,~~] as a person of full legal age and capacity, the
17 infancy of the minor and any contrary provisions of law
18 notwithstanding [~~and 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 [nø] 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, or medical care and
5 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 to read as follows:

16 **§577A-4 Financial responsibility; counseling.** (a) If a
17 minor consents to receive medical care and services, the spouse,
18 parent, custodian, or guardian of the minor patient shall not be
19 liable for the legal obligations resulting from the furnishing
20 of medical care and services provided by the public and private
21 hospital, or public and private clinic or physician licensed to
22 practice medicine. A minor who consents to the provision of



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

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



1 (c) Medical care and services shall include individual
2 counseling for each minor patient by a physician licensed to
3 practice medicine. Such counseling shall seek to open the lines
4 of communication between parent and child."

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

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



PROPOSED

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. (SD2)

