

FINAL BILL REPORT

HB 3139

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Synopsis as Enacted

Brief Description: Clarifying kinship caregivers' consent for mental health care of minors.

Sponsors: By Representatives Pettigrew, Haler, Dickerson, Kagi, Dunn, Walsh, Darneille, Roberts, Hinkle, Morrell and Kenney.

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background:

In Washington, a person has the right to make his or her own health care decisions. Under the principle of "informed consent," medical care must be explained to the patient so that he or she understands it and can make informed decisions. Treatment without consent, however, is allowed and will generally be provided in an emergency unless the patient indicates otherwise.

If the patient is determined to be incapacitated or incompetent to make health care decisions, a surrogate decision-maker must speak for him or her. If a person is under the age of 18, he or she is considered to lack capacity to make most health care decisions. However, a minor who is 13 years of age or older may make decisions regarding his or her mental health treatment.

For those decisions to which a minor is not given authority to consent by law, there is a specific hierarchy of decision-makers defined by statute. In 2005, the Legislature passed Substitute House Bill 1281 which expanded this list of persons who may provide informed consent for medical care. The following is the list of persons, in order of priority, who may consent to medical treatment on behalf of a minor:

- (1) a legal custodian or a guardian who has been appointed by a court;
- (2) a person authorized by the court to consent to health care during a court-ordered out-of-home placement;
- (3) parents of a minor child;
- (4) a person authorized to consent to health care by the minor's parent; and
- (5) an adult who represents himself or herself to be responsible for the health care of the minor or who has signed a declaration stating that he or she is a relative responsible for the care of the minor patient.

The legislation did not specify that informed consent for medical care includes consent for mental health care of a child.

Summary:

Language is added to the informed consent statute to clarify that informed consent for medical care includes mental health care in situations where the minor is not able to consent because he or she is under the age of majority and is not otherwise authorized to provide consent.

Language is added to the mental health statutes pertaining to minors to permit a person who is authorized to give informed consent for medical care to authorize inpatient or outpatient mental health care of a minor child under the age of 13.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006