

HOUSE BILL REPORT

HB 2396

As Reported by House Committee On:
Judiciary

Title: An act relating to access to nonemergency, outpatient, primary health care services for unaccompanied homeless youth under the federal McKinney-Vento homeless assistance act.

Brief Description: Concerning access to nonemergency, outpatient, primary health care services for unaccompanied homeless youth under the federal McKinney-Vento homeless assistance act.

Sponsors: Representatives McBride, Caldier, Senn, Goodman, Kagi, Sawyer, Tharinger, Tarleton, Stanford, Farrell, Moscoso and Ormsby.

Brief History:

Committee Activity:

Judiciary: 1/27/16, 2/4/16 [DPS].

Brief Summary of Substitute Bill

- Authorizes school nurses, counselors, and homeless student liaisons to provide consent for homeless, unaccompanied youth to receive nonemergency, outpatient, primary care services.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman, Hansen, Kirby, Kuderer, Muri, Orwall and Stokesbary.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Assistant Ranking Minority Member; Haler and Klippert.

Staff: Kelly Holler (786-7290) and Cece Clynch (786-7195).

Background:

Consent for Medical Treatment of Minor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Generally, persons under the age of 18 cannot provide consent for their own medical procedures in Washington state. However, minors can receive medical treatment without the consent of an authorized adult if the minor:

- is in need of emergency medical treatment;
- is seeking family planning services or pregnancy care;
- is aged 15 or older and satisfies the "mature minor rule," meaning the minor has, based on a number of factors, demonstrated the maturity to provide consent for medical treatment;
- is aged 13 or older and seeking mental health treatment; or
- is aged 13 or older and seeking outpatient substance abuse treatment.

If a minor's consent is not sufficient to access health care services, an individual authorized by statute must furnish consent for a health care provider to treat the patient. State law provides that informed consent for health care may be obtained from a member of one of the following classes of persons in the following order of priority:

1. the court-appointed guardian or custodian of the patient, if any;
2. a person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to the dependency and termination of parental rights statutes, if applicable;
3. parents of the minor patient;
4. the individual, if any, to whom the minor's parent has given signed authorization to make health care decisions for the minor patient; or
5. a competent adult representing himself or herself to be a relative responsible for the healthcare of such a minor patient or a competent adult who has signed and dated a declaration under penalty of perjury stating that the adult person is a relative responsible for the health care of the minor patient.

McKinney-Vento Homeless Education Assistance Improvements Act of 2001.

The McKinney-Vento Homeless Assistance Improvements Act of 2001 (Act) is a federal law that increases homeless and unaccompanied youths' access to educational resources. Homeless children under the Act are those who lack a fixed, regular, and adequate nighttime residence. The Act supplies a number of examples that satisfy the definition, including youth living in emergency or transitional shelters, sharing housing due to loss of housing or economic hardship, awaiting foster care placement, or living in cars. The Act requires schools receiving funds under the statute to enroll homeless youth and children, even when required documents and records are not provided. It also requires that schools provide certain services, such as transportation, to homeless youth and requires that each school district have a designated homeless liaison to identify and serve homeless youth.

The Act provides specific services for youth who are both homeless and unaccompanied. Unaccompanied youth are those who are not in the physical custody of a parent or guardian. This includes youth who are residing with a caregiver who is not a legal guardian and youth living on their own.

Summary of Substitute Bill:

A school nurse, counselor, or homeless student liaison may consent to health care services for a patient under the age of 18 when:

- the minor for whom consent is being provided qualifies as a homeless youth under the Act;
- the patient is not under the supervision or control of a parent, custodian, or legal guardian; and
- the health care services are nonemergency, outpatient, primary care services, such as routine physical, dental, hearing, or vision exams, immunizations, treatments for illnesses and conditions, and routine follow-up care, but do not include elective surgery.

A school nurse, counselor, or homeless student liaison and the individual's employing school and school district are not subject to liability for care or payment of care for which consent is provided if the individual providing consent is acting in good faith or the medical care is in the patient's best interest. The individual providing consent must furnish written notice of his or her exemption from liability to the person providing care.

Substitute Bill Compared to Original Bill:

The substitute bill exempts employing school districts, as well as consenting individuals and schools, from liability for care or payment of care for which school nurses, counselors, or homeless student liaisons provide consent. In addition, the substitute bill requires that the consenting individual act in good faith or that the medical care be in the patient's best interest as a condition of exemption from liability.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Current law requires a parent's consent for a person under age 18 to access most health care. Homeless, unaccompanied youth often cannot get consent for ordinary or chronic illnesses, and only when conditions progress to emergencies can these youth receive care. We do not want conditions to progress into an emergency before a minor can get treatment. This bill offers a solution by allowing school nurses, counselors, and homeless student liaisons to give informed consent so the minor can attain very basic healthcare.

Homeless, unaccompanied youth who cannot consent to their own care are denied the opportunity to participate in sports because they cannot obtain consent to the sports physical. Sports are a source of belonging, self-worth, social support, and mentorship, and those things are essential to healthy development. Homeless youth should not be denied access to sports programs that support so many other students.

This bill would allow children who have fallen through the cracks of our foster care system to access medical care. Our foster care system is fractured and does not provide guardianship for all minors removed from parental care. While it would be ideal for minors to be with parents or family members, the reality is that there are homeless, unaccompanied youth who cannot obtain consent from a parent, guardian, or relative and thus cannot access medical care they need.

(Opposed) None.

(Other) This is a good bill but needs minor adjustments. The liability language mentions that the employing school is not liable, and this language should be broadened to release school districts of liability.

Persons Testifying: (In support) Representative McBride, prime sponsor; Representative Caldier; Hillary Madseb, Columbia Legal Services; Kelsey Peronto, Northwest Youth Services; Roxana Parise, Bellingham Public Schools; Liz Trautman, Washington Coalition for Homeless Youth Advocacy; and David Van Wetter.

(Other) Jessica Vavrus, Washington State School Directors Association.

Persons Signed In To Testify But Not Testifying: None.