

HOUSE BILL REPORT

SSB 5883

As Passed House - Amended:

March 3, 2022

Title: An act relating to an unaccompanied homeless youth's ability to provide informed consent for that minor patient's own health care, including nonemergency, outpatient, and primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

Brief Description: Concerning an unaccompanied homeless youth's ability to provide informed consent for that minor patient's own health care, including nonemergency, outpatient, and primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Trudeau, Keiser, Billig, Conway, Hunt, Kuderer, Nguyen, Nobles, Robinson, Saldaña, Van De Wege and Wilson, C.).

Brief History:

Committee Activity:

Children, Youth & Families: 2/16/22, 2/21/22 [DP].

Floor Activity:

Passed House: 3/3/22, 57-41.

Brief Summary of Substitute Bill (As Amended by House)

- Allows an unaccompanied homeless youth (not in the physical custody of a parent or guardian) who is under the age of majority, who is not otherwise authorized to provide informed consent, and is unable to

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obtain informed consent through a school nurse, school counselor, or homeless student liaison, to provide informed consent for nonemergency, outpatient, primary care services.

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Majority Report: Do pass. Signed by 7 members: Representatives Senn, Chair; Harris-Talley, Vice Chair; Rule, Vice Chair; Callan, Goodman, Ortiz-Self and Wicks.

Minority Report: Do not pass. Signed by 6 members: Representatives Dent, Ranking Minority Member; Chase, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Eslick, Klippert and Young.

Staff: Luke Wickham (786-7146).

Background:

Consent for Medical Treatment of a Minor.

Generally, persons under the age of 18 cannot provide consent for their own medical care. There are some exceptions to this general rule if the minor:

- is in need of emergency medical treatment;
- satisfies the requirements of the "mature minor doctrine" established by the court, meaning that the minor has demonstrated the maturity (understanding the consequences of a medical procedure) to provide consent for medical treatment (based on factors including age, intelligence, maturity, training, experience, economic independence, general conduct as an adult, and freedom from the control of parents);
- is seeking family planning services or pregnancy care;
- is emancipated (age 16 or older, having the ability to manage personal financial affairs, and having the ability to manage personal, social, educational, and nonfinancial affairs); or
- is age 13 or older and seeking behavioral health treatment.

If a minor's consent is not sufficient to access health care services, 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:

- the court-appointed guardian or custodian of the minor patient;
- a person authorized by the court, in dependency, at-risk youth, child in need of services, or termination of parental rights proceedings, to consent to medical care for a child in out-of-home placement;
- parents of the minor patient;
- the individual to whom the minor's parent has given signed authorization to make health care decisions for the minor patient; and

- a competent adult representing himself or herself to be a relative responsible for the health care 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.

Informed consent for health care on behalf of a minor patient who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

- consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;
- the minor patient is homeless; and
- the minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the Department of Social and Health Services.

A health care provider may, but is not required to, rely on the representation of a person claiming to be a relative responsible for the care of a minor patient, as long as the health care provider does not have actual notice of the falsity of the statement.

The provider or health care facility may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, but there is no obligation to require such documentation.

Providers and facilities are immune from suit in any action, civil or criminal, or from professional or other disciplinary action, when such reliance is based on a declaration signed under penalty of perjury stating that the adult person is a relative responsible for the health care of the minor patient.

Summary of Amended Bill:

An unaccompanied homeless youth (not in the physical custody of a parent or guardian) who is under the age of majority, who is not otherwise authorized to provide informed consent, and is unable to obtain informed consent through a school nurse, school counselor, or homeless student liaison, may provide informed consent for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

A health care facility or provider may require documentation that the minor patient is an unaccompanied homeless youth. Acceptable documentation includes a written or electronic

statement signed under penalty of perjury by:

- staff at a governmental or nonprofit human services agency or homeless services agency;
- an attorney representing the minor patient; or
- an adult relative of the minor patient or other adult with knowledge of the minor patient and the minor patient's housing situation.

A health care provider may rely on the representations or declaration stating that the patient is an unaccompanied homeless youth if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be authorized to consent to the minor patient's health care.

The health care provider or health care facility where services are provided is immune from suit in any action, and from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury stating that the patient is an unaccompanied homeless youth or is based on the statement of a minor patient regarding the minor patient's housing situation.

A person who provides a statement for documentation that the minor patient is an unaccompanied homeless youth is not subject to administrative sanctions or civil liability for providing documentation in good faith based upon the person's knowledge of the minor patient and the minor patient's housing situation.

Primary care providers, during a visit with an unaccompanied homeless youth who provides informed consent authorized under the bill, must use existing best practices that align with any guidelines developed by the Office of Crime Victims Advocacy and the Commercially Sexually Exploited Children Statewide Coordinating Committee designed to identify:

- whether the unaccompanied homeless youth may be a victim of human trafficking; and
- potential referral to additional services, the Department of Children, Youth, and Families, or law enforcement.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Many providers are not aware of the mature minor doctrine and there is no immunity for providers when providing care in response to the mature minor doctrine. This bill is an important tool for physicians across the state to help provide primary care

services. Physicians encounter situations where kids need glasses or other services, but those cannot be provided because the child is homeless and unaccompanied. There are children who are being trafficked and unable to receive services. Without access to primary care services, children cannot achieve their potential. There are over 13,000 youth across the state who experience homelessness. This bill would help a very specific and narrow group of people like those who leave home who are in danger from an abusive parent. Many of these youth need health care services. There are two laws that are relevant here, but they are not enough. The mature minor doctrine is one avenue, but many providers are not aware of this process. There is a process for homeless youth to obtain informed consent through individuals at the school, but children who are not enrolled in school are not able to access those individuals. Children that are seeking medical care that do not have a parent with them or someone to sign a consent form are not able to receive necessary medical care. It is possible if you have a lawyer and a lot of time to build evidence that you meet the mature minor doctrine requirements for minors to provide their own consent, but most children do not have the time or resources to do so. This bill addresses primary care services, while other statutes address behavioral health or other services. Children were denied COVID-19 testing based on a lack of adequate parental consent.

(Opposed) There is no minimal age limit in this bill and there should be. There is no requirement in the bill that the health care provider obtain documentation indicating that the child is unaccompanied. This bill provides blanket immunity to health care providers. There is a concern that this bill would erode parental rights. The language of this bill is in stark contrast to the surrounding law. Parents are left out of the equation in this bill and no one is required to provide documentation of the circumstances of the youth. This bill could include children who have loving parents that they are in conflict with. Consider families in crisis that endure other having other people entrusted with the ability to consent to the health care treatment of their child.

Persons Testifying: (In support) Senator Yasmin Trudeau, prime sponsor; Cora Breuner, Washington Chapter of the American Academy of Pediatrics; Elizabeth Dawson; Megan Veith, Building Changes; and Liz Trautman, Washington Coalition for Homeless Youth Advocacy.

(Opposed) Julie Barrett and Emily Ling, Conservative Ladies of Washington; and Brad Payne, Family Policy Institute of Washington.

Persons Signed In To Testify But Not Testifying: None.