
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 137 Session of
2003

INTRODUCED BY MOWERY, DENT, EARLL, ERICKSON, HUGHES, LOGAN,
MADIGAN, ORIE, PUNT, RAFFERTY, RHOADES, ROBBINS, TOMLINSON,
WAUGH, M. WHITE AND WOZNIAK, FEBRUARY 3, 2003

SENATE AMENDMENTS TO HOUSE AMENDMENTS, NOVEMBER 9, 2004

AN ACT

1 Amending the act of February 13, 1970 (P.L.19, No.10), entitled
2 "An act enabling certain minors to consent to medical, dental
3 and health services, declaring consent unnecessary under
4 certain circumstances," further providing for consent to
5 treatment; providing for release of medical records ~~and for~~ ←
6 ~~certain court reporting~~; and requiring a report by the
7 Legislative Budget and Finance Committee.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of February 13, 1970 (P.L.19, No.10),
11 entitled "An act enabling certain minors to consent to medical,
12 dental and health services, declaring consent unnecessary under
13 certain circumstances," is amended by adding sections to read:

14 Section 1.1. Mental Health Treatment.--(a) The following
15 shall apply to consent for outpatient treatment:

16 (1) Any minor who is fourteen years of age or older may
17 consent on his or her own behalf to outpatient mental health
18 examination and treatment, and the minor's parent or legal
19 guardian's consent shall not be necessary.

1 (2) A parent or legal guardian of a minor less than eighteen
2 years of age may consent to voluntary outpatient mental health
3 examination or treatment on behalf of the minor, and the minor's
4 consent shall not be necessary.

5 (3) A minor may not abrogate consent provided by a parent or
6 legal guardian on the minor's behalf, nor may a parent or legal
7 guardian abrogate consent given by the minor on his or her own
8 behalf.

9 (b) The following shall apply to consent for inpatient
10 treatment:

11 (1) A minor's parent or legal guardian may consent to
12 voluntary inpatient treatment, pursuant to Article II of the act
13 of July 9, 1976 (P.L.817, No.143), known as the "Mental Health
14 Procedures Act," on behalf of a minor less than eighteen years
15 of age on the recommendation of a physician who has examined the
16 minor. The minor's consent shall not be necessary.

17 (2) Nothing in this section shall be construed as
18 restricting or altering a minor's existing rights, including,
19 but not limited to, those enumerated under the act of July 9,
20 1976 (P.L.817, No.143), known as the "Mental Health Procedures
21 Act," to consent to voluntary inpatient mental health treatment
22 on his or her own behalf at fourteen years of age or older.

23 (3) Nothing in this section shall be construed as
24 restricting or altering a parent or legal guardian's existing
25 rights to object to a minor's voluntary treatment provided
26 pursuant to the minor's consent on his or her own behalf.

27 (4) A minor may not abrogate consent provided by a parent or
28 legal guardian on the minor's behalf, nor may a parent or legal
29 guardian abrogate consent given by the minor on his or her own
30 behalf.

1 (5) A parent or legal guardian who has provided consent to
2 inpatient treatment under paragraph (1) may revoke that consent,
3 which revocation shall be effective unless the minor who is
4 fourteen to eighteen years of age has provided consent for
5 continued inpatient treatment.

6 (6) A minor who is fourteen to eighteen years of age who has
7 provided consent to inpatient treatment may revoke that consent,
8 which revocation shall be effective unless the parent or legal
9 guardian to the minor has provided for continued treatment under
10 paragraph (1).

11 (7) At the time of admission, the director of the admitting
12 facility or his designee shall provide the minor with an
13 explanation of the nature of the mental health treatment in
14 which he may be involved together with a statement of his
15 rights, including the right to object to treatment by filing a
16 petition with the court. If the minor wishes to exercise this
17 right, the director of the facility or his designee shall
18 provide a form for the minor to provide notice of the request
19 for modification or withdrawal from treatment. The director of
20 the facility or his designee shall file the signed petition with
21 the court.

22 (8) Any minor fourteen years of age or older and under
23 eighteen years of age who has been confined for inpatient
24 treatment on the consent of a parent or legal guardian and who
25 objects to continued inpatient treatment may file a petition in
26 the court of common pleas requesting a withdrawal from or
27 modification of treatment. The court shall promptly appoint an
28 attorney for such minor person and schedule a hearing to be held
29 within seventy-two hours following the filing of the petition,
30 unless continued upon the request of the attorney for the minor,

1 by a judge or mental health review officer who shall determine
2 whether or not the voluntary mental health treatment is in the
3 best interest of the minor. For inpatient treatment to continue
4 against the minor's wishes, the court must find all of the
5 following by clear and convincing evidence:

6 (i) that the minor has a diagnosed mental disorder;

7 (ii) that the disorder is treatable;

8 (iii) that the disorder can be treated in the particular
9 facility where the treatment is taking place; and

10 (iv) that the proposed inpatient treatment setting
11 represents the least restrictive alternative that is medically
12 appropriate.

13 (9) A minor ordered to undergo treatment due to a
14 determination under paragraph (8) shall remain and receive
15 inpatient treatment at the treatment setting designated by the
16 court for a period of up to twenty days. The minor shall be
17 discharged whenever the attending physician determines that the
18 minor no longer is in need of treatment, consent to treatment
19 has been revoked under paragraph (5) or at the end of the time
20 period of the order, whichever occurs first. If the attending
21 physician determines continued inpatient treatment will be
22 necessary at the end of the time period of the order and the
23 minor does not consent to continued inpatient treatment, prior
24 to the end of the time period of the order, the court shall
25 conduct a review hearing in accordance with this subsection to
26 determine whether to:

27 (i) release the minor; or

28 (ii) make a subsequent order for inpatient mental health
29 treatment for a period not to exceed sixty days subject to
30 discharge of the minor whenever the attending physician

1 determines that the minor no longer is in need of treatment, or
2 if consent has been revoked under paragraph (5).

3 (10) The procedure for a sixty-day period of treatment under
4 paragraph (9)(ii) shall be repeated until the court determines
5 to release the minor or the minor is discharged in accordance
6 with paragraph (9).

7 (11) Nothing in this subsection shall prevent a
8 nonconsenting parent who has legal custody rights of a minor
9 child to object to the consent given by the other parent to
10 inpatient treatment under paragraph (1) by filing a petition in
11 a court of common pleas in the county where the child resides.
12 The court shall hold a hearing on the objection within seventy-
13 two hours of the filing of the petition.

14 (c) Nothing in subsections (a) and (b) is intended to
15 restrict the rights of a minor who satisfies the conditions of
16 section 1.

17 (d) As used in this section, the following words and phrases
18 shall have the meanings given to them in this subsection:

19 "Court of common pleas" means the court of common pleas in
20 the county where the subject of the proceeding is being treated.

21 "Facility" means any mental health establishment, hospital,
22 clinic, institution, center, day-care center, base service unit,
23 community mental health center, or part thereof, that provides
24 for the diagnosis, treatment, care or rehabilitation of mentally
25 ill persons.

26 "Inpatient treatment" means all mental health treatment that
27 requires full-time or part-time residence in a facility that
28 provides mental health treatment.

29 "Mental health treatment" means a course of treatment,
30 including evaluation, diagnosis, therapy and rehabilitation,

1 designed and administered to alleviate an individual's pain and
2 distress and to maximize the probability of recovery from mental
3 illness. The term also includes care and other services which
4 supplement treatment and aid or promote recovery.

5 Section 1.2. Release of Medical Records.--(A) When a parent <—
6 or legal guardian has consented to treatment of a minor fourteen
7 years of age or older under section 1.1(a)(2) or (b)(1), the
8 following shall apply to release of the minor's medical records
9 and information:

10 (1) The parent or legal guardian may consent to release of
11 the minor's medical records and information, including, but not <—
12 limited to, records of prior mental health treatment FOR WHICH <—
13 THE PARENT OR LEGAL GUARDIAN HAD PROVIDED CONSENT, to the
14 minor's mental health treatment providers. If deemed pertinent <—
15 by the minor's mental health treatment providers, such release
16 may also include records of prior mental health treatment for
17 MINOR'S CURRENT MENTAL HEALTH TREATMENT PROVIDER. <—

18 (2) IF DEEMED PERTINENT BY THE MINOR'S CURRENT MENTAL HEALTH
19 TREATMENT PROVIDER, THE RELEASE OF INFORMATION UNDER THIS
20 SUBSECTION MAY INCLUDE A MINOR'S MENTAL HEALTH RECORDS AND
21 INFORMATION FROM PRIOR MENTAL HEALTH TREATMENT FOR which the
22 minor had provided consent to treatment. Release of mental <—
23 health records and information shall be limited to release
24 directly from one provider of mental health treatment to
25 another.

26 ~~(2)~~ (3) The parent or legal guardian may consent to the <—
27 release of the minor's mental health records and information to
28 the primary care provider, and those records shall be provided <—
29 if, in the judgment of the minor's CURRENT mental health <—
30 treatment provider, such transfer would not be detrimental to <—

1 ~~the minor. Release of the mental health records and information~~
2 ~~shall be limited to~~ SUCH RELEASE WOULD NOT BE DETRIMENTAL TO THE <—
3 MINOR.

4 (B) RELEASE OF MENTAL HEALTH RECORDS AND INFORMATION UNDER
5 SUBSECTION (A) SHALL BE LIMITED TO release directly from the ONE <—
6 provider of mental health treatment ~~or the facility~~ TO ANOTHER <—
7 OR FROM THE PROVIDER OF MENTAL HEALTH TREATMENT to the primary
8 care provider.

9 ~~(3)~~ (C) The parent or legal guardian WHO IS PROVIDING <—
10 CONSENT TO MENTAL HEALTH TREATMENT OF A MINOR FOURTEEN YEARS OF
11 AGE OR OLDER UNDER SECTION 1.1(A)(2) OR (B)(1) shall have the
12 right to information necessary for providing consent to the
13 minor's mental health treatment, including, ~~but not limited to,~~ <—
14 ~~the symptoms and conditions to be treated, medications and other~~
15 ~~treatments to be provided, risks and benefits and expected~~
16 ~~results.~~

17 ~~(4) Except to the extent set forth in paragraphs (1), (2)~~ <—
18 ~~and (3),~~

19 (D) EXCEPT TO THE EXTENT SET FORTH IN SUBSECTION (A), (B) OR <—
20 (C), the minor shall control the release of the minor's mental
21 health treatment records and information to the extent allowed <—
22 by law. ~~Consent to release of mental health records for all~~
23 ~~purposes and in all circumstances other than those provided for~~
24 ~~in paragraphs (1), (2) and (3) shall be subject to the~~
25 ~~provisions of the act of July 9, 1976 (P.L.817, No.143), known~~
26 ~~as the "Mental Health Procedures Act," and other applicable~~
27 ~~Federal and State statutes and regulations. Subject to the~~
28 ~~provisions of paragraph (1), when a minor has provided consent~~
29 ALLOWED BY LAW. WHEN A MINOR HAS PROVIDED CONSENT to outpatient <—
30 mental health treatment under section 1.1(a)(1), SUBJECT TO <—

1 SUBSECTION (A)(2), the minor shall control the records of
2 treatment to the same extent as the minor would control the
3 records of inpatient care or involuntary inpatient OUTPATIENT <—
4 care under the "Mental Health Procedures Act" and its
5 regulations.

6 (E) CONSENT TO RELEASE OF MENTAL HEALTH RECORDS FOR ALL <—
7 PURPOSES AND IN ALL CIRCUMSTANCES OTHER THAN THOSE PROVIDED FOR
8 IN THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF THE ACT OF
9 JULY 9, 1976 (P.L.817, NO.143), KNOWN AS THE "MENTAL HEALTH
10 PROCEDURES ACT," AND OTHER APPLICABLE FEDERAL AND STATE STATUTES
11 AND REGULATIONS.

12 Section 1.3. Court Reporting. (a) Each court of common <—
13 pleas shall report annually to the Administrative Office of
14 Pennsylvania Courts the number of:

15 (1) Petitions filed under section 1.1(b)(7).

16 (2) Petitions resulting in minors ordered to undergo
17 treatment.

18 (3) Subsequent treatment period ordered per minor.

19 (b) The Administrative Office of Pennsylvania Courts shall
20 compile the figures reported under this section and report its
21 findings, within sixty days of the receipt of the last report,
22 to the Judiciary Committee and the Public Health and Welfare
23 Committee of the Senate and the Judiciary Committee and the
24 Health and Human Services Committee of the House of
25 Representatives.

26 (c) This section shall expire March 1, 2005.

27 Section 2. Within 12 months following NO LATER THAN 12 <—
28 MONTHS FROM the effective date of this act, the Legislative
29 Budget and Finance Committee shall prepare a report on the
30 mental health system for children and youth in this

1 Commonwealth. The report shall evaluate the continuum of mental
2 health services for children and their families and include a
3 review of the availability of community-based outpatient and
4 inpatient mental health services across this Commonwealth;
5 statistical information on the number of children needing mental
6 health services; A SURVEY OF THE NUMBER OF PETITIONS FILED UNDER ←
7 SECTION 1.1(B)(7) AND (8) OF THE ACT, INCLUDING AN ASSESSMENT OF
8 THOSE PETITIONS RESULTING IN TREATMENT OR CONTINUED TREATMENT
9 AND THE ORDERED TREATMENT PERIOD; the timeliness and extent of
10 services; costs for various types of mental health services for
11 children and youth; the extent to which public and private
12 health insurance, including medical assistance, provides
13 coverage for different mental health treatment and services;
14 gaps in mental health services for children and youth; and the
15 impact and effectiveness of this act in respect to providing
16 mental health treatment for children and youth. The Legislative
17 Budget and Finance Committee shall report its findings and
18 recommendations to the Judiciary Committee and the Public Health
19 and Welfare Committee of the Senate and TO the Judiciary ←
20 Committee and the Health and Human Services Committee of the
21 House of Representatives.

22 Section 3. This act shall take effect in 60 days.