

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 672

PRINTER NO. 2004

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 1, 2019

PRIME SPONSOR

Representative Ortitay

DESCRIPTION AND PURPOSE OF BILL

House Bill 672 amends Act 10 of 1970 to revise provisions regarding consent to services for minors related to mental health treatment.

House Bill 672 revises Section 1.1 (Mental Health Treatment) and Section 1.2 (Release of Medical Records).

Section 1.1 - Mental Health Treatment

House Bill 672 applies the following to consent for voluntary inpatient and outpatient mental health treatment:

- A parent or legal guardian of a minor less than 18 years of age may consent to voluntary inpatient or outpatient mental health treatment on behalf of the minor and the minor's consent is not required;
- A minor who is 14 years of age or older may consent to voluntary inpatient or outpatient mental health treatment and the parent or legal guardian's consent is not required;
- A minor or another parent or legal guardian may not abrogate consent provided by a parent or legal guardian on behalf of the minor nor may a parent or legal guardian abrogate consent given by a minor on their own behalf;
- A parent or legal guardian who has provided consent to voluntary inpatient or outpatient mental health treatment may revoke that consent, unless the minor agrees to continued treatment;
- A minor who is 14 to 18 years of age who has provided consent to voluntary inpatient or outpatient mental health treatment may revoke that consent, unless the parent or legal guardian provides for continued treatment;
- At the time of admission, the minor must be provided with an explanation of the mental health treatment and the minor's rights, including the right to object to treatment at any time by filing a petition with the court;

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

- When a petition is filed on behalf of a minor who objects to continued inpatient treatment, the court shall promptly appoint an attorney for the minor and schedule a hearing within 72 hours of the petition filing to determine if the treatment is in the minor's best interest. To continue inpatient treatment against the minor's wishes, the court must find all of the following:
 - The minor has a diagnosed mental disorder; the disorder is treatable; the disorder can be treated in the particular facility where treatment is taking place; and the proposed inpatient treatment setting represents the least restrictive alternative that is medically appropriate.
- A minor ordered to remain in treatment by the court must remain and receive inpatient treatment at the treatment setting designated by the court for a period of up to 20 days, unless the attending physician determines treatment is no longer needed or the parent or legal guardian revokes consent:
 - If the attending physician determines continued treatment is needed at the end of the time period of the order and the minor does not consent, the court shall conduct a review hearing to determine whether to release the minor or make a subsequent order for treatment not to exceed 60 days subject to discharge of the minor whenever the attending physician determines treatment is no longer needed or the parent or legal guardian revokes consent.
- The procedure for a 60-day period of treatment is repeated until the court determines to release the minor, the attending physician determines treatment is no longer needed or the parent or legal guardian revokes consent; and
- A nonconsenting parent who has legal custody rights of a minor child may object to consent given by the other parent to inpatient treatment by filing a petition in the Court of Common Pleas in the county where the minor resides, and a hearing must be held within 72 hours.

Section 1.2 - Release of Medical Records

The bill applies the following to the release of a minor's medical records and information when a parent or legal guardian has consented to voluntary inpatient or outpatient mental health treatment of a minor:

- The parent or legal guardian may consent to release of the minor's medical records and information, including records of prior mental health treatment for which the parent or legal guardian had provided consent, to the minor's current mental health treatment provider;
- If deemed pertinent by the minor's current mental health treatment provider, the release of information may also include a minor's mental health records and information from a prior mental health treatment for which the minor had provided consent to treatment; and
- The parent or legal guardian may consent to the release of the minor's mental health records and information to the primary care provider if, in the judgment of the minor's current mental health provider, the release would not be detrimental to the minor.

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

House Bill 672 limits the release of mental health records and information to be only from one provider of mental health treatment to another or from the provider of mental health treatment to the primary care provider.

The bill provides that the parent or legal guardian who provides consent to voluntary inpatient or outpatient mental health treatment has the right to information necessary for providing consent to the minor's mental health treatment, including symptoms and conditions to be treated, medications and other treatments to be provided, risks and benefits and expected results.

Except as provided above, the minor will still control the release of the minor's mental health treatment records and information to the extent allowed by law.

The bill provides that the consent to release of mental health records for all purposes and in all circumstances other than those provided for are subject to the provision of Act 143 of 1976, also known as the "Mental Health Procedures Act," and other applicable federal and state statutes and regulations.

This act shall take effect in 60 days.

FISCAL IMPACT:

House Bill 672 will have no fiscal impact to the Commonwealth. The bill codifies the joint bulletin issued by the Department of Human Services and Department of Health, Consent to Mental Health Treatment For Minor Children (OMHSAS - 18-01) and clarifies language of Act 10 of 1970. Because the bill is providing clarification and codifying the age of consent bulletin, no anticipated impact on the number of individuals receiving mental health services or the length of service is expected.