

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 672 Session of 2019

INTRODUCED BY ORTITAY, HAHN, SNYDER, RYAN, PICKETT, BROWN, PYLE, DUNBAR, GROVE, LONGIETTI, KIRKLAND, DIGIROLAMO, BERNSTINE, MILLARD, MASSER, B. MILLER, NEILSON, SCHLEGEL CULVER, MIZGORSKI, DeLUCA AND KEEFER, MARCH 1, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 4, 2019

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 mental health
5 treatment and for release of medical records.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 1.1 and 1.2 of the act of February 13,
9 1970 (P.L.19, No.10), entitled "An act enabling certain minors
10 to consent to medical, dental and health services, declaring
11 consent unnecessary under certain circumstances," are amended to
12 read:

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

15 (1) Any minor who is fourteen years of age or older may
16 consent on his or her own behalf to outpatient mental health
17 examination and treatment, and the minor's parent's or legal
18 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 "Mental Health  
20 Procedures Act," to consent to voluntary inpatient mental health  
21 treatment on his or her own behalf at fourteen years of age or  
22 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 to  
24 the end of the time period of the order, the court shall conduct  
25 a review hearing in accordance with this subsection to determine  
26 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.] The following  
5 shall apply to consent for voluntary inpatient and outpatient  
6 mental health treatment:

7 (1) A parent or legal guardian of a minor less than eighteen  
8 years of age may consent to voluntary inpatient mental health  
9 treatment under Article II of the act of July 9, 1976 (P.L.817,  
10 No.143), known as the "Mental Health Procedures Act," if  
11 inpatient mental health treatment is determined to be necessary  
12 by a physician, licensed clinical psychologist or other mental  
13 health professional or outpatient mental health treatment on  
14 behalf of the minor, and the minor's consent shall not be  
15 necessary. An initial determination that inpatient mental health  
16 treatment of a minor is necessary under this paragraph shall be  
17 independent of the requirements of section 205 of the "Mental  
18 Health Procedures Act."

19 (2) A minor who is fourteen years of age or older may  
20 consent on the minor's own behalf to voluntary inpatient mental  
21 health treatment as provided under Article II of the "Mental  
22 Health Procedures Act" or outpatient mental health treatment,  
23 and the minor's parent's or legal guardian's consent shall not  
24 be necessary.

25 (3) A minor OR ANOTHER PARENT OR LEGAL GUARDIAN may not <--  
26 abrogate consent provided by a parent or legal guardian on the  
27 minor's behalf to voluntary inpatient or outpatient mental  
28 health treatment under paragraph (1), NOR MAY A PARENT OR LEGAL <--  
29 GUARDIAN ABROGATE CONSENT GIVEN BY THE MINOR ON THE MINOR'S OWN  
30 BEHALF.

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

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

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

23 (7) A WHEN A PETITION IS FILED ON BEHALF OF A minor fourteen <--  
24 years of age or older and under eighteen years of age who has  
25 been confined for inpatient treatment on the consent of a parent  
26 or legal guardian and who objects to continued inpatient  
27 treatment may file a petition in the court of common pleas BY <--  
28 requesting a withdrawal from or modification of treatment. The, <--  
29 THE court shall promptly appoint an attorney for the minor and  
30 schedule a hearing to be held within seventy-two hours following

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

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

9 (ii) that the disorder is treatable;

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

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

15 (8) A MINOR ORDERED TO UNDERGO TREATMENT DUE TO A <--  
16 DETERMINATION UNDER PARAGRAPH (7) SHALL REMAIN AND RECEIVE  
17 INPATIENT TREATMENT AT THE TREATMENT SETTING DESIGNATED BY THE  
18 COURT FOR A PERIOD OF UP TO TWENTY DAYS. THE MINOR SHALL BE  
19 DISCHARGED WHENEVER THE ATTENDING PHYSICIAN DETERMINES THAT THE  
20 MINOR NO LONGER IS IN NEED OF TREATMENT, CONSENT TO TREATMENT  
21 HAS BEEN REVOKED UNDER PARAGRAPH (4) OR AT THE END OF THE TIME  
22 PERIOD OF THE ORDER, WHICHEVER OCCURS FIRST. IF THE ATTENDING  
23 PHYSICIAN DETERMINES CONTINUED INPATIENT TREATMENT WILL BE  
24 NECESSARY AT THE END OF THE TIME PERIOD OF THE ORDER AND THE  
25 MINOR DOES NOT CONSENT TO CONTINUED INPATIENT TREATMENT PRIOR TO  
26 THE END OF THE TIME PERIOD OF THE ORDER, THE COURT SHALL CONDUCT  
27 A REVIEW HEARING IN ACCORDANCE WITH THIS SUBSECTION TO DETERMINE  
28 WHETHER TO:

29 (I) RELEASE THE MINOR; OR

30 (II) MAKE A SUBSEQUENT ORDER FOR INPATIENT MENTAL HEALTH



1 TREATMENT FOR A PERIOD NOT TO EXCEED SIXTY DAYS SUBJECT TO  
2 DISCHARGE OF THE MINOR WHENEVER THE ATTENDING PHYSICIAN  
3 DETERMINES THAT THE MINOR NO LONGER IS IN NEED OF TREATMENT, OR  
4 IF CONSENT HAS BEEN REVOKED UNDER PARAGRAPH (4).

5 (9) THE PROCEDURE FOR A SIXTY-DAY PERIOD OF TREATMENT UNDER  
6 PARAGRAPH (8) (II) SHALL BE REPEATED UNTIL THE COURT DETERMINES  
7 TO RELEASE THE MINOR OR THE MINOR IS DISCHARGED IN ACCORDANCE  
8 WITH PARAGRAPH (8).

9 (10) NOTHING IN THIS SUBSECTION SHALL PREVENT A  
10 NONCONSENTING PARENT WHO HAS LEGAL CUSTODY RIGHTS OF A MINOR  
11 CHILD TO OBJECT TO THE CONSENT GIVEN BY THE OTHER PARENT TO  
12 INPATIENT TREATMENT UNDER PARAGRAPH (1) BY FILING A PETITION IN  
13 A COURT OF COMMON PLEAS IN THE COUNTY WHERE THE MINOR RESIDES.  
14 THE COURT SHALL HOLD A HEARING ON THE OBJECTION WITHIN SEVENTY-  
15 TWO HOURS OF THE FILING OF THE PETITION.

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

18 "Facility" means any mental health establishment, hospital,  
19 clinic, institution, center, day-care center, base service unit,  
20 community mental health center, or part thereof, that provides  
21 for the diagnosis, treatment, care or rehabilitation of persons  
22 with mental illness.

23 "Inpatient treatment" means all mental health treatment that  
24 requires full-time or part-time residence in a facility that  
25 provides mental health treatment.

26 "Mental health treatment" means a course of treatment,  
27 including evaluation, diagnosis, therapy and rehabilitation,  
28 designed and administered to alleviate an individual's pain and  
29 distress and to maximize the probability of recovery from mental  
30 illness. The term also includes care and other services which

1 supplement treatment and aid or promote recovery.

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

7 (1) The parent or legal guardian may consent to release of  
8 the minor's medical records and information, including records  
9 of prior mental health treatment for which the parent or legal  
10 guardian had provided consent, to the minor's current mental  
11 health treatment provider.

12 (2) If deemed pertinent by the minor's current mental health  
13 treatment provider, the release of information under this  
14 subsection may include a minor's mental health records and  
15 information from prior mental health treatment for which the  
16 minor had provided consent to treatment.

17 (3) The parent or legal guardian may consent to the release  
18 of the minor's mental health records and information to the  
19 primary care provider if, in the judgment of the minor's current  
20 mental health treatment provider, such release would not be  
21 detrimental to the minor.

22 (b) Release of mental health records and information under  
23 subsection (a) shall be limited to release directly from one  
24 provider of mental health treatment to another or from the  
25 provider of mental health treatment to the primary care  
26 provider.

27 (c) The parent or legal guardian who is providing consent to  
28 mental health treatment of a minor fourteen years of age or  
29 older under section 1.1(a)(2) or (b)(1) shall have the right to  
30 information necessary for providing consent to the minor's

1 mental health treatment, including symptoms and conditions to be  
2 treated, medications and other treatments to be provided, risks  
3 and benefits and expected results.

4 (d) Except to the extent set forth in subsection (a), (b) or  
5 (c), the minor shall control the release of the minor's mental  
6 health treatment records and information to the extent allowed  
7 by law. When a minor has provided consent to outpatient mental  
8 health treatment under section 1.1(a)(1), subject to subsection  
9 (a)(2), the minor shall control the records of treatment to the  
10 same extent as the minor would control the records of inpatient  
11 care or involuntary outpatient care under the act of July 9,  
12 1976 (P.L.817, No.143), known as the "Mental Health Procedures  
13 Act," and its regulations.

14 (e) Consent to release of mental health records for all  
15 purposes and in all circumstances other than those provided for  
16 in this section shall be subject to the provisions of the  
17 "Mental Health Procedures Act" and other applicable Federal and  
18 State statutes and regulations.] When a parent or legal guardian  
19 has consented to voluntary inpatient or outpatient mental health  
20 treatment of a minor under section 1.1, the following shall  
21 apply to release of the minor's medical records and information:

22 (1) The parent or legal guardian may consent to release of  
23 the minor's medical records and information, including records  
24 of prior mental health treatment for which the parent or legal  
25 guardian had provided consent, to the minor's current mental  
26 health treatment provider.

27 (2) If deemed pertinent by the minor's current mental health  
28 treatment provider, the release of information under this  
29 subsection may include a minor's mental health records and  
30 information from prior mental health treatment for which the

1 minor had provided consent to treatment.

2 (3) The parent or legal guardian may consent to the release  
3 of the minor's mental health records and information to the  
4 primary care provider if, in the judgment of the minor's current  
5 mental health treatment provider, the release would not be  
6 detrimental to the minor.

7 (b) Release of mental health records and information under  
8 subsection (a) shall be limited to release directly from one  
9 provider of mental health treatment to another or from the  
10 provider of mental health treatment to the primary care  
11 provider.

12 (c) The parent or legal guardian who is providing consent to  
13 voluntary inpatient or outpatient mental health treatment of a  
14 minor under section 1.1 shall have the right to information  
15 necessary for providing consent to the minor's mental health  
16 treatment, including symptoms and conditions to be treated,  
17 medications and other treatments to be provided, risks and  
18 benefits and expected results.

19 (d) Except to the extent provided 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. When a minor has provided consent to outpatient mental  
23 health treatment under section 1.1, subject to subsection (a)  
24 (2), the minor shall control the records of treatment to the  
25 same extent as the minor would control the records of inpatient  
26 care or involuntary outpatient care under the act of July 9,  
27 1976 (P.L.817, No.143), known as the "Mental Health Procedures  
28 Act," and its regulations.

29 (e) Consent to release of mental health records for all  
30 purposes and in all circumstances other than those provided for

1 in this section shall be subject to the provisions of the  
2 "Mental Health Procedures Act" and other applicable Federal and  
3 State statutes and regulations.

4 Section 2. This act shall take effect in 60 days.