

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1725 Session of
2023

INTRODUCED BY BOROWICZ, LEADBETER, BERNSTINE, PICKETT,
M. MACKENZIE, WARNER, KAUFFMAN, HAMM, STAATS, SCIALABBA,
MOUL, FINK, KEEFER, ZIMMERMAN AND JOZWIAK, SEPTEMBER 27, 2023

REFERRED TO COMMITTEE ON HEALTH, SEPTEMBER 27, 2023

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 individual
5 consent, for mental health treatment and for release of
6 medical records; and providing for parent or legal guardian
7 access to medical records.

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

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

15 Section 1. Individual Consent.--Any minor who is eighteen
16 years of age or older[, or has graduated from high school, or
17 has married, or has been pregnant,] may give effective consent
18 to medical, dental and health services for himself or herself,
19 and the consent of no other person shall be necessary.

20 Section 1.1. Mental Health Treatment.--(a) The following

1 shall apply to consent for voluntary inpatient and outpatient
2 mental health treatment:

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

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

21 (3) A minor or another parent or legal guardian may not
22 abrogate consent provided by a parent or legal guardian on the
23 minor's behalf to voluntary inpatient or outpatient mental
24 health treatment under paragraph (1), nor may a parent or legal
25 guardian abrogate consent given by the minor on the minor's own
26 behalf to voluntary inpatient or outpatient mental health
27 treatment under paragraph (2).

28 (4) A parent or legal guardian who has provided consent to
29 voluntary inpatient or outpatient mental health treatment under
30 paragraph (1) may revoke that consent, which revocation shall be

1 effective unless the minor who is [fourteen to] eighteen years
2 of age or older has provided consent for continued voluntary
3 inpatient or outpatient mental health treatment.

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

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

21 (7) When a petition is filed on behalf of a minor [fourteen
22 years of age or older and] under eighteen years of age who has
23 been confined for inpatient treatment on the consent of a parent
24 or legal guardian and who objects to continued inpatient
25 treatment by requesting a withdrawal from or modification of
26 treatment, the court shall promptly appoint an attorney for the
27 minor and schedule a hearing to be held within seventy-two hours
28 following the filing of the petition, unless continued upon the
29 request of the attorney for the minor, by a judge or mental
30 health review officer who shall determine whether or not the

1 voluntary mental health treatment is in the best interest of the
2 minor. For inpatient treatment to continue against the minor's
3 wishes, the court must find all of the following by clear and
4 convincing evidence:

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

6 (ii) that the disorder is treatable;

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

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

12 (8) A minor ordered to undergo treatment due to a
13 determination under paragraph (7) shall remain and receive
14 inpatient treatment at the treatment setting designated by the
15 court for a period of up to twenty days. The minor shall be
16 discharged whenever the attending physician determines that the
17 minor no longer is in need of treatment, consent to treatment
18 has been revoked under paragraph (4) or at the end of the time
19 period of the order, whichever occurs first. If the attending
20 physician determines continued inpatient treatment will be
21 necessary at the end of the time period of the order and the
22 minor does not consent to continued inpatient treatment prior to
23 the end of the time period of the order, the court shall conduct
24 a review hearing in accordance with this subsection to determine
25 whether to:

26 (i) release the minor; or

27 (ii) make a subsequent order for inpatient mental health
28 treatment for a period not to exceed sixty days subject to
29 discharge of the minor whenever the attending physician
30 determines that the minor no longer is in need of treatment, or

1 if consent has been revoked under paragraph (4).

2 (9) The procedure for a sixty-day period of treatment under
3 paragraph (8)(ii) shall be repeated until the court determines
4 to release the minor or the minor is discharged in accordance
5 with paragraph (8).

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

13 * * *

14 Section 1.2. Release of Medical Records.--* * *

15 (d) Except to the extent provided under subsection (a), (b)
16 or (c) or section 1.3, the minor shall control the release of
17 the minor's mental health treatment records and information to
18 the extent allowed by law. When a minor has provided consent to
19 outpatient mental health treatment under section 1.1, subject to
20 subsection (a)(2), the minor shall control the records of
21 treatment to the same extent as the minor would control the
22 records of inpatient care or involuntary outpatient care under
23 the act of July 9, 1976 (P.L.817, No.143), known as the "Mental
24 Health Procedures Act," and its regulations.

25 * * *

26 Section 2. The act is amended by adding a section to read:

27 Section 1.3. Parent or Legal Guardian Access to Medical
28 Records.--Notwithstanding any other provision of law, a parent
29 or legal guardian of a minor under eighteen years of age shall
30 have full access to the minor's medical, dental or health

1 services or mental health treatment records.

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