

HOUSE BILL 782

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CF SB 611

By: **Delegate Bagnall**

Introduced and read first time: January 31, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Mental and Emotional Disorders – Consent**
3 **(Mental Health Access Initiative)**

4 FOR the purpose of providing that all minors, rather than only minors who are a certain
5 age or older, have the same capacity as an adult to consent to consultation, diagnosis,
6 and treatment of a mental or emotional disorder by a health care provider or clinic;
7 providing that a health care provider may decide to provide certain information to a
8 certain parent, guardian, or custodian under certain provisions of law unless the
9 health care provider believes that the disclosure will lead to harm to the minor or
10 deter the minor from seeking care; and generally relating to the consultation,
11 diagnosis, and treatment of mental and emotional disorders and consent by minors.

12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 20–104
15 Annotated Code of Maryland
16 (2019 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Health – General**

20 20–104.

21 (a) In this section, “health care provider” means an individual who is:

22 (1) Licensed under the Health Occupations Article; and

23 (2) Acting within the scope of the individual’s license to diagnose and treat
24 mental and emotional disorders.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) A minor [who is 16 years old or older] has the same capacity as an adult
2 to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a
3 health care provider or a clinic.

4 (2) The capacity of a minor to consent to consultation, diagnosis, and
5 treatment of a mental or emotional disorder by a health care provider or a clinic under
6 paragraph (1) of this subsection does not include the capacity to refuse consultation,
7 diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or
8 custodian of the minor has given consent.

9 (c) (1) Except as provided in paragraph (2) of this subsection **AND SUBJECT**
10 **TO PARAGRAPH (3) OF THIS SUBSECTION**, without the consent of or over the express
11 objection of a minor, the health care provider or, on advice or direction of the health care
12 provider, a member of the medical staff of a hospital or public clinic may, but need not, give
13 a parent, guardian, or custodian of the minor or the spouse of the parent information about
14 treatment needed by the minor or provided to the minor under this section.

15 (2) **[If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF** a health
16 care provider is on a treatment team for a minor that is headed by a physician, the
17 physician heading the treatment team shall decide whether a parent, guardian, or
18 custodian of the minor or the spouse of the parent should receive information about
19 treatment needed by the minor or provided to the minor under this section.

20 **(3) A HEALTH CARE PROVIDER MAY DECIDE TO PROVIDE**
21 **INFORMATION TO A PARENT, GUARDIAN, OR CUSTODIAN OF A MINOR UNDER**
22 **PARAGRAPHS (1) AND (2) OF THIS SUBSECTION UNLESS THE HEALTH CARE**
23 **PROVIDER BELIEVES THAT THE DISCLOSURE WILL LEAD TO HARM TO THE MINOR OR**
24 **DETER THE MINOR FROM SEEKING CARE.**

25 (d) Unless the parent, guardian, or custodian of a minor consents to consultation,
26 diagnosis, or treatment of the minor, the parent, guardian, or custodian is not liable for any
27 costs of the consultation, diagnosis, or treatment of the minor under this section.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2020.