
By: Delegate O'Donnell

Introduced and read first time: February 5, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Minors - Treatment - Capacity to Consent**

3 FOR the purpose of altering a certain condition under which a minor has the same
4 capacity as an adult to consent to medical treatment; repealing certain authority
5 concerning the capacity of a minor to consent as an adult to certain types of
6 treatment; providing that the capacity of a minor to consent to treatment for drug
7 abuse or alcoholism does not include the capacity to refuse this type of treatment
8 under certain circumstances; repealing a certain immunity from liability provided to
9 physicians and certain other individuals who treat minors for certain health-related
10 problems; and generally relating to the treatment of minors.

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 20-102
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1996 Supplement)

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

18 **Article - Health - General**

19 20-102.

20 (a) A minor has the same capacity as an adult to consent to medical treatment if
21 the minor:

22 (1) Is married; or

23 (2) Is the parent of a child.

24 (b) A minor has the same capacity as an adult to consent to medical treatment if,
25 in the judgment of the attending physician, the IMMEDIATE life or health of the minor
26 would be affected adversely by delaying treatment to obtain the consent of [another
27 individual] THE PARENT, GUARDIAN, OR CUSTODIAN OF THE MINOR.

28 (c) A minor has the same capacity as an adult to consent to:

29 [(1) Treatment for or advice about drug abuse;

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1 (2) Treatment for or advice about alcoholism;

2 (3) Treatment for or advice about venereal disease;

3 (4) Treatment for or advice about pregnancy;

4 (5) Treatment for or advice about contraception other than sterilization;]

5 [(6)] (1) Physical examination and treatment of injuries from an alleged
6 rape or sexual offense;

7 [(7)] (2) Physical examination to obtain evidence of an alleged rape or
8 sexual offense; and

9 [(8)] (3) Initial medical screening and physical examination on and after
10 admission of the minor into a detention center.

11 (c-1) The capacity of a minor to consent to treatment for drug abuse or alcoholism
12 under subsection [(c)(1) or (2)] (B) of this section does not include the capacity to refuse
13 treatment for drug abuse or alcoholism in an inpatient alcohol or drug abuse treatment
14 program certified under Title 8 of this article for which a parent or guardian has given
15 consent.

16 (d)[A physician or an individual under the direction of a physician who treats a
17 minor is not liable for civil damages or subject to any criminal or disciplinary penalty
18 solely because the minor did not have capacity to consent under this section.

19 (e)] Without the consent of or over the express objection of a minor, the attending
20 physician or, on advice or direction of the attending physician, a member of the medical
21 staff of a hospital or public clinic may, but need not, give a parent, guardian, or custodian
22 of the minor or the spouse of the parent information about treatment needed by the
23 minor or provided to the minor under this section[, except information about an
24 abortion].

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1997.