
By: **Senator Hollinger**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Refusal of Medical Treatment by Minors**

3 FOR the purpose of limiting the authority of a minor to refuse medical treatment
4 when the refusal may result in death or long-term impairment; authorizing a
5 minor's attending physician to make a certain certification about the refusal of
6 medical treatment by a minor; authorizing certain physicians to make a certain
7 certification about the capacity of a minor to refuse medical treatment;
8 authorizing consent to medical treatment to be made for a minor under certain
9 circumstances; providing for court appointment of a guardian of the person of a
10 minor under certain circumstances; and generally relating to refusal of medical
11 treatment by a minor when the refusal may result in death or long-term
12 impairment.

13 BY adding to
14 Article - Health - General
15 Section 20-105
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

18 BY adding to
19 Article - Estates and Trusts
20 Section 13-702.1
21 Annotated Code of Maryland
22 (1991 Replacement Volume and 1997 Supplement)

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

25 **Article - Health - General**

26 20-105.

27 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
28 CAPACITY OF A MINOR TO CONSENT TO MEDICAL TREATMENT UNDER THIS PART I OF

1 THIS SUBTITLE DOES NOT INCLUDE THE CAPACITY TO REFUSE TREATMENT OF A
2 MEDICAL CONDITION IF THE ATTENDING PHYSICIAN OF A MINOR HAS CERTIFIED
3 THAT, TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, THE REFUSAL MAY
4 RESULT IN THE DEATH OR LONG-TERM IMPAIRMENT OF THE MINOR.

5 (B) A MINOR MAY REFUSE MEDICAL TREATMENT DESCRIBED IN SUBSECTION
6 (A) OF THIS SECTION IF THE ATTENDING PHYSICIAN OF THE MINOR AND ONE
7 ADDITIONAL PHYSICIAN CERTIFY THAT, IN THEIR OPINION, THE MINOR HAS
8 SUFFICIENT MATURITY AND CAPACITY TO MAKE AN INFORMED DECISION
9 CONCERNING THE TREATMENT, INCLUDING THE ABILITY TO APPRECIATE THE RISKS
10 AND CONSEQUENCES OF THE REFUSAL OF TREATMENT.

11 (C) IF A MINOR LACKS THE CAPACITY TO REFUSE MEDICAL TREATMENT
12 DESCRIBED IN SUBSECTION (A) OF THIS SECTION, CONSENT FOR THE TREATMENT
13 MAY BE GIVEN BY:

14 (1) NOTWITHSTANDING § 5-611(E)(2) OF THIS ARTICLE, A HEALTH CARE
15 AGENT OR SURROGATE DECISION MAKER AUTHORIZED TO MAKE HEALTH CARE
16 DECISIONS UNDER THE HEALTH CARE DECISIONS ACT, TITLE 5, SUBTITLE 6 OF THIS
17 ARTICLE; OR

18 (2) A GUARDIAN UNDER § 13-702.1 OF THE ESTATES AND TRUSTS
19 ARTICLE.

20 **Article - Estates and Trusts**

21 13-702.1.

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "BEST INTEREST" HAS THE MEANING STATED IN § 13-711(B) OF THIS
25 TITLE.

26 (3) "COURT" INCLUDES THE JUVENILE COURT.

27 (B) THIS SECTION IS APPLICABLE WHEN:

28 (1) A MINOR, WHO IS OTHERWISE AUTHORIZED BY TITLE 20, SUBTITLE 1,
29 PART (I) OF THE HEALTH - GENERAL ARTICLE TO MAKE MEDICAL TREATMENT
30 DECISIONS, REFUSES TREATMENT OF A MEDICAL CONDITION;

31 (2) THE ATTENDING PHYSICIAN OF THE MINOR HAS CERTIFIED THAT,
32 TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, THE REFUSAL OF TREATMENT
33 MAY RESULT IN THE DEATH OR LONG-TERM IMPAIRMENT OF THE MINOR;

34 (3) THE ATTENDING PHYSICIAN OF THE MINOR AND ONE ADDITIONAL
35 PHYSICIAN HAVE NOT CERTIFIED THAT THE MINOR HAS SUFFICIENT MATURITY AND
36 CAPACITY TO MAKE AN INFORMED DECISION CONCERNING THE TREATMENT,

1 INCLUDING THE ABILITY TO APPRECIATE THE RISKS AND CONSEQUENCES OF THE
2 REFUSAL OF MEDICAL TREATMENT; AND

3 (4) A HEALTH CARE AGENT OR SURROGATE DECISION MAKER IS NOT
4 AVAILABLE TO CONSENT TO THE MEDICAL TREATMENT AS PROVIDED FOR IN §
5 20-105(C)(1) OF THE HEALTH - GENERAL ARTICLE.

6 (C) UPON PETITION BY ANY PERSON INTERESTED IN THE WELFARE OF THE
7 MINOR, AND AFTER NOTICE AND A HEARING, THE COURT SHALL APPOINT A
8 GUARDIAN OF THE PERSON FOR THE MINOR FOR THE LIMITED PURPOSE OF
9 CONSENTING TO TREATMENT OF A MEDICAL CONDITION DESCRIBED IN § 20-105(A)
10 OF THE HEALTH - GENERAL ARTICLE IF THE COURT DETERMINES THAT:

11 (1) THE MINOR HAS REFUSED THE TREATMENT OF A MEDICAL
12 CONDITION WHEN, TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, THE
13 REFUSAL MAY RESULT IN THE DEATH OR LONG-TERM IMPAIRMENT OF THE MINOR;

14 (2) THE MINOR LACKS SUFFICIENT MATURITY AND CAPACITY TO MAKE
15 AN INFORMED DECISION CONCERNING THE TREATMENT, INCLUDING THE ABILITY
16 TO APPRECIATE THE RISKS AND CONSEQUENCES OF THE REFUSAL OF MEDICAL
17 TREATMENT; AND

18 (3) THE TREATMENT IS IN THE BEST INTEREST OF THE MINOR.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1998.