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By: **Delegate Klausmeier**

Introduced and read first time: February 9, 2001

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Mental Health - Minors - Providers and Consent Provisions**

3 FOR the purpose of providing that a minor has the same capacity as an adult to  
4 consent to certain ~~medical~~ treatment by a psychologist under certain  
5 circumstances; providing a limited immunity under certain circumstances for a  
6 psychologist who treats a minor; providing that a psychologist may, but need  
7 not, provide certain information to certain individuals; providing that a minor  
8 who is at least a certain age has the capacity to consent to treatment by a  
9 psychologist for certain ~~medical~~ purposes; providing that the capacity to consent  
10 does not include the capacity to refuse certain ~~medical~~ treatment by a  
11 psychologist under certain circumstances; and generally relating to consent  
12 provisions for treatment of a minor by a psychologist for certain ~~medical~~  
13 purposes.

14 BY repealing and reenacting, with amendments,  
15 Article - Health - General  
16 Section 20-102 and 20-104  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume)

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

1 **Article - Health - General**

2 20-102.

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

5 (1) Is married; or

6 (2) Is the parent of a child.

7 (b) A minor has the same capacity as an adult to consent to medical treatment  
8 if, in the judgment of the attending physician ~~OR A PSYCHOLOGIST FOR TREATMENT~~  
9 ~~SPECIFIED UNDER SUBSECTION (C)(1) AND (2) OF THIS SECTION~~, the life or health of  
10 the minor would be affected adversely by delaying treatment to obtain the consent of  
11 another individual.

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

13 (1) Treatment for or advice about drug abuse;

14 (2) Treatment for or advice about alcoholism;

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

16 (4) Treatment for or advice about pregnancy;

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

18 (6) Physical examination and treatment of injuries from an alleged rape  
19 or sexual offense;20 (7) Physical examination to obtain evidence of an alleged rape or sexual  
21 offense; and22 (8) Initial medical screening and physical examination on and after  
23 admission of the minor into a detention center.24 (c-1) The capacity of a minor to consent to treatment for drug abuse or  
25 alcoholism under subsection (c)(1) or (2) of this section does not include the capacity to  
26 refuse treatment for drug abuse or alcoholism in an inpatient alcohol or drug abuse  
27 treatment program certified under Title 8 of this article for which a parent or  
28 guardian has given consent.29 (D) A MINOR HAS THE SAME CAPACITY AS AN ADULT TO CONSENT TO  
30 PSYCHOLOGICAL TREATMENT AS SPECIFIED UNDER SUBSECTION (C)(1) AND (2) OF  
31 THIS SECTION IF, IN THE JUDGMENT OF THE ATTENDING PHYSICIAN OR A  
32 PSYCHOLOGIST, THE LIFE OR HEALTH OF THE MINOR WOULD BE AFFECTED  
33 ADVERSELY BY DELAYING TREATMENT TO OBTAIN THE CONSENT OF ANOTHER  
34 INDIVIDUAL.

1     ~~(d)~~     (E)     A physician, PSYCHOLOGIST, or an individual under the direction of a  
2 physician OR PSYCHOLOGIST who treats a minor is not liable for civil damages or  
3 subject to any criminal or disciplinary penalty solely because the minor did not have  
4 capacity to consent under this section.

5     ~~(e)~~     (F)     Without the consent of or over the express objection of a minor, the  
6 attending physician, PSYCHOLOGIST or, on advice or direction of the attending  
7 physician OR PSYCHOLOGIST, a member of the medical staff of a hospital or public  
8 clinic may, but need not, give a parent, guardian, or custodian of the minor or the  
9 spouse of the parent information about treatment needed by the minor or provided to  
10 the minor under this section, except information about an abortion.

11 20-104.

12     (a)     (1)     A minor who is 16 years old or older has the same capacity as an  
13 adult to consent to consultation, diagnosis, and treatment of a mental or emotional  
14 disorder by a physician, PSYCHOLOGIST, or a clinic.

15             (2)     The capacity of a minor to consent to consultation, diagnosis, and  
16 treatment of a mental or emotional disorder by a physician, PSYCHOLOGIST, or a  
17 clinic under paragraph (1) of this subsection does not include the capacity to refuse  
18 consultation, diagnosis, or treatment for a mental or emotional disorder for which a  
19 parent, guardian, or custodian of the minor has given consent.

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

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

29     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2001.