

SENATE BILL 135

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By: **Senator Feldman**

Introduced and read first time: January 10, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Immunizations – Minor Consent**
3 **(Access to Vaccines Act)**

4 FOR the purpose of authorizing a health care provider to provide an immunization to a
5 minor without the consent of certain individuals under certain circumstances;
6 authorizing a health care provider to provide an immunization to a minor under a
7 certain provision of this Act whether or not a parent of the minor is not reasonably
8 available or objects to the provision of the immunization; providing that the
9 responsibility of a health care provider to provide certain information to a certain
10 minor is the same as the health care provider’s responsibility to a certain parent;
11 defining a certain term; making technical corrections; and generally relating to
12 consent for immunizations.

13 BY renumbering

14 Article – Health – General
15 Section 18–4A–01 through 18–4A–05, respectively, and the subtitle “Subtitle 4A.
16 Consent to Immunization of Minors”
17 to be Section 20–120 through 20–124, respectively, and the part “Part V. Delegation
18 of Parental Consent to the Immunization of a Minor”
19 Annotated Code of Maryland
20 (2019 Replacement Volume)

21 BY adding to

22 Article – Health – General
23 Section 20–107
24 Annotated Code of Maryland
25 (2019 Replacement Volume)

26 BY repealing and reenacting, with amendments,

27 Article – Health – General
28 Section 20–120, 20–121, 20–123, and 20–124

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2019 Replacement Volume)
3 (As enacted by Section 1 of this Act)

4 BY repealing and reenacting, without amendments,
5 Article – Health – General
6 Section 20–122
7 Annotated Code of Maryland
8 (2019 Replacement Volume)
9 (As enacted by Section 1 of this Act)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
11 That Section(s) 18–4A–01 through 18–4A–05, respectively, and the subtitle “Subtitle 4A.
12 Consent to Immunization of Minors” of Article – Health – General of the Annotated Code
13 of Maryland be renumbered to be Section(s) 20–120 through 20–124, respectively, and the
14 part “Part V. Delegation of Parental Consent to the Immunization of a Minor”.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
16 as follows:

17 **Article – Health – General**

18 **Part I. Minors.**

19 **20–107.**

20 **(A) IN THIS SECTION, “PARENT” HAS THE MEANING STATED IN § 20–120 OF**
21 **THIS SUBTITLE.**

22 **(B) A HEALTH CARE PROVIDER MAY PROVIDE AN IMMUNIZATION TO A**
23 **MINOR WITHOUT THE CONSENT OF A PARENT OF THE MINOR OR AN INDIVIDUAL WHO**
24 **HAS THE AUTHORITY TO CONSENT TO A MINOR’S IMMUNIZATION UNDER § 20–121 OR**
25 **§ 20–122 OF THIS SUBTITLE IF:**

26 **(1) THE MINOR CONSENTS TO THE IMMUNIZATION;**

27 **(2) THE MINOR IS AT LEAST 16 YEARS OLD; AND**

28 **(3) THE HEALTH CARE PROVIDER DETERMINES THAT THE MINOR IS**
29 **MATURE AND CAPABLE OF GIVING INFORMED CONSENT TO THE IMMUNIZATION.**

30 **(C) A HEALTH CARE PROVIDER MAY PROVIDE AN IMMUNIZATION TO A**
31 **MINOR UNDER SUBSECTION (B) OF THIS SECTION WHETHER OR NOT A PARENT OF**
32 **THE MINOR IS NOT REASONABLY AVAILABLE OR OBJECTS TO THE PROVISION OF THE**
33 **IMMUNIZATION.**

1 (D) THE RESPONSIBILITY OF A HEALTH CARE PROVIDER TO PROVIDE
2 INFORMATION TO A MINOR CONSENTING TO AN IMMUNIZATION UNDER THIS
3 SECTION IS THE SAME AS THE HEALTH CARE PROVIDER'S RESPONSIBILITY TO A
4 PARENT CONSENTING TO THE IMMUNIZATION OF A MINOR.

5 Part IV. Breast Cancer and Breast Implantation.

6 **20-118. RESERVED.**

7 **20-119. RESERVED.**

8 Part V. Delegation of Parental Consent to the Immunization of a Minor.

9 20-120.

10 In this [subtitle] PART, "parent" means:

- 11 (1) A natural or adoptive parent of a minor;
- 12 (2) A guardian of a minor; or
- 13 (3) Any other person who, under court order, is authorized to give consent
14 for a minor.

15 20-121.

16 (a) Subject to the provisions of this section, a parent may delegate verbally or in
17 writing the parent's authority to consent to the immunization of a minor to any of the
18 following individuals, not in order of priority:

- 19 (1) A grandparent;
- 20 (2) An adult brother or sister;
- 21 (3) An adult aunt or uncle;
- 22 (4) A stepparent; or
- 23 (5) Any other adult who has care and control of the minor.

24 (b) If a parent verbally delegates the parent's authority to consent to the
25 immunization of a minor under this [subtitle] PART, the person delegated the authority
26 shall confirm the verbal delegation in writing and the written confirmation shall be
27 included in the minor's medical record.

1 (c) A grandparent, adult brother or sister, adult aunt or uncle, or stepparent of a
2 minor who is the primary caregiver of the minor and who may consent to the immunization
3 of the minor under subsection (a) of this section may delegate the authority to consent to
4 immunization of the minor to another adult in the manner permitted under subsection (b)
5 of this section.

6 (d) A health care provider may rely on a notarized document from another state
7 or country that contains substantially the same information as is required in any
8 immunization consent regulations of the Department if the document is presented for
9 consent by a person listed in subsection (a) of this section.

10 (e) A person who consents to immunization of a minor under this [subtitle] PART
11 shall provide the health care provider with sufficient and accurate health information about
12 the minor for whom the consent is given and, if necessary, sufficient and accurate health
13 information about the minor's family to enable the person providing the consent and the
14 health care provider to determine adequately the risks and benefits inherent in the
15 proposed immunization and determine whether the immunization is advisable.

16 20–122.

17 (a) Subject to the provisions of this section, the following individuals, not in order
18 of priority, may consent to the immunization of a minor if a parent is not reasonably
19 available and the authority to consent is not denied under subsection (b) or (c) of this
20 section:

21 (1) A grandparent;

22 (2) An adult brother or sister;

23 (3) An adult aunt or uncle;

24 (4) A stepparent;

25 (5) Any other adult who has care and control of the minor;

26 (6) A court that has jurisdiction of a suit affecting the parent–child
27 relationship of which the minor is the subject;

28 (7) An adult who has care and control of the minor under an order of a court
29 or by commitment by a court to the care of an agency of the State or county if the adult
30 reasonably believes the minor needs immunization; or

31 (8) For minors in its care and custody, the Department of Juvenile
32 Services.

33 (b) A person may not consent to the immunization of a minor under subsection
34 (a) of this section if:

1 (1) The person has actual knowledge that the parent has expressly refused
2 to give consent to the immunization; or

3 (2) The parent has told the person that the person may not consent to the
4 immunization of the minor or, in the case of a written authorization, has withdrawn the
5 authorization in writing.

6 (c) When a parent has been contacted and requested to consent to the
7 immunization of a minor, the Department of Juvenile Services may consent to the
8 immunization of a minor in its care and custody if the parent:

9 (1) Has not acted on the request; and

10 (2) Has not expressly denied to the Department of Juvenile Services the
11 authority to consent to the immunization of the minor.

12 (d) For purposes of this section, a person is not reasonably available if:

13 (1) The location of the person is unknown;

14 (2) (i) A reasonable effort made by a person listed in subsection (a) of
15 this section to locate and communicate with the parent for the purpose of obtaining consent
16 has failed; and

17 (ii) Not more than 90 days have passed since the date that the effort
18 was made; or

19 (3) The parent has been contacted by a person listed in subsection (a) of
20 this section and requested to consent to the immunization of the minor, and the parent:

21 (i) Has not acted on the request; and

22 (ii) Has not expressly denied authority to the person listed in
23 subsection (a) of this section to consent to immunization of the minor.

24 (e) A person authorized to consent to the immunization of a minor under this
25 section shall confirm that the parent is not reasonably available in writing and the written
26 confirmation shall be included in the minor's medical record.

27 20-123.

28 The responsibility of a health care provider to provide information to a person
29 consenting to the immunization of a minor under [§ 18-4A-02 or § 18-4A-03] **§ 20-121**
30 **OR § 20-122** of this [subtitle] PART is the same as the health care provider's responsibility
31 to a parent.

1 20-124.

2 (a) In the absence of willful misconduct or gross negligence, a health care provider
3 who accepts the health history and other information given by a person who is delegated
4 the authority to consent to the immunization of a minor under [§ 18-4A-02 or § 18-4A-03]
5 **§ 20-121 OR § 20-122** of this [subtitle] **PART** is not liable for an adverse reaction related
6 to an immunization of the minor resulting from factual errors in the health history or
7 information given by the person to the health care provider.

8 (b) Except for acts of willful misconduct or gross negligence, a person who
9 consents to the immunization of a minor under [§ 18-4A-02 or § 18-4A-03] **§ 20-121 OR**
10 **§ 20-122** of this [subtitle] **PART**, a health care provider licensed to practice in the State,
11 or a medical facility is not liable for damages arising from an immunization administered
12 to a minor as authorized under [§ 18-4A-02 or § 18-4A-03] **§ 20-121 OR § 20-122** of this
13 [subtitle] **PART**.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2020.