

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 782 (Delegate Bagnall)
Health and Government Operations

Health – Mental and Emotional Disorders – Consent
(Mental Health Access Initiative)

This bill specifies that *any* minor has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a health care provider or a clinic. The bill authorizes a health care provider to decide to provide information to a parent, guardian, or custodian of a minor unless the health care provider believes that the disclosure will lead to harm to the minor or deter the minor from seeking care.

Fiscal Summary

State Effect: To the extent service utilization by minors increases under the bill, general and federal fund expenditures for the Behavioral Health Administration (BHA) and Medicaid may increase by an indeterminate amount. Federal fund revenues increase accordingly.

Local Effect: To the extent utilization increases for students receiving mental health services at public schools, expenditures may increase for local school systems by an indeterminate amount. Local health departments may experience an increase in utilization as well. Revenues are not materially affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Minor's Capacity to Consent Regarding a Mental or Emotional Disorder

A minor who is age 16 or older has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a health care provider or a clinic. The capacity of a minor to consent does not include the capacity to refuse consultation, diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or custodian of the minor has given consent.

Except under certain circumstances, without the consent of or over the express objection of a minor, the health care provider or, on advice or direction of the health care provider, a member of the medical staff of a hospital or public clinic may give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor.

If a health care provider is on a treatment team for a minor that is headed by a physician, the physician heading the treatment team must decide whether a parent, guardian, or custodian of the minor or the spouse of the parent should receive information about treatment needed by the minor or provided to the minor.

Unless the parent, guardian, or custodian of a minor consents to consultation, diagnosis, or treatment of the minor, the parent, guardian, or custodian is not liable for any costs of the consultation, diagnosis, or treatment of the minor.

Minor's Capacity to Consent to Medical Treatment

A minor has the same capacity as an adult to consent to medical or dental treatment if the minor is (1) married; (2) the parent of a child; or (3) living separate and apart from the minor's parent(s) or guardian and self-supporting.

A minor has the same capacity as an adult to consent to (1) treatment for or advice about venereal disease, pregnancy, contraception other than sterilization, drug abuse, and alcoholism; (2) physical examination and treatment of injuries from, or to obtain evidence of, an alleged rape or sexual offense; (3) initial medical screening and physical examination on and after admission of the minor into a detention center; and (4) treatment for the prevention of HIV.

A minor also has the same capacity as an adult to consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by a delay of treatment to obtain another individual's consent.

Small Business Effect: Small businesses that provide consultation, diagnosis, and treatment of mental or emotional disorders may provide additional care to eligible minors.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 611 (Senator Augustine) - Finance.

Information Source(s): Maryland State Department of Education; Maryland Department of Health; Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Maryland School for the Deaf; Department of Legislative Services

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Analysis by: Hillary J. Cleckler

Direct Inquiries to:
(410) 946-5510
(301) 970-5510