
HOUSE COMMITTEE AMENDMENTS

2024 Regular Session

Substitute for Original House Bill No. 256 by Representative Horton as proposed by the House Committee on Health and Welfare

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 40:1079.1 and to repeal R.S. 40:1079.2, 1079.3, and 1079.13, relative to a minor's consent to certain medical procedures and treatments; to clarify age requirements; to require informed parental consent for all medical procedures performed on a minor; to provide for exceptions; to require parental access to medical records for minor children; to prohibit civil or criminal liability for hospitals and healthcare professionals licensed to practice medicine in this state; to repeal a minor's authority to consent to treatment for drug abuse; to repeal a minor's authority to give consent to the donation of blood; to repeal a school or facility's authority to provide preventative counseling or treatment to a minor without parental consent; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1079.1 is hereby amended and reenacted to read as follows:

§1079.1. Medical treatment; exceptions; record requests

~~A.(1) Consent to the provision of medical or surgical care or services by a hospital or public clinic, or to the performance of medical or surgical care or services by a physician, licensed to practice medicine in this state, when executed by a minor who is or believes himself to be afflicted with an illness or disease, shall be valid and binding as if the minor had achieved his majority. Any such consent shall not be subject to a later disaffirmance by reason of his minority.~~ Informed consent from the parent, tutor, or legal guardian of a minor child shall be required for all medical and mental health services provided to the minor child until the minor reaches the age of eighteen, including but not limited to the following:

(1) The provision of medical, surgical, or dental care or services that are not prohibited by state law from a hospital, public clinic, mental health services provider, or school-based healthcare provider.

~~(2) A minor may consent to medical care or the administration of medication by a hospital licensed to provide hospital services or by a physician licensed to practice medicine in this state for the purpose of alleviating or reducing pain, discomfort, or distress of and during labor and childbirth. The manner of administration of medications includes but is not limited to intravenous, intramuscular, epidural, and spinal. This consent shall be valid and binding as if the minor had achieved her majority, and it shall not be subject to a later disaffirmance by reason of her minority. The performance of any mental health counseling or other~~
mental health services that are not prohibited by state law.

(3) The performance of any pharmacist services that are not prohibited by law.

(4) The performance of any surgical, medical, or dental treatment or procedures that are not prohibited by law by a duly licensed physician, dentist, or healthcare provider or any other person under his supervision or direction.

~~B. The consent of a spouse, parent, guardian, or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services, or administration of drugs to be provided by a physician licensed to practice medicine to such a minor. Exceptions to the provisions set forth in Paragraph A of this Section shall be limited to the following instances:~~

(1) When the minor is seeking an abortion, which shall be governed by Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950.

(2) When the minor classifies as any of the following:

(a) A member of the armed forces of the United States.

(b) An emancipated minor in accordance with Civil Code Article 365.

(c) An unemancipated minor who is pregnant and consenting to medical or surgical care or services related to the pregnancy, which shall not include abortion.

C. ~~Upon the advice and direction of a treating physician, or, in the case of a medical staff, any one of them, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor.~~ Consent to surgical or medical treatment for a minor child who has not reached the age of eighteen shall be implied in cases of emergency, as defined in R.S. 40:1159.5.

D. The parent, tutor, or legal guardian of the minor shall be permitted access to the minor's patient records as provided in Children's Code Article 1416.

E. No hospital, clinic, behavioral health services provider, school-based healthcare provider, and no physician, licensed to practice medicine mental health provider, behavioral health services provider, dentist, or any other healthcare provider who is licensed to provide such services in this state in accordance with Title 37 of the Louisiana Revised Statutes of 1950 shall incur civil or criminal liability in connection with any examination, diagnosis and treatment, procedure, or service authorized by the parent, tutor, or legal guardian of a child in accordance with this Section except for negligence.

Section 2. R.S. 40:1079.2, 1079.3, and 1079.13 are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB Draft

2024 Regular Session

Abstract: Requires informed, written, parental consent for the provision or performance of certain medical procedures or services to minors.

Present law provides that consent to the provision of medical or surgical care or services by a hospital or public clinic, or to the performance of medical or surgical care or services by a physician, licensed to practice medicine in this state, when executed by a minor who is or believes himself to be afflicted with an illness or disease, shall be valid and binding as if the minor had achieved his majority.

Proposed law removes present law.

Except as provided in present law, proposed law requires informed consent from the parent, tutor, or legal guardian of a minor child for all medical and mental health services provided to the minor child until the minor reaches the age of eighteen.

Exceptions to the provisions of proposed law shall include but not be limited to the following instances:

- (1) When the minor is seeking an abortion.
- (2) When the minor classifies as a member of the Armed Forces of the United States, an emancipated minor, or an unemancipated minor who is pregnant and consenting to medical or surgical care or services related to the pregnancy.

Present law provides that consent of a spouse, parent, guardian, or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services, or administration of drugs to be provided by a physician licensed to practice medicine to such a minor.

Proposed law removes present law.

Proposed law further provides that consent to surgical or medical treatment for a minor child who has not reached the age of eighteen shall be implied in cases of emergency.

Present law provides that, upon the advice and direction of a treating physician, or, in the case of a medical staff, any one of them, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor.

Proposed law removes present law.

Proposed law further requires the parent, tutor, or legal guardian of the minor to be permitted access to the minor's patient records as provided in present law.

Proposed law further provides that no hospital or healthcare provider licensed in accordance with present law shall incur civil or criminal liability in connection with any examination, diagnosis and treatment, procedure, or service authorized by the parent, tutor, or legal guardian of a child. Proposed law otherwise retains present law.

Present law provides that consent to the provision of medical or surgical care or services by a hospital or public clinic, or to the performance of medical or surgical care or services by a physician, licensed to practice medicine in this state, when executed by a minor who is or believes himself to be addicted to a narcotic or other drug, shall be valid and binding as if the minor had achieved his majority. Proposed law repeals present law provision.

Present law further provides that any such consent shall not be subject to a later disaffirmance by reason of his minority. Proposed law repeals present law provision.

Proposed law provides that consent of a spouse, parent, guardian or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services from a physician licensed to practice medicine. Proposed law repeals present law provision.

Present law further provides that, upon the advice and direction of a treating physician, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor. Proposed law repeals present law provision.

Present law does not require any hospital or physician licensed to practice medicine in this state to incur civil or criminal liability in connection with any examination, diagnosis and treatment authorized by present law except in cases of negligence. Proposed law repeals present law provision.

Present law allows a minor to give consent to the donation of his blood and to the penetration of tissue necessary to accomplish such donation if certain criteria is satisfied. Proposed law repeals present law provision.

Present law prohibits a minor from being compensated for the donation of his blood. Proposed law repeals present law provision.

Present law provides that consent obtained in accordance with present law shall not be subject to deferments because of minority. Proposed law repeals present law provision.

Proposed law allows a school or a facility to provide preventive counseling or treatment to a child without parental consent if certain conditions are met. Proposed law repeals present law provision.

Proposed law requires a school or facility to comply with certain provisions outlined in present law when requesting a child's written consent for the provision of preventive counseling services or treatment. Proposed law repeals present law provision.

(Amends R.S. 40:1079.1; Repeals R.S. 40:1079.2, 1079.3, and 1079.13)