

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 340

5 By: Senator Irvin
6

For An Act To Be Entitled

8 AN ACT TO AMEND LAWS CONCERNING CONSENT TO MEDICAL
9 TREATMENT TO AUTHORIZE A LIAISON UNDER THE FEDERAL
10 MCKINNEY-VENTO HOMELESS ASSISTANCE ACT TO CONSENT TO
11 MEDICAL TREATMENT FOR A HOMELESS MINOR; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

15 TO AMEND LAWS CONCERNING CONSENT TO
16 MEDICAL TREATMENT TO AUTHORIZE A LIAISON
17 UNDER THE FEDERAL MCKINNEY-VENTO HOMELESS
18 ASSISTANCE ACT TO CONSENT TO MEDICAL
19 TREATMENT FOR A HOMELESS MINOR; AND TO
20 DECLARE AN EMERGENCY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 20-9-602 is amended to read as follows:

27 20-9-602. Consent generally – Definition.

28 It is recognized and established that, in addition to other authorized
29 persons, any one (1) of the following persons may consent, either orally or
30 otherwise, to any surgical or medical treatment or procedure not prohibited
31 by law that is suggested, recommended, prescribed, or directed by a licensed
32 physician:

33 (1) Any adult, for himself or herself;

34 (2)(A) Any parent, whether an adult or a minor, for his or her
35 minor child or for his or her adult child of unsound mind, whether the child
36 is of the parent's blood, an adopted child, a stepchild, a foster child not



1 in custody of the Department of Human Services, or a preadoptive child not in
2 custody of the Department of Human Services.

3 (B) However, the father of an illegitimate child cannot
4 consent for the child solely on the basis of parenthood;

5 (3) Any married person, whether an adult or a minor, for himself
6 or herself;

7 (4) Any female, regardless of age or marital status, for herself
8 when given in connection with pregnancy or childbirth, except the unnatural
9 interruption of a pregnancy;

10 (5) Any person standing in loco parentis, whether formally
11 serving or not, and any guardian, conservator, or custodian, for his or her
12 ward or other charge under disability;

13 (6) Any emancipated minor, for himself or herself;

14 (7) Any unemancipated minor of sufficient intelligence to
15 understand and appreciate the consequences of the proposed surgical or
16 medical treatment or procedures, for himself or herself;

17 (8) Any adult, for his or her minor sibling or his or her adult
18 sibling of unsound mind;

19 (9) During the absence of a parent so authorized and empowered,
20 any maternal grandparent and, if the father is so authorized and empowered,
21 any paternal grandparent, for his or her minor grandchild or for his or her
22 adult grandchild of unsound mind;

23 (10) Any married person, for a spouse of unsound mind;

24 (11) Any adult child, for his or her mother or father of unsound
25 mind;

26 (12) Any minor incarcerated in the Department of Correction or
27 the Department of Community Correction, for himself or herself; ~~and~~

28 (13)(A) Any foster parent or preadoptive parent, for a child in
29 custody of the Department of Human Services in:

30 (i)(a) Emergency situations.

31 (b) As used in this subdivision (13)(A)(i),
32 "emergency situation" means a situation in which, in competent medical
33 judgment, the proposed surgical or medical treatment or procedures are
34 immediately or imminently necessary and any delay occasioned by an attempt to
35 obtain a consent would reasonably be expected to jeopardize the life, health,
36 or safety of the person affected or would reasonably be expected to result in

1 disfigurement or impaired faculties;

2 (ii) Routine medical treatment;

3 (iii) Ongoing medical treatment;

4 (iv) Nonsurgical procedures by a primary care
5 provider; and

6 (v) Nonsurgical procedures by a specialty care
7 provider.

8 (B) The Department of Human Services shall be given timely
9 notice of all admissions and discharges consented to by a foster parent or
10 preadoptive parent for a child in custody of the Department of Human
11 Services.

12 (C) The consent of a representative of the Department of
13 Human Services is required for:

14 (i) Nonemergency surgical procedures;

15 (ii) Nonemergency invasive procedures;

16 (iii) "End-of-life" nonemergency procedures, such as
17 do-not-resuscitate orders, withdrawal of life support, and organ donation;
18 and

19 (iv) Nonemergency medical procedures relating to a
20 criminal investigation or judicial proceeding that involves gathering
21 forensic evidence; and

22 (14) A local educational agency liaison for homeless children
23 and youths under the federal McKinney-Vento Homeless Assistance Act, 42
24 U.S.C. § 11432 et seq., as existing on January 1, 2019, when the minor
25 patient:

26 (A) Meets the definition of a homeless child or youth
27 under the federal McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11432
28 et seq., as existing on January 1, 2019;

29 (B) Is not in the physical custody of a parent or
30 guardian; and

31 (C) Is not in the care and custody of the Department of
32 Human Services.

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34 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
35 General Assembly of the State of Arkansas that homeless children and youths
36 are going without medical care and treatment that they need; that the State

1 of Arkansas has an interest in the health of homeless children and youths;
2 that this act would authorize local educational agency liaisons to consent to
3 medical treatment for homeless children and youths; and that this act is
4 immediately necessary to ensure that homeless children and youths receive the
5 medical care and treatment that they need. Therefore, an emergency is
6 declared to exist, and this act being immediately necessary for the
7 preservation of the public peace, health, and safety shall become effective
8 on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,
11 the expiration of the period of time during which the Governor may veto the
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is
14 overridden, the date the last house overrides the veto.

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