

SENATE BILL 41

J1
HB 782/20 – HGO

(PRE-FILED)

11r0727
CF HB 132

By: **Senator Augustine**

Requested: September 24, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 12, 2021

CHAPTER _____

1 AN ACT concerning

2 **Health – Mental and Emotional Disorders – Consent**
3 **(Mental Health Access Initiative)**

4 FOR the purpose of altering the minimum age at which a minor has the same capacity as
5 an adult to consent to consultation, diagnosis, and certain treatment of a mental or
6 emotional disorder by a health care provider or clinic; providing that a health care
7 provider may decide to provide certain information to a certain parent, guardian, or
8 custodian under certain provisions of law unless the health care provider believes
9 that the disclosure will lead to harm to the minor or deter the minor from seeking
10 care; and generally relating to the consultation, diagnosis, and treatment of mental
11 and emotional disorders and consent by minors.

12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 20–104
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2020 Supplement)

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

19 **Article – Health – General**

20 20–104.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) In this section, “health care provider” means an individual who is:

2 (1) Licensed under the Health Occupations Article; and

3 (2) Acting within the scope of the individual’s license to diagnose and treat
4 mental and emotional disorders.

5 (b) (1) **[A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A** minor
6 who is **[16] 12** years old or older **WHO IS DETERMINED BY A HEALTH CARE PROVIDER**
7 **TO BE MATURE AND CAPABLE OF GIVING INFORMED CONSENT** has the same capacity
8 as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional
9 disorder by **[a] THE** health care provider or a clinic.

10 (2) The capacity of a minor to consent to consultation, diagnosis, and
11 treatment of a mental or emotional disorder by a health care provider or a clinic under
12 paragraph (1) of this subsection does not include the capacity to **[refuse]**:

13 **(I) REFUSE** consultation, diagnosis, or treatment for a mental or
14 emotional disorder for which a parent, guardian, or custodian of the minor has given
15 consent; **OR**

16 **(II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IF**
17 **THE MINOR IS UNDER THE AGE OF 16 YEARS, CONSENT TO THE USE OF**
18 **PRESCRIPTION MEDICATIONS TO TREAT A MENTAL OR EMOTIONAL DISORDER.**

19 (c) (1) Except as provided in paragraph (2) of this subsection **AND SUBJECT**
20 **TO PARAGRAPH (3) OF THIS SUBSECTION**, without the consent of or over the express
21 objection of a minor, the health care provider or, on advice or direction of the health care
22 provider, a member of the medical staff of a hospital or public clinic may, but need not, give
23 a parent, 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 (2) **[If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF** a health
26 care provider is on a treatment team for a minor that is headed by a physician, the
27 physician heading the treatment team shall decide whether a parent, guardian, or
28 custodian of the minor or the spouse of the parent should receive information about
29 treatment needed by the minor or provided to the minor under this section.

30 **(3) A HEALTH CARE PROVIDER MAY DECIDE TO PROVIDE**
31 **INFORMATION TO A PARENT, GUARDIAN, OR CUSTODIAN OF A MINOR UNDER**
32 **PARAGRAPHS (1) AND (2) OF THIS SUBSECTION UNLESS THE HEALTH CARE**
33 **PROVIDER BELIEVES THAT THE DISCLOSURE WILL LEAD TO HARM TO THE MINOR OR**
34 **DETER THE MINOR FROM SEEKING CARE.**

1 (d) Unless the parent, guardian, or custodian of a minor consents to consultation,
2 diagnosis, or treatment of the minor, the parent, guardian, or custodian is not liable for any
3 costs of the consultation, diagnosis, or treatment of the minor under this section.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.