

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/14/19
A Bill

SENATE BILL 340

By: Senator Irvin

By: Representative L. Johnson

For An Act To Be Entitled

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

Subtitle

TO AMEND LAWS CONCERNING CONSENT TO MEDICAL TREATMENT TO AUTHORIZE A LIAISON UNDER THE FEDERAL MCKINNEY-VENTO HOMELESS ASSISTANCE ACT TO CONSENT TO MEDICAL TREATMENT FOR A HOMELESS MINOR; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-9-602 is amended to read as follows:
20-9-602. Consent generally – Definition.

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

- (1) Any adult, for himself or herself;
- (2)(A) Any parent, whether an adult or a minor, for his or her minor child or for his or her adult child of unsound mind, whether the child



is of the parent's blood, an adopted child, a stepchild, a foster child not in custody of the Department of Human Services, or a preadoptive child not in custody of the Department of Human Services.

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

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

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

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

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

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

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

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

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

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

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

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

(i)(a) Emergency situations.

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

or safety of the person affected or would reasonably be expected to result in disfigurement or impaired faculties;

- (ii) Routine medical treatment;
- (iii) Ongoing medical treatment;
- (iv) Nonsurgical procedures by a primary care

provider; and

- (v) Nonsurgical procedures by a specialty care

provider.

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

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

- (i) Nonemergency surgical procedures;
- (ii) Nonemergency invasive procedures;
- (iii) "End-of-life" nonemergency procedures, such as

do-not-resuscitate orders, withdrawal of life support, and organ donation; and

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

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

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

(B) Is not in the care or custody of a parent or guardian;
and

(C) Is not in the care or custody of the Department of Human Services.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that homeless children and youths

are going without medical care and treatment that they need; that the State of Arkansas has an interest in the health of homeless children and youths; that this act would authorize local educational agency liaisons to consent to medical treatment for homeless children and youths; and that this act is immediately necessary to ensure that homeless children and youths receive the medical care and treatment that they need. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/Irvin