

SENATE BILL REPORT

SB 5883

As Reported by Senate Committee On:
Law & Justice, February 3, 2022

Title: An act relating to an unaccompanied homeless youth's ability to provide informed consent for that minor patient's own health care, including nonemergency, outpatient, and primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

Brief Description: Concerning an unaccompanied homeless youth's ability to provide informed consent for that minor patient's own health care, including nonemergency, outpatient, and primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

Sponsors: Senators Trudeau, Keiser, Billig, Conway, Hunt, Kuderer, Nguyen, Nobles, Robinson, Saldaña, Van De Wege and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 1/31/22, 2/03/22 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Permits an unaccompanied homeless minor to provide informed consent for non-emergency, outpatient, primary health care services.
- Allows, but does not require, a health care provider to request documentation signed under penalty of perjury, that a patient is an unaccompanied homeless minor.
- Permits a health care provider to rely on the representations or declaration if the health care provider does not have actual notice of the

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falsity of the statements.

- Provides immunity in any action, civil or criminal, or other disciplinary action when reliance is based on a declaration signed under penalty of perjury.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5883 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen and Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

Staff: Tim Ford (786-7423)

Background: Parental notification and consent is required for a minor to receive general health services until the minor has reached the age of majority, unless this age is modified by law that changes the age of consent. Washington State's general age of majority for health care decisions is 18 years of age. A minor may be considered an adult for legal purposes before reaching 18 years of age if the minor is legally emancipated or if the minor is married to an adult.

Washington has established a lower age of consent by law for certain specific health services. The age of consent for testing for sexually transmitted diseases is 14, for inpatient or outpatient mental health treatment is 13, and for outpatient substance use disorder treatment is 13. Minors may consent to reproductive health services in Washington, including birth control, abortion, and prenatal care, at any age.

Informed consent for health care on behalf of a patient who is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

- the minor patient meets the definition of a homeless child or youth under the federal McKinney-Vento homeless education assistance improvements act of 2001;
- the minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the Department of Social and Health Services; and

- consent is necessary for non-emergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

Summary of Bill (First Substitute): An unaccompanied homeless youth who is a minor patient who is not otherwise authorized to provide informed consent and is unable to obtain informed consent from a school nurse, school counselor, or homeless student liaison is authorized to provide informed consent for non-emergency, outpatient, primary care services, including:

- physical examinations,
- vision examinations and eyeglasses,
- dental examinations,
- hearing examinations and hearing aids,
- immunizations,
- treatments for illnesses and conditions, and
- routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries.

"Unaccompanied" means a youth experiencing homelessness while not in the physical custody of a parent or guardian. "Homeless" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento act of 2001.

A health care provider may, but is not required to, request documentation that the minor patient is an unaccompanied homeless youth. Acceptable documentation includes, but is not limited to, a written or electronic statement signed under penalty of perjury by:

- staff at a governmental or nonprofit human services agency or homeless services agency;
- an attorney representing the minor patient; or
- an adult relative of the minor patient or other adult with knowledge of the minor and the minor's housing situation.

A health care provider or facility is immune in any action, civil or criminal, or other disciplinary action when reliance is based on a declaration signed under penalty of perjury.

A health care provider may, but is not required to, rely on the representations or declaration stating that the patient is an unaccompanied homeless youth if the health care provider does not have actual notice of the falsity of the statements.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Requires documentation that a minor patient is an unaccompanied homeless youth to

- be signed under penalty of perjury.
- Permits a health care provider to rely on the representations or declaration if the health care provider does not have actual notice of the falsity of the statements.
 - Provides immunity in any action, civil or criminal, or other disciplinary action when reliance is based on a declaration signed under penalty of perjury.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: These are young people experiencing homelessness and not in the physical custody of a parent or guardian. Many of these youth are either unable to go home because of fear of the situation they left, or there may not be any home to go back to. They're incredibly vulnerable and are often lacking the basic simple supports that we take for granted. The Mature Minor Doctrine leaves out this demographic because some providers are unaware of it or don't apply it because of perceived liability issues, and homeless youth may not be able to get the approval of a school counselors. Minors still deserve access to health care.

CON: This bill is an attack on parental rights by cutting out the need for parental consent. My daughter was suicidal and taken to Seattle Children's hospital. She was moved without my consent to a homeless shelter for children for ten days. We were not allowed to communicate with her in any way. They changed her medical records to their address and took us off the records as her parents. She needed mental health care which was not provided by the shelter. She was rescued by police officers and is now out of state receiving the care she needs. There is already the Mature Minor Doctrine which allows minors health care access.

OTHER: The bill needs more clarity and consistency with regard to the language for liability, documentation provided under the penalty of perjury, and use of the term "minor patient."

Persons Testifying: PRO: Senator Yasmin Trudeau, Prime Sponsor; Elizabeth Dawson, Student; Megan Veith, Building Changes; Bridget Cannon, Volunteers of America; Cora Breuner, WA Chapter American Academy of Pediatrics; Charles Adkins, Children's Alliance.

CON: Julie Barrett, Conservative Ladies of Washington; Eric Pratt, America.

OTHER: Cara Helmer, WSHA.

Persons Signed In To Testify But Not Testifying: No one.