

SENATE BILL REPORT

SHB 2396

As of February 25, 2016

Title: An act relating to access to nonemergency, outpatient, primary health care services for unaccompanied homeless youth under the federal McKinney-Vento homeless assistance act.

Brief Description: Concerning access to nonemergency, outpatient, primary health care services for unaccompanied homeless youth under the federal McKinney-Vento homeless assistance act.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives McBride, Caldier, Senn, Goodman, Kagi, Sawyer, Tharinger, Tarleton, Stanford, Farrell, Moscoso and Ormsby).

Brief History: Passed House: 2/15/16, 90-7.

Committee Activity: Health Care: 2/25/16.

SENATE COMMITTEE ON HEALTH CARE

Staff: Evan Klein (786-7483)

Background: Consent for Medical Treatment of a Minor. Generally, persons under the age of 18 cannot provide consent for their own medical procedures in Washington State. However, minors can receive medical treatment without the consent of an authorized adult if the minor:

- is in need of emergency medical treatment;
- is seeking family planning services or pregnancy care;
- is aged 15 or older and satisfies the "mature minor rule," meaning the minor has, based on a number of factors, demonstrated the maturity to provide consent for medical treatment;
- is aged 13 or older and seeking mental health treatment; or
- is aged 13 or older and seeking outpatient substance abuse treatment.

If a minor's consent is not sufficient to access health care services, an individual authorized by statute must furnish consent for a health care provider to treat the patient. State law provides that informed consent for health care may be obtained from a member of one of the following classes of persons in the following order of priority:

1. the court-appointed guardian or custodian of the patient, if any;

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2. a person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to the dependency and termination of parental rights statutes, if applicable;
3. parents of the minor patient;
4. the individual, if any, to whom the minor's parent has given signed authorization to make health care decisions for the minor patient; or
5. a competent adult representing himself or herself to be a relative responsible for the healthcare of such a minor patient or a competent adult who has signed and dated a declaration under penalty of perjury stating that the adult person is a relative responsible for the health care of the minor patient.

McKinney-Vento Homeless Education Assistance Improvements Act of 2001 (Act). The Act is a federal law that increases homeless and unaccompanied youths' access to educational resources. Homeless children under the Act are those who lack a fixed, regular, and adequate nighttime residence. The Act supplies a number of examples that satisfy the definition, including youth living in emergency or transitional shelters, sharing housing due to loss of housing or economic hardship, awaiting foster care placement, or living in cars. The Act requires schools receiving funds under the statute to enroll homeless youth and children, even when required documents and records are not provided. It also requires that schools provide certain services, such as transportation, to homeless youth and requires that each school district have a designated homeless liaison to identify and serve homeless youth.

The Act provides specific services for youth who are both homeless and unaccompanied. Unaccompanied youth are those who are not in the physical custody of a parent or guardian. This includes youth who are residing with a caregiver who is not a legal guardian and youth living on their own.

Summary of Bill: A school nurse, counselor, or homeless student liaison may consent to health care services for a patient under the age of 18 when:

- the minor for whom consent is being provided qualifies as a homeless youth under the Act;
- the patient is not under the supervision or control of a parent, custodian, or legal guardian; and
- the health care services are nonemergency, outpatient, primary care services, such as routine physical, dental, hearing, or vision exams; immunizations; treatments for illnesses and conditions; and routine follow-up care. Elective surgery is not included.

A school nurse, counselor, or homeless student liaison and the individual's employing school and school district are not subject to liability for care or payment of care for which consent is provided if the individual providing consent is acting in good faith or the medical care is in the patient's best interest. The individual providing consent must furnish written notice of his or her exemption from liability to the person providing care.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This provides the authority for school nurses and counselors to provide consent for outpatient primary care. These students don't have relatives who can sign for them. This is a small but compassionate step forward for our homeless children. Most of these kids are choosing to couch surf over going into the fractured foster youth system. Students face a variety of barriers when there is a lack parental consent, including not qualifying for a football team because the student cannot get a physical. This bill will give schools the authority to eliminate barriers to participation in school activities.

OTHER: This proposal modifies the informed consent statute. The notion of a written notice in this bill is new to informed consent, so replacing this with a declaration makes sense.

Persons Testifying: PRO: Representative McBride, Prime Sponsor; Representative Caldier, Sponsor; Roxana Parise, Homeless Liasion for Bellingham School District.

OTHER: Lisa Thatcher, Washington State Hospital Association.fid

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