



2023 SENATE BILL 704

November 21, 2023 - Introduced by Senators L. JOHNSON, SMITH and LARSON, cosponsored by Representatives EMERSON, PALMERI, C. ANDERSON, CONLEY, JACOBSON, SINICKI, ANDRACA, JOERS, J. ANDERSON, SHELTON, RATCLIFF, CONSIDINE and DRAKE. Referred to Committee on Health.

AN ACT *to create* 48.374 of the statutes; **relating to:** a minor's authority to consent to health care.

Analysis by the Legislative Reference Bureau

This bill allows a minor who is an unaccompanied youth to consent to, contract for, and receive medical, dental, or behavioral health examinations, care, or treatment without a parent's or guardian's permission, authority, or consent under certain circumstances. The bill defines "unaccompanied youth" as the term is defined under federal law, which is a homeless youth not in the physical custody of a parent or guardian.

Under the bill, in order to consent to health care, such a minor must be at least 14 years of age and must not be under the supervision of a county department of human services or social services, a licensed child welfare agency, the Department of Children and Families, or the Department of Corrections. Also under the bill, one of the following must confirm in writing that the minor is an unaccompanied youth: a local educational agency liaison for homeless children and youths designated under federal law, a school social worker or counselor, an employee who conducts intake at a shelter facility or transitional living program where the minor has been admitted as an unaccompanied youth under current law, or the director, or his or her designee, of a governmental or nonprofit entity that receives public or private funding to provide services to individuals who are homeless or to unaccompanied youth.

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Under the bill, a professional who provides medical, dental, or behavioral health examinations, care, or treatment to a minor based on the minor's consent given in conformity with the bill may not be held liable in a civil or criminal action for providing those services without having obtained permission from the minor's parent or guardian.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.374 of the statutes is created to read:

48.374 Minor consent for medical care. (1) In this section, "unaccompanied youth" has the meaning given in 42 USC 11434a (6).

(2) Except as provided under s. 48.375, a minor may consent to, contract for, and receive medical, dental, or behavioral health examinations, care, or treatment without a parent's or guardian's permission, authority, or consent if all of the following apply:

(a) The minor is 14 years of age or older.

(b) The minor is not under the supervision of a county department, a licensed child welfare agency, the department, or the department of corrections under this chapter or ch. 938 or under the jurisdiction of the court.

(c) One of the following, who has obtained the minor's consent to disclose the minor's status as an unaccompanied youth, confirms in writing that the minor is an unaccompanied youth:

1. A local educational agency liaison for homeless children and youth designated under 42 USC 11432 (g) (1) (J) (ii).

2. A school social worker or counselor.

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3. An employee who conducts intake at a shelter facility or transitional living program where the minor has been admitted under s. 48.9875.

4. The director, or his or her designee, of a governmental or nonprofit entity that receives public or private funding to provide services to individuals who are homeless or to unaccompanied youth.

5. An attorney representing the minor in any legal matter.

(3) (a) A physician or other qualified professional licensed to practice in this state who provides medical, dental, or behavioral health examinations, care, or treatment to a minor based on consent given by the minor in conformity with this section may not be held liable in a civil or criminal action for providing those services without having obtained permission from the minor's parent or guardian.

(b) This section does not relieve a physician or other qualified professional licensed in this state from liability for negligence in the diagnosis or treatment of a minor.

(4) (a) Identification of a minor as an unaccompanied youth does not by itself establish that the minor has been abused or neglected.

(b) This section does not supersede the mandatory reporting requirements under s. 48.981.

(c) This section does not affect any rights a minor has to consent to treatment under ch. 51.

(END)

****NOTE: