

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: H3/14/19

# A Bill

SENATE BILL 340

5 By: Senator Irvin  
6 By: Representative L. Johnson  
7

## For An Act To Be Entitled

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

16 TO AMEND LAWS CONCERNING CONSENT TO  
17 MEDICAL TREATMENT TO AUTHORIZE A LIAISON  
18 UNDER THE FEDERAL MCKINNEY-VENTO HOMELESS  
19 ASSISTANCE ACT TO CONSENT TO MEDICAL  
20 TREATMENT FOR A HOMELESS MINOR; AND TO  
21 DECLARE AN EMERGENCY.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 20-9-602 is amended to read as follows:  
28 20-9-602. Consent generally – Definition.

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

34 (1) Any adult, for himself or herself;

35 (2)(A) Any parent, whether an adult or a minor, for his or her  
36 minor child or for his or her adult child of unsound mind, whether the child



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

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

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

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

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

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

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

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

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

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

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

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

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

31 (i)(a) Emergency situations.

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

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

- 3 (ii) Routine medical treatment;  
4 (iii) Ongoing medical treatment;  
5 (iv) Nonsurgical procedures by a primary care  
6 provider; and  
7 (v) Nonsurgical procedures by a specialty care  
8 provider.

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

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

- 15 (i) Nonemergency surgical procedures;  
16 (ii) Nonemergency invasive procedures;  
17 (iii) "End-of-life" nonemergency procedures, such as  
18 do-not-resuscitate orders, withdrawal of life support, and organ donation;  
19 and  
20 (iv) Nonemergency medical procedures relating to a  
21 criminal investigation or judicial proceeding that involves gathering  
22 forensic evidence; and

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

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

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

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

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

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

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

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

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

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17 */s/Irvin*  
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