

ASSEMBLY, No. 1578

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1996

By Assemblywoman CRECCO

1 AN ACT concerning parental rights and revising parts of the statutory
2 law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 1 of P.L.1965, c.217 (C.9:17A-1) is amended to read
8 as follows:

9 1. The consent to the performance of medical or surgical care and
10 procedure by a hospital or by a physician licensed to practice medicine
11 and surgery executed by a married person who is a minor[, or by a
12 pregnant woman who is a minor,] on his or her behalf or on behalf of
13 any of his or her children, shall be valid and binding, and, for such
14 purposes, a married person who is a minor [or a pregnant woman who
15 is a minor] shall be deemed to have the same legal capacity to act and
16 shall have the same powers and obligations as has a person of legal
17 age. [Notwithstanding any other provision of the law, an unmarried,
18 pregnant minor may give consent to the furnishing of hospital, medical
19 and surgical care related to her pregnancy or her child, and such
20 consent shall not be subject to disaffirmance because of minority.] The
21 written consent of the parent [or parents] or guardian of an
22 unmarried[, pregnant] minor shall [not] be necessary in order to
23 authorize hospital, medical [and] or surgical care [related to her
24 pregnancy] by a hospital, public clinic, physician or other health care
25 provider with respect to that minor or his or her child, and the parent
26 or guardian shall have the right to be present when the care is
27 provided, except when: a court order has been issued which prohibits
28 the parent or guardian from having contact with the minor or the
29 minor's child; or, in the judgment of the attending physician, immediate
30 provision of hospital, medical or surgical care is necessary to save the
31 life of the minor or the minor's child or to prevent substantial and
32 irreversible impairment of a major bodily function.

33 As used in this section, "hospital, medical or surgical care" includes
34 any medical procedure, treatment, testing, diagnosis or examination

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 which involves the physical touching of the minor or the minor's child.
2 (cf: P.L.1965, c.217, s.1)

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4 2. Section 1 of P.L.1968, c.230 (C.9:17A-4) is amended to read as
5 follows:

6 1. [The consent to the provision of medical or surgical care or
7 services by a hospital, public clinic, or the performance of medical or
8 surgical care or services by a physician, licensed to practice medicine,
9 when executed by a minor who is or professes to be afflicted with a
10 venereal disease, or by a minor who, in the judgment of a treating
11 physician, appears to have been sexually assaulted, shall be valid and
12 binding as if the minor had achieved his or her majority, as the case
13 may be. Any such consent shall not be subject to later disaffirmance
14 by reason of minority. In the case of a minor who appears to have
15 been sexually assaulted, the minor's parents or guardian shall be
16 notified immediately, unless the attending physician believes that it is
17 in the best interests of the patient not to do so; however, inability of
18 the treating physician, hospital or clinic to locate or notify the parents
19 or guardian shall not preclude the provision of any necessary
20 emergency medical or surgical care to the minor.]

21 [When a minor believes that he]The treatment of a minor who is
22 suffering from the use of drugs or is a drug dependent person as
23 defined in section 2 of P.L.1970, c.226 (C.24:21-2) or is suffering
24 from alcohol dependency or is an alcoholic as defined in section 2 of
25 P.L.1975, c.305 (C.26:2B-8)[, his consent to treatment] under the
26 supervision of a physician licensed to practice medicine, or an
27 individual licensed or certified to provide treatment for alcoholism or
28 in a facility licensed by the State to provide for the treatment of
29 alcoholism, or the mental health treatment of a minor by a qualified
30 professional on an outpatient basis or in a facility licensed by the State,
31 shall [be valid and binding as if the minor had achieved his or her
32 majority, as the case may be. Any such consent shall not be subject to
33 later disaffirmance by reason of minority]require the written consent
34 of the minor's parent or guardian, except that the minor may petition
35 the Superior Court for a waiver of this requirement when the parent
36 or guardian is unable or unavailable to provide the consent. Treatment
37 of a minor for drug use, drug abuse, alcohol use or alcohol abuse [that
38 is consented to by a minor], or mental health treatment, shall be
39 considered confidential information between the physician, the
40 treatment provider or the treatment facility, as appropriate, [and his]
41 the patient and the patient's parent or guardian, and neither the minor
42 nor his physician, treatment provider or treatment facility, as
43 appropriate, shall be required to otherwise report such treatment when
44 it is the result of voluntary consent, except as may otherwise be
45 required by law.

46 [The consent of no other person or persons, including but not

1 limited to a spouse, parent, custodian or guardian, shall be necessary
2 in order to authorize such hospital, facility or clinical care or services
3 or medical or surgical care or services to be provided by a physician
4 licensed to practice medicine or by an individual licensed or certified
5 to provide treatment for alcoholism to such a minor.]

6 (cf: P.L.1992, c.57, s.1)

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8 3. Section 2 of P.L.1992, c.57 (C.9:17A-4.1) is amended to read
9 as follows:

10 2. This act shall not be interpreted to interfere with any parental
11 rights to place a child in treatment on a voluntary or involuntary basis
12 under applicable State law.

13 Treatment programs shall not be required to admit minors.
14 Treatment programs may establish their own admission and
15 reimbursement criteria which [may] shall include parental notification
16 and involvement.

17 (cf: P.L.1992, c.57, s.2)

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19 4. Section 2 of P.L.1968, c.230 (C.9:17A-5) is amended to read as
20 follows:

21 2. Upon the advice and direction of a treating physician or, if more
22 than one, any one of them, a member of the medical staff of a
23 hospital, public clinic, or physician licensed to practice medicine, [
24 may, but] shall [not] be obligated to, inform the [spouse], parent[,
25 custodian] or guardian of any such minor as to the treatment given
26 or needed, and such information [may] shall be given to[, or withheld
27 from] the [spouse,] parent[, custodian] or guardian even without the
28 consent of the minor patient [and even over the express refusal of the
29 minor patient to the providing of such information].

30 (cf: P.L.1968, c.230, s.2)

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32 5. (New section) a. A person who, without legal authorization,
33 provides shelter to a minor and who knows at the time of providing
34 the shelter that the minor is away from the home of a parent or
35 guardian, or other lawfully prescribed residence without the
36 permission of the parent or guardian, or custodian in charge of the
37 lawfully prescribed residence, shall report the minor's location to the
38 parent, guardian, custodian of the lawfully prescribed residence, or law
39 enforcement agency in the jurisdiction in which the person resides, by
40 telephone or other reasonable means, within eight hours after the
41 person has knowledge that the minor is away from home without
42 permission.

43 As used in this subsection:

44 "Minor" means a person under 18 years of age who is unmarried.

45 "Shelter" means a person's home or any structure over which the
46 person has control.

1 b. A violation of the provisions of subsection a. of this section shall
2 constitute a misdemeanor.

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4 6. (New section) If the Director of the Division of Motor Vehicles
5 in the Department of Law and Public Safety takes any action to
6 suspend or revoke a minor's motor vehicle driver license, the director
7 shall provide written notice of that action by certified mail, return
8 receipt requested, to the minor's parent or guardian.

9 As used in this section, "minor" means a person under 18 years of
10 age who is unmarried.

11

12 7. (New section) a. Each board of education, upon the request of
13 a parent or guardian of a pupil enrolled in a public school within that
14 district, shall make available for inspection by the parent or guardian
15 any educational materials to be used in the grade in which the child is
16 enrolled, including, but not limited to, a copy of the curriculum,
17 textbooks, teacher manuals, video or audio tapes, computer programs,
18 and supplementary instructional materials.

19 b. The board shall provide written notification of the provisions
20 of subsection a. of this section to each parent or guardian of a pupil
21 enrolled in a public school within that district.

22

23 8. Section 2 of P.L.1979, c.428 (C.18A:35-4.7) is amended to read
24 as follows:

25 2. Any child whose parent or guardian [~~presents~~]does not present
26 to the school principal a signed statement [~~that any part of the~~
27 ~~instructions~~]which authorizes the child's participation in health, family
28 life education or sex education [~~is in conflict with his conscience, or~~
29 ~~sincerely held moral or religious beliefs shall be excused from that~~
30 ~~portion of the course where~~] courses which use instructional materials
31 relating to sexually transmitted diseases, including the human
32 immunodeficiency virus and acquired immune deficiency syndrome,
33 anger, stress or conflict management or resolution, or issues
34 associated with suicide or death, shall not be permitted to enroll in any
35 course in which such instruction is being given and no penalties as to
36 credit or graduation shall result therefrom.

37 (cf: P.L.1979, c.428, s.2)

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39 9. (New section) Any child whose parent or guardian does not
40 present to the school principal a signed statement which authorizes
41 the child's participation in any course which includes instruction that
42 utilizes psychotherapeutic techniques, group therapy or sensitivity
43 training processes, shall not be permitted to participate in that
44 instruction, and no penalties as to credit or graduation shall result
45 therefrom.

46

1 10. (New section) Any child whose parent or guardian does not
2 present to the school principal a signed statement which authorizes
3 the child's participation in any survey, test or questionnaire that seeks
4 to elicit information about the personal beliefs or practices of the child
5 or the child's parent or guardian regarding sex, religion, political
6 affiliations or mental health or psychological treatment, shall not be
7 permitted to participate in that survey, test or questionnaire, and no
8 penalties as to credit or graduation shall result therefrom.

9
10 11. (New section) Any child whose parent or guardian does not
11 present to the school principal a signed statement which authorizes
12 the child to receive counseling regarding a social, emotional,
13 psychological or personal problem, beyond an initial assessment of the
14 problem, shall not be permitted to receive such counseling.
15 Counseling provided to a child pursuant to authorization by a parent
16 or guardian shall be limited to the specific problem for which the
17 authorization was obtained, unless the parent or guardian provides
18 written permission to expand the scope of the counseling.

19
20 12. Section 8 of P.L.1940, c.153 (C.34:2-21.8) is amended to read
21 as follows:

22 8. The issuing officer shall issue such certificates only upon the
23 application in person of the minor desiring employment, and after
24 having approved and filed the following papers:

25 (1) A promise of employment signed by the prospective employer
26 or by someone duly authorized by him, setting forth the specific nature
27 of the occupation in which he intends to employ such minor, the wage
28 to be paid such minor, and the number of hours per day and days per
29 week which said minor shall be employed.

30 (2) Evidence of age showing that the minor is of the age required
31 by this act, which evidence shall consist of one of the following proofs
32 of age and shall be required in the order herein designated, as follows:

33 (a) A birth certificate or certified transcript thereof or a signed
34 statement of the recorded date and place of birth issued by a registrar
35 of vital statistics or other officer charged with the duty of recording
36 births, or

37 (b) A baptismal certificate or attested transcript thereof showing
38 the date and place of birth, and date and place of baptism of the minor,
39 or

40 (c) Other documentary evidence of age satisfactory to the issuing
41 officer, such as a bona fide contemporary record of the date and place
42 of the minor's birth kept in the Bible in which the records of the births
43 in the family of the minor are preserved, or a passport, showing the
44 age of the minor, or a certificate of arrival in the United States, issued
45 by the United States Immigration Office, showing the age of the
46 minor, or a life insurance policy, provided that such other documentary

1 evidence has been in existence at least 1 year prior to the time it is
2 offered as evidence, and provided further that a school record of age
3 or an affidavit of a parent or guardian or other written statement of
4 age shall not be accepted, except as specified in paragraph (d) of this
5 section.

6 (d) In the case none of the aforesaid proofs of age shall be
7 obtainable and only in such case, the issuing officer may accept the
8 school record or the school-census record of the age of the minor
9 together with the sworn statement of a parent or guardian as to the
10 age of the minor and also with a certificate signed by the physician
11 authorized to sign the statements of physical fitness required by this
12 section, specifying what in his opinion is the physical age of the
13 minor. Such certificates shall show the height and weight of the minor
14 and other facts concerning his physical development which were
15 revealed by such examination and upon which the opinion of the
16 physician is based as to the physical age of the minor. If the school or
17 school-census record of age is not obtainable, the sworn statement of
18 the minor's parent or guardian, certifying to the name, date and place
19 of birth of the minor, together with a physician's certificate of age as
20 hereinbefore specified, may be accepted as evidence of age. The
21 issuing officer shall administer said sworn statement.

22 The issuing officer shall, in issuing a certificate for a minor, require
23 the evidence of age specified in paragraph (a) of this section in
24 preference to that specified in paragraphs (b), (c) and (d) of this
25 section and shall not accept the evidence of age permitted by any
26 subsequent paragraph unless he shall receive and file evidence that the
27 evidence of age required by the preceding paragraph or paragraphs
28 cannot be obtained.

29 (3) A statement of physical fitness, signed by a medical inspector
30 employed by the applicable board of education, or any other physician
31 licensed to practice medicine and surgery, setting forth that such minor
32 has been thoroughly examined by such medical inspector, or such
33 other physician licensed to practice medicine and surgery, that he
34 either is physically fit for employment in occupations permitted for
35 persons under 18 years of age, or is physically fit to be employed
36 under certain limitations, specified in the statement. If the statement
37 of physical fitness is limited, the employment certificate issued thereon
38 shall state clearly the limitations upon its use, and shall be valid only
39 when used under the limitations so stated. The method of making such
40 examinations shall be prescribed jointly by the Commissioner of
41 Education and the State Department of Health; provided, however, no
42 minor shall be required to submit to a physical examination, whose
43 parent or guardian objects thereto in writing on the grounds such
44 examination is contrary to his religious beliefs and practices.

45 (4) A school record signed by the principal of the school which the
46 minor has last attended or by someone duly authorized by him, giving

1 the full name, date of birth, grade last completed, and residence of the
2 minor, provided, that in the case of a vacation certificate issued for
3 work before or after school hours, such record shall also state that the
4 child is a regular attendant at school, and in the opinion of the
5 principal may perform such work without impairment of his progress
6 in school, but such principal's statement shall not be required for the
7 issuance of a vacation certificate for work during regular school
8 vacations.

9 (5) A statement of permission for the minor's employment signed
10 by the minor's parent or legal guardian, which shall be required for an
11 unmarried minor.

12 (cf: P.L.1968, c.314, s.1)

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14 13. This act shall take effect immediately.

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STATEMENT

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19 This bill expands parental rights in connection with unmarried
20 minors in the areas of health care, education, employment, motor
21 vehicles and runaway children. The bill is intended to ensure that a
22 parent or guardian: has the opportunity to exercise discretion with
23 respect to the provision of health care services and public school
24 instructional materials to, and the employment of, his or her child; and
25 is notified when that child is assessed as having a personal problem in
26 school, has had his or her motor vehicle license suspended or revoked,
27 or has run away from home and is being sheltered by a person without
28 legal authority to do so.

29 The purpose of this bill is to protect and promote the fundamental
30 rights of parents and guardians to exercise legitimate care,
31 responsibility and control over the upbringing of their children, and to
32 prevent wrongful governmental intrusion into these rights. Such
33 intrusion threatens the traditional role of the family in ensuring the
34 health, safety and well-being of children and asserting the basic values
35 and character traits essential for attaining individual liberty, fulfillment
36 and happiness.

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41 Expands parental rights regarding health care and other services for
42 minors.