

# **Childrens' Mental Health Fact Sheet**

## **Illinois Consent & Confidentiality Laws**

**MINOR:** A minor is a person under the age of 18. As a general matter, Illinois law requires a minor who seeks medical treatment to obtain consent from a parent or guardian. There are, however, several exceptions.

**MATURE MINOR EXCEPTION:** The Illinois Supreme Court has recognized a common law "mature minor doctrine," pursuant to which a trial judge can adjudicate a minor mature enough to consent to or refuse medical treatment where the evidence is clear and convincing that the minor is mature enough to appreciate the consequences of her actions and to exercise the judgment of an adult. In re E.G., 133 Ill.2d 98 (Ill.1990).

**EMANCIPATION:** Under the Emancipation of Mature Minors Act, a person 16 years or older may be emancipated, or partially emancipated by a court if: (1) the minor is of sound mind; (2) she has the capacity and maturity to manage her own affairs, including finances, and (3) emancipation is in the best interest of the minor and her family. A court may not enter an order of whole or partial emancipation if there is an objection by the minor, her parent or guardian. 750 ILCS 30/1 et seq. Just Section Quoted

**EMERGENCY CARE:** A hospital or physician may render emergency treatment without the consent of the minor's parent or legal guardian if, in the sole opinion of the physician, or hospital, it is not feasible to obtain such consent without adversely affecting the minor's condition. 410 ILCS 210/3(a). Just Section Quoted

**CHILDREN OF ADOLESCENT PARENTS:** A parent who is a minor may consent to performance upon his or her child of a medical, surgical, or dental procedure. 410 ILCS 210/2. Just Section Quoted

**GENERAL MEDICAL TREATMENT INCLUDING ABORTION:** Consent to performance of a medical or surgical procedure may be given by minors who are married, pregnant, or parents. Such minors are deemed to have the same rights (including right to confidentiality) as people 18 years of age and older. 410 ILCS 210/1. Just Section Quoted

**BIRTH CONTROL:** Doctors may provide birth control services and information to minors (under the age of 18 years), without the consent of parents or

guardians, if they are married, a parent, pregnant, or referred for birth control services by a physician, clergyman, or a planned parenthood agency, or where a serious health hazard would be created by the failure to provide such services. 325 ILCS 10/1. Just Section Quoted

**TESTING FOR HIV:** Minors may consent to anonymous HIV testing. If a minor's test result is positive, the health care provider shall make a reasonable effort to notify the minor's parent or guardian if, in his or her professional judgment, notification would be in the best interest of the child, and the provider has first sought unsuccessfully to persuade the minor to notify the parent or guardian, or the provider has reason to believe that the minor has not made notification. The law does not create a duty or obligation under which a provider must notify the minor's parent or legal guardian. 410 ILCS 305/9. Just Section Quoted

**RAPE VICTIMS:** Where a minor is the alleged victim of an aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician, or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such an offense. The minor may consent to such counseling, diagnosis, or treatment as if the minor had reached his or her age of majority. 410 ILCS 210/3(b). Just Section Quoted

A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information concerning the alleged sexual assault may be released at the written request of the minor. 410 ILCS 70/6.4 Just Sections Quoted

**TREATMENT FOR SEXUALLY TRANSMITTED DISEASES:** Minors 12 years of age or older who may have come in contact with any sexually transmitted diseases (STDs) may give consent to medical care or counseling related to a diagnosis or treatment of the disease. The consent of the parent, parents, or legal guardian shall not be necessary to authorize the medical care counseling.

With the minor's consent, anyone involved in providing medical care to the minor, counseling related to the diagnosis, or treatment of the minor's disease shall make reasonable efforts to involve the minor's family in his or her

treatment if the person furnishing the treatment believes that the involvement of the family will not be detrimental to the progress and care of the minor. Reasonable effort shall be extended to assist the minor in accepting his or her family's involvement in the care and treatment being given. 410 ILCS 210/4.

Any person who provides counseling to a minor patient who has come into contact with any sexually transmitted disease may, but shall not be obligated to, inform the parent, parents, or legal guardian of the minor as to the treatment given or needed. 410 ILCS 210/5. Just Sections Quoted

**MENTAL HEALTH TREATMENT – OUTPATIENT:** Any minor 12 years of age or older may request and receive counseling services or psychotherapy on an outpatient basis without the consent of the minor's parent or guardian. Outpatient counseling or psychotherapy provided to a minor under the age of 17 shall be limited to not more than 5 sessions, a session lasting not more than 45 minutes, until the consent of the minor's parent or guardian is obtained. The minor's parents shall not be informed without the consent of the minor unless the facility director believes such disclosure is necessary. The minor's parent or guardian is not liable for the costs of the outpatient counseling or psychotherapy. 405 ILCS 5/3-501. Just Section Quoted

**MENTAL HEALTH TREATMENT – VOLUNTARY INPATIENT:** Any minor 16 years or older may be admitted to a mental health facility as a voluntary patient if the minor herself executes the application. The minor's parent or guardian shall be immediately informed of the admission. 405 ILCS 5/3-502. Just Section Quoted

**MENTAL HEALTH TREATMENT – INVOLUNTARY INPATIENT:** A minor may be admitted to a mental health facility upon application by a parent or guardian if the facility director finds the minor has a mental illness or emotional disturbance such that she would benefit from inpatient treatment. 405 ILCS 5/3-503. A minor 12 years of age or older must be advised, in an understandable way, of her right to object to the admission. 405 ILCS 5/3-505. If the minor objects, the minor must be discharged within 15 days, excluding weekends and holidays, unless the objection is withdrawn or a petition is filed with the court for review of the admission. 405 ILCS 5/3-507. Just Sections Quoted

**SUBSTANCE ABUSE TREATMENT:** Minors 12 years of age or older who may be determined to be an addict, an alcoholic or an intoxicated person or who

may have a family member who abuses drugs or alcohol, may give consent to medical care or counseling related to diagnosis or treatment. The consent of the parent, parents or legal guardian shall not be necessary to authorize medical care or counseling.

With the minors consent anyone involved in providing medical care to the minor or counseling related to the drug or alcohol use by the minor or a member of minor's family shall make reasonable efforts to involve the minor's family in his or her treatment, if the person furnishing the treatment believes that the involvement of the family will not be detrimental to the progress and care of the minor. Reasonable effort shall be extended to assist the minor in accepting his or her family's involvement in the care and treatment being given. 410 ILCS 210/4.

Any provider who provides counseling to a minor who abuses drugs or alcohol or has a family member who abuses drugs or alcohol shall not inform a minor's parent, parents, or legal guardian or other responsible adult of a minor's condition or treatment without the minor's consent unless that action is, in the person's judgment, necessary to protect the safety of the minor, a family member, or another individual. 410 ILCS 210/5. Just Sections Quoted

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA):** Go to [www.hhs.gov/hipaa](http://www.hhs.gov/hipaa) for more information on confidentiality and privacy.

Please note: This publication is intended as a guide and is not meant to provide individual legal assistance. Please check with your legal counsel for site-specific clarification about confidentiality and disclosure issues.

This document originated with the Illinois Caucus for Adolescent Health and has been modified and updated by CICO to link with the specific legislative acts • [www.icaah.org](http://www.icaah.org)

Website for teens in Illinois: [allteenhealth.com](http://allteenhealth.com)

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