

**Senate File 2075 - Introduced**

SENATE FILE 2075

BY MATHIS

**A BILL FOR**

1 An Act allowing parents, guardians, or custodians of a minor to  
2 confer health care treatment decisions related to that minor  
3 to other adult persons.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 239.1 Title.

2 This chapter shall be known and may be cited as the "*Health*  
3 *Care Consent Act*".

4 Sec. 2. NEW SECTION. 239.2 Authorization for consent to  
5 health care treatment and information.

6 1. a. A parent, guardian, or custodian of a minor may  
7 authorize an adult person to exercise certain concurrent  
8 parental rights and responsibilities in regard to the minor  
9 as described in subsection 4. If conflicting decisions are  
10 made under such concurrent rights and responsibilities, the  
11 decision of the parent, guardian, or custodian shall supersede  
12 the decision of the person upon whom the parental rights and  
13 responsibilities were conferred.

14 b. "*Minor*", for purposes of this chapter, means a person  
15 under eighteen years of age who has not been and is not  
16 married.

17 2. The parent, guardian, or custodian of a minor may  
18 only confer those parental rights and responsibilities that  
19 the parent, guardian, or custodian lawfully possesses and  
20 such authorization shall not divest the parent, guardian,  
21 or custodian of the minor of the parental rights and  
22 responsibilities.

23 3. The parent, guardian, or custodian of a minor shall  
24 not authorize an adult person to exercise parental rights and  
25 responsibilities under this section to circumvent any state or  
26 federal law, or to reconfer rights to a person from whom those  
27 rights have been removed by a court of law.

28 4. The parental rights and responsibilities which may be  
29 conferred to an adult person pursuant to this section are as  
30 follows:

31 a. The power to consent to medical, surgical, dental,  
32 developmental, mental health, or other examination or treatment  
33 to be rendered to the minor under the supervision of or upon  
34 the advice of a physician, nurse, school nurse, dentist, mental  
35 health professional, or other health care professional licensed

1 to practice in this state.

2 *b.* The power to exercise any existing parental rights to  
3 obtain records or information with regard to the health care  
4 services described in paragraph "a" or insurance coverage  
5 related to such services.

6 **Sec. 3. NEW SECTION. 239.3 Authorization requirements.**

7 1. A health care consent authorization under section 239.2  
8 shall be in writing and shall include all of the following:

9 *a.* The name of the person upon whom the parental rights and  
10 responsibilities are conferred.

11 *b.* The name and date of birth of each minor with respect to  
12 whom the parental rights and responsibilities are conferred.

13 *c.* A statement by the person conferring the parental rights  
14 and responsibilities that there are no court orders presently  
15 in effect that would prohibit the person from conferring the  
16 parental rights and responsibilities.

17 *d.* A description of the specific parental rights and  
18 responsibilities that are being conferred pursuant to section  
19 239.2, subsection 4.

20 2. A health care consent authorization under section 239.2  
21 shall be signed by the parent, guardian, or custodian in the  
22 presence of and along with the contemporaneous signatures of  
23 two witnesses who are at least eighteen years of age. The  
24 adult person upon whom the parental rights and responsibilities  
25 are being conferred may not serve as one of the witnesses. The  
26 adult person upon whom the parental rights and responsibilities  
27 are being conferred shall also sign the authorization.

28 **Sec. 4. NEW SECTION. 239.4 Form of health care consent**  
29 **authorization.**

30 A health care consent authorization executed pursuant to  
31 this chapter may, but need not, be in the following form:

32 **HEALTH CARE CONSENT AUTHORIZATION**

33 I (name of parent, guardian, or custodian of minor) am the  
34 (parent, guardian, or custodian) of the child listed below and  
35 there are no court orders now in effect that would prohibit

1 me from conferring the power to consent described in this  
2 authorization upon another person.

3 I (name of parent, guardian, or custodian) do confer upon  
4 (name of adult person), residing at (adult person's address),  
5 the power to consent to necessary examination and treatment  
6 as described in this authorization for the following child:  
7 (name of child), residing at (child's address), born on  
8 (child's birthdate), and on the child's behalf do state that  
9 the power to consent which I confer shall not be affected by my  
10 subsequent disability or incapacity.

11 The parental rights and responsibilities which I confer  
12 are specifically limited to health care decision making as  
13 described in this authorization and may be exercised only by  
14 the person named above. The person named above may consent  
15 to the child's (cross out all that do not apply): medical,  
16 dental, surgical, developmental, and/or mental health  
17 examination or treatment and may have access to any and all  
18 records, including but not limited to insurance records,  
19 regarding any such services.

20 I confer the power to consent freely and knowingly in order to  
21 provide for the child and not as a result of pressure, threats,  
22 or payments by any person or agency. This document shall  
23 remain in effect until it is revoked by notifying the child's  
24 health care and insurance providers and the person named above,  
25 in writing, that I wish to revoke it.

26 .....

27 Signature of parent, guardian, or custodian

28 **Sec. 5. NEW SECTION. 239.5 Use by health care provider —**  
29 **liability.**

30 1. An authorization described in section 239.2, which is  
31 consistent with the requirements of section 239.3, shall be  
32 honored by any physician, nurse, school nurse, dentist, mental  
33 health professional, other health care professional, hospital,  
34 health care facility, mental health facility, or insurance  
35 provider.

1 2. A health care provider or an insurance provider who  
2 acts in good faith on the authorization granted through a  
3 health care consent authorization that is consistent with the  
4 requirements of this chapter has no obligation to make any  
5 further inquiry or investigation and is not subject to criminal  
6 prosecution, civil liability, or professional disciplinary  
7 action for treating a minor without legal consent if the person  
8 relied in good faith on the health care consent authorization.  
9 Nothing in this chapter shall relieve a person from liability  
10 arising under another provision of the law.

11 3. An adult person upon whom the parental rights and  
12 responsibilities are conferred pursuant to a health care  
13 consent authorization under this chapter is not subject to  
14 criminal prosecution or civil liability for any health care  
15 decision made in good faith pursuant to the health care consent  
16 authorization.

17 4. It shall be presumed that an adult person upon whom the  
18 parental rights and responsibilities are conferred pursuant to  
19 a health care consent authorization, and a health care provider  
20 or insurance provider acting pursuant to the direction of  
21 that adult person, are acting in good faith absent clear and  
22 convincing evidence to the contrary.

23 5. For purposes of this section, acting in "*good faith*"  
24 means acting consistent with the desires of the parent,  
25 guardian, or custodian as expressed in the health care consent  
26 authorization or otherwise made known to the adult person upon  
27 whom the parental rights and responsibilities are conferred, or  
28 where those desires are unknown, acting in the best interests  
29 of the child, taking into account the child's overall medical  
30 condition and prognosis.

31 **Sec. 6. NEW SECTION. 239.6 Revocation.**

32 1. Parental rights and responsibilities conferred pursuant  
33 to a health care consent authorization under this chapter  
34 are revocable at will and such revocation is effective upon  
35 notifying all parties of interest in writing.

1 2. Death of a person who has previously executed a health  
2 care consent authorization constitutes revocation of the  
3 authorization, except that action taken in good faith reliance  
4 upon the authorization without actual knowledge of the death  
5 shall be permitted.

6 3. Unless otherwise indicated in the health care consent  
7 authorization, disability or incapacity of the person executing  
8 the authorization does not constitute revocation of the  
9 authorization.

10 Sec. 7. NEW SECTION. 239.7 Insurance coverage.

11 An insurer shall have the sole power to determine whether to  
12 add a child to the insurance coverage of a person who has been  
13 authorized to consent to treatment of that child under this  
14 chapter. No provision of this chapter shall be construed to  
15 compel an insurer to provide such coverage.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with  
18 the explanation's substance by the members of the general assembly.

19 This bill establishes a health care consent authorization,  
20 which allows a parent, guardian, or custodian of a minor to  
21 authorize an adult person to exercise certain concurrent  
22 parental rights and responsibilities. Those parental rights  
23 and responsibilities are the power to consent to medical,  
24 surgical, dental, developmental, mental health, or other  
25 treatment or examination rendered to a minor in the state  
26 and the power to exercise parental rights to obtain records  
27 and information with regard to the health care services and  
28 insurance. The bill specifies that a parent, guardian, or  
29 custodian may only confer parental rights and responsibilities  
30 that the parent, guardian, or custodian lawfully possesses.

31 The bill requires a health care consent authorization to  
32 be in writing and to include the name of the person upon whom  
33 the parental rights and responsibilities are conferred, the  
34 name and date of birth of the minor, a statement conferring  
35 the rights, a statement that there are no court orders that

1 prohibit the parent, guardian, or custodian from conferring the  
2 parental rights and responsibilities, and a description of the  
3 rights and responsibilities being conferred. The bill requires  
4 the written authorization to be signed by the parent, guardian,  
5 or custodian, the person upon whom the parental rights and  
6 responsibilities are being conferred, and two witnesses. The  
7 bill also provides an example of the form of the health care  
8 consent authorization.

9 The bill requires physicians, nurses, school nurses, mental  
10 health professionals, dentists, health care professionals,  
11 hospitals, health care facilities, mental health facilities,  
12 and insurance providers to honor the health care consent  
13 authorization. The bill also provides that the health care  
14 providers and insurance providers are not liable when acting in  
15 good faith, as defined in the bill, on the health care consent  
16 authorization. The bill also states that the adult person upon  
17 whom the parental rights and responsibilities are conferred is  
18 not liable when acting in good faith, as that term is defined  
19 in the bill.

20 The bill provides that a parent, guardian, or custodian may  
21 revoke the health care consent authorization upon providing  
22 a written notification to all interested parties. The death  
23 of the parent, guardian, or custodian effectuates a revocation  
24 of the health care consent authorization, but a disability  
25 or incapacity of the parent, guardian, or custodian is not a  
26 revocation of the health care consent authorization.

27 The bill provides that an insurer has the sole power to  
28 determine whether to add a child to the insurance coverage of a  
29 person authorized to consent to that child's health care, but  
30 the insurer is not obligated to do so.