

HOUSE BILL NO. 4087

February 14, 2023, Introduced by Reps. O'Neal, Stone, Roth, Price, Tsernoglou, Byrnes, McFall, Haadsma, Hood, Rheingans, Young, Scott, Wilson, Morse, Breen, MacDonell, Brixie, Brenda Carter, Miller and Glanville and referred to the Committee on Families, Children and Seniors.

A bill to allow homeless or runaway youth access to health care without parental consent; and to allow health care providers to treat homeless or runaway youth without parental consent.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Child neglect" means that term as defined in section 2 of
3 the child protection law, 1975 PA 238, MCL 722.622.

4 (b) "Homeless youth" means an individual for whom it is not
5 possible to live in a safe environment with a relative, who has no
6 other safe alternative living arrangement, and who is either of the

1 following:

2 (i) Seeking shelter in a basic center as described in 34 USC
3 11212(a).

4 (ii) Seeking enrollment in a transitional living program as
5 described in 34 USC 11222(a), is not less than 16 years of age, and
6 is either of the following:

7 (A) Less than 22 years of age.

8 (B) Not less than 22 years of age as of the expiration of the
9 maximum period of stay permitted under 34 USC 11222(a)(2) if the
10 individual commences the stay before reaching 22 years of age.

11 (c) "Runaway youth" means an individual who is seeking shelter
12 in a basic center as described in 34 USC 11212(a), is less than 18
13 years of age, and who absents himself or herself from home or a
14 place of legal residence without the permission of a parent or
15 legal guardian.

16 Sec. 2. (1) A homeless or runaway youth may consent to,
17 contract for, and receive medical, dental, or behavioral health
18 examinations, care, or treatment without a parent's or guardian's
19 permission, authority, or consent. Acceptable documentation
20 demonstrating an individual's status as a homeless or runaway youth
21 includes the following:

22 (a) A statement documenting that status, signed by a director
23 or designee of a governmental or nonprofit entity that receives
24 public or private funding to provide services to individuals who
25 are homeless or runaway youth.

26 (b) A statement documenting that status, signed by a local
27 educational agency liaison for homeless or runaway youth designated
28 under 42 USC 11432(g)(1)(J)(ii), a local educational agency foster
29 care point of contact designated under 20 USC 6312(c)(5)(A), or a

1 school social worker or counselor.

2 (c) A statement documenting that status, signed by an attorney
3 representing the individual in any legal matter.

4 (d) A statement documenting that status, signed by the
5 individual and 2 adults with knowledge of the individual's actual
6 circumstances.

7 (2) This act does not authorize a homeless or runaway youth to
8 consent to an abortion or gender affirming medical treatment.

9 Sec. 3. A homeless or runaway youth who is a parent may
10 consent to, contract for, and receive medical, dental, and
11 behavioral health examinations, care, or treatment for the youth's
12 child.

13 Sec. 4. (1) A physician or other qualified professional
14 licensed to practice in this state who provides medical, dental, or
15 behavioral health examinations, care, or treatment to a homeless or
16 runaway youth under this act may not be held liable in a civil or
17 criminal action for providing those services without having
18 obtained permission from the youth's parent or guardian.

19 (2) This section does not relieve the physician or other
20 qualified professional licensed in this state from liability for
21 negligence in the diagnosis or treatment of a homeless or runaway
22 youth.

23 Sec. 5. (1) Identification of an individual as a homeless or
24 runaway youth does not automatically mean the individual has
25 experienced child abuse or child neglect.

26 (2) This act does not supersede the mandatory reporting
27 requirements of section 3 of the child protection law, 1975 PA 238,
28 MCL 722.623.

HOMELESS AND RUNAWAY YOUTH

House Bill No. 4087 as introduced

Sponsor: Rep. Amos O'Neal

Committee: Families, Children and Seniors

SUMMARY

House Bill 4087 would create a new act to allow homeless youth or runaway youth access to health care without parental consent and allow health care providers to treat homeless or runaway youth without parental consent.

Runaway youth would mean an individual less than 18 years of age who is seeking shelter in a basic center as described in federal law, and who absents themselves from home or a place of legal residence without the permission of a parent or legal guardian.

Homeless youth would mean an individual for whom it is not possible to live in a safe environment with a relative, who has no other safe alternative living arrangement, and who is either of the following:

- Seeking shelter in a basic center as described in federal law.
- Seeking enrollment in a transitional living program as described in federal law and either of the following:
 - At least 16 years of age but less than 22 years of age.
 - Less than 22 years of age at the start of the stay period and remainder of stay period is in compliance with federal law.

Identification of an individual as a homeless or runaway youth would not automatically mean they have experienced child abuse or neglect.

Under the bill, a homeless or runaway youth could 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. Acceptable documentation demonstrating the individual's status as a homeless or runaway youth would include a signed statement from the following:

- A director or designee of a governmental or nonprofit entity receiving public or private funding to provide services to individuals who are homeless or runaway youth.
- A local educational agency liaison for homeless or runaway youth designated under federal law, a local educational agency foster care point of contact designated under federal law, or a school social worker or counselor.
- An attorney representing the individual in any legal matter.
- The individual and two adults with knowledge of the individual's actual circumstances.

The bill would not allow a homeless or runaway youth to consent to an abortion or gender affirming medical treatment. A homeless or runaway youth who is a parent could consent to, contract for, and receive medical, dental, and behavioral health exams, care, or treatment for their child.

A physician or other qualified professional licensed to practice in this state who provides medical, dental, or behavioral health exams, care, or treatment to a homeless or runaway youth could not be held liable in a civil or criminal action for providing services without having obtained permission from their youth's parent or guardian. The bill would not, however, relieve the physician or qualified licensed professional from liability for negligence in the diagnosis or treatment of a homeless or runaway youth.

The bill would not supersede the mandatory reporting requirements under the Child Protection Law.

APPARENT PROBLEM

The bill sponsors hold that homeless and runaway youth who require medical attention risk being denied such services because their parents:

- 1) Cannot be contacted
- 2) Should not be contacted due to an abusive situation

FISCAL IMPACT

House Bill 4087 should have a negligible fiscal cost on the state's Medicaid budget. This fiscal cost depends on any increased medically necessary services provided to any homeless youth that are enrolled in Medicaid and who are not able to receive any required parental consent for the medical service.

SUPPORTING ARGUMENTS

The bill recognizes the dangerous situations that homeless and runaway youth face when exposed to the elements and that their need for safety should be the paramount concern for the centers that can provide such care. In some cases, parents/guardians may not be able to be contacted because of missing information, a lack of response, etc. In this case, the time necessary to get ahold of the parents/guardians may be necessary to give aid to the youth. In other cases, the youth may be coming from an abusive home in which case gaining parental consent may pose a danger to the youth.

OPPOSING ARGUMENTS

Critics of the bill note the following errors:

- 1) The attempt to contact parents is not required in these situations. While it may not always be possible to contact parents, the removal of a good faith effort to do so poses a new set of risks.
- 2) This bill presents the risk of decreasing the need for parental consent for medical care. While the need for medical care is a justifiable concern, opponents argue that legislation should reduce causes of youth being homeless or running away rather than reducing parental rights.

Legislative and Fiscal Analyst: J.J.P

This analysis was prepared by nonpartisan LEAD Legislative Staff for use by the LEAD legislative tracks and does not constitute an official statement of legislative intent.