

SENATE BILL 378

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By: **Senator Kagan**

Introduced and read first time: February 1, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Vaccinations – Minor Consent**

3 FOR the purpose of providing that minors of at least a certain age have the same capacity
4 as an adult to consent to vaccination; authorizing minors under a certain age to
5 consent to vaccination under certain circumstances; providing that the capacity to
6 consent does not include the capacity to refuse vaccination for which a parent or
7 guardian has given consent; and generally relating to vaccination of minors.

8 BY adding to

9 Article – Health – General

10 Section 20–106.1

11 Annotated Code of Maryland

12 (2019 Replacement Volume and 2022 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Health – General**

16 **20–106.1.**

17 (A) IN THIS SECTION, “INFORMED CONSENT” MEANS A DECISION TO
18 UNDERGO A SPECIFIC MEDICAL PROCEDURE OR TREATMENT THAT IS:

19 (1) MADE FREELY AFTER SUFFICIENT TIME FOR CONTEMPLATION;

20 (2) MADE WITHOUT COERCION BY ANY INDIVIDUAL; AND

21 (3) BASED ON THE PROVIDING HEALTH CARE PROVIDER’S ACCURATE
22 AND SUBSTANTIALLY COMPLETE EXPLANATION:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (I) OF THE PROPOSED PROCEDURE OR TREATMENT;

2 (II) OF THE REASONABLY FORESEEABLE COMPLICATIONS AND
3 RISKS TO THE PATIENT;

4 (III) OF HOW THE PROCEDURE OR TREATMENT AND ITS
5 REASONABLY FORESEEABLE COMPLICATIONS AND RISKS COMPARE WITH THE
6 COMPLICATIONS AND RISKS OF EACH READILY AVAILABLE ALTERNATIVE; AND

7 (IV) THAT IS PROVIDED IN A MANNER THAT CAN BE
8 UNDERSTOOD BY THE INDIVIDUAL MAKING THE DECISION, CONSIDERING THE
9 INDIVIDUAL'S AGE, LEVEL OF MATURITY, AND INTELLECTUAL CAPABILITY.

10 (B) A MINOR AT LEAST 14 YEARS OLD HAS THE SAME CAPACITY AS AN ADULT
11 TO CONSENT TO VACCINATION.

12 (C) A MINOR UNDER THE AGE OF 14 YEARS, INCLUDING A MINOR WHO IS
13 DEVELOPMENTALLY DISABLED OR UNEMANCIPATED, HAS THE CAPACITY TO
14 CONSENT TO VACCINATION IF:

15 (1) IN THE OPINION OF THE HEALTH CARE PROVIDER, THE MINOR IS
16 OF SUFFICIENT INTELLIGENCE TO UNDERSTAND AND APPRECIATE THE NEED FOR,
17 NATURE OF, AND THE SIGNIFICANT RISKS AND CONSEQUENCES OF THE
18 VACCINATION; AND

19 (2) THE MINOR IS ABLE TO GIVE INFORMED CONSENT.

20 (D) THE CAPACITY OF A MINOR TO CONSENT TO VACCINATION UNDER THIS
21 SECTION DOES NOT INCLUDE THE CAPACITY TO REFUSE VACCINATION FOR WHICH
22 A PARENT OR GUARDIAN HAS GIVEN CONSENT.

23 (E) NOTWITHSTANDING ANY OTHER LAW, IF A HEALTH CARE PROVIDER
24 VACCINATES A MINOR IN ACCORDANCE WITH THIS SECTION AND WITHOUT CONSENT
25 OR KNOWLEDGE OF THE MINOR'S PARENT OR GUARDIAN, THE MINOR'S MEDICAL OR
26 BILLING RECORDS MAY NOT BE RELEASED OR MADE AVAILABLE TO THE MINOR'S
27 PARENT OR GUARDIAN IN ANY MANNER, WITHOUT THE MINOR'S CONSENT.

28 (F) A MINOR WHO IS VACCINATED IN ACCORDANCE WITH THIS SECTION
29 SHALL HAVE ACCESS TO THE MINOR'S VACCINATION RECORDS WITHOUT THE
30 CONSENT OF THE MINOR'S PARENT OR GUARDIAN.

31 (G) A HOSPITAL OR LICENSED HEALTH CARE PROVIDER MAY NOT INCUR

1 CIVIL OR CRIMINAL LIABILITY IN CONNECTION WITH ANY EXAMINATION, DIAGNOSIS,
2 OR TREATMENT AUTHORIZED BY THIS SECTION, UNLESS THE HOSPITAL OR
3 LICENSED HEALTH CARE PROVIDER IS NEGLIGENT.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
5 1, 2023.