

## CHAPTER 32

## ( SB 21 )

AN ACT relating to mental health treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 202A.021 is amended to read as follows:

- (1) The hospitalization of minors alleged to be mentally ill, except those provided for in KRS Chapter 640, shall be governed by KRS Chapter 645.
- (2) An authorized staff physician of a hospital may admit for observation, diagnosis, care and treatment any person who is mentally ill or who has symptoms of mental illness and who applies voluntarily therefor.
- (3) An authorized staff physician of a hospital shall discharge any voluntary patient who has recovered or whose hospitalization the staff physician determines to be no longer necessary or advisable.
- (4) A voluntary patient shall be released upon the patient's written request unless further detained under the applicable provisions of this chapter, *including subsection (5) of this section*.
- (5) (a) *A voluntary patient who presents or is admitted to a hospital with symptoms of mental illness may be transported from the originating hospital to a receiving hospital or psychiatric facility:*
  1. *Upon the order of an authorized staff physician of an originating hospital and an authorized staff physician of a receiving hospital or psychiatric facility; and*
  2. *Submission of the patient's signed written agreement to be voluntarily transported.*
- (b) *If the agreed-upon transport from the originating hospital has been initiated, the patient with a signed written agreement to be voluntarily transported under this subsection shall not be physically released upon his or her request during the transport to the receiving hospital or psychiatric facility. The patient shall be physically released upon request after the patient has been received by the receiving hospital or psychiatric facility upon the patient's written release request unless further detained under the applicable provisions of this chapter as provided for under subsection (4) of this section.*

➔Section 2. KRS 645.030 is amended to read as follows:

- (1) An authorized staff physician may admit for observation, diagnosis, and treatment at a hospital any child who is mentally ill or has symptoms of mental illness:
  - (a)~~(1)~~ Upon written application of a parent or other person exercising custodial control or supervision, if the child is under sixteen (16) years of age. At or before the child's admission, the child, parent, or other person shall be informed of his *or her* rights under KRS 645.230 and 645.240. Any child admitted under this subsection who reaches his *or her* sixteenth birthday while hospitalized shall consent to his *or her* continued hospitalization or shall request his *or her* release. If the child fails to choose, the hospital shall advise the court-designated worker and the parent or other person exercising custodial control or supervision;
  - (b)~~(2)~~ Upon written application by a child who is at least sixteen (16) years of age and one (1) of his *or her* parents or a person exercising custodial control or supervision. At or before admission, the child shall be informed of his *or her* right to give notice of his *or her* intent to leave under KRS 645.190 and his *or her* right to consult an attorney or his *or her* court-designated worker under KRS 645.130. The child may consult an attorney prior to his *or her* admission; or
  - (c)~~(3)~~ Upon written application by a child who is at least sixteen (16) years of age. At or before admission, the child shall be informed of his *or her* rights under KRS 645.190 and his *or her* parents' rights under KRS 645.220, 645.230 and 645.240.
- (2) (a) *A child who presents or is voluntarily admitted to a hospital with symptoms of mental illness may be transported from an originating hospital to a receiving hospital or psychiatric facility upon the:*
  1. *Order of an authorized staff physician of the originating hospital and an authorized staff physician of a receiving hospital or psychiatric facility; and*

2. *Submission by the child or the child's parent or other person exercising custodial control or supervision, if the child is under sixteen (16) years of age, of a signed written agreement to be voluntarily transported.*
- (b) 1. *If the agreed-upon transport from an originating hospital has been initiated, the child with a signed written agreement to be voluntarily transported under this subsection shall not be physically released upon his or her request or the request of the child's parent or other person exercising custodial control or supervision, if the child is under sixteen (16) years of age, during the transport to the receiving hospital or psychiatric facility.*
2. *After the child has been received by the receiving hospital or psychiatric facility, the child shall be released upon the child or the child's parent or other person exercising custodial control or supervision, if the child is under sixteen (16) years of age, submitting a signed written release request, unless the child is further detained by court order.*

➔Section 3. KRS 645.190 is amended to read as follows:

- (1) Any child who was admitted pursuant to KRS 645.030(1)(b) or (c)~~((2) or (3))~~ may give notice of intent to leave at any time. The notice need not follow any specific form so long as it is written and the intent of the child can be discerned. The notice may be written by the child, a court-designated worker, or any other adult having an interest in the welfare of the child, provided that it reflects the stated wishes of the child.
- (2) Staff members receiving the notice shall immediately date it, record its existence on the child's medical chart, and send copies of it to:
  - (a) The child's attorney, if any;
  - (b) The court; and
  - (c) The parents or other person exercising custodial control or supervision of the child.

➔Section 4. KRS 214.185 is amended to read as follows:

- (1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, or substance use disorder and may advise, prescribe for, and treat such minor regarding venereal disease, substance use disorder, contraception, pregnancy, or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.
- (2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.
- (3) *Any qualified mental health professional, as defined by KRS 202A.011, may provide outpatient mental health counseling to any child who is age sixteen (16) or older and is an unaccompanied youth, as defined by 42 U.S.C. sec. 11434a(6), upon request of such child without the consent of a parent, parents, or guardian of such child.*
- (4) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental, or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.
- (5)~~((4))~~ Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

- (6)~~(5)~~ The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.
- (7) *The consent of a minor who represents that he or she may give effective consent for the purpose of receiving outpatient mental health counseling from a qualified mental health professional, but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian if the person rendering the service relied in good faith upon the representations of the minor after a reasonable attempt to obtain parental consent or to verify the minor's age and status as an unaccompanied youth.*
- (8)~~(6)~~ The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.
- (9)~~(7)~~ Except as otherwise provided in this section, parents, the Cabinet for Health and Family Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

**Signed by Governor March 17, 2021.**