



**House  
Legislative  
Analysis  
Section**

Manufacturer's Bank Building, 12th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## HEALTH CARE OF MINOR IN PRISON

**House Bill 5811 as introduced  
First Analysis (11-27-90)**

**Sponsor: Rep. Perry Bullard  
Committee: Judiciary**

### ***THE APPARENT PROBLEM:***

In recent years, with revisions in juvenile law and development of the boot camp program, an increasing emphasis has been placed on strong punishments for young offenders. However, having more minors in the corrections system has created a problem with providing medical care to someone who may not yet legally consent to it. In a non-emergency situation, the corrections department delays care until a parent or guardian can be contacted and permission obtained; if parents cannot be reached or are uncooperative, medical care generally must wait until the young prisoner's medical needs arguably can be considered an emergency. While a situation may not be life-threatening, it may be urgent, as when an injury calls for x-rays or an infection calls for blood tests or the administration of antibiotics. To remove the guesswork involved in deciding when parents must be contacted, and to enable young prisoners and probationers to receive prompt medical attention, it has been suggested that minors in prison be emancipated to the degree necessary to allow them to make their own decisions for medical care.

### ***THE CONTENT OF THE BILL:***

The bill would amend the emancipation of minors act, Public Act 293 of 1968, to provide for the emancipation of a minor for the purposes of consenting to routine, nonsurgical medical care or emergency treatment while a prisoner under the jurisdiction of the Department of Corrections or while a probationer in a special incarceration unit ("boot camp"). The emancipation would be by operation of law, meaning that a petition to the probate court would not be necessary.

MCL 722.4

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency says that the bill would have no significant fiscal implications. (11-26-90)

### ***ARGUMENTS:***

#### ***For:***

By providing for temporary emancipation of a minor under corrections department jurisdiction, the bill would enable a sick or injured minor to be given prompt medical treatment without the necessity of obtaining consent from a parent or guardian. By limiting that emancipation to issues of medical care, the bill would avoid the sorts of problems that could arise with full but temporary emancipation, such as allowing a minor to enter into a contract that he or she could later disavow.

#### ***Against:***

The bill should do more to ensure that a minor is fully able to consent to all sorts of medical care. The emancipation act specifies that an emancipated minor is emancipated for purposes of "the right to authorize his or her own preventative health care,

medical care, dental care, and mental health care, without parental knowledge or liability." To forestall any doubt that a minor could receive all sorts of medical care, the bill should employ this language in its provision for limited emancipation. In addition, it makes little sense to provide such emancipation only for the duration of the youth's incarceration, especially as various sorts of treatments, such as treatments for hypertension or venereal disease, commenced while incarcerated should be continued after release. The bill thus should provide for a permanent emancipation for the purposes of medical care.

#### ***Against:***

Although very few, if any, young pregnant females would be affected, the bill raises the possibility that it could be used to circumvent the law requiring parental consent prior to obtaining an abortion.

### ***POSITIONS:***

The Department of Corrections supports the bill. (11-19-90)

The Children's Charter of the Courts of Michigan supports the bill. (11-15-90)

The Michigan Council on Crime and Delinquency supports the bill. (11-15-90)

The Juvenile Law Section of the State Bar of Michigan has not reviewed the bill and has no formal position at this time. (11-21-90)