

# HOUSE BILL 66

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By: **Delegate Grammer**

Introduced and read first time: January 9, 2020

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Immunizations – Minor Consent**

3 FOR the purpose of authorizing a health care provider to provide an immunization to a  
4 minor without the consent of certain individuals under certain circumstances;  
5 authorizing a health care provider to provide an immunization to a minor under a  
6 certain provision of this Act whether or not a parent of the minor is reasonably  
7 unavailable or objects to the provision of the immunization; providing that the  
8 responsibility of a health care provider to provide certain information to a certain  
9 minor is the same as the health care provider’s responsibility to a certain parent;  
10 defining a certain term; making technical corrections; making conforming changes;  
11 and generally relating to consent for immunizations.

12 BY renumbering

13 Article – Health – General

14 Section 18–4A–01 through 18–4A–05, respectively, and the subtitle “Subtitle 4A.  
15 Consent to Immunizations of Minors”

16 to be Section 20–118 through 20–122, respectively, and the part “Part V. Delegation  
17 of Parental Consent to the Immunization of a Minor”

18 Annotated Code of Maryland

19 (2019 Replacement Volume)

20 BY adding to

21 Article – Health – General

22 Section 20–107

23 Annotated Code of Maryland

24 (2019 Replacement Volume)

25 BY repealing and reenacting, with amendments,

26 Article – Health – General

27 Section 20–118, 20–119, 20–121, and 20–122

28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2019 Replacement Volume)  
2 (As enacted by Section 1 of this Act)

3 BY repealing and reenacting, without amendments,  
4 Article – Health – General  
5 Section 20–120  
6 Annotated Code of Maryland  
7 (2019 Replacement Volume)  
8 (As enacted by Section 1 of this Act)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
10 That Section(s) 18–4A–01 through 18–4A–05, respectively, and the subtitle “Subtitle 4A.  
11 Consent to Immunizations of Minors” of Article – Health – General of the Annotated Code  
12 of Maryland be renumbered to be Section(s) 20–118 through 20–122, respectively, and the  
13 part “Part V. Delegation of Parental Consent to the Immunization of a Minor”.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
15 as follows:

16 **Article – Health – General**

17 **Part I. Minors.**

18 **20–107.**

19 **(A) IN THIS SECTION, “PARENT” HAS THE MEANING STATED IN § 20–118 OF**  
20 **THIS SUBTITLE.**

21 **(B) A HEALTH CARE PROVIDER MAY PROVIDE AN IMMUNIZATION TO A**  
22 **MINOR WITHOUT THE CONSENT OF A PARENT OF THE MINOR OR AN INDIVIDUAL WHO**  
23 **HAS THE AUTHORITY TO CONSENT TO THE MINOR’S IMMUNIZATION UNDER § 20–119**  
24 **OR § 20–120 OF THIS SUBTITLE IF:**

25 **(1) THE MINOR CONSENTS TO THE IMMUNIZATION;**

26 **(2) THE MINOR IS AT LEAST 14 YEARS OLD; AND**

27 **(3) THE HEALTH CARE PROVIDER DETERMINES THAT THE MINOR IS**  
28 **MATURE AND CAPABLE OF GIVING INFORMED CONSENT TO THE IMMUNIZATION.**

29 **(C) A HEALTH CARE PROVIDER MAY PROVIDE AN IMMUNIZATION TO A**  
30 **MINOR UNDER SUBSECTION (B) OF THIS SECTION WHETHER OR NOT A PARENT OF**  
31 **THE MINOR IS REASONABLY UNAVAILABLE OR OBJECTS TO THE PROVISION OF THE**  
32 **IMMUNIZATION.**

1           **(D) THE RESPONSIBILITY OF A HEALTH CARE PROVIDER TO PROVIDE**  
2 **INFORMATION TO A MINOR CONSENTING TO THE IMMUNIZATION UNDER THIS**  
3 **SECTION IS THE SAME AS THE HEALTH CARE PROVIDER’S RESPONSIBILITY TO A**  
4 **PARENT CONSENTING TO THE IMMUNIZATION OF A MINOR.**

5 20–118.

6           In this [subtitle] **PART**, “parent” means:

7           (1) A natural or adoptive parent of a minor;

8           (2) A guardian of a minor; or

9           (3) Any other person who, under court order, is authorized to give consent  
10 for a minor.

11 20–119.

12           (a) Subject to the provisions of this section, a parent may delegate verbally or in  
13 writing the parent’s authority to consent to the immunization of a minor to any of the  
14 following individuals, not in order of priority:

15           (1) A grandparent;

16           (2) An adult brother or sister;

17           (3) An adult aunt or uncle;

18           (4) A stepparent; or

19           (5) Any other adult who has care and control of the minor.

20           (b) If a parent verbally delegates the parent’s authority to consent to the  
21 immunization of a minor under this [subtitle] **PART**, the person delegated the authority  
22 shall confirm the verbal delegation in writing and the written confirmation shall be  
23 included in the minor’s medical record.

24           (c) A grandparent, adult brother or sister, adult aunt or uncle, or stepparent of a  
25 minor who is the primary caregiver of the minor and who may consent to the immunization  
26 of the minor under subsection (a) of this section may delegate the authority to consent to  
27 immunization of the minor to another adult in the manner permitted under subsection (b)  
28 of this section.

29           (d) A health care provider may rely on a notarized document from another state  
30 or country that contains substantially the same information as is required in any  
31 immunization consent regulations of the Department if the document is presented for

1 consent by a person listed in subsection (a) of this section.

2 (e) A person who consents to immunization of a minor under this [subtitle] **PART**  
3 shall provide the health care provider with sufficient and accurate health information about  
4 the minor for whom the consent is given and, if necessary, sufficient and accurate health  
5 information about the minor's family to enable the person providing the consent and the  
6 health care provider to determine adequately the risks and benefits inherent in the  
7 proposed immunization and determine whether the immunization is advisable.

8 20–120.

9 (a) Subject to the provisions of this section, the following individuals, not in order  
10 of priority, may consent to the immunization of a minor if a parent is not reasonably  
11 available and the authority to consent is not denied under subsection (b) or (c) of this  
12 section:

13 (1) A grandparent;

14 (2) An adult brother or sister;

15 (3) An adult aunt or uncle;

16 (4) A stepparent;

17 (5) Any other adult who has care and control of the minor;

18 (6) A court that has jurisdiction of a suit affecting the parent–child  
19 relationship of which the minor is the subject;

20 (7) An adult who has care and control of the minor under an order of a court  
21 or by commitment by a court to the care of an agency of the State or county if the adult  
22 reasonably believes the minor needs immunization; or

23 (8) For minors in its care and custody, the Department of Juvenile  
24 Services.

25 (b) A person may not consent to the immunization of a minor under subsection  
26 (a) of this section if:

27 (1) The person has actual knowledge that the parent has expressly refused  
28 to give consent to the immunization; or

29 (2) The parent has told the person that the person may not consent to the  
30 immunization of the minor or, in the case of a written authorization, has withdrawn the  
31 authorization in writing.

32 (c) When a parent has been contacted and requested to consent to the

1 immunization of a minor, the Department of Juvenile Services may consent to the  
2 immunization of a minor in its care and custody if the parent:

3 (1) Has not acted on the request; and

4 (2) Has not expressly denied to the Department of Juvenile Services the  
5 authority to consent to the immunization of the minor.

6 (d) For purposes of this section, a person is not reasonably available if:

7 (1) The location of the person is unknown;

8 (2) (i) A reasonable effort made by a person listed in subsection (a) of  
9 this section to locate and communicate with the parent for the purpose of obtaining consent  
10 has failed; and

11 (ii) Not more than 90 days have passed since the date that the effort  
12 was made; or

13 (3) The parent has been contacted by a person listed in subsection (a) of  
14 this section and requested to consent to the immunization of the minor, and the parent:

15 (i) Has not acted on the request; and

16 (ii) Has not expressly denied authority to the person listed in  
17 subsection (a) of this section to consent to immunization of the minor.

18 (e) A person authorized to consent to the immunization of a minor under this  
19 section shall confirm that the parent is not reasonably available in writing and the written  
20 confirmation shall be included in the minor's medical record.

21 20-121.

22 The responsibility of a health care provider to provide information to a person  
23 consenting to the immunization of a minor under [§ 18-4A-02 or § 18-4A-03] **§ 20-119**  
24 **OR § 20-120** of this [subtitle] PART is the same as the health care provider's responsibility  
25 to a parent.

26 20-122.

27 (a) In the absence of willful misconduct or gross negligence, a health care provider  
28 who accepts the health history and other information given by a person who is delegated  
29 the authority to consent to the immunization of a minor under [§ 18-4A-02 or § 18-4A-03]  
30 **§ 20-119 OR § 20-120** of this [subtitle] PART is not liable for an adverse reaction related  
31 to an immunization of the minor resulting from factual errors in the health history or  
32 information given by the person to the health care provider.

1 (b) Except for acts of willful misconduct or gross negligence, a person who  
2 consents to the immunization of a minor under [§ 18-4A-02 or § 18-4A-03] **§ 20-119 OR**  
3 **§ 20-120** of this [subtitle] **PART**, a health care provider licensed to practice in the State,  
4 or a medical facility is not liable for damages arising from an immunization administered  
5 to a minor as authorized under [§ 18-4A-02 or § 18-4A-03] **§ 20-119 OR § 20-120** of this  
6 [subtitle] **PART**.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2020.