



# A Guide to Illinois Law Affecting Minors' Access to Reproductive Health Care\*

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## A Minor

A minor is a person under the age of 18.

## Informed Consent

As a general rule, Illinois law requires a minor who seeks medical treatment to obtain the consent of a parent or guardian. However, there are several important exceptions. A minor who understands the risks, benefits, and alternatives to certain health services may give informed consent as outlined below.

## Minors Who May Consent to Medical Care

If a minor fits one of the following categories, she/he may consent to ALL health care evaluation and treatment, to the same extent as a person of legal age, without the consent of a parent or guardian:

- The minor is legally married.<sup>1</sup>
- The minor is a parent.<sup>2</sup>
- The minor is pregnant.<sup>3</sup>
- The minor has been legally emancipated by a court.<sup>4</sup>

## Specific Medical Care for Which a Minor May Give Consent:

### *Contraceptives and Pregnancy Testing*

Health care personnel may provide confidential contraceptives and pregnancy tests to minors without parental consent if the minor is married, a parent or pregnant, is referred by a physician, clergyman or planned parenthood agency, or where a serious health hazard would be created by the failure to provide these services.<sup>5</sup>

### *Emergency Contraception (EC)*

Emergency Contraception (also known as the morning-after pill) is a form of contraception. Women can take EC up to 120 hours following intercourse to stop a pregnancy before it starts; however, **they are urged to do so as soon as possible to maximize efficacy**. The National EC Hotline (1-888-NOT-2-LATE or [www.not-2-late.com](http://www.not-2-late.com)) offers information on EC options and providers. Most EC can be sold without a prescription to women and men 17 years and older. Some forms of EC are also available to minors 16 and younger without a prescription or proof of age. Minors do not need parental consent to obtain EC, and confidential services may be provided.<sup>6</sup>

### *Sexually Transmitted Infections*

Minors aged 12 and over may consent to confidential testing, treatment, and counseling for and vaccination against sexually transmitted infections (STIs).<sup>7</sup> Providers must report incidents of STIs to departments of health in accordance with applicable statutes and ordinances; such reports are to remain confidential.<sup>8</sup> Providers are encouraged, where appropriate, to involve a minor's family in the minor's treatment for STIs, but must first obtain the minor's consent.<sup>9</sup>

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\* This document is not intended to provide individual legal assistance. It is intended only as a guide to Illinois law regarding minors' access to confidential reproductive health care.

<sup>1</sup> 410 ILCS 210/1.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> 750 ILCS 30 (Emancipation of Minors Act); *see also In re E.G.*, 549 N.E. 2d 322 (Ill. 1989) (finding under common law that minor who possessed requisite degree of maturity had right to refuse life-sustaining medical treatment that violated her religious rights).

<sup>5</sup> 325 ILCS 10/1.

<sup>6</sup> 325 ILCS 10/1; 410 ILCS 70/5(b) (permitting confidential EC with consent of minor who is a victim of criminal sexual assault); 410 ILCS 70/1(a), 720 ILCS 5/12-15 (criminal sexual assault includes criminal sexual abuse which includes having sex with a minor).

<sup>7</sup> 410 ILCS 210/4; 77 Ill. Admin. Code § 693.130.

<sup>8</sup> 410 ILCS 210/4; 77 Ill. Admin. Code §§ 693.30, 100.

<sup>9</sup> 410 ILCS 210/4-5.

## **HIV**

Minors aged 12 and older may consent to testing, treatment and counseling for HIV.<sup>10</sup> Minors may also consent to anonymous HIV testing.<sup>11</sup> Providers must report incidents of HIV to departments of health in accordance with applicable statutes and ordinances; such reports are to remain confidential.<sup>12</sup> In addition, providers are encouraged, but not obligated, to notify a minor's parent of a positive test result if the provider has been unsuccessful in persuading the minor to do so and believes that notification is in the minor's best interest.<sup>13</sup>

## **Abortion Services**

A pregnant minor may consent to confidential abortion services without parental consent.<sup>14</sup> However, an adult family member—i.e., someone over 21 years of age who is the minor's parent, grandparent, stepparent who lives in the minor's home, or legal guardian—must be notified 48 hours before the abortion is performed unless an exception applies or the minor receives a waiver in an expedited and confidential court proceeding (i.e., judicial bypass).<sup>15</sup> For more information, visit [ilbypasscoordinationproject.org](http://ilbypasscoordinationproject.org).

## **Sexual Assault**

A minor may consent to health services associated with criminal sexual assault or abuse.<sup>16</sup> Such services include emergency contraception, pregnancy tests, counseling and treatment for STIs.<sup>17</sup> A minor who presents for care within seven days of the assault may consent to the use of a sexual assault evidence collection kit. Minors aged 13 and older may give written consent to a hospital to release evidence and information from the kit to law enforcement officials.<sup>18</sup> If medical personnel have reasonable cause to believe that the minor is an abused child, the abuse may need to be reported to the Department of Children and Family Services. Such reporting requirements only arise where a family or household member, or any person responsible for the child's welfare, or a paramour of the child's parent, commits a criminal sexual offense, or allows one to be committed against the child.<sup>19</sup>

## **Emergency Care**

A minor may receive health services without the prior consent of a parent or guardian when obtaining such consent is not reasonably feasible without adversely affecting the minor's health.<sup>20</sup>

## **Substance Abuse Care**

Minors aged 12 and older may consent to confidential outpatient counseling and treatment if they or a family member abuses drugs or alcohol.<sup>21</sup> Providers are encouraged, where appropriate, to involve a minor's family in the minor's treatment for substance abuse, but must first obtain the minor's consent.<sup>22</sup> However, if a provider is providing counseling to such minor and believes that parental notification is necessary to protect the safety of the minor or others, the provider may inform the parent of the minor's substance abuse counseling or treatment without the minor's consent.<sup>23</sup>

## **Mental Health**

Minors aged 12 and over may consent to confidential counseling or psychotherapy on an outpatient basis. Providers of such treatment may not notify parents of the minor's treatment services without the minor's consent unless the provider believes such notification is necessary; however, in such a case, the minor must be informed of the provider's intention to disclose. If the minor is under 17, counseling or psychotherapy sessions are limited to five in number until parental consent is obtained.<sup>24</sup> In addition, parents can obtain psychological records if the provider does not find compelling reasons for denying access.<sup>25</sup>

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<sup>10</sup> 410 ILCS 210/4; 77 Ill. Admin. Code § 697.420.

<sup>11</sup> 410 ILCS 305/6; 77 Ill. Admin. Code §§ 697.130, 140.

<sup>12</sup> 410 ILCS 210/4; 77 Ill. Admin. Code §§ 693.30, 100. Reports of public school students diagnosed as having HIV or AIDS may not be disclosed to public school officials. *See* H.B. 61, 98th Gen. Assemb. (Ill. 2013) (P.A. 98-0353).

<sup>13</sup> 410 ILCS 305/9(k).

<sup>14</sup> 410 ILCS 210/1; 750 ILCS 70/30.

<sup>15</sup> 750 ILCS 70/10, 15, 20, 25.

<sup>16</sup> 410 ILCS 70/5(b); 410 ILCS 70/1(a), 720 ILCS 5/12-15 (definition of criminal sexual assault includes criminal sexual abuse); 410 ILCS 210/3(b); 77 Ill. Admin. Code § 545.60(f).

<sup>17</sup> 410 ILCS 70/2.2, 5; 77 Ill. Admin. Code § 545.60.

<sup>18</sup> 410 ILCS 70/6.4(a); 77 Ill. Admin. Code § 545.60(g).

<sup>19</sup> 325 ILCS 5/3, 4.

<sup>20</sup> 410 ILCS 210/3(a).

<sup>21</sup> 410 ILCS 210/4.

<sup>22</sup> *Id.*

<sup>23</sup> 410 ILCS 210/4, 5.

<sup>24</sup> 405 ILCS 5/3-501(a).

<sup>25</sup> 740 ILCS 110/4(a)(3).