

MINOR IN PRISON: HEALTH CARE

**Senate Bill 498 with House committee
amendment
First Analysis (11-3-93)**

**Sponsor: Senator Jack Welborn
Senate Committee: Family Law, Criminal
Law, and Corrections
House Committee: Corrections**

THE APPARENT PROBLEM:

In recent years, with revisions in juvenile law and the 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 exacerbated 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 (MCL 722.4), to provide for the emancipation of a minor for the purposes of consenting to his or her own preventative health care or medical care (including surgery, dental care, or mental health care) 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 law, meaning that a petition to the probate court would not be necessary, but take effect if the Department of Corrections had been unable to promptly locate the parent or guardian.

HOUSE COMMITTEE ACTION:

The House Corrections Committee adopted an amendment that limited emancipation to situations where the corrections department had been unable to promptly locate a parent or guardian.

FISCAL IMPLICATIONS:

With regard to the original bill, the Senate Fiscal Agency said that the bill would have no fiscal impact on state or local government. (3-26-93)

ARGUMENTS:

For:

By providing for the temporary emancipation of a minor under corrections department jurisdiction, the bill would enable a sick or injured minor to be given prompt medical treatment when a parent or guardian could not be promptly found. In those cases where a parent was located, the Department of Corrections could seek to obtain a signed parental waiver allowing the department to provide health care to the minor, thus providing for future health care needs of that minor. Thus, the bill would enable non-emergency medical needs to be regularly met. By limiting the 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 which he or she could later disavow.

Against:

It may be that the bill should provide for permanent emancipation for purposes of medical care, as various sorts of treatments--such as treatments for hypertension or venereal disease--commenced while incarcerated should be continued after release.

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.
(10-28-93)

The Michigan Council on Crime and Delinquency supports the bill. (10-29-93)