



An Bille Meabhair-Shláinte (Cumas Toiliú le Cóireáil), 2018
Mental Health (Capacity to Consent to Treatment) Bill 2018

Mar a tionscnaíodh

As initiated



**AN BILLE MEABHAIR-SHLÁINTE (CUMAS TOILIÚ LE CÓIREÁIL), 2018
MENTAL HEALTH (CAPACITY TO CONSENT TO TREATMENT) BILL 2018**

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CONTENTS

Section

1. Definition
2. Amendment of section 23 (power to prevent voluntary patient from leaving approved centre) of Act of 2001
3. Consent of minor over 16 years of age to mental health treatment
4. Short title and commencement

ACT REFERRED TO

Mental Health Act 2001 (No. 25)



AN BILLE MEABHAIR-SHLÁINTE (CUMAS TOILIÚ LE CÓIREÁIL), 2018
MENTAL HEALTH (CAPACITY TO CONSENT TO TREATMENT) BILL 2018

Bill

entitled

An Act to amend the Mental Health Act 2001 and for that purpose to provide for the right of minors over the age of 16 to consent to mental health treatment and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act “Act of 2001” means the Mental Health Act 2001. 10

Amendment of section 23 (power to prevent voluntary patient from leaving approved centre) of Act of 2001

2. Section 23 of the Act of 2001 is amended by inserting the following subsections after subsection (1):

“(1A) (a) Where a child to whom section 25A applies— 15

(i) consented to being treated in an approved centre as a voluntary patient by virtue of having attained the age of 16 years on or before giving his or her consent, and

(ii) subsequently indicates at any time that he or she wishes to leave the approved centre, 20

then, if a consultant psychiatrist, registered medical practitioner or registered nurse on the staff of the approved centre is of opinion that either—

(I) the child is suffering from a mental disorder, or

(II) one or both of the child’s parents or a person acting in *loco parentis* ought in the circumstances to be informed that the child wishes to so leave, 25

such consultant psychiatrist, registered medical practitioner or registered nurse may detain the child for a period not exceeding 24 hours or such shorter period as may be prescribed, beginning at the time aforesaid. 30

- (b) Where a child to whom section 25A applies indicates in accordance with paragraph (a)(ii) that he or she wishes to leave the approved centre, and—
 - (i) a consultant psychiatrist, a registered medical practitioner or registered nurse on the staff of the approved centre has formed the opinion that the child is suffering from a mental disorder, and 5
 - (ii) either or both parents or a person acting in *loco parentis*—
 - (I) indicates otherwise than that he or she wishes the child to remain at the approved centre, or 10
 - (II) cannot be contacted or fails to respond after reasonable efforts have been made in the circumstances for contact to be made by or on behalf of the approved centre,
- then the child may be detained and placed in the custody of the Health Service Executive and subsection (3) shall apply accordingly. 15
- (1B) Nothing in subsection (1A) or this subsection shall be construed as making ineffective any consent which would have been effective if this section had not been enacted.”.

Consent of minor over 16 years of age to mental health treatment 20

3. The Act of 2001 is amended by inserting the following section after section 25:

- “25A. (1) The consent of a minor who has attained the age of 16 years to any mental health treatment, or to remaining for treatment in an approved centre which, in the absence of consent duly given, would constitute either or both a trespass to his or her person and unlawful detention, shall be as effective as it would be if he or she were of full age. 25
- (2) Where a minor has given an effective consent for the purposes of subsection (1), it shall not be necessary to obtain a like consent from his or her parent or guardian.
- (3) Nothing in this section shall be construed as making ineffective any consent which would have been effective if this section had not been enacted. 30
- (4) In this section ‘mental health treatment’ includes any procedure undertaken for the purposes of diagnosis, any examination by a consultant psychiatrist and any procedure that is ancillary to any treatment as it applies to such treatment.”. 35

Short title and commencement

4. (1) This Act may be cited as the Mental Health (Capacity to Consent to Treatment) Act 2018.

(2) This Act comes into operation on such day as the Minister for Health may appoint by order.

An Bille Meabhair-Shláinte (Cumas Toiliú le
Cóireáil), 2018

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an Achta Meabhair-Shláinte, 2001 agus chun na críche sin do dhéanamh socrú maidir le ceart mionaoiseach atá os cionn 16 bliana d'aois toiliú le cóireáil mheabhairshláinte agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Na Seanadóirí Máire Devine, Lynn Ruane, Prionsios Ní Dhuibhe, Grace O'Sullivan, Joan Freeman, Pádraig Mac Lochlainn, Fintan Warfield, Paul Gavan, Rose Conway-Walsh agus Niall Ó Donnghaile a thug isteach,

16 Bealtaine, 2018

Mental Health (Capacity to Consent to
Treatment) Bill 2018

BILL

(as initiated)

entitled

An Act to amend the Mental Health Act 2001 and for that purpose to provide for the right of minors over the age of 16 to consent to mental health treatment and to provide for related matters.

Introduced by Senators Máire Devine, Lynn Ruane, Frances Black, Grace O'Sullivan, Joan Freeman, Pádraig Mac Lochlainn, Fintan Warfield, Paul Gavan, Rose Conway-Walsh and Niall Ó Donnghaile,

16th May, 2018

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

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