

KENTUCKY

# Minor Consent and Confidentiality

## A Compendium of State and Federal Laws

National Center  
for Youth Law

[teenhealthlaw.org/compendium](https://teenhealthlaw.org/compendium)

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## National Center for Youth Law

The National Center for Youth Law (NCYL) is a national, non-profit advocacy organization that has fought to protect the rights of children and youth for more than fifty years. Headquartered in Oakland, California, NCYL leads high impact campaigns that weave together litigation, research, policy development, and technical assistance.

### What this compendium is:

This is a compendium of laws that may be relevant when minors wish to access certain types of sensitive health care and/or wish to access care on their own consent. Each state compendium begins with a chart entitled “quick guide.” The topics listed in the quick guide represent the categories of laws most frequently identified across all states. A circle next to a particular category signifies that a relevant state or federal law was found. Where a law was found, those laws are described in the “summary” section. Each state’s compendium ends with a list of resources, including links to a series of Appendices that delve deeper into key topics.

### What this compendium is not:

This is not a comprehensive guide to all consent, confidentiality, and disclosure laws in any state. For example, the compendium does not include all laws that allow or require parents or persons acting *in loco parentis* to consent to care. Nor does it summarize disclosure laws that may allow or require disclosure of health information for mandated child abuse or public health reporting.

### Recommended Citation

For the entire compendium of state laws,

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### Disclaimer

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# KENTUCKY

## Table of Contents

Quick Guide	1
General	2
Consent to Health Care	2
Confidentiality & Disclosure	4
Other	5
Resources	6
Appendices	7

Quick Guide

See glossary for explanation of categories and definitions of terms.

**General**

- S** Age of Majority
- S** Emancipation
- S** Minor Marriage

**Minor Consent to Health Care—Services**

- S** Abortion<sup>3</sup>
- Emergency Care
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- S** Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
- S** Substance Use Care

**Confidentiality and Disclosure**

- S** **F** Confidentiality/Access to Records
- S** **F** Disclosure to Parents/Guardians
- F** Insurance Claims/Billing

**Minor Consent to Health Care—Minor’s Status**

- S** Emancipated Minor
- High School Graduate
- S** Married Minor
- Minor, Age or Maturity
- Minor in Armed Forces
- S** Minor Living Apart from Parent/Guardian
- S** Minor Parent
- Minor in State Custody
- Pregnant Minor

**Other**

- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child’s Care
- S** School Health Services, Notification and Consent

**Key**

- S** State law found<sup>4</sup>
- F** Federal/other law may apply

<sup>1</sup> The information in this chapter represents the state of the law as of May 2024 after a diligent search of statutes, regulations, case law, and guidance.

<sup>2</sup> This chapter does not address all the consent and confidentiality rules that may apply when minors are in special care situations such as living with a relative, in federal or state custody, or under court jurisdiction (including dependency, delinquency, or immigration custody).

<sup>3</sup> This category includes parental involvement laws.

<sup>4</sup> Symbol indicates law found that either allows providers to offer services without parental consent or explicitly gives minors authority to consent.

## General

**Age of Majority**

*Ky. Rev. Stat. Ann. § 2.015* provides that the age of majority is 18 (except with regard to the purchase of alcohol and the care and treatment of children with disabilities).

**Emancipation**

No statute expressly defines emancipated minor in general or specifies a legal process by which a minor may become emancipated.

**Minor Marriage**

*Ky. Rev. Stat. Ann. §§ 402.205* and *402.210* provide that minors under 17 years of age cannot be issued a marriage

license. A minor who is 17 years of age or older may obtain a marriage license if they obtain parent or guardian consent and a court order from the family court or a District Court judge granting them permission to marry and at least 15 days have elapsed since the court order was granted. See *Ky. Rev. Stat. Ann. § 402.205* for details on the court process.

## Consent to Health Care

Consent for healthcare refers to granting permission for a healthcare service. A healthcare provider generally must obtain consent before providing care. Adults typically consent to their own healthcare, except in cases of legal incapacity. State and federal laws and court decisions help establish who has the legal authority to provide consent on behalf of minors. Typically, federal and state law require parent or guardian consent for a minor's care. However, the laws in every state include exceptions that allow or require others to consent, in addition to or instead of a parent or guardian. These exceptions include exceptions that allow minors to consent to some or all health care based on the minor's "status" (situation in life) and exceptions that allow minors to consent to certain types of care based on the services sought. Sometimes, these laws are written in a way that allows providers to offer services without parental consent; sometimes, they are written in a way that explicitly gives minors the authority to consent. Federal law also allows minors to consent to specific care in some cases. See **Appendix B** for more on consent including the important role of parents and other adults in minors' healthcare.

The following sections summarize the minor consent laws in the state:

**Minor Consent—Minor's Status****Emancipated Minor**

*Ky. Rev. Stat. Ann. § 214.185* provides that an emancipated minor may consent for hospital, medical, dental, or surgical care.

**Married Minor**

*Ky. Rev. Stat. Ann. § 214.185* provides that minors who have contracted a lawful marriage, even if later annulled or divorced, may consent for hospital, medical, dental or surgical care for themselves or for their child.

**Minor Living Apart from Parent/Guardian**

*Ky. Rev. Stat. Ann. § 214.185* any "qualified mental health professional" may provide outpatient mental health counseling upon the minor's request if the minor is age 16 or older and an "unaccompanied youth" (as defined in *42 U.S.C. § 11434a(6)*). *42 U.S.C. § 11434a(6)* provides that an unaccompanied minor is a child that is either "homeless" or not in the physical custody of a parent or legal guardian.

*42 U.S.C. § 11434a(6)* contains a detailed definition of "homeless children and youths."

**Minor Parent**

*Ky. Rev. Stat. Ann. § 214.185(4)* provides that a minor who has borne a child may consent for hospital, medical, dental, or surgical care for themselves or for their child. The consent of a parent or guardian is not necessary.

**Minor Consent—Services****Abortion**

Abortion is banned in Kentucky, with limited exceptions including to prevent death or a substantial risk of death, or serious impairment, to the pregnant individual. A trigger ban is currently being enforced. See *Ky. Rev. Stat. Ann. § 311.772*; See also §§ *311.7701 – 311.7711, 311.990*.

However, in November 2022, voters rejected Prop 2, which would have specified that the state constitution does not

protect abortion rights. *For up to date information on the status of abortion restrictions in Kentucky, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

To the extent abortion is legally permitted, minors may obtain an abortion, but *Ky. Rev. Stat. Ann. § 311.732* provides that no person shall perform an abortion on an unemancipated minor without the informed written consent of both the minor and a parent or guardian with specific documentation and notice requirements. The law contains a judicial bypass and an exception authorizing abortion absent parent consent in emergencies. *For more information on judicial bypass, find the “Under Age \_\_\_” section on your state’s link in [If When How’s Abortion Laws by State](#).*

*For up to date information on the status of abortion protections and restrictions in all 50 states and DC, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#). See also Appendix C. These laws are changing rapidly, so consultation with counsel is also essential.*

### Family Planning/ Contraceptives

*Ky. Rev. Stat. Ann. § 214.185* provides that any physician may examine, advise, prescribe and treat a minor for contraception. Treatment under this section does not include abortion or sterilization.

*See Appendix I for information about the Title X Family Planning Program and minor consent for family planning, including contraception services. See Appendix C for discussion of contraception and the U.S. Constitution.*

### Outpatient Mental Health Care

*Ky. Rev. Stat. Ann. § 214.185* provides that any physician may provide outpatient mental health counseling to a minor age 16 or older, upon the request of the minor without the consent of a parent or guardian.

*Ky. Rev. Stat. Ann. § 214.185* any “qualified mental health professional” may provide outpatient mental health counseling upon the minor’s request if the minor is age 16 or older and an “unaccompanied youth” (as defined in 42 U.S.C. § 11434a(6)). 42 U.S.C. § 11434a provides that an unaccompanied minor is a child that is either “homeless” or not in the physical custody of a parent or legal guardian. *Ky. Rev. Stat. Ann. § 214.185* defines “qualified mental health professional” for this purpose.

*Ky. Rev. Stat. Ann. § 222.441* provides that a minor who suffers from emotional disturbance from the effects of a family member or legal guardian’s substance use disorder, or the parent or guardian of the minor, may give consent to the furnishing of medical care or counseling related to the assessment or treatment of the conditions.

### Pregnancy-Related Care

*Ky. Rev. Stat. Ann. § 214.185* provides that a minor may consent for examination, diagnosis, and treatment for pregnancy and childbirth. Treatment under this section does not include abortion or sterilization.

*See Appendix I for information about the Title X Family Planning Program and minor consent for family planning services, including certain pregnancy-related care.*

### Sexual Assault Care

*Ky. Rev. Stat. Ann. § 216B.400* provides that a minor may consent for examination services as a victim of a sexual offense, without the consent of a parent or guardian. Minors who are victims of a sexual offense shall also be informed of available services for the treatment of sexually transmitted infections, pregnancy (not including abortion), and crisis intervention and other mental health services available.

### Sexually Transmitted Infection/Disease/HIV Care

*Ky. Rev. Stat. Ann. § 214.185* provides, with the consent of a minor, a physician may offer diagnostic examination, and may advise, prescribe for, and treat “venereal disease.” 902 *Ky. Admin. Regs. 2:080* defines “sexually transmitted disease” for Department of Public Health purposes. *Ky. Rev. Stat. Ann. § 214.410* defines sexually transmitted disease for purposes of confidentiality of disease control records. Both definitions include HIV.

*Ky. Rev. Stat. Ann. § 214.625* provides that except in an emergency and other limited circumstances, an HIV test may not be performed without the consent of the subject of the test. A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form for HIV testing.

*See Appendix I for information about the Title X Family Planning Program and minor consent for family planning, including STI/STD/HIV services.*

### Substance Use Care

*Ky. Rev. Stat. Ann. § 214.185* provides that a physician may offer diagnostic examination, and may advise, prescribe for and treat for substance use disorder.

*Ky. Rev. Stat. Ann. § 222.441* provides that a minor who suffers from a substance use disorder or emotional disturbance from the effects of a family member’s or legal guardian’s substance use disorder, or the parent or guardian of the minor, may consent to medical care or counseling related to the assessment or treatment of the condition. This statute also provides that a minor undergoing hospitalization or treatment consented to by the parent/guardian but not the minor may petition the District Court to evaluate whether the minor is suffering from a substance use disorder and whether the treatment is necessary for the health and welfare of the minor.

## Confidentiality & Disclosure

Federal and state laws determine the privacy and confidentiality of medical and health information. Different laws may apply depending on the health services provided, the source of funding, the location of care, the type of provider, and the characteristics of the patient.

One law with overarching importance is the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, a federal regulation that protects the privacy of patient health information held by health care providers who transmit certain information electronically and other “covered entities.” As a general rule, HIPAA prohibits healthcare providers from disclosing protected health information without a signed authorization. HIPAA specifies who must sign an authorization to release information. When minors have consented for their own care, HIPAA says the minors usually must sign the release. HIPAA includes exceptions that allow or require a provider to disclose protected information without an authorization in some circumstances, such as to meet state child abuse reporting requirements. HIPAA also addresses when parents and guardians may access a minor’s health information: It explains how this HIPAA rule intersects with state law and other federal laws regarding parent access, and includes rules for what to do about parent access when state law is silent, and for authorized limitations on access in some situations.

See **Appendix H** for a detailed discussion of HIPAA. Other appendices address other important federal health privacy laws that may apply in addition to, or instead of, HIPAA. See **Appendix I** (Title X, family planning), **Appendix J** (Part 2, substance use), **Appendix K** (FERPA, education records), **Appendix L** (insurance and billing), and **Appendix M** (21st Century Cures Act Information Blocking, EHI).

**The following sections summarize selected state laws related to confidentiality, access to records, and disclosure to parents/guardians:**

### Confidentiality/Access to Records

#### Access to Health Information/Medical Records

*Ky. Rev. Stat. Ann. § 422.355* provides: “(1) As used in this section, “personal representative” means an individual who has authority under state law to make health care decisions for a patient. (2) The parent of a patient who is under the age of eighteen (18), or a patient’s personal representative on behalf of the patient who is under the age of eighteen (18), shall have the right to access the patient’s health information maintained by a health care provider in a medical record unless prohibited under the federal Health Insurance Portability and Accountability Act of 1996 or any other federal or state law.”

See **Appendix H** for information about minors’ access to and control of their medical information under HIPAA when they have consented to their own care.

#### Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See **Appendix K** for information about federal confidentiality protection for education records.

See **Appendix J** for information about federal confidentiality protections for certain substance use treatment records.

See **Appendix I** for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.

See **Appendix M** for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.

### Disclosure of Health Information to Parents/Guardians

#### Provider Discretion

*Ky. Rev. Stat. Ann. § 214.185* provides that when a minor who is emancipated, married, or a parent gives consent for hospital, medical, dental or surgical care, the professional is not required to notify the parents or guardians; however, the provider may inform the parent or legal guardian of any treatment given or needed where, in the judgment of the professional, notification would benefit the health of the minor.

*Ky. Rev. Stat. Ann. § 214.185* provides that when a minor gives consent for diagnosis or treatment for sexually transmitted infection, contraception, pregnancy, childbirth or substance use disorder, the professional is not required to notify the parents or guardians; however, the provider may inform the parent or legal guardian where, in the judgment of the professional, notification would benefit the health of the minor.

#### HIV

*Ky. Rev. Stat. Ann. § 214.625(c)(9)* provides that the results of an HIV test performed on a minor may be disclosed to a parent, foster parent, or legal guardian.

## Mental Health

*Ky. Rev. Stat. Ann. § 214.185* provides that when a minor consents to outpatient mental health counseling, the provider may rely in good faith upon the minor's representations regarding their age and status as an unaccompanied youth only after a reasonable attempt to obtain parental consent or to verify the minor's age and status as an unaccompanied youth.

## HIPAA rules relevant to disclosure to parents/guardians

See [Appendix H](#) for information about minors' access to and control of their medical information under HIPAA when they have consented to their own care, the HIPAA rule when state law is silent as to parent access, and the HIPAA rule authorizing providers to limit access to records in certain circumstances.

## Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See [Appendix K](#) for information about federal confidentiality protection for education records.

See [Appendix J](#) for information about federal confidentiality protections for certain substance use treatment records.

See [Appendix I](#) for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.

See [Appendix M](#) for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.

## Insurance Claims/Billing

See [Appendix L](#) for information about confidentiality protection in the billing and insurance claims process under the HIPAA Privacy Rule.

## Other

This section summarizes a range of laws that may not explicitly address minor consent or disclosure of information but that health care providers often have questions about when minors seek care, especially when they seek care on their own.

## Emergency Care

*Ky. Rev. Stat. Ann. § 214.185(5)* provides that medical, dental and other health services may be provided to minors without parent or guardian consent when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and consent would result in delay or denial of treatment.

## Financial Responsibility

*Ky. Rev. Stat. Ann. § 214.185* provides that when an emancipated minor, married or divorced minor or minor who is a parent consents to their own care, only the minor or their spouse are financially responsible for payment unless other persons expressly agree to assume the cost.

*Ky. Rev. Stat. Ann. § 214.185(9)* provides that, except as otherwise provided in this section, parents, the Cabinet for Health and Family Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under *§ 214.185* unless they are essential for the preservation of the health of the minor.

## Gender Affirming Care, Restriction

*Ky. Rev. Stat. Ann. § 311.372* provides that knowingly prescribing any drugs, performing any surgeries, or

conferring any other treatment for the purpose of attempting to alter the appearance of, or to validate a minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex. A federal district court preliminarily enjoined enforcement of the law, but the 6<sup>th</sup> Circuit Court of Appeals reversed the preliminary injunction, thus allowing the law to be enforced as the case proceeds in the district court. *L.W. v Skremetti*, 83 F.4<sup>th</sup> 460 (6<sup>th</sup> Cir. 2023). The U.S. Supreme Court granted review.

For up to date information on the status of protections and restrictions on gender affirming care for minors, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#) These laws are changing rapidly so consultation with counsel is essential. See also [Appendix G](#).

## Good Faith Reliance

*Ky. Rev. Stat. Ann. § 214.185* provides that a health care provider may rely in good faith on the consent of a minor who represents that they may give effective consent; if the minor misrepresented their authority, the health care provider is not civilly liable on the basis of consent. For purposes of outpatient mental health counseling, the provider may rely in good faith on the representations of the minor after a reasonable attempt to obtain parental consent or to verify the minor's age and status as an unaccompanied youth.

*Ky. Rev. Stat. Ann. § 214.185* provides that a professional who provides a minor with services related to sexually transmitted infection, contraception, pregnancy, childbirth or substance use disorder shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment based on the minor's consent, but such immunity shall not apply to any negligent acts or omissions.

### **Minor Parent, Consent for Child's Care**

*Ky. Rev. Stat. Ann. § 214.185* provides that a minor who is a parent may consent for hospital, medical, dental, or surgical care for themselves or for their child. The consent of a parent or guardian is not necessary.

### **School Health Services, Notification and Consent**

*Ky. Rev. Stat. Ann. § 158.191* provides that a school shall notify parents at the beginning of each school year and if a school changes the health services or mental health services related to human sexuality, contraception, or family

planning that it provides, and shall obtain parental consent prior to providing health services or mental health services.

It also provides that a school shall notify a student's parents if school personnel make a referral for the student to receive a school's health services or mental health services. School personnel will obtain parental consent before making a referral to an external health care provider for health or mental health services and that school districts and district personnel shall respect the rights of parents to make decisions regarding the upbringing and control of the student through procedures encouraging students to discuss mental or physical health or life issues with their parents or through facilitating the discussion with their parents.

## Resources

**Kentucky Revised Statutes** <https://legislature.ky.gov/Law/Statutes/Pages/default.aspx>

**Kentucky Administrative Regulations** <https://legislature.ky.gov/Law/kar/Pages/default.aspx>

## Appendices

**Appendix A. Glossary of Terms**

**Appendix B. Overview of Consent and Confidentiality When Minors Seek Health Care**

**Appendix C. Contraception, Abortion, and Pregnancy-Related Care for Minors: Consent and Confidentiality Considerations**

**Appendix D. Sexually Transmitted Infections, Sexually Transmitted Diseases, and HIV Care for Minors: Consent and Confidentiality Considerations**

**Appendix E. Mental Health Care for Minors: Consent and Confidentiality Considerations**

**Appendix F. Substance Use Care for Minors: Consent and Confidentiality Considerations**

**Appendix G. Gender Affirming Care for Minors: Consent and Confidentiality Considerations**

**Appendix H. HIPAA Privacy Rule and Confidentiality Implications for Minors' Health Information**

**Appendix I. Title X Family Planning Program and Family Planning Services for Minors**

**Appendix J. 42 CFR Part 2 and Confidentiality Implications for Substance Use Care for Minors**

**Appendix K. FERPA and Confidentiality Implications for School-Based and School-Linked Health Care for Minors**

**Appendix L. Confidentiality in Health Insurance Claims and Billing**

**Appendix M. Electronic Health Information, the 21st Century Cures Act, and Confidentiality for Minor Patients**

**Appendix N. State Law Table: Minor Consent/Access Based on Status**

**Appendix O. State Law Table: Minor Consent/Access for Specific Services**