



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 42**

131st General Assembly  
(As Introduced)

**Sens.** Beagle, Cafaro, Eklund, Hite

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## **BILL SUMMARY**

- Reduces to 11 (from 14) the age at which a minor may request and receive outpatient mental health services, excluding the use of medication, without parental consent or knowledge.
- Limits a minor's receipt of those services to not more than six sessions (rather than not more than six sessions *or* 30 days of services, whichever occurs sooner, as provided under existing law).
- Grants a mental health professional absolute immunity for injury, death, or loss allegedly resulting from the provision of those services.
- If a custody order has been issued, requires a mental health professional to notify a minor's nonresidential parent of the minor's receipt of mental health services under the same terms and conditions as the residential parent unless such notification has been determined not to be in the minor's best interest.
- Specifies that the bill be known as "Dylan's Voice."

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## **CONTENT AND OPERATION**

### **Minors' outpatient mental health services without parental consent**

#### **Conditions governing the services**

The bill reduces to 11 (from 14) the age at which a minor may request and receive outpatient mental health services, excluding the use of medication, without parental consent or knowledge. The bill limits to six the number of sessions that may be

provided under those circumstances. Current law specifies that the services are limited to not more than six sessions *or* 30 days of services, whichever occurs sooner.<sup>1</sup>

The bill does not modify other conditions concerning a minor's receipt of the specified outpatient mental health services. Accordingly, a minor's parent or guardian continues to (1) be prohibited from being informed of the services (without the minor's consent) unless the treating mental health professional determines that there is a compelling need for disclosure and (2) not be liable for the costs of services. In addition, a mental health professional remains responsible for reporting suspected abuse or neglect of a child in accordance with existing law.<sup>2</sup>

### **Professionals' immunity from civil liability**

The bill grants a mental health professional absolute immunity for injury, death, or loss allegedly resulting from the provision of the outpatient mental health services permitted by the bill.<sup>3</sup> A mental health professional does not have any degree of immunity from civil liability under current law.

### **Notification to minor's nonresidential parent**

Under continuing law, a mental health professional cannot inform a minor's parent or guardian of the minor's receipt of mental health services unless the professional has determined that there is a compelling need for the disclosure based on a substantial probability of harm to the minor or others. If the mental health professional intends to inform the minor's parent or guardian, the professional must notify the minor. Additionally, once the minor has completed six sessions, the mental health professional must either terminate treatment or, with the minor's consent, notify the minor's parent or guardian.

If a court has issued an order or decree allocating parental rights and responsibilities for the minor's care (a "custody order"), the bill generally requires the minor's nonresidential parent to be similarly notified of the minor's receipt of mental health services. That is not to occur, however, if the court determined as part of the custody proceeding that notification to the nonresidential parent is not in the minor's best interest. If that determination is made, the bill requires the court to include in its journal the written findings of fact and opinion concerning the determination.<sup>4</sup>

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<sup>1</sup> R.C. 5122.04(A) to (D).

<sup>2</sup> R.C. 2151.421, not in the bill.

<sup>3</sup> R.C. 5122.04(E).

<sup>4</sup> R.C. 5122.041, 3109.051(K), 3109.11, and 3109.12.



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## COMMENT

It is not clear which mental health professionals are covered by the bill. The term, "mental health professional," is defined in existing law (R.C. 5122.04(F), not modified by the bill) to have the same meaning as in R.C. 340.02. But R.C. 340.02 does not define this term. An amendment could be drafted to clarify which professionals are covered.

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## HISTORY

ACTION	DATE
Introduced	02-10-15

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