

SENATE BILL No. 193

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-36-1.

Synopsis: Consent to health care. Establishes an order of priority for individuals authorized to give consent to health care of another individual, including a person who has demonstrated special care for the individual. Allows a health care provider to determine the individual's health care in the case of more than one individual asserting authority or disagreement among those asserting authority. Makes a conforming amendment.

Effective: July 1, 2016.

Crider

January 6, 2016, read first time and referred to Committee on Health & Provider Services.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 193

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-36-1-5, AS AMENDED BY P.L.81-2015,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 5. (a) If an individual incapable of consenting
4 under section 4 of this chapter has not appointed a health care
5 representative under section 7 of this chapter or the health care
6 representative appointed under section 7 of this chapter is not
7 reasonably available or declines to act, consent to health care may be
8 given **by the following in descending order of priority**:
9 (1) ~~by~~ A judicially appointed guardian of the person or a
10 representative appointed under section 8 of this chapter. ~~or~~
11 (2) ~~by~~ **In descending order of priority**, a spouse, a parent, an
12 adult child, or an adult sibling **of the individual**, unless
13 disqualified under section 9 of this chapter if:
14 (A) there is no guardian or other representative described in
15 subdivision (1) **or (3)**;
16 (B) the guardian or other representative is not reasonably
17 available or declines to act; or



- 1 (C) the existence of the guardian or other representative is
 2 unknown to the health care provider. ~~or~~
 3 (3) ~~by~~ The individual's religious superior, if the individual is a
 4 member of a religious order and:
 5 (A) there is no guardian or other representative described in
 6 subdivision (1);
 7 (B) the guardian or other representative is not reasonably
 8 available or declines to act; or
 9 (C) the existence of the guardian or other representative is
 10 unknown to the health care provider.
 11 **(4) An adult who has demonstrated to the health care**
 12 **provider special care and concern for the individual and has**
 13 **knowledge of the individual's preferences and values and:**
 14 **(A) there is no guardian or other representative described**
 15 **in subdivision (1), (2), or (3);**
 16 **(B) the guardian or other representative is not reasonably**
 17 **available or declines to act; or**
 18 **(C) the existence of the guardian or other representative is**
 19 **unknown to the health care provider.**
 20 **(5) If:**
 21 **(A) more than one (1) individual described in subdivision**
 22 **(1), (2), (3), or (4) claims the authority to consent to health**
 23 **care for the individual;**
 24 **(B) the individuals claiming the authority do not agree on**
 25 **a health care decision; and**
 26 **(C) the health care provider has knowledge of the**
 27 **disagreement;**
 28 **a majority of the individuals who have communicated their**
 29 **views to the health care provider within a reasonable time**
 30 **frame determined by the health care provider and not to**
 31 **exceed twenty-four (24) hours.**
 32 **(6) If:**
 33 **(A) there is no guardian or other representative described**
 34 **in subdivision (1), (2), (3), or (4);**
 35 **(B) the guardian or other representative is not reasonably**
 36 **available or declines to act;**
 37 **(C) the existence of the guardian or other representative is**
 38 **unknown to the health care provider; or**
 39 **(D) subdivision (5) applies, but the individuals described in**
 40 **subdivision (5) are evenly divided in their views**
 41 **communicated to the health care provider;**
 42 **the health care provider, after consulting with and obtaining**



1 **the recommendations of the ethics officers of the facility in**
 2 **which the individual is receiving health care and obtaining**
 3 **concurrence from a second health care provider who is not**
 4 **directly involved in the individual's health care and does not**
 5 **serve in a capacity of decision making authority, influence, or**
 6 **responsibility over or under the first health care provider.**

7 (b) Consent to health care for a minor not authorized to consent
 8 under section 3 of this chapter may be given by any of the following:

9 (1) A judicially appointed guardian of the person or a
 10 representative appointed under section 8 of this chapter.

11 (2) A parent or an individual in loco parentis if:

12 (A) there is no guardian or other representative described in
 13 subdivision (1);

14 (B) the guardian or other representative is not reasonably
 15 available or declines to act; or

16 (C) the existence of the guardian or other representative is
 17 unknown to the health care provider.

18 (3) An adult sibling of the minor if:

19 (A) there is no guardian or other representative described in
 20 subdivision (1);

21 (B) a parent or an individual in loco parentis is not reasonably
 22 available or declines to act; or

23 (C) the existence of the parent or individual in loco parentis is
 24 unknown to the health care provider.

25 (c) A representative delegated authority to consent under section 6
 26 of this chapter has the same authority and responsibility as the
 27 individual delegating the authority.

28 (d) An individual authorized to consent for another under this
 29 section shall act in good faith and in the best interest of the individual
 30 incapable of consenting.

31 SECTION 2. IC 16-36-1-6, AS AMENDED BY P.L.81-2015,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2016]: Sec. 6. (a) A representative authorized to consent to
 34 health care for another under section 5(a)(2), **5(a)(4)**, 5(b)(2), or
 35 5(b)(3) of this chapter who for a time will not be reasonably available
 36 to exercise the authority may delegate the authority to consent during
 37 that time to another representative not disqualified under section 9 of
 38 this chapter. The delegation:

39 (1) must be in writing;

40 (2) must be signed by the delegate;

41 (3) must be witnessed by an adult; and

42 (4) may specify conditions on the authority delegated.



1 (b) Unless the writing expressly provides otherwise, the delegate
2 may not delegate the authority to another representative.

3 (c) The delegate may revoke the delegation at any time by notifying
4 orally or in writing the delegate or the health care provider.

