

South Australia

**Consent to Medical Treatment and Palliative Care
(Parental Consent) Amendment Bill 2010**

A BILL FOR

An Act to amend the *Consent to Medical Treatment and Palliative Care Act 1995*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995*

- 3 Amendment of section 3—Objects
 - 4 Amendment of section 4—Interpretation
 - 5 Amendment of section 6—Legal competence to consent to medical treatment
 - 6 Substitution of section 12
 - 12 Administration of medical treatment to a child
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Consent to Medical Treatment and Palliative Care (Parental Consent) Amendment Act 2010*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995*

10 3—Amendment of section 3—Objects

Section 3(a)(i)—delete "16 years" and substitute:

18 years, and certain persons of or over the age of 16 years,

4—Amendment of section 4—Interpretation

- (1) Section 4, definition of *child*—delete "16" and substitute:

15 18

- (2) Section 4—after the definition of *guardian* insert:

independent minor means a child who is of or over the age of 16 years, but under the age of 18 years, who lives independently of his or her parents or guardians;

(3) Section 4—after the definition of *parent* insert:

prescribed medical treatment means any of the following medical treatment:

- (a) medical treatment involving hospitalisation;
- (b) medical treatment involving surgery;
- (c) medical treatment prescribed by regulation.

5—Amendment of section 6—Legal competence to consent to medical treatment

(1) Section 6—delete "A" and substitute:

Subject to subsection (2), a

(2) Section 6—after its present contents (now to be designated as subsection (1)) insert:

- (2) Subsection (1) does not apply to the making of decisions about prescribed medical treatment by a child who is not an independent minor.

6—Substitution of section 12

Section 12—delete the section and substitute:

12—Administration of medical treatment to a child

(1) A medical practitioner may administer medical treatment to a child if—

(a) the child consents to the treatment and—

- (i) the child is an independent minor; or
- (ii) the child is of or over 16 years of age and the treatment proposed to be administered is not prescribed medical treatment; or

(b) if paragraph (a) does not apply—the parent or guardian of the child consents; or

(c) if paragraph (a) does not apply and no parent or guardian can be contacted within a reasonable time—

- (i) the child consents; and
- (ii) the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interests of the child's health and well-being; and
- (iii) that opinion is supported by the written opinion of at least 1 other medical practitioner who personally examines the child before the treatment is commenced.

- (2) Subsection (1)(c) only applies where reasonable efforts have been made by the medical practitioner, in good faith, to contact a parent or guardian of the child.