

5008

2013-2014 Regular Sessions

I N A S S E M B L Y

February 14, 2013

Introduced by M. of A. RYAN -- read once and referred to the Committee
on Codes

AN ACT to amend the penal law and the correction law, in relation to
authorizing county and regional correctional institutions to provide
medical services to minor inmates in the absence of the consent of a
parent or guardian when a definite sentence of imprisonment has been
imposed

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 2 of section 70.20 of the penal law, as amended
2 by section 124 of subpart B of part C of chapter 62 of the laws of 2011,
3 is amended to read as follows:
4 2. (A) Definite sentence. Except as provided in subdivision four of
5 this section, when a definite sentence of imprisonment is imposed, the
6 court shall commit the defendant to the county or regional correctional
7 institution for the term of his sentence and until released in accord-
8 ance with the law.
9 (B) THE COURT IN COMMITTING A DEFENDANT WHO IS NOT YET EIGHTEEN YEARS
10 OF AGE TO THE COUNTY OR REGIONAL CORRECTIONAL INSTITUTION SHALL INQUIRE
11 AS TO WHETHER THE PARENTS OR LEGAL GUARDIAN OF THE DEFENDANT, IF PRES-
12 ENT, WILL GRANT TO THE MINOR THE CAPACITY TO CONSENT TO ROUTINE MEDICAL,
13 DENTAL AND MENTAL HEALTH SERVICES AND TREATMENT.
14 (C) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION, WHERE THE COURT
15 COMMITS A DEFENDANT WHO IS NOT YET EIGHTEEN YEARS OF AGE TO THE CUSTODY
16 OF THE COUNTY OR REGIONAL CORRECTIONAL INSTITUTION IN ACCORDANCE WITH
17 THIS SECTION OR AS A PRETRIAL DETAINEE AND NO MEDICAL CONSENT HAS BEEN
18 OBTAINED PRIOR TO SAID COMMITMENT, THE COMMITMENT ORDER SHALL BE DEEMED
19 TO GRANT THE CAPACITY TO CONSENT TO ROUTINE MEDICAL, DENTAL AND MENTAL
20 HEALTH SERVICES AND TREATMENT TO THE PERSON SO COMMITTED.
21 (D) NOTHING IN THIS SUBDIVISION SHALL PRECLUDE A PARENT OR LEGAL GUAR-
22 DIAN OF AN INMATE WHO IS NOT YET EIGHTEEN YEARS OF AGE FROM MAKING A

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD07027-02-3

1 MOTION ON NOTICE TO THE COUNTY OR REGIONAL CORRECTIONAL INSTITUTION
2 PURSUANT TO ARTICLE TWENTY-TWO OF THE CIVIL PRACTICE LAW AND RULES AND
3 SECTION ONE HUNDRED FORTY OF THE CORRECTION LAW, OBJECTING TO ROUTINE
4 MEDICAL, DENTAL OR MENTAL HEALTH SERVICES AND TREATMENT BEING PROVIDED
5 TO SUCH INMATE UNDER THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-
6 SION.

7 (E) NOTHING IN THIS SECTION SHALL REQUIRE THAT CONSENT BE OBTAINED
8 FROM THE PARENT OR LEGAL GUARDIAN, WHERE NO CONSENT IS NECESSARY OR
9 WHERE THE DEFENDANT IS AUTHORIZED BY LAW TO CONSENT ON HIS OR HER OWN
10 BEHALF TO ANY MEDICAL, DENTAL, AND MENTAL HEALTH SERVICE OR TREATMENT.

11 S 2. Section 500-c of the correction law is amended by adding a new
12 subdivision 4-a to read as follows:

13 4-A. PURSUANT TO SUBDIVISION TWO OF SECTION 70.20 OF THE PENAL LAW,
14 WHEN A DEFENDANT WHO IS NOT YET EIGHTEEN YEARS OF AGE IS COMMITTED TO A
15 COUNTY OR REGIONAL CORRECTIONAL INSTITUTION OR AS A PRETRIAL DETAINEE,
16 THE COMMITMENT ORDER SHALL BE DEEMED TO GRANT THE CAPACITY TO CONSENT TO
17 ROUTINE MEDICAL, DENTAL AND MENTAL HEALTH SERVICES AND TREATMENT TO THE
18 PERSON SO COMMITTED. NOTHING IN THIS SUBDIVISION SHALL PRECLUDE A PARENT
19 OR LEGAL GUARDIAN OF AN INMATE WHO IS NOT YET EIGHTEEN YEARS OF AGE FROM
20 MAKING A MOTION ON NOTICE TO THE COUNTY OR REGIONAL CORRECTIONAL INSTI-
21 TUTION PURSUANT TO ARTICLE TWENTY-TWO OF THE CIVIL PRACTICE LAW AND
22 RULES AND SECTION ONE HUNDRED FORTY OF THIS CHAPTER, OBJECTING TO
23 ROUTINE MEDICAL, DENTAL OR MENTAL HEALTH SERVICES AND TREATMENT BEING
24 PROVIDED TO SUCH INMATE. NOTHING IN THIS SUBDIVISION SHALL REQUIRE THAT
25 CONSENT BE OBTAINED FROM THE PARENT OR LEGAL GUARDIAN, WHERE NO CONSENT
26 IS NECESSARY OR WHERE THE DEFENDANT IS AUTHORIZED BY LAW TO CONSENT ON
27 HIS OR HER OWN BEHALF TO ANY MEDICAL, DENTAL, AND MENTAL HEALTH SERVICE
28 OR TREATMENT.

29 S 3. This act shall take effect immediately; provided, however, that
30 the amendment to section 500-c of the correction law made by section two
31 of this act shall not affect the repeal of such section and shall expire
32 and be deemed repealed therewith.