S T A T E O F N E W Y O R K

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 70.20 of the penal law, as amended by section 124 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. (A) Definite sentence. Except as provided in subdivision four of this section, when a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law.

(B) THE COURT IN COMMITTING A DEFENDANT WHO IS NOT YET EIGHTEEN YEARS OF AGE TO THE COUNTY OR REGIONAL CORRECTIONAL INSTITUTION SHALL INQUIRE AS TO WHETHER THE PARENTS OR LEGAL GUARDIAN OF THE DEFENDANT, IF PRESENT, WILL GRANT TO THE MINOR THE CAPACITY TO CONSENT TO ROUTINE MEDICAL, DENTAL AND MENTAL HEALTH SERVICES AND TREATMENT.

(C) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION, WHERE THE COURT COMMITS A DEFENDANT WHO IS NOT YET EIGHTEEN YEARS OF AGE TO THE CUSTODY OF THE COUNTY OR REGIONAL CORRECTIONAL INSTITUTION IN ACCORDANCE WITH THIS SECTION OR AS A PRETRIAL DETAINEE AND NO MEDICAL CONSENT HAS BEEN OBTAINED PRIOR TO SAID COMMITMENT, THE COMMITMENT ORDER SHALL BE DEEMED TO GRANT THE CAPACITY TO CONSENT TO ROUTINE MEDICAL, DENTAL AND MENTAL HEALTH SERVICES AND TREATMENT TO THE PERSON SO COMMITTED.

(D) NOTHING IN THIS SUBDIVISION SHALL PRECLUDE A PARENT OR LEGAL GUARDIAN 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.

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

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

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

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

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