

5008--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 14, 2013

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Introduced by M. of A. RYAN -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reference changed to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the correction law, in relation to authorizing local correctional facilities 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:

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 LOCAL CORRECTIONAL FACILITY SHALL INQUIRE AS TO WHETHER  
11    THE PARENTS OR LEGAL GUARDIAN OF THE DEFENDANT, IF PRESENT, WILL GRANT  
12    TO THE MINOR THE CAPACITY TO CONSENT TO ROUTINE MEDICAL, DENTAL AND  
13    MENTAL HEALTH SERVICES AND TREATMENT.  
14    (C) NOTHING IN THIS SUBDIVISION SHALL PRECLUDE A PARENT OR LEGAL GUAR-  
15    DIAN OF AN INMATE WHO IS NOT YET EIGHTEEN YEARS OF AGE FROM MAKING A  
16    MOTION ON NOTICE TO THE LOCAL CORRECTION FACILITY PURSUANT TO ARTICLE  
17    TWENTY-TWO OF THE CIVIL PRACTICE LAW AND RULES AND SECTION ONE HUNDRED  
18    FORTY OF THE CORRECTION LAW, OBJECTING TO ROUTINE MEDICAL, DENTAL OR  
19    MENTAL HEALTH SERVICES AND TREATMENT BEING PROVIDED TO SUCH INMATE UNDER  
20    THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION.

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

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1 S 2. The correction law is amended by adding a new section 505 to read  
2 as follows:

3 S 505. PROVISION OF ROUTINE MEDICAL, DENTAL AND MENTAL HEALTH SERVICES  
4 AND TREATMENT. 1. WHERE AN INMATE WHO IS NOT YET EIGHTEEN YEARS OF AGE  
5 HAS BEEN COMMITTED TO THE CUSTODY OF THE SHERIFF OR OTHER PERSON IN  
6 CHARGE OF A LOCAL CORRECTIONAL FACILITY AND NO MEDICAL CONSENT HAS BEEN  
7 OBTAINED PRIOR TO COMMITMENT, THE COMMITMENT ORDER SHALL BE DEEMED TO  
8 GRANT TO THE MINOR THE CAPACITY TO CONSENT TO ROUTINE MEDICAL, DENTAL  
9 AND MENTAL HEALTH SERVICES AND TREATMENT TO HIMSELF OR HERSELF.

10 2. SUBJECT TO THE REGULATIONS OF THE DEPARTMENT OF HEALTH, ROUTINE  
11 MEDICAL, DENTAL AND MENTAL HEALTH SERVICES AND TREATMENT IS DEFINED FOR  
12 THE PURPOSES OF THIS SECTION TO MEAN ANY ROUTINE DIAGNOSIS OR TREATMENT,  
13 INCLUDING WITHOUT LIMITATION THE ADMINISTRATION OF MEDICATIONS OR NUTRI-  
14 TION, THE EXTRACTION OF BODILY FLUIDS FOR ANALYSIS, AND DENTAL CARE  
15 PERFORMED WITH A LOCAL ANESTHETIC. ROUTINE MENTAL HEALTH TREATMENT SHALL  
16 NOT INCLUDE PSYCHIATRIC ADMINISTRATION OF MEDICATION UNLESS IT IS PART  
17 OF AN ONGOING MENTAL HEALTH PLAN OR UNLESS IT IS OTHERWISE AUTHORIZED BY  
18 LAW.

19 3. (A) AT ANY TIME PRIOR TO THE DATE THE INMATE BECOMES EIGHTEEN YEARS  
20 OF AGE, THE INMATE'S PARENT OR LEGAL GUARDIAN MAY INSTITUTE LEGAL  
21 PROCEEDINGS PURSUANT TO SECTION 70.20 OF THE PENAL LAW OBJECTING TO THE  
22 PROVISION OF ROUTINE MEDICAL, DENTAL OR MENTAL HEALTH SERVICES AND  
23 TREATMENT BEING PROVIDED TO THE INMATE.

24 (B) A NOTICE OF MOTION SHALL BE SERVED ON THE INMATE AND THE SHERIFF  
25 OR OTHER PERSON IN CHARGE OF THE LOCAL CORRECTIONAL FACILITY NOT LESS  
26 THAN SEVEN DAYS PRIOR TO THE RETURN DATE OF THE MOTION. THE PERSON ON  
27 WHOM THE NOTICE OF MOTION IS SERVED SHALL ANSWER THE MOTION NOT LESS  
28 THAN TWO DAYS BEFORE THE RETURN DATE. ON EXAMINING THE MOTION AND ANSWER  
29 AND, IN ITS DISCRETION, AFTER HEARING ARGUMENT, THE COURT SHALL ENTER AN  
30 ORDER, GRANTING OR DENYING THE MOTION.

31 4. NOTHING IN THIS SECTION SHALL PRECLUDE AN INMATE FROM CONSENTING ON  
32 HIS OR HER OWN BEHALF TO ANY MEDICAL, DENTAL OR MENTAL HEALTH SERVICES  
33 AND TREATMENT WHERE OTHERWISE AUTHORIZED BY LAW TO DO SO.

34 S 3. This act shall take effect immediately.