

STATE OF NEW YORK

11378

IN ASSEMBLY

October 19, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Fernandez)
-- read once and referred to the Committee on Codes

AN ACT to amend the correction law and the penal law, in relation to imposing criminal liability for the failure to obtain medical care for a person in custody displaying medical distress

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Andrew Kearse act".

3 § 2. Paragraph (e) of subdivision 1 of section 47 of the correction
4 law is amended by adding a new subparagraph (iii) to read as follows:

5 (iii) The board shall require all correctional facilities to provide
6 immediate medical attention when an inmate displays medical distress.
7 The board shall investigate all alleged failures of any correctional
8 facility to provide medical care to an inmate displaying medical
9 distress or a need for immediate medical care. If the board discovers
10 any police officer, peace officer, correction officer, or other employee
11 of a correctional facility failed to make reasonable effort to provide
12 medical care to an inmate displaying medical distress or a need for
13 immediate medical care, the board shall refer such case to prosecutors
14 as a violation of section 195.01 of the penal law.

15 § 3. The penal law is amended by adding a new section 195.01 to read
16 as follows:

17 § 195.01 Criminally negligent failure to obtain medical care.

18 A person is guilty of criminally negligent failure to obtain medical
19 care when such person, acting as a police officer, peace officer or
20 correction officer: (a) with criminal negligence, fails to obtain
21 medical care for any person in custody, including an inmate, displaying
22 medical distress or a need for immediate medical care in the presence of
23 such officer; and (b) such person in custody suffers from an injury or
24 death resulting from such failure to obtain medical care.

25 Criminally negligent failure to obtain medical care is a class A
26 misdemeanor.

27 § 4. This act shall take effect immediately.

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

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