

5008--B

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 -- 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
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 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.