

P.L. 1997, CHAPTER 208, *approved August 18, 1997*

Senate, No. 566 (*First Reprint*)

1 AN ACT concerning consent for treatment for persons with  
2 developmental disabilities and amending P.L.1969, c.181.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 1 of P.L.1969, c.181 (C.30:4-7.1) is amended to read as  
8 follows:

9 1. It is hereby declared to be the public policy of this State to make  
10 maximum provision for the health, safety and welfare of incompetent  
11 patients and residents in State and county institutions for the mentally  
12 ill and [mentally retarded] developmentally disabled, for  
13 developmentally disabled residents in community-based alternate living  
14 arrangements in the State or in private facilities both in and outside the  
15 State, and for inmates under age [21] 18 in State and county penal and  
16 correctional institutions, by permitting the chief executive officer of  
17 such institution or the regional administrator of a Division of  
18 Developmental Disabilities community services region to consent to  
19 the utilization of appropriate medical, psychiatric, surgical and dental  
20 treatment for such patients [and], inmates and residents where  
21 prescribed by a licensed physician or dentist as provided for herein.  
22 (cf: P.L.1969, c.181, s.1)

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24 2. Section 2 of P.L.1969, c.181 (C.30:4-7.2) is amended to read as  
25 follows:

26 2. The chief executive officer of a State or county institution for  
27 the mentally ill [, mentally retarded] or developmentally disabled<sup>1</sup>[or]  
28 ^1 of a State or county penal or correctional institution <sup>1</sup>, of a juvenile  
29 facility or detention center<sup>1</sup> , or the regional administrator of a  
30 Division of Developmental Disabilities community services region is  
31 hereby authorized to give consent for medical, psychiatric, surgical

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SHU committee amendments adopted March 7, 1996.

1 or dental treatment to incompetent patients, [or] inmates <sup>1</sup>or juveniles<sup>1</sup>  
2 under age [21] 18, or residents, hospitalized [or], confined [therein]  
3 or placed by the Division of Developmental Disabilities in  
4 community-based alternate living arrangements in the State or in  
5 private facilities both in and outside the State, under circumstances  
6 where it appears that

7 (a) Such patients [or], inmates <sup>1</sup>, juveniles<sup>1</sup> or residents, because  
8 of incompetency or nonage, are legally prevented from giving consent  
9 to such treatment, and

10 (b) Either:

11 (i) there is no parent or guardian known to such officer or  
12 administrator, after reasonable inquiry, who is competent to give  
13 consent for the treatment of [mental] patients, [or of] inmates under  
14 the age of [21] 18 or residents, or

15 (ii) where a parent or guardian, after reasonable notice of the  
16 proposed treatment and a request for consent, and prior to the date  
17 fixed in such notice for the rendering of said treatment, refuses or  
18 neglects to execute and submit to such officer or administrator a  
19 writing expressing either the grant or denial of such consent, and

20 (c) Where a licensed physician, psychiatrist, surgeon or dentist  
21 certifies that the treatment to be performed is essential and beneficial  
22 to the general health and welfare of such patient [or], inmate or  
23 resident, or will improve his opportunity for recovery or prolong or  
24 save his life.

25 (cf: P.L.1969, c.181, s.2)

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28 3. Section 3 of P.L.1969, c.181 (C.30:4-7.3) is amended to read as  
29 follows:

30 3. In a case certified by a licensed physician, surgeon, psychiatrist  
31 or dentist to be one of grave emergency and to require immediate  
32 surgical intervention or other treatment in order to prevent the death  
33 of, or serious consequences to such patient [or], inmate or resident,  
34 the chief executive officer or regional administrator is hereby  
35 authorized to consent to such medical, psychiatric, surgical or dental  
36 treatment to such patient [or], inmate or resident as recommended and  
37 prescribed by such certification.

38 (cf: P.L.1969, c.181, s.3)

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40 4. Notice of required treatment shall be given to a parent or  
41 guardian of such patient [or], inmate <sup>1</sup>, juvenile<sup>1</sup> or resident by certified  
42 mail to the last known address with a request for consent, and such  
43 notice shall contain sufficient information to indicate the precise nature  
44 of the illness and the proposed treatment and the date same will be  
45 performed, and shall be sent at least 10 days in advance of the date  
46 recommended for such treatment unless the case is one certified to be

1 emergent, as provided hereinabove, in which case the parent or  
2 guardian shall be given the maximum advance notice possible under  
3 the circumstances. For the purposes of this act, such notice shall be  
4 deemed reasonable notice.

5 (cf: P.L.1969, c.181, s.4)

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7 5. Section 5 of P.L.1969, c.181 (C.30:4-7.5) is amended to read as  
8 follows:

9 5. Under all of the foregoing circumstances, the chief executive  
10 officer or regional administrator, granting such consent in the exercise  
11 of his discretion, upon the recommendation contained in the medical,  
12 psychiatric, surgical or dental certification, shall be exempt from  
13 personal liability in the performance of such public duty.

14 (cf: P.L.1969, c.181, s.5)

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16 6. Section 6 of P.L.1969, c.181 (C.30:4-7.6) is amended to read as  
17 follows:

18 6. Nothing herein shall be so construed as to give authority to the  
19 chief executive officer of any institution or the regional administrator  
20 of a Division of Developmental Disabilities community services region  
21 to supervise, regulate or control the remedial care or treatment of  
22 individual patients , inmates or residents who are adherents of any well  
23 recognized church or religious denomination which subscribes to the  
24 art of healing by prayer and the principles of which are opposed to  
25 medical treatment.

26 (cf: P.L.1969, c.181, s.6)

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28 7. This act shall take effect immediately.

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33 Permits regional administrator of a Division of Developmental  
34 Disabilities community services region to consent to treatment for  
35 residents under certain circumstances.