



This bill has been amended

## **Bill A497-2013**

### **Provides treatment for sexually transmissible diseases to minors without a parent's or guardian's consent**

Provides treatment for sexually transmitted diseases to minors without a parent's or guardian's consent; provides definition for health care practitioner.

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#### **Details**

- Same as: S3134-2013
  - Versions A497-2013 A497A-2013
  - Sponsor: Paulin
  - Multi-sponsor(s): Brook-Krasny, Perry, Russell, Wright
  - Co-sponsor(s): Schimel, Gottfried, Dinowitz, Jacobs, Jaffee, Rosenthal, Lavine, Steck
  - Law Section: Public Health Law
  - Law: Amd §2305, Pub Health L
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#### **Actions**

- May 2, 2013: advanced to third reading cal.238
- Apr 30, 2013: reported
- Jan 9, 2013: referred to health

**Text****STATE OF NEW YORK**

497

2013-2014 Regular Sessions

IN ASSEMBLY

(PREFILED)

January 9, 2013

Introduced by M. of A. PAULIN, SCHIMEL, GOTTFRIED, DINOWITZ, JACOBS, JAFFEE, ROSENTHAL -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, GABRYSZAK, MARKEY, RUSSELL, TITONE, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to providing medical care to minors for sexually transmitted diseases without a parent's or guardian's consent

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 2305 of the public health law, as amended by chapter 878 of the laws of 1980, is amended to read as follows:

S 2305. Sexually transmissible diseases; CARE AND treatment ~~by licensed physician or staff physician of a hospital; prescriptions~~ ; CONSENT BY MINORS. 1. No person, other than a ~~licensed physician, or, in a hospital, a staff physician~~ HEALTH CARE PRACTITIONER, shall diagnose, treat or prescribe for a person who is infected with a sexually transmissible disease, or who has been exposed to infection with a sexually transmissible disease, or dispense or sell a drug, medicine or remedy for the treatment of such person except on prescription of a ~~duly licensed physician~~ HEALTH CARE PRACTITIONER.

2. (A) A ~~licensed physician, or in a hospital, a staff physician,~~ HEALTH CARE PRACTITIONER may diagnose, treat or prescribe TREATMENT FOR A SEXUALLY TRANSMISSIBLE DISEASE for a person under the age of ~~twenty-one~~ EIGHTEEN years without the consent or knowledge of the parents or ~~guardian~~ GUARDIANS of said person, where such person is infected with a sexually transmissible disease, or has been exposed to infection with a sexually transmissible disease.

(B) A HEALTH CARE PRACTITIONER MAY PROVIDE HEALTH CARE RELATED TO THE PREVENTION OF A SEXUALLY TRANSMISSIBLE DISEASE, INCLUDING ADMINISTERING VACCINES, TO A PERSON UNDER THE AGE OF EIGHTEEN YEARS WITHOUT THE

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

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CONSENT OR KNOWLEDGE OF THE PARENTS OR GUARDIANS OF SUCH PERSON, PROVIDED THAT THE PERSON HAS CAPACITY TO CONSENT TO THE CARE, WITHOUT REGARD TO THE PERSON'S AGE, AND THE PERSON CONSENTS.

(C) ANY RELEASE OF PATIENT INFORMATION REGARDING VACCINES PROVIDED UNDER THIS SECTION SHALL BE CONSISTENT WITH SECTIONS SEVENTEEN AND EIGHTEEN OF THIS CHAPTER AND OTHER APPLICABLE LAWS AND REGULATIONS.

3. For the purposes of this section, ~~{the term}~~

(A) "hospital" shall mean a hospital as defined in article twenty-eight of this chapter; AND

(B) "HEALTH CARE PRACTITIONER" SHALL MEAN A PERSON LICENSED, CERTIFIED OR OTHERWISE AUTHORIZED TO PRACTICE UNDER TITLE EIGHT OF THE EDUCATION LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE.

S 2. This act shall take effect immediately.

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## Comments

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**A00497 Summary:**

BILL NO A00497A  
SAME AS SAME AS  
SPONSOR Paulin (MS)  
COSPNSR Schimel, Gottfried, Dinowitz, Jacobs, Jaffee, Rosenthal, Lavine, Steck  
MLTSPNSR Brook-Krasny, Perry, Russell, Wright  
Amd S2305, Pub Health L

Provides treatment for sexually transmitted diseases to minors without a parent's or guardian's consent; provides definition for health care practitioner.

**A00497 Actions:**

BILL NO A00497A  
01/09/2013 referred to health  
04/30/2013 reported  
05/02/2013 advanced to third reading cal.238  
05/29/2013 amended on third reading 497a  
01/08/2014 referred to health

**A00497 Votes:**

*There are no votes for this bill in this legislative session.*

**A00497 Memo:**

BILL NUMBER:A497A

TITLE OF BILL: An act to amend the public health law, in relation to providing medical care to minors for sexually transmitted diseases without a parent's or guardian's consent

PURPOSE OR GENERAL IDEA OF BILL: To ensure that the diagnosis, treatment, and prevention, including immunization, of a sexually transmissible disease are available when most effective

SUMMARY OF SPECIFIC PROVISIONS: Section one amends the heading and subdivisions 1, 2 and 3 of section 2305 of the public health law. The section amends subdivision 1 to provide that no person other than a health care practitioner shall diagnose, treat or prescribe for a person who is infected with a sexually transmissible disease, or who has been exposed to infection with a sexually transmissible disease, or dispense or sell a drug, medicine or remedy for the treatment of such person except on prescription of a health care practitioner. This section amends subdivision 2 to provide that a health care practitioner may provide health care related to the prevention of a sexually transmissible disease, including administering vaccines, to a person under age eighteen without the consent or knowledge of his or her parents or guardians provided such person has capacity to consent to the care, without regard to the person's age, and the person consents. Any release of patient information regarding vaccines provided under this section shall be consistent with sections 17 and 18 of the public health law and other applicable laws and regulations. This section one amends subdivision 3 by adding the definition of "health care practitioner."

Section two provides the effective date.

JUSTIFICATION: Section 2305 of the public health law currently permits a licensed physician or a staff physician in a hospital to diagnose or treat persons under age 21 infected with a sexually transmissible disease or exposed to infection with a sexually transmissible disease without the consent or knowledge of the parents or guardians of such persons. Yet current law does not allow young people the same access to care to prevent sexually transmissible diseases. The Legislature has recognized that it is critical to protecting the health of young people to allow them to seek treatment of sexually transmitted diseases without the consent of their parents or guardians because we know that teens often do not seek parental consent because a request for consent necessarily involves disclosing to parents that the teen has engaged in sexual activity. The Legislature is aware that if teens are not permitted to seek care and treatment of sexually transmissible diseases, sexually transmissible diseases among many of our teens would go untreated, severely impeding our ability to control the spread of sexually transmissible diseases. This can be particularly problematic in correctional settings where attempts to obtain parental consent are often unsuccessful.

Regardless of setting, teens should not be limited to access to care on a confidential basis after the fact, or after infection or contraction of a sexually transmissible disease. Teens should have access to confidential care before infection or contracting the

sexually transmissible disease, to prevent disease or life-threatening illness such as cervical cancer and liver cancer.

This is particularly evident when we possess safe and effective means, such as the human papillomavirus (HPV) and hepatitis B vaccines, to prevent our teens from becoming infected with the viruses that cause such cancers.

Approximately 99.7% of all cervical cancer cases are linked to certain types of the HPV virus. According to the American Cancer Society, approximately 3,700 people die from cervical cancer in the United States every year. African American women and Hispanic women in the U.S. are disproportionately impacted by cervical cancer. The HPV vaccine, which has been approved by the U. S. Food and Drug Administration for girls and women age 11 - 26, with routine vaccination of 11 & 12 year old girls, is most effective when administered before a person becomes sexually active. Generally, this means administering the vaccine to persons under the age of eighteen. Moreover, the vaccine is more effective if it is obtained before a woman becomes sexually active.

Armed with this knowledge, young women have sought to be immunized with the HPV vaccine. Planned Parenthood and several community health centers testified at a Senate hearing a few years ago that young women were coming into clinics and centers requesting the HPV vaccine. Yet even though teens may receive family planning counseling and birth control, terminate a pregnancy, and receive treatment for a sexually transmissible disease, in each case without the consent of a parent or guardian, those very teens cannot obtain the HPV vaccine without parental consent.

Similarly, a teen cannot obtain the hepatitis B vaccine without parental consent. The hepatitis B virus (HBV), a major cause of liver disease, ranking as a substantial cause of cirrhosis and cancer of the liver, is sexually transmitted. Persons with HBV infection have the virus circulating in their blood, much like HIV, (HBV is approximately 100 times more contagious than HIV.) HBV infected persons either recover from their infection in several months or they may remain chronically infected for most of their life.

Although HBV is a common infection, it often goes unnoticed. Chronic infection with HBV often goes undetected for 20 to 40 years until the

resulting liver disease makes the person ill. HBV can effectively destroy the liver or stimulate the development of liver cancer in someone who thinks he or she is completely well. Persons who become chronically infected with HBV as adolescents or adults have a 15% chance of dying from liver disease and are at high risk of death from liver cancer, 4,000 to 5,000 people die in the United States each year from hepatitis B.

It is imperative that we promote protection against often fatal diseases to those who will most benefit from that protection. By allowing health care professionals to administer immunization against HPV, hepatitis B, and other sexually transmitted diseases to persons under the age of eighteen without the consent or knowledge of a parent or guardian, this legislation promotes the health and well being of persons at a most critical juncture in their lives: prior to being

sexually active and prior to exposure to viruses we know are linked to deadly diseases.

With this legislation, we can ensure that every person, regardless of age, may receive the full range of reproductive and sexual health care services, including prevention care, and where the person is under the age of eighteen, if he or she has the capacity to consent and consents.

PRIOR LEGISLATIVE HISTORY: A.343, 2011 and 2012 referred to health. Same as S.384, 2011 and 2012 referred to health. A.6702C, 2009 amended on third reading and 2010 referred to health. Same as S.97798, 2009 and 2010 referred to health. Similar to A9630, 2008 referred to health.

FISCAL IMPLICATION: None to the state.

EFFECTIVE DATE: Immediately.

### **A00497 Text:**

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

497--A

Cal. No. 238

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. PAULIN, SCHIMEL, GOTTFRIED, DINOWITZ, JACOBS, JAFFEE, ROSENTHAL -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, RUSSELL, TITONE, WRIGHT -- read once and referred to the Committee on Health -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law, in relation to providing medical care to minors for sexually transmitted diseases without a parent's or guardian's consent

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2305 of the public health law, as amended by chap-  
2 ter 878 of the laws of 1980, the section heading and subdivisions 1 and

3 2 as amended by section 35 of part E of chapter 56 of the laws of 2013,  
4 is amended to read as follows:

5 S 2305. Sexually transmitted diseases; CARE AND treatment [by licensed  
6 physician or staff physician of a hospital; prescriptions]; CONSENT BY  
7 MINORS. 1. No person, other than a [licensed physician, or, in a hospi-  
8 tal, a staff physician] HEALTH CARE PRACTITIONER, shall diagnose, treat  
9 or prescribe for a person who is infected with a sexually transmitted  
10 disease, or who has been exposed to infection with a sexually transmit-  
11 ted disease, or dispense or sell a drug, medicine or remedy for the  
12 treatment of such person except on prescription of a [duly licensed  
13 physician] HEALTH CARE PRACTITIONER.

14 2. (A) A [licensed physician, or in a hospital, a staff physician]  
15 HEALTH CARE PRACTITIONER, may diagnose, treat or prescribe TREATMENT FOR  
16 A SEXUALLY TRANSMITTED DISEASE for a person under the age of [twenty-  
17 one] EIGHTEEN years without the consent or knowledge of the parents or  
18 [guardian] GUARDIANS of said person, where such person is infected with

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[ ] is old law to be omitted.

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1 a sexually transmitted disease, or has been exposed to infection with a  
2 sexually transmitted disease.

3 (B) A HEALTH CARE PRACTITIONER MAY PROVIDE HEALTH CARE RELATED TO THE  
4 PREVENTION OF A SEXUALLY TRANSMISSIBLE DISEASE, INCLUDING ADMINISTERING  
5 VACCINES, TO A PERSON UNDER THE AGE OF EIGHTEEN YEARS WITHOUT THE  
6 CONSENT OR KNOWLEDGE OF THE PARENTS OR GUARDIANS OF SUCH PERSON,  
7 PROVIDED THAT THE PERSON HAS CAPACITY TO CONSENT TO THE CARE, WITHOUT  
8 REGARD TO THE PERSON'S AGE, AND THE PERSON CONSENTS.

9 (C) ANY RELEASE OF PATIENT INFORMATION REGARDING VACCINES PROVIDED  
10 UNDER THIS SECTION SHALL BE CONSISTENT WITH SECTIONS SEVENTEEN AND EIGH-  
11 TEEN OF THIS CHAPTER AND OTHER APPLICABLE LAWS AND REGULATIONS.

12 3. For the purposes of this section, [the term]

13 (A) "hospital" shall mean a hospital as defined in article twenty-  
14 eight of this chapter; AND

15 (B) "HEALTH CARE PRACTITIONER" SHALL MEAN A PERSON LICENSED, CERTIFIED  
16 OR OTHERWISE AUTHORIZED TO PRACTICE UNDER TITLE EIGHT OF THE EDUCATION  
17 LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE.

18 S 2. This act shall take effect immediately.