

2141--A

2009-2010 Regular Sessions

I N   S E N A T E

February 11, 2009

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Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, the penal law, the criminal procedure law and the state finance law, in relation to crime prevention and control, and providing for the repeal of such provisions upon expiration thereof

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

1     Section 1. The elder law is amended by adding a new article 4 to read  
2 as follows:

3   ARTICLE IV

4                     ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND ACT

5     SECTION 401. SHORT TITLE.

6             402. LEGISLATIVE FINDING AND DECLARATION.

7             403. DEFINITIONS.

8             404. ADMINISTRATION OF TRUST FUND.

9             405. APPLICATION PROCEDURES.

10            406. RULES AND REGULATIONS.

11            407. REPORTING.

12            408. LEGISLATIVE HEARINGS.

13     S 401. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS  
14 "THE ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND ACT".

15     S 402. LEGISLATIVE FINDING AND DECLARATION. THIS LEGISLATURE DOES  
16 HEREBY FIND AND DECLARE THAT THE ELDERLY POPULATION OF THIS STATE, WHICH  
17 FOR THE PURPOSES OF THIS ARTICLE IS DEFINED AS INDIVIDUALS OVER THE AGE  
18 OF SIXTY-TWO YEARS, IS UNIQUELY VULNERABLE TO ACTUAL AND POTENTIAL CRIM-  
19 INAL VICTIMIZATION BY VIRTUE OF PHYSICAL FRAILTY, CONCENTRATIONS IN HIGH  
20 RISK URBAN NEIGHBORHOODS, AND SOCIO-ECONOMIC HOUSEHOLD FACTORS ADVERTIS-

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

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1 ING SENIORS AS HIGH VISIBILITY CRIME TARGETS. THIS HEIGHTENED VULNER-  
2 ABILITY ACTS AS A PRECURSOR FOR A GENERALIZED AND DEBILITATING SENSE OF  
3 FEAR WHICH IMPACTS ON MOBILITY, CONCEPTS OF SELF-WORTH, AND ISOLATION  
4 FROM THE LARGER SOCIETY. THE LEGISLATURE FURTHER FINDS AND DECLARES THAT  
5 ON THE BASIS OF AVAILABLE DEMOGRAPHIC INFORMATION, THE ELDERLY POPU-  
6 LATION OF THIS STATE WILL CONTINUE TO EXPAND, THUS REQUIRING THAT THE  
7 PROBLEM OF CRIMINAL VICTIMIZATION OF THE ELDERLY BE A FOCUS OF CONTINU-  
8 ING AND PARAMOUNT CONCERN. THIS LEGISLATURE FURTHER FINDS THAT ALTHOUGH  
9 THE STATE'S COMMITMENT OF GENERAL REVENUE FUNDS TO THE CRIMINAL JUSTICE  
10 SYSTEM HAS INCREASED NEARLY THREE-FOLD IN THE PAST DECADE, CRIME  
11 PREVENTION AND CONTROL ACTIVITIES TARGETED TO OUR ELDERLY POPULATION  
12 HAVE BEEN WEDDED TO MONEYS ORIGINATING WITHIN THE FEDERAL SYSTEM. ADDI-  
13 TIONALLY, STATISTICAL TRENDS IN THE CRIMINAL VICTIMIZATION OF THE ELDER-  
14 LY PROMISE A CONTINUED ESCALATION IN SEEMINGLY RAMPANT CRIME RATES  
15 DESPITE THE BEST EFFORTS OF LAW ENFORCEMENT AND COMMUNITY BASED ORGAN-  
16 IZATIONS. THESE FINDINGS, COUPLED WITH THE PHILOSOPHIC SHIFTS OCCURRING  
17 ON A NATIONAL LEVEL, MANDATE THAT RESPONSIBILITY FOR THE SAFETY AND  
18 WELL-BEING OF ELDERLY CITIZENS RESTS PRINCIPALLY WITH THIS LEGISLATURE.  
19 IN RESPONSE TO THAT OBLIGATION, THIS LEGISLATURE DOES HEREBY DECLARE  
20 AND ENDORSE THE ESTABLISHMENT OF AN EXCLUSIVE DEDICATED REVENUE SOURCE  
21 FOR THE OPERATION AND MAINTENANCE OF CRIME PREVENTION, DETECTION, AND  
22 ENFORCEMENT ACTIVITIES FOR THE SOLE BENEFIT OF ELDERLY CITIZENS IN THIS  
23 STATE.

24 S 403. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

25 1. "ELDERLY PERSON" MEANS A PERSON SIXTY-TWO YEARS OF AGE OR OLDER.

26 2. "COMMISSIONER" MEANS THE CHIEF ADMINISTRATIVE OFFICER OF THE DIVI-  
27 SION OF CRIMINAL JUSTICE SERVICES.

28 3. "GRANT RECIPIENT" MEANS ANY LOCAL GOVERNMENT, TO INCLUDE ANY TOWN,  
29 CITY, OR COUNTY WITH A POPULATION IN EXCESS OF ONE HUNDRED THOUSAND, OR  
30 COMBINATION THEREOF, OR ANY LOCAL GOVERNMENT AGENCY THAT ADMINISTERS A  
31 CRIME PREVENTION, DETECTION OR ENFORCEMENT PROGRAM PRINCIPALLY FOR THE  
32 BENEFIT OF ELDERLY PERSONS.

33 S 404. ADMINISTRATION OF TRUST FUND. THE ELDERLY CRIME PREVENTION AND  
34 CONTROL TRUST FUND, WHICH IS ESTABLISHED PURSUANT TO SECTION NINETY-SEV-  
35 EN-JJJJ OF THE STATE FINANCE LAW SHALL BE ADMINISTERED AND SUPERVISED  
36 UNDER THE DIRECTION OF THE COMMISSIONER PURSUANT TO THIS ARTICLE, AND IT  
37 SHALL BE FOR THE ESTABLISHMENT AND CONTINUANCE OF CRIME PREVENTION,  
38 DETECTION OR ENFORCEMENT PROGRAMS PRINCIPALLY BENEFITTING ELDERLY  
39 PERSONS.

40 S 405. APPLICATION PROCEDURES. FUNDS APPROPRIATED OR AVAILABLE FOR THE  
41 PURPOSES OF THIS ARTICLE MAY BE ALLOCATED FOR THE PURPOSE OF DESIGNING,  
42 EXPANDING, OR IMPLEMENTING INTERACTIVE CRIME PREVENTION, DETECTION, AND  
43 ENFORCEMENT ACTIVITIES THAT PRINCIPALLY ENHANCE THE SAFETY, MOBILITY,  
44 PHYSICAL SECURITY AND EMOTIONAL WELL-BEING OF ELDERLY PERSONS AS  
45 PROPOSED BY GRANT RECIPIENTS.

46 1. GRANT RECIPIENTS SHALL BE SELECTED BY THE COMMISSIONER FROM APPLI-  
47 CATIONS SUBMITTED.

48 2. THE DIRECTOR SHALL REQUIRE THAT APPLICATIONS SUBMITTED FOR FUNDING  
49 INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

50 (A) THE COST OF EACH PROPOSED PROGRAM INCLUDING THE PROPOSED COMPEN-  
51 SATION OF EMPLOYEES AND PURCHASE OF SUPPORT SERVICES AND HARDWARE;

52 (B) A DESCRIPTION OF THE PROPOSED COMMUNITY AREA OF SERVICE AND OTHER  
53 CHARACTERISTICS AS DETERMINED BY THE COMMISSIONER;

54 (C) A PROGRAM GOAL TO BE ACHIEVED AND AN ASSESSMENT STANDARD MEASURING  
55 ACHIEVEMENT OF THAT GOAL;

(D) AN ENDORSEMENT OF THE CHIEF ADMINISTRATIVE OFFICER OF THE LOCALITY IN WHICH THE GRANT RECIPIENT PROPOSES TO OPERATE A PROGRAM, THAT SAID PROGRAM IS IN CONGRUENCE WITH OVERALL EFFORTS OF THAT LOCALITY IN CONTROLLING, CONTAINING OR REDUCING THE CRIMINAL VICTIMIZATION OF ELDERLY PERSONS;

(E) SUCH ADDITIONAL INFORMATION AS IS DETERMINED TO BE RELEVANT BY THE COMMISSIONER OR THE LEGISLATURE.

S 406. RULES AND REGULATIONS. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO:

1. PROVISIONS FOR PERIODIC MONITORING AND EVALUATION OF EACH PROGRAM AWARDED A GRANT RECIPIENT;

2. PROVISIONS THAT LIMIT THE EXPENDITURE OF FUNDS FOR ADMINISTRATIVE PURPOSES TO FIFTY PER CENTUM OF THE GRANT AWARD; PROVIDED, HOWEVER, IF THE LOCAL GOVERNMENT, LOCAL GOVERNMENT AGENCY, OR COMMUNITY BASED ORGANIZATION SHALL MATCH THE STATE GRANT AWARD WITH EQUAL LOCAL RESOURCES, SEVENTY-FIVE PER CENTUM MAY BE USED FOR ADMINISTRATIVE PURPOSES;

3. PROVISIONS THAT GRANTS AWARDED TO LOCAL GOVERNMENTS, LOCAL GOVERNMENT AGENCIES, OR COMMUNITY BASED ORGANIZATIONS SHALL NOT, EXCEPT IN THE FIRST YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE, EXCEED ONE HUNDRED TWENTY-FIVE PER CENTUM OF THE PREVIOUS CALENDAR YEAR MONEYS DERIVED FROM MANDATORY ADMINISTRATIVE ASSESSMENTS DERIVED FROM CONVICTIONS IN COURTS OF COMPETENT JURISDICTION LOCATED WHOLLY WITHIN THE COUNTY OF ORIGIN OF THE GRANT RECIPIENT; PROVIDED, HOWEVER, THAT CONVICTIONS ARISING IN THE SUPREME COURT SHALL BE CREDITED TO THE COUNTY IN WHICH THE ORIGINAL ARREST OCCURRED.

S 407. REPORTING. GRANT RECIPIENTS SHALL BI-ANNUALLY PROVIDE THE COMMISSIONER SUCH DATA AS TO REASONABLY REFLECT THE FUNDED PROGRAM ACTIVITIES FOR THE INCLUSIVE PERIOD OF JANUARY FIRST THROUGH JUNE THIRTIETH, AND JULY FIRST THROUGH DECEMBER THIRTY-FIRST OF EACH CALENDAR YEAR IN WHICH FUND MONEYS ARE RECEIVED AND EXPENDED. 1. THE COMMISSIONER SHALL ANNUALLY REPORT TO THE APPROPRIATE COMMITTEES OF THE LEGISLATURE:

(A) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICATIONS RECEIVED AND FUNDING LEVEL SOUGHT;

(B) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICATIONS APPROVED;

(C) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICATIONS DENIED AND A BRIEF EXPLANATION FOR THE BASIS OF DENIAL.

2. AN ANNUAL REPORT FOR PUBLIC DISTRIBUTION DETAILING THE ACTIVITIES AND ACCOMPLISHMENTS OF PROGRAMS FUNDED UNDER THE PROVISIONS OF THIS ARTICLE SHALL ALSO BE SUBMITTED.

S 408. LEGISLATIVE HEARINGS. THE LEGISLATURE SHALL ANNUALLY CONDUCT PUBLIC HEARINGS ON THE PROPOSED USE AND DISTRIBUTION OF FUNDS TO BE PROVIDED UNDER THIS ARTICLE. 1. THE COMMISSIONER SHALL CAUSE TO BE PREPARED A DETAILED PLAN, FOR SUBMISSION TO THE APPROPRIATE LEGISLATIVE COMMITTEES, PROJECTING:

(A) ANTICIPATED REVENUES AVAILABLE UNDER THIS TRUST FUND FOR THE FORTHCOMING STATE FISCAL YEAR;

(B) UNEXPENDED FUNDS FROM THE CURRENT STATE FISCAL YEAR OPERATIONS; AND

(C) ENCUMBERED AND CONTRACTED FUNDS FROM THE CURRENT STATE FISCAL YEAR.

2. ON THE BASIS OF THE PLAN SUBMITTED BY THE COMMISSIONER, JOINT LEGISLATIVE COMMITTEE HEARINGS SHALL BE CONDUCTED AT THE PLEASURE AND CONVENIENCE OF THE APPROPRIATE COMMITTEE CHAIRPERSONS.

1 3. EXPENSES ATTENDANT TO LEGISLATIVE HEARINGS CONDUCTED PURSUANT TO  
2 THIS ARTICLE SHALL BE BORNE BY THE DIVISION OF CRIMINAL JUSTICE  
3 SERVICES.

4 S 2. The penal law is amended by adding a new section 80.20 to read as  
5 follows:

6 S 80.20 MANDATORY ADMINISTRATIVE ASSESSMENTS REQUIRED UPON CONVICTION OF  
7 A FELONY WHERE AN ELDERLY PERSON IS A VICTIM.

8 1. FOR PURPOSES OF THIS SECTION "ELDERLY PERSON" MEANS A PERSON  
9 SIXTY-TWO YEARS OF AGE OR OLDER.

10 2. EVERY PERSON CONVICTED OF A FELONY INVOLVING A VICTIM WHO IS AN  
11 ELDERLY PERSON SHALL, IN ADDITION TO ANY SENTENCE IMPOSED BY THE COURT,  
12 PAY A MANDATORY ADMINISTRATIVE ASSESSMENT OF TWO HUNDRED DOLLARS.

13 3. A PERSON CONVICTED AND SUBJECT TO THE PROVISIONS SET FORTH IN THIS  
14 ARTICLE SHALL PAY THE MANDATORY ADMINISTRATIVE ASSESSMENT TO THE CLERK  
15 OF THE COURT THAT RENDERED THE CONVICTION. EACH MANDATORY ADMINISTRATIVE  
16 ASSESSMENT COLLECTED BY THE CLERK SHALL BE PAID OVER TO THE STATE COMP-  
17 TROLLER FOR DEPOSIT UNDER THE PROVISIONS OF SECTION NINETY-SEVEN-JJJJ OF  
18 THE STATE FINANCE LAW.

19 4. WHEN A PERSON IS CONVICTED OF A FELONY INVOLVING A VICTIM WHO IS AN  
20 ELDERLY PERSON, THE MANDATORY ADMINISTRATIVE ASSESSMENT SHALL BE PAID TO  
21 THE STATE COMPTROLLER FOR DEPOSIT UNDER THE PROVISIONS OF SECTION NINE-  
22 TY-SEVEN-JJJJ OF THE STATE FINANCE LAW.

23 5. FOR THE PURPOSES OF THIS SECTION, ADJUDICATION AS A YOUTHFUL OFFEN-  
24 DER SHALL NOT EXEMPT A PERSON FROM THE PROVISIONS OF THIS SECTION.

25 6. THE CLERK OF THE COURT, WHEREIN THE CONVICTION OCCURRED, RESULTING  
26 IN A MANDATORY ADMINISTRATIVE ASSESSMENT BEING COLLECTED, SHALL BE ENTI-  
27 TLED, ON BEHALF OF THE COURT, TO RETAIN A FEE NOT TO EXCEED FIVE PER  
28 CENTUM OF THE MANDATORY ADMINISTRATIVE ASSESSMENT.

29 S 3. The criminal procedure law is amended by adding a new section  
30 420.37 to read as follows:

31 S 420.37 MANDATORY ADMINISTRATIVE ASSESSMENTS; APPLICABILITY TO  
32 SENTENCES MANDATING PAYMENT OF FINES.

33 THE PROVISIONS OF SECTION 430.20 OF THIS TITLE GOVERNING THE COMMIT-  
34 MENT OF A DEFENDANT FOR FAILURE TO PAY A FINE SHALL BE APPLICABLE TO  
35 MANDATORY ADMINISTRATIVE ASSESSMENTS IMPOSED PURSUANT TO SECTION 80.20  
36 OF THE PENAL LAW.

37 S 4. The state finance law is amended by adding a new section 97-jjjj  
38 to read as follows:

39 S 97-JJJJ. ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND. 1. THERE  
40 IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL  
41 FUND TO BE KNOWN AS THE "ELDERLY CRIME PREVENTION AND CONTROL TRUST  
42 FUND".

43 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSES  
44 OF SUCH FUND, AND ALL MONEYS RECEIVED AS A RESULT OF MANDATORY ADMINIS-  
45 TRATIVE ASSESSMENTS AND ANY OTHER SUMS PAYABLE TO THE FUND PURSUANT TO  
46 SECTION 80.20 OF THE PENAL LAW.

47 3. MONEYS OF THE ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND, WHEN  
48 ALLOCATED, SHALL BE AVAILABLE TO THE DIVISION OF CRIMINAL JUSTICE  
49 SERVICES FOR THE PURPOSES OF ADMINISTERING AND FUNDING ACTIVITIES  
50 RELATED TO THE PREVENTION AND CONTROL OF CRIMINAL VICTIMIZATION OF THE  
51 ELDERLY PURSUANT TO THE PROVISIONS OF ARTICLE FOUR OF THE ELDER LAW.

52 4. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW, NO  
53 MONEYS SHALL BE AVAILABLE FROM THE ELDERLY CRIME PREVENTION AND CONTROL  
54 TRUST FUND UNTIL A CERTIFICATE OF ALLOCATION AND A SCHEDULE OF AMOUNTS  
55 TO BE AVAILABLE THEREFOR SHALL HAVE BEEN ISSUED BY THE DIRECTOR OF THE  
56 BUDGET, UPON THE RECOMMENDATION OF THE COMMISSIONER OF THE DIVISION OF

1 CRIMINAL JUSTICE SERVICES AND A COPY OF SUCH CERTIFICATE FILED WITH THE  
2 COMPTROLLER, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE  
3 CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE. SUCH CERTIFICATE  
4 MAY BE AMENDED FROM TIME TO TIME BY THE DIRECTOR OF THE BUDGET, UPON THE  
5 RECOMMENDATION OF THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE  
6 SERVICES AND A COPY OF EACH SUCH AMENDMENT SHALL BE FILED WITH THE COMP-  
7 TROLLER, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIR-  
8 PERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

9 5. THE MONEYS, WHEN ALLOCATED, SHALL BE PAID OUT OF THE FUND ON THE  
10 AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED  
11 BY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES OR BY  
12 AN OFFICER OR EMPLOYEE OF THE DIVISION OF CRIMINAL JUSTICE SERVICES  
13 DESIGNATED BY THE COMMISSIONER.

14 S 5. This act shall take effect immediately and shall expire June 30,  
15 2013 when upon such date the provisions of this act shall be deemed  
16 repealed.