

3293--A

Cal. No. 420

2011-2012 Regular Sessions

I N   S E N A T E

February 15, 2011

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Introduced by Sens. DeFRANCISCO, VALESKY, AVELLA, CARLUCCI, KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the executive law, in relation to creating the missing vulnerable adults clearinghouse

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

1     Section 1. The executive law is amended by adding a new section  
2     837-f-1 to read as follows:  
3     S 837-F-1. MISSING VULNERABLE ADULTS CLEARINGHOUSE. THERE IS HEREBY  
4     ESTABLISHED WITHIN THE DIVISION A MISSING VULNERABLE ADULTS CLEARING-  
5     HOUSE TO PROVIDE A COMPREHENSIVE AND COORDINATED APPROACH TO THE PROBLEM  
6     OF MISSING VULNERABLE ADULTS.  
7     1. FOR PURPOSES OF THIS SECTION:  
8     (A) "VULNERABLE ADULT" SHALL MEAN AN INDIVIDUAL EIGHTEEN YEARS OF AGE  
9     OR OLDER WHO HAS A COGNITIVE IMPAIRMENT, MENTAL DISABILITY, OR BRAIN  
10    DISORDER AND WHOSE DISAPPEARANCE HAS BEEN DETERMINED BY LAW ENFORCEMENT  
11    TO POSE A CREDITABLE THREAT OF HARM TO SUCH MISSING INDIVIDUAL.  
12    (B) "MISSING VULNERABLE ADULT ALERT" SHALL MEAN A METHOD TO DISSEM-  
13    INATE INFORMATION REGARDING A MISSING VULNERABLE ADULT TO THE GENERAL  
14    PUBLIC IN A MANNER CONSISTENT WITH PARAGRAPH (N) OF SUBDIVISION TWO OF  
15    THIS SECTION.  
16    2. THE COMMISSIONER SHALL BE AUTHORIZED TO:  
17    (A) PLAN AND IMPLEMENT PROGRAMS TO ENSURE THE MOST EFFECTIVE USE OF  
18    FEDERAL, STATE, AND LOCAL RESOURCES IN THE INVESTIGATION OF MISSING  
19    VULNERABLE ADULTS;  
20    (B) DISSEMINATE A DIRECTORY OF RESOURCES TO ASSIST IN LOCATING MISSING  
21    VULNERABLE ADULTS;

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

LBD03273-05-1

(C) COOPERATE WITH THE DEPARTMENT OF HEALTH, OFFICE OF MENTAL HEALTH, OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR THE AGING, AND OTHER PUBLIC AND PRIVATE ORGANIZATIONS TO DEVELOP EDUCATION AND PREVENTION PROGRAMS CONCERNING THE SAFETY OF VULNERABLE ADULTS;

(D) ASSIST FEDERAL, STATE, AND LOCAL AGENCIES IN THE INVESTIGATION OF CASES INVOLVING MISSING VULNERABLE ADULTS;

(E) UTILIZE AVAILABLE RESOURCES TO DUPLICATE PHOTOGRAPHS AND POSTERS OF VULNERABLE ADULTS REPORTED AS MISSING BY POLICE AND DISSEMINATE THIS INFORMATION THROUGHOUT THE STATE;

(F) PROVIDE ASSISTANCE IN RETURNING MISSING VULNERABLE ADULTS WHO ARE LOCATED OUT OF STATE;

(G) DEVELOP A CURRICULUM FOR THE TRAINING OF LAW ENFORCEMENT PERSONNEL INVESTIGATING CASES INVOLVING MISSING VULNERABLE ADULTS, INCLUDING RECOGNITION AND MANAGEMENT OF VULNERABLE ADULTS;

(H) OPERATE A TOLL-FREE TWENTY-FOUR HOUR HOTLINE FOR THE PUBLIC TO USE TO RELAY INFORMATION CONCERNING MISSING VULNERABLE ADULTS;

(I) ESTABLISH A CASE DATABASE THAT SHALL INCLUDE NON-IDENTIFYING INFORMATION ON REPORTED MISSING VULNERABLE ADULTS AND FACTS DEVELOPED IN THE PHASES OF A SEARCH; AND ANALYZE SUCH DATA FOR THE PURPOSES OF ASSISTING LAW ENFORCEMENT IN THEIR CURRENT INVESTIGATIONS OF MISSING VULNERABLE ADULTS, DEVELOPING PREVENTION PROGRAMS AND INCREASING UNDERSTANDING OF THE NATURE AND EXTENT OF THE PROBLEM;

(J) PRESCRIBE GENERAL GUIDELINES TO ENABLE STATE AGENCIES TO ASSIST IN THE LOCATION AND RECOVERY OF MISSING VULNERABLE ADULTS. THE GUIDELINES SHALL PROVIDE INFORMATION RELATING TO:

(1) THE FORM AND MANNER IN WHICH MATERIALS AND INFORMATION PERTAINING TO MISSING VULNERABLE ADULTS, INCLUDING, BUT NOT LIMITED TO, BIOGRAPHICAL DATA AND PICTURES, SKETCHES, OR OTHER LIKENESSES MAY BE INCLUDED IN STATIONARY, NEWSLETTERS, AND OTHER WRITTEN OR ELECTRONIC PRINTINGS, PROVIDED SUCH GUIDELINES ARE CONSISTENT WITH PARAGRAPH (N) OF THIS SUBDIVISION;

(2) APPROPRIATE SOURCES FROM WHICH SUCH MATERIALS AND INFORMATION MAY BE OBTAINED;

(3) THE PROCEDURES BY WHICH SUCH MATERIALS AND INFORMATION MAY BE OBTAINED; AND

(4) ANY OTHER MATTER THE CLEARINGHOUSE MAY DEEM IMPORTANT;

(K) MAINTAIN AND MAKE AVAILABLE TO APPROPRIATE STATE AND LOCAL LAW ENFORCEMENT AGENCIES INFORMATION CONCERNING TECHNOLOGICAL ADVANCES THAT MAY ASSIST IN FACILITATING THE RECOVERY OF MISSING VULNERABLE ADULTS;

(L) TAKE SUCH OTHER STEPS AS NECESSARY TO ASSIST IN EDUCATION, PREVENTION, SERVICE PROVISION, AND INVESTIGATION OF CASES INVOLVING MISSING VULNERABLE ADULTS;

(M) (1) IN CONSULTATION WITH THE DIVISION OF STATE POLICE AND OTHER APPROPRIATE AGENCIES, DEVELOP, REGULARLY UPDATE, AND DISTRIBUTE MODEL MISSING VULNERABLE ADULT PROMPT RESPONSE AND NOTIFICATION PLANS. SUCH PLANS SHALL BE AVAILABLE FOR USE BY LOCAL COMMUNITIES AND LAW ENFORCEMENT PERSONNEL AND SHALL INVOLVE A PRO-ACTIVE, COORDINATED RESPONSE THAT MAY BE PROMPTLY TRIGGERED BY LAW ENFORCEMENT PERSONNEL UPON CONFIRMATION BY A POLICE OFFICER, PEACE OFFICER, OR POLICE AGENCY OF A REPORT OF A MISSING VULNERABLE ADULT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION.

(2) SUCH PLANS SHALL, AT A MINIMUM, PROVIDE THAT: (A) THE NAME OF THE MISSING VULNERABLE ADULT, A DESCRIPTION OF THE MISSING INDIVIDUAL, AND OTHER PERTINENT INFORMATION MAY BE PROMPTLY DISPATCHED OVER THE POLICE COMMUNICATION SYSTEM PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-ONE OF THIS CHAPTER; (B) SUCH INFORMATION MAY BE IMMEDIATELY PROVIDED, IN A MANNER CONSISTENT WITH PARAGRAPH (N) OF THIS

1 SUBDIVISION, (I) ORALLY, ELECTRONICALLY, OR BY FACSIMILE TRANSMISSION TO  
2 ONE OR MORE RADIO STATIONS AND OTHER BROADCAST MEDIA OUTLETS SERVING THE  
3 COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHO HAVE VOLUNTARILY  
4 AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH RADIO STATIONS AND  
5 BROADCAST MEDIA OUTLETS IN LIKE MANNER AND (II) BY ELECTRONIC MAIL  
6 MESSAGE TO ONE OR MORE INTERNET SERVICE PROVIDERS AND COMMERCIAL MOBILE  
7 SERVICE PROVIDERS SERVING THE COMMUNITY INCLUDING, BUT NOT LIMITED TO,  
8 THOSE WHICH HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER  
9 SUCH INTERNET SERVICE PROVIDERS IN LIKE MANNER; (C) PARTICIPATING RADIO  
10 STATIONS AND OTHER PARTICIPATING BROADCAST MEDIA OUTLETS SERVING THE  
11 COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY BROADCAST A MISSING VULNER-  
12 ABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISSING  
13 VULNERABLE ADULT'S DISAPPEARANCE, BREAKING INTO REGULAR PROGRAMMING  
14 WHERE APPROPRIATE; (D) PARTICIPATING INTERNET SERVICE PROVIDERS AND  
15 COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE COMMUNITY MAY VOLUNTAR-  
16 ILY AGREE TO PROMPTLY PROVIDE BY ELECTRONIC MAIL MESSAGE A MISSING  
17 VULNERABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISS-  
18 ING VULNERABLE ADULT'S DISAPPEARANCE; (E) POLICE AGENCIES NOT CONNECTED  
19 WITH THE BASIC POLICE COMMUNICATION SYSTEM IN USE IN SUCH JURISDICTION  
20 MAY TRANSMIT SUCH INFORMATION TO THE NEAREST OR MOST CONVENIENT ELEC-  
21 TRONIC ENTRY POINT, FROM WHICH POINT IT MAY BE PROMPTLY DISPATCHED IN  
22 CONFORMITY WITH THE ORDERS, RULES, OR REGULATIONS GOVERNING THE SYSTEM;  
23 (F) A STATEWIDE RESPONSE MAY BE INITIATED AS SOON AS THE DIVISION DEEMS  
24 IT IS NECESSARY TO FIND THE MISSING VULNERABLE ADULT. SUCH A PLAN MAY  
25 NOT REQUIRE THE ISSUANCE OF AN ALERT IF THE INVESTIGATING POLICE DEPART-  
26 MENT, IN ITS DISCRETION, ADVISES THAT THE RELEASE OF SUCH INFORMATION  
27 MAY JEOPARDIZE THE INVESTIGATION OR THE SAFETY OF THE MISSING VULNERABLE  
28 ADULT OR THE INVESTIGATING POLICE DEPARTMENT REQUESTS FORBEARANCE FOR  
29 ANY REASON.

30 (3) THE COMMISSIONER SHALL ALSO DESIGNATE A UNIT WITHIN THE DIVISION  
31 THAT SHALL ASSIST LAW ENFORCEMENT AGENCIES AND REPRESENTATIVES OF RADIO  
32 STATIONS, BROADCAST MEDIA OUTLETS, INTERNET SERVICE PROVIDERS, AND  
33 COMMERCIAL MOBILE SERVICE PROVIDERS IN THE DESIGN, IMPLEMENTATION, AND  
34 IMPROVEMENT OF MISSING VULNERABLE ADULT RESPONSE AND NOTIFICATION PLANS.  
35 SUCH UNIT SHALL MAKE ONGOING OUTREACH EFFORTS TO LOCAL GOVERNMENT ENTI-  
36 TIES AND LOCAL LAW ENFORCEMENT AGENCIES TO ASSIST SUCH ENTITIES AND  
37 AGENCIES IN THE IMPLEMENTATION AND OPERATION OF SUCH PLANS WITH THE GOAL  
38 OF IMPLEMENTING AND OPERATING SUCH PLANS IN EVERY JURISDICTION IN NEW  
39 YORK STATE.

40 (N) DISSEMINATE SPECIFIC MEDICAL INFORMATION ABOUT A MISSING VULNER-  
41 ABLE ADULT TO THE EXTENT THAT SUCH MEDICAL INFORMATION INDICATES A PHYS-  
42 ICAL QUALITY OR BEHAVIORAL TRAIT THAT IS READILY APPARENT AND CONTRIB-  
43 UTES TO A PHYSICAL OR BEHAVIORAL DESCRIPTION OF THE MISSING VULNERABLE  
44 ADULT PROVIDED THAT MORE EXTENSIVE INFORMATION RELATING TO THE MISSING  
45 VULNERABLE ADULT'S MEDICAL DIAGNOSIS AND CONDITION MAY BE PROVIDED TO  
46 LAW ENFORCEMENT PERSONNEL AS NEEDED.

47 3. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND  
48 LEGISLATURE REGARDING THE ACTIVITIES OF THE MISSING VULNERABLE ADULTS  
49 CLEARINGHOUSE INCLUDING STATISTICAL INFORMATION INVOLVING REPORTED CASES  
50 OF MISSING VULNERABLE ADULTS AND A SUMMARY OF THE DIVISION'S EFFORTS  
51 WITH RESPECT TO THE ACTIVITIES AUTHORIZED UNDER SUBDIVISION TWO OF THIS  
52 SECTION.

53 S 2. Subdivision 7 of section 838 of the executive law, as added by  
54 chapter 670 of the laws of 1982, is amended and two new subdivisions 10  
55 and 11 are added to read as follows:

1 7. (A) When a person previously reported missing has been found, the  
2 superintendent of state police, sheriff, chief of police, coroner or  
3 medical examiner, or other law enforcement authority shall erase all  
4 records with respect to such person and/or destroy any documents which  
5 are maintained pursuant to this section and shall report to the division  
6 that the person has been found and that the records and documents have  
7 been so erased or destroyed. After receiving such a report, the division  
8 shall erase all records with respect to such person and/or destroy any  
9 documents which are maintained pursuant to this section.

10 (B) NOTHING IN PARAGRAPH (A) OF THIS SUBDIVISION SHOULD BE CONSTRUED  
11 AS PROHIBITING LAW ENFORCEMENT AGENCIES FROM MAINTAINING CASE FILES  
12 RELATING TO VULNERABLE ADULTS, AS DEFINED IN SECTION EIGHT HUNDRED THIR-  
13 TY-SEVEN-F-1 OF THIS ARTICLE, WHO WERE REPORTED MISSING, PROVIDED,  
14 HOWEVER, THAT ANY DNA, FINGERPRINTS, AND/OR DENTAL RECORDS ACQUIRED IN  
15 THE COURSE OF SUCH INVESTIGATION SHALL BE ERASED AND/OR DESTROYED IN  
16 ACCORDANCE WITH PARAGRAPH (A) OF THIS SUBDIVISION AFTER THE PERSON  
17 PREVIOUSLY REPORTED MISSING HAS BEEN FOUND.

18 (C) (I) NOTWITHSTANDING THE PROVISION OF PARAGRAPH (A) OF THIS SUBDI-  
19 VISION, IF A VULNERABLE ADULT, AS DEFINED IN SECTION EIGHT HUNDRED THIR-  
20 TY-SEVEN-F-1 OF THIS ARTICLE, PREVIOUSLY REPORTED MISSING HAS BEEN  
21 FOUND, THE DIVISION SHALL MAINTAIN A SEALED RECORD OF THE CASE FILE FOR  
22 A PERIOD OF TEN YEARS, AFTER WHICH IT SHALL BE ERASED AND/OR DESTROYED.  
23 THE SEALED RECORD SHALL BE UNSEALED IF THE INDIVIDUAL TO WHOM THE RECORD  
24 PERTAINS IS REPORTED MISSING ON A SUBSEQUENT OCCASION, OR IF NEEDED FOR  
25 EVIDENTIARY PURPOSES IN ANY CIVIL LITIGATION AGAINST THE DIVISION OR ITS  
26 PERSONNEL THAT ARISES FROM THE INVESTIGATION. HOWEVER, IN THE EVENT THAT  
27 THERE ARE GROUNDS FOR A CRIMINAL ACTION ARISING FROM THE INVESTIGATION,  
28 NOTHING IN THIS SUBDIVISION SHALL BE INTERPRETED AS PROHIBITING THE  
29 DIVISION FROM ALLOWING SUCH RECORDS TO REMAIN UNSEALED UNTIL SUCH CRIMI-  
30 NAL ACTION IS CONCLUDED OR OTHERWISE RESOLVED.

31 (II) THE DIVISION SHALL ESTABLISH RULES AND REGULATIONS RELATING TO  
32 THE UNSEALING OF RECORDS. SUCH RULES AND REGULATIONS SHALL REQUIRE THAT,  
33 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PROCESS OF UNSEALING  
34 SUCH RECORDS SHALL TAKE NO LONGER THAN TWO HOURS FROM THE TIME THE DIVI-  
35 SION RECEIVES A REPORT THAT A VULNERABLE ADULT, FOR WHOM THERE IS A  
36 PREVIOUS RECORD, IS MISSING.

37 10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO CRIMINAL JUSTICE  
38 AGENCY SHALL ESTABLISH OR MAINTAIN ANY POLICY THAT REQUIRES THE OBSER-  
39 VANCE OF A WAITING PERIOD BEFORE ACCEPTING AND INVESTIGATING A REPORT OF  
40 A MISSING VULNERABLE ADULT AS DEFINED IN SECTION EIGHT HUNDRED  
41 THIRTY-SEVEN-F-1 OF THIS ARTICLE. UPON RECEIPT OF A REPORT OF SUCH MISS-  
42 ING VULNERABLE ADULT, CRIMINAL JUSTICE AGENCIES SHALL MAKE ENTRIES OF  
43 SUCH REPORT IN THE MANNER PROVIDED BY SUBDIVISION ELEVEN OF THIS  
44 SECTION.

45 11. WHENEVER A CRIMINAL JUSTICE AGENCY DETERMINES THAT A PERSON IS A  
46 MISSING VULNERABLE ADULT, AS DEFINED IN SECTION EIGHT HUNDRED  
47 THIRTY-SEVEN-F-1 OF THIS ARTICLE, OR THAT AN UNIDENTIFIED LIVING PERSON  
48 MAY BE A MISSING VULNERABLE ADULT, SUCH CRIMINAL JUSTICE AGENCY SHALL  
49 ENTER THE REPORT OF SUCH MISSING VULNERABLE ADULT IN ANY DATABASE OF  
50 MISSING PERSONS MAINTAINED BY THE DIVISION AND THE FEDERAL GOVERNMENT.

51 S 3. The provisions of this act shall not be construed to limit in any  
52 way the authority of a municipality to enact, implement, and continue to  
53 enforce local laws and regulations relating to an alert system to locate  
54 missing individuals that were in effect prior to the effective date of  
55 this act, or to enact, implement, and enforce any amendments thereto  
56 after the effective date of this act.

1     S 4. Severability. If any clause, sentence, paragraph, section or part  
2 of this act shall be adjudged by any court of competent jurisdiction to  
3 be invalid and after exhaustion of all further judicial review, the  
4 judgment shall not affect, impair or invalidate the remainder thereof,  
5 but shall be confined in its operation to the clause, sentence, para-  
6 graph, section or part of this act directly involved in the controversy  
7 in which the judgment shall have been rendered.

8     S 5. This act shall take effect on the ninetieth day after it shall  
9 have become law. Effective immediately, the addition, amendment, and  
10 repeal of any rule or regulation necessary for the implementation of  
11 this act on its effective date are authorized and directed to be made  
12 and completed on or before such effective date.