

STATE OF NEW YORK

8412

2021-2022 Regular Sessions

IN ASSEMBLY

November 3, 2021

Introduced by M. of A. ANDERSON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to enacting "Destini Smothers' law" to require collaboration between law enforcement agencies in missing persons investigations and to provide support for relatives of such missing persons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as "Destini Smothers' law".

2
3 § 2. Section 640 of the executive law is amended by adding a new
4 subdivision 3 to read as follows:

5 3. (a) For the purposes of this article, the term "crime victim" shall
6 include a relative of a missing person as defined in paragraph (c) of
7 this subdivision.

8 (b) "Missing person" shall include a "missing child" as defined in
9 section eight hundred thirty-seven-e of this chapter, a "missing vulner-
10 able adult" as defined in section eight hundred thirty-seven-f-1 of this
11 chapter, and a "missing adult" as defined in section eight hundred thir-
12 ty-seven-f-2 of this chapter, who is missing under circumstances where
13 there is a reasonable concern for his or her safety or whose disappear-
14 ance has been determined by law enforcement to have been involuntary.

15 (c) "Relative of a missing person" means (i) any person related to a
16 missing person as defined in paragraph (b) of this subdivision within
17 the third degree of consanguinity or affinity; (ii) any person maintain-
18 ing a sexual relationship with such missing person; or (iii) any person
19 residing in the same household with such missing person; provided,
20 however, that such term shall not apply to any such person; (iv) whom
21 the investigating law enforcement agency reasonably suspects to have
22 been involved in the missing person's disappearance; (v) who has been
23 convicted of a family offense as defined in subdivision one of section

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

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530.11 of the criminal procedure law or section eight hundred twelve of the family court act committed against the missing person; (vi) is the defendant or respondent or both in any family offense proceeding pending in criminal court or family court where the family offense is alleged to have been committed against the missing person; (vii) is or has been the subject of an order of protection in favor of the missing person; or (viii) whom the law enforcement agency has reasonable cause to believe has perpetrated a family offense or otherwise committed an act or acts of domestic violence against the missing person, regardless of whether any prosecution, family offense proceeding, or conviction resulted from such conduct.

(d) All fair treatment standards and criteria required pursuant to this article, and any services and supports provided to crime victims in connection therewith, shall be available to relatives of missing persons to the extent such fair treatment standards are applicable at the relevant stage of a missing persons investigation.

§ 3. Paragraph (b) of subdivision 1 of section 641 of the executive law, as added by chapter 94 of the laws of 1984, is amended to read as follows:

(b) availability of appropriate public or private programs that provide counseling, treatment or support for crime victims, including but not limited to the following: rape crisis centers, victim/witness assistance programs, elderly victim services, trauma-informed intervention services, emotional support services, mental health care services, victim assistance hotlines and domestic violence shelters;

§ 4. Subdivision 5 of section 642 of the executive law, as amended by chapter 263 of the laws of 1986, is amended to read as follows:

5. Victim assistance education and training, with special consideration to be given to victims of domestic violence, sex offense victims, sex trafficking victims, elderly victims, child victims, relatives of missing persons, and the families of homicide victims, shall be given to persons taking courses at state law enforcement training facilities and by district attorneys so that victims may be promptly, properly and completely assisted.

§ 5. The executive law is amended by adding a new section 837-f-3 to read as follows:

§ 837-f-3. Law enforcement collaboration in missing persons investigations. 1. The division shall, on or before January first, two thousand twenty-three, in consultation with the division of state police, every police agency in this state, every district attorney in this state, and such other qualified agencies the department deems appropriate, develop, adopt, implement and thereafter regularly update a uniform plan for collaboration between police agencies in missing persons investigations. Such plan shall involve a pro-active, coordinated response, planned in advance, that is triggered immediately upon confirmation by a police officer, peace officer or police agency of a report of a missing person.

2. Such plans shall, at a minimum, require that:

(a) the name of the missing person, a description of the person and other pertinent information be immediately dispatched over the police communication system to all local and state agencies;

(b) there shall be no presumption that persons between the ages of nineteen and sixty-four are not missing;

(c) the agency shall ascertain whether the missing person is or has been the victim of a family offense as defined in subdivision one of section 530.11 of the criminal procedure law or section eight hundred twelve of the family court act, and if so, the agency shall immediately

1 transmit such information along with any records in its possession
2 relating thereto to every local and state agency, and shall immediately
3 request and obtain any such records in the possession of another local
4 or state agency;

5 (d) relatives of missing persons are provided with the services and
6 information required to be given to crime victims pursuant to section
7 six hundred forty-one of this chapter; and

8 (e) routine notification of relatives of missing persons of the status
9 of the missing persons investigation, to the extent such information
10 will not jeopardize the investigation or the safety of the missing
11 person or another person.

12 3. Police agencies not connected with the basic police communication
13 system in use in such jurisdiction shall transmit such information to
14 the nearest or most convenient teletypewriter point, from which point it
15 shall be immediately dispatched, in conformity with the orders, rules or
16 regulations governing the system.

17 4. In the event that a police agency receives a report of an adult
18 missing person as defined in section eight hundred thirty-seven-f-2 of
19 this article and such agency knows or has reasonable cause to believe
20 that such missing adult person is or has been the victim of a family
21 offense as defined in subdivision one of section 530.11 of the criminal
22 procedure law or section eight hundred twelve of the family court act,
23 or has otherwise been the victim of domestic violence, regardless of
24 whether any family offense proceeding or criminal prosecution was
25 commenced, there shall be a presumption that such person is missing
26 under circumstances where there is a reasonable concern for his or her
27 safety.

28 5. No dispatch or transmission of a report concerning missing persons
29 shall be required by such plan if the investigating police department
30 determines that the release of such information would jeopardize the
31 investigation or the safety of the person, or otherwise requires
32 forbearance.

33 § 6. This act shall take effect January 1, 2023. Effective immediate-
34 ly, the addition, amendment and/or repeal of any rule or regulation
35 necessary for the implementation of this act on its effective date are
36 authorized to be made and completed on or before such effective date.