

4307

2009-2010 Regular Sessions

I N S E N A T E

April 21, 2009

Introduced by Sens. DeFRANCISCO, GOLDEN, HANNON, MORAHAN, RANZENHOFER --
read twice and ordered printed, and when printed to be committed to
the Committee on Aging

AN ACT to amend the elder law and the public health law, in relation to
enacting the "omnibus Alzheimer's services act of 2009"

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 the "omnibus
2 Alzheimer's services act of 2009".
3 S 2. Legislative findings and intent. The legislature hereby finds and
4 declares that over 330,000 New York citizens are diagnosed with
5 Alzheimer's disease and other dementias, and that one in eight citizens
6 over the age of sixty-five and half of those over the age of eighty-five
7 are affected by these diseases.
8 The legislature further finds and declares that seventy percent of
9 Alzheimer's disease and other dementia patients are cared for at home by
10 family members, in what are often extraordinary and moving acts of love
11 and devotion during the progress of the disease, which on average lasts
12 between five and fifteen years and is marked by progressive symptoms
13 that over time make the patient completely dependent on their caregivers.
14
15 The legislature further finds that a common behavior of this disease
16 that causes great concern for families and caregivers is wandering, and
17 that there have been several recent incidents in which a New York state
18 citizen diagnosed with Alzheimer's disease or other form of dementia has
19 engaged in wandering, and the locality was not equipped with the tools
20 necessary to locate them in a timely manner, with the unfortunate result
21 that these individuals never returned home to their families.
22 The legislature therefore finds and declares that it is imperative
23 that New York state and its localities develop plans to ensure that, in
24 the event an individual with Alzheimer's disease, dementia, or other

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

LBD00552-01-9

1 cognitive impairments is missing, the appropriate technology and infras-
2 tructure is available and can be easily and timely activated to protect
3 the health and safety of these vulnerable citizens.

4 S 3. Section 203 of the elder law is amended by adding a new subdivi-
5 sion 9 to read as follows:

6 9. THE DIRECTOR IS HEREBY AUTHORIZED, AFTER CONSULTATION WITH THE
7 COORDINATING COUNCIL FOR SERVICES RELATED TO ALZHEIMER'S DISEASE AND
8 OTHER DEMENTIAS ESTABLISHED PURSUANT TO SECTION TWO THOUSAND FOUR-A OF
9 THE PUBLIC HEALTH LAW, TO CONTRACT WITH NOT-FOR-PROFIT ORGANIZATIONS FOR
10 TRAINING AND EDUCATION OF LAW ENFORCEMENT PERSONNEL REGARDING PERSONS
11 WITH COGNITIVE IMPAIRMENTS, INCLUDING ALZHEIMER'S DISEASE AND OTHER
12 DEMENTIAS. SUCH TRAINING PROGRAMS SHALL BE DIRECTED TO TRAIN STATE AND
13 LOCAL LAW ENFORCEMENT AGENCIES AND OTHER APPROPRIATE ENTITIES. TRAINING
14 AND MATERIALS MAY INCLUDE, BUT NOT BE LIMITED TO, THE LAW ENFORCEMENT
15 TRAINING COMPONENT OF THE NATIONAL MEDICALERT+ SAFE RETURN PROGRAM, OR
16 ANY SUCCESSOR THERETO. THE REQUIREMENTS OF THIS SUBDIVISION SHALL BE
17 DEEMED TO HAVE BEEN MET BY CONTRACTS IN EXISTENCE ON THE EFFECTIVE DATE
18 OF THIS SUBDIVISION THAT OTHERWISE FULFILL THE REQUIREMENTS ESTABLISHED
19 HEREIN, AND THEIR EXTENSION IN ANY SUBSEQUENT YEAR, IRRESPECTIVE OF THE
20 STATE AGENCY WHICH CONTRACTS FOR THE TRAINING, AND WHICH ARE RECOGNIZED
21 BY THE DIRECTOR.

22 S 4. The elder law is amended by adding a new section 224 to read as
23 follows:

24 S 224. MISSING COGNITIVELY IMPAIRED CITIZENS; "SILVER ALERT." THE
25 OFFICE SHALL CONSULT WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE
26 DEPARTMENT OF HEALTH, THE DIVISION OF THE STATE POLICE, THE ALZHEIMER'S
27 COORDINATING COUNCIL, APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY, AND ANY
28 OTHER APPROPRIATE STATE AGENCY TO DEVELOP THE MODEL "SILVER ALERT"
29 PROGRAM, WHICH SHALL BE A PROMPT RESPONSE AND NOTIFICATION PROGRAM TO BE
30 USED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO HELP LOCATE A COGNI-
31 TIVELY IMPAIRED CITIZEN WHO HAS BEEN REPORTED AS MISSING. THE MODEL
32 PROGRAM SHALL BE MADE AVAILABLE FOR USE, AT THEIR DISCRETION, BY COMMU-
33 NITIES AND LAW ENFORCEMENT PERSONNEL AS PART OF THEIR PLANS FOR LOCATING
34 MISSING COGNITIVELY IMPAIRED INDIVIDUALS.

35 (A) SUCH MODEL PLANS SHALL INCLUDE THE REQUIREMENT THAT NOT MORE THAN
36 TWENTY-FOUR HOURS AFTER A COGNITIVELY IMPAIRED INDIVIDUAL HAS BEEN IDEN-
37 TIFIED AS HAVING BEEN MISSING, OR NOT MORE THAN TWELVE HOURS FROM THE
38 TIME THE INDIVIDUAL WAS REPORTED AS MISSING, WHICHEVER IS SHORTER, THE
39 FOLLOWING SHALL TAKE PLACE:

40 (I) THE NAME, PHOTOGRAPH (IF AVAILABLE), AND PHYSICAL DESCRIPTION OF
41 THE INDIVIDUAL BE RELEASED TO THE AREA AGENCY ON AGING, AND, AT THE
42 DISCRETION OF THE CAREGIVER, ANY OTHER AGENCY PROVIDING SERVICES TO THE
43 INDIVIDUAL;

44 (II) SUCH INFORMATION SHALL ADDITIONALLY BE IMMEDIATELY PROVIDED ORAL-
45 LY, ELECTRONICALLY OR BY FACSIMILE TRANSMISSION TO ONE OR MORE RADIO
46 STATIONS AND OTHER BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY INCLUD-
47 ING, BUT NOT LIMITED TO, THOSE THAT HAVE VOLUNTARILY AGREED, IN ADVANCE,
48 TO PROMPTLY NOTIFY OTHER SUCH RADIO STATIONS AND OTHER BROADCAST MEDIA
49 OUTLETS IN LIKE MANNER;

50 (III) UPON WRITTEN CONSENT FROM THE CAREGIVER, MEDICAL AND/OR OTHER
51 INFORMATION MAY BE PROVIDED TO LAW ENFORCEMENT BY THE AREA AGENCY ON
52 AGING OR OTHER LOCAL AGENCY IF SUCH INFORMATION COULD ASSIST IN DETER-
53 MINING THE LOCATION OF THE MISSING INDIVIDUAL, PROVIDED THAT SUCH INFOR-
54 MATION SHALL NOT BE RELEASED TO THE PUBLIC;

55 (IV) THE NAME, PHOTOGRAPH, IF AVAILABLE, AND A PHYSICAL DESCRIPTION OF
56 THE INDIVIDUAL MAY BE PROMPTLY DISPATCHED OVER THE POLICE COMMUNICATION

1 SYSTEM, PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-ONE
2 OF THE EXECUTIVE LAW;
3 (V) PARTICIPATING RADIO STATIONS AND OTHER PARTICIPATING BROADCAST
4 MEDIA OUTLETS SERVING THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY
5 BROADCAST A CITIZEN ALERT PROVIDING THE INDIVIDUAL'S NAME, PHOTOGRAPH IF
6 AVAILABLE AND PHYSICAL DESCRIPTION;
7 (VI) IF THERE IS REASON TO BELIEVE THAT THE INDIVIDUAL HAS LEFT THE
8 LOCALITY IN WHICH HE OR SHE CURRENTLY RESIDES, THE INDIVIDUAL'S NAME,
9 PHOTOGRAPH IF AVAILABLE, AND PHYSICAL DESCRIPTION MAY ALSO BE PROVIDED
10 TO THE DEPARTMENT OF TRANSPORTATION AND THE THRUWAY AUTHORITY FOR USE ON
11 HIGHWAY VARIABLE MESSAGE SIGNS. FURTHER, THE THRUWAY AUTHORITY MAY
12 DISPLAY SUCH INFORMATION WHERE PRACTICAL AT SERVICE AREAS;
13 (VII) SUCH "SILVER ALERT" SHALL BE DISCONTINUED UPON THE RECOVERY OF
14 THE INDIVIDUAL OR AT THE DISCRETION OF THE LAW ENFORCEMENT AGENCY INVE-
15 STIGATING THE DISAPPEARANCE. IF APPROPRIATE, THE CITIZEN, FAMILY OR
16 CAREGIVER'S NAME AND CONTACT INFORMATION SHALL BE FORWARDED TO THE AREA
17 AGENCY ON AGING, OR OTHER LOCAL AGENCY FOR ASSESSMENT AND SERVICE REFER-
18 RALS.
19 (B) AS USED IN THIS SECTION:
20 (I) "CAREGIVER" MEANS FAMILY, LEGAL GUARDIAN, CUSTODIAN, OR OTHER
21 CAREGIVER RESPONSIBLE FOR THE CARE OF THE COGNITIVELY IMPAIRED INDIVID-
22 UAL;
23 (II) "SILVER ALERT" MEANS THE PROGRAM CREATED BY THIS SECTION;
24 (III) "COGNITIVELY IMPAIRED INDIVIDUAL" OR "INDIVIDUAL" MEANS AN INDI-
25 VIDUAL WITH COGNITIVE IMPAIRMENTS, INCLUDING ALZHEIMER'S, DEMENTIA, OR
26 OTHER COGNITIVE IMPAIRMENT; AND
27 (IV) "ALZHEIMER'S COORDINATING COUNCIL" MEANS THE COORDINATING COUNCIL
28 FOR SERVICES RELATED TO ALZHEIMER'S DISEASE AND OTHER DEMENTIAS ESTAB-
29 LISHED PURSUANT TO SECTION TWO THOUSAND FOUR-A OF THE PUBLIC HEALTH LAW.
30 (C) IMMUNIZATION FROM LIABILITY FOR ACTING IN GOOD FAITH. ANY PERSON
31 WHO REASONABLY AND IN GOOD FAITH MAKES A REPORT OR TAKES AN ACTION
32 PURSUANT TO THIS SECTION SHALL HAVE IMMUNITY FROM ANY LIABILITY, CIVIL
33 OR CRIMINAL, FOR HAVING MADE SUCH A REPORT OR TAKEN SUCH ACTION.
34 S 5. Subdivision 4 of section 2004-a of the public health law is
35 amended by adding two new paragraphs (c) and (d) to read as follows:
36 (C) THE COUNCIL SHALL REVIEW AND MAKE RECOMMENDATIONS REGARDING THE
37 BEST USE OF LOCATOR TECHNOLOGY, INCLUDING THE USE OF GLOBAL POSITIONING
38 DEVICES THE NATIONAL MEDICALERT+SAFE RETURN PROGRAM, OR ANY SUCCESSOR
39 THERETO, AND OTHER SERVICES THAT ASSIST IN THE EXPEDITED LOCATION OF
40 INDIVIDUALS WITH ALZHEIMER'S DISEASE AND OTHER DEMENTIAS THAT ARE MISS-
41 ING DUE TO THE SYMPTOMS OF SUCH DISEASES. EACH STATE AGENCY PARTICIPAT-
42 ING IN THIS COUNCIL SHALL POST ON THEIR RESPECTIVE WEBSITE INFORMATION
43 ABOUT LOCATOR TECHNOLOGY AND SERVICES, INCLUDING, BUT NOT LIMITED TO,
44 WHERE TO BUY THE TECHNOLOGY OR HOW TO OBTAIN ACCESS TO THE SERVICE, THE
45 COST OF EACH OPTION, AND THE BENEFITS AND DISADVANTAGES OF EACH OPTION.
46 THE COUNCIL SHALL ALSO REVIEW AND MAKE RECOMMENDATIONS REGARDING THE
47 DISSEMINATION OF SUCH TECHNOLOGY AND SERVICES.
48 (D) THE COUNCIL SHALL DEVELOP AN APPROPRIATE INFORMATION ADVISORY FOR
49 USE BY PHYSICIANS TO ALERT PATIENTS AND CAREGIVERS AS TO OPTIONS FOR
50 CARE AND LOCATOR TECHNOLOGY.
51 S 6. Severability. If any provision of this act or the application
52 thereof to any person or circumstance is adjudged invalid by a court of
53 competent jurisdiction, such judgment shall not affect or impair any
54 other provisions or applications of this act which can be effected with-
55 out the invalid provision or application, and to this end the provisions
56 of this act are severable.

1 S 7. This act shall take effect on the one hundred twentieth day after
2 it shall have become a law; provided, however, that effective immediate-
3 ly, the addition, amendment and/or repeal of any rule or regulation
4 necessary for the implementation of this act on its effective date are
5 authorized and directed to be made and completed on or before such
6 effective date.