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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. EDDINGTON, GALEF, JOHN -- Multi-Sponsored by -- M. of A. ALFANO -- read once and referred to the Committee on Codes

AN ACT to amend the family court act and the criminal procedure law, in relation to providing certain victims of sex offenses with notice of the custodial status of their offenders in certain cases

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

Section 1. The family court act is amended by adding a new section 351.2 to read as follows:

S 351.2. SEX OFFENDER VICTIM NOTIFICATION. 1. FOLLOWING A DETERMINATION THAT A RESPONDENT HAS COMMITTED OR ATTEMPTED TO COMMIT AN ACT THAT WOULD CONSTITUTE A CRIME AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW IF COMMITTED BY AN ADULT AND PRIOR TO THE DISPOSITIONAL HEARING, THE PRESENTMENT AGENCY SHALL PROVIDE THE VICTIM WITH A FORM, PREPARED AND DISTRIBUTED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, ON WHICH THE VICTIM MAY INDICATE: (A) A DEMAND TO BE INFORMED OF THE TRANSFER FROM ONE FACILITY TO ANOTHER, DISCHARGE, TEMPORARY RELEASE, CONDITIONAL RELEASE, RELEASE FOR SUPERVISED OR UNSUPERVISED HOME VISITS, RELEASE FOR EMERGENCY VISITS FOR MEDICAL TREATMENT, OR RELEASE FOR SEVERE ILLNESS OR DEATH IN THE FAMILY, ESCAPE, OR ABSCONDING OF THE RESPONDENT; AND (B) A DEMAND FOR NOTICE OF AN ORDER OF DISPOSITION. IF THE VICTIM SUBMITS A COMPLETED FORM TO THE PRESENTMENT AGENCY, IT SHALL BE THE DUTY OF THE PRESENTMENT AGENCY TO FORWARD PROMPTLY SUCH FORM TO THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO THE ORDER OF DISPOSITION.

2. FOLLOWING THE RECEIPT OF SUCH FORM FROM THE PRESENTMENT AGENCY, IT SHALL BE THE DUTY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES TO NOTIFY THE VICTIM PRIOR TO, OR IN THE CASE OF AN ESCAPE OR ABSCONDING, IMMEDIATELY THEREAFTER, A CHANGE IN THE CUSTODIAL STATUS OF THE RESPONDENT. WHENEVER THE RESPONDENT IS TO BE TRANSFERRED FROM ONE FACILITY TO ANOTHER, DISCHARGED, TEMPORARILY RELEASED, CONDITIONALLY RELEASED, OR GRANTED

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

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SUPERVISED OR UNSUPERVISED HOME VISITS, IT SHALL BE THE DUTY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES TO NOTIFY THE VICTIM OF SUCH OCCURRENCE BY CERTIFIED MAIL DIRECTED TO THE ADDRESS PROVIDED FOR ON SUCH FORM AT LEAST SEVEN CALENDAR DAYS PRIOR TO SUCH OCCURRENCE. IN THE EVENT THE RESPONDENT ESCAPES OR ABSCONDS, OR IS GRANTED LEAVE FOR EMERGENCY VISITS FOR MEDICAL TREATMENT OR FOR SEVERE ILLNESS OR DEATH IN THE FAMILY, FROM A FACILITY UNDER THE JURISDICTION OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, IT SHALL BE THE DUTY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES TO NOTIFY IMMEDIATELY THE VICTIM OF SUCH OCCURRENCE AT THE MOST CURRENT ADDRESS OR TELEPHONE NUMBER PROVIDED BY THE VICTIM IN THE MOST REASONABLE AND EXPEDIENT POSSIBLE MANNER. IN THE EVENT SUCH ESCAPEE OR ABSCONDER IS SUBSEQUENTLY TAKEN INTO CUSTODY BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, IT SHALL BE THE DUTY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES TO NOTIFY THE VICTIM OF SUCH OCCURRENCE, IN THE SAME MANNER AS SUCH ORIGINAL NOTICE OF ESCAPE OR ABSCONDING HAD BEEN GIVEN TO THE VICTIM, WITHIN FORTY-EIGHT HOURS OF REGAINING SUCH CUSTODY. IN NO CASE SHALL THE STATE BE HELD LIABLE FOR FAILURE TO PROVIDE ANY NOTICE REQUIRED BY THIS SUBDIVISION.

3. WHEN THE VICTIM INDICATES A DEMAND TO BE INFORMED OF THE ORDER OF DISPOSITION, THE PRESENTMENT AGENCY SHALL FORWARD A COPY OF SUCH ORDER TO THE VICTIM AT THE MOST CURRENT ADDRESS PROVIDED BY SUCH VICTIM.

S 2. Section 380.50 of the criminal procedure law is amended by adding a new subdivision 7 to read as follows:

7. SUBDIVISIONS FOUR AND FIVE OF THIS SECTION SHALL ALSO APPLY TO JUVENILE OFFENDERS AS DEFINED IN SUBDIVISION FORTY-TWO OF SECTION 1.20 OF THIS CHAPTER AND YOUTHFUL OFFENDERS AS DEFINED IN SECTION 720.10 OF THIS CHAPTER, WHERE SUCH JUVENILE OFFENDER OR YOUTHFUL OFFENDER IS PLACED IN CUSTODY OF THE DEPARTMENT OF CORRECTIONAL SERVICES OR THE OFFICE OF CHILDREN AND FAMILY SERVICES UPON SENTENCE OF IMPRISONMENT FOR A CONVICTION OF A CRIME AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "CONVICTION" SHALL ALSO APPLY WHERE A YOUTHFUL OFFENDER FINDING HAS BEEN SUBSTITUTED FOR A CONVICTION PURSUANT TO SECTION 60.02 OF THE PENAL LAW.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided that the commissioner of the office of children and family services is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.