

5220--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. MAGNARELLI, DESTITO, GUNTHER, ZEBROWSKI, CHRISTENSEN, REILLY, ABBATE, DINOWITZ, TITONE, PHEFFER, JAFFEE, JOHN, MENG, TITUS, BOYLAND, SPANO -- Multi-Sponsored by -- M. of A. BRENNAN, BROOK-KRASNY, GLICK, GOTTFRIED, KELLNER, KOON, MAYERSOHN, McENENY, NOLAN, O'DONNELL, RUSSELL, SCHIMEL, SWEENEY, WEISENBERG -- read once and referred to the Committee on Aging -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 837-ff
2 to read as follows:
3 S 837-FF. 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 BEEN DIAGNOSED BY A PHYSICIAN AS BEING VULNERABLE OR
10 WHO HAS BEEN DESCRIBED AS VULNERABLE BY THE INDIVIDUAL MAKING THE
11 REPORT.
12 (B) "VULNERABLE" SHALL DESCRIBE A PERSON WITH ANY COGNITIVE IMPAIR-
13 MENT, MENTAL DISABILITY, OR BRAIN DISORDER.
14 (C) "MISSING VULNERABLE ADULT ALERT" SHALL MEAN A METHOD TO DISSEM-
15 INATE INFORMATION REGARDING A MISSING VULNERABLE ADULT TO THE GENERAL
16 PUBLIC. SUCH ALERTS SHALL PROVIDE NO MEDICAL INFORMATION AND IN NO WAY
17 INDICATE THAT THE MISSING PERSON IS VULNERABLE. FOR THE PURPOSES OF
18 NOTIFICATIONS TO THE PUBLIC PURSUANT TO SUBDIVISION TWO OF THIS SECTION,
19 THE ALERT SHALL BE TITLED "JADE ALERT".

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

2. THE COMMISSIONER SHALL BE AUTHORIZED TO:

(A) PLAN AND IMPLEMENT PROGRAMS TO ENSURE THE MOST EFFECTIVE USE OF FEDERAL, STATE, AND LOCAL RESOURCES IN THE INVESTIGATION OF MISSING VULNERABLE ADULTS;

(B) DISSEMINATE A DIRECTORY OF RESOURCES TO ASSIST IN LOCATING MISSING VULNERABLE ADULTS;

(C) COOPERATE WITH THE DEPARTMENT OF HEALTH, OFFICE OF MENTAL HEALTH, OFFICE OF MENTAL RETARDATION AND 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 PROVIDING SUCH POSTERS INDICATE ONLY THAT THE ADULT IS MISSING WITH NO MENTION OF VULNERABILITY;

(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) 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;

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

(K) (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 SUCH A MANNER AS TO ENSURE THAT IT IS NOT REVEALED TO THE PUBLIC THAT THE MISSING PERSON IS VULNERABLE, (I) ORALLY, ELECTRONICALLY, OR BY FACSIMILE TRANSMISSION TO ONE OR MORE RADIO STATIONS AND OTHER BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHO HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH RADIO STATIONS AND BROADCAST MEDIA OUTLETS IN LIKE MANNER AND (II) BY ELECTRONIC MAIL MESSAGE TO ONE OR MORE INTERNET SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHICH HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH INTERNET SERVICE PROVIDERS IN LIKE MANNER; (C) PARTICIPATING RADIO STATIONS AND OTHER PARTICIPATING BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY BROADCAST A MISSING VULNERABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISSING VULNERABLE ADULT'S DISAPPEAR-

1 ANCE, BREAKING INTO REGULAR PROGRAMMING WHERE APPROPRIATE; (D) PARTIC-
2 IPATING INTERNET SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVID-
3 ERS SERVING THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY PROVIDE BY
4 ELECTRONIC MAIL MESSAGE A MISSING VULNERABLE ADULT ALERT PROVIDING
5 PERTINENT DETAILS CONCERNING THE MISSING VULNERABLE ADULT'S DISAPPEAR-
6 ANCE; (E) POLICE AGENCIES NOT CONNECTED WITH THE BASIC POLICE COMMUNI-
7 CATION SYSTEM IN USE IN SUCH JURISDICTION MAY TRANSMIT SUCH INFORMATION
8 TO THE NEAREST OR MOST CONVENIENT ELECTRONIC ENTRY POINT, FROM WHICH
9 POINT IT MAY BE PROMPTLY DISPATCHED IN CONFORMITY WITH THE ORDERS,
10 RULES, OR REGULATIONS GOVERNING THE SYSTEM; (F) A STATEWIDE RESPONSE
11 MUST BE INITIATED AS SOON AS LOCAL LAW ENFORCEMENT DEEMS IT IS NECESSARY
12 TO FIND THE MISSING VULNERABLE ADULT UNLESS THE INVESTIGATING POLICE
13 DEPARTMENT, IN THEIR DISCRETION, ADVISES THAT THE RELEASE OF SUCH INFOR-
14 MATION MAY JEOPARDIZE THE INVESTIGATION OR THE SAFETY OF THE MISSING
15 VULNERABLE ADULT OR THE INVESTIGATING POLICE DEPARTMENT REQUESTS
16 FORBEARANCE FOR ANY REASON.

17 (3) THE COMMISSIONER SHALL ALSO DESIGNATE A UNIT WITHIN THE DIVISION
18 THAT SHALL ASSIST LAW ENFORCEMENT AGENCIES AND REPRESENTATIVES OF RADIO
19 STATIONS, BROADCAST MEDIA OUTLETS, INTERNET SERVICE PROVIDERS, AND
20 COMMERCIAL MOBILE SERVICE PROVIDERS IN THE DESIGN, IMPLEMENTATION, AND
21 IMPROVEMENT OF MISSING VULNERABLE ADULT RESPONSE AND NOTIFICATION PLANS.
22 SUCH UNIT SHALL MAKE ONGOING OUTREACH EFFORTS TO LOCAL GOVERNMENT ENTI-
23 TIES AND LOCAL LAW ENFORCEMENT AGENCIES TO ASSIST SUCH ENTITIES AND
24 AGENCIES IN THE IMPLEMENTATION AND OPERATION OF SUCH PLANS WITH THE GOAL
25 OF IMPLEMENTING AND OPERATING SUCH PLANS IN EVERY JURISDICTION IN NEW
26 YORK STATE.

27 3. ANY INDIVIDUAL WHO KNOWINGLY MAKES A FALSE REPORT OF A MISSING
28 VULNERABLE ADULT SHALL BE GUILTY OF FALSELY REPORTING AN INCIDENT IN THE
29 THIRD DEGREE, WHICH IS PUNISHABLE BY A CLASS A MISDEMEANOR.

30 4. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND
31 LEGISLATURE REGARDING THE ACTIVITIES OF THE MISSING VULNERABLE ADULTS
32 CLEARINGHOUSE INCLUDING STATISTICAL INFORMATION INVOLVING REPORTED CASES
33 OF MISSING VULNERABLE ADULTS AND A SUMMARY OF THE DIVISION'S EFFORTS
34 WITH RESPECT TO THE ACTIVITIES AUTHORIZED UNDER SUBDIVISION TWO OF THIS
35 SECTION.

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

43 S 3. This act shall take effect on the one hundred twentieth day after
44 it shall have become law. Effective immediately, the addition, amend-
45 ment, and repeal of any rule or regulation necessary for the implementa-
46 tion of this act on its effective date are authorized and directed to be
47 made and completed on or before such effective date.