

5220--B

Cal. No. 366

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, LUPARDO -- Multi-Sponsored by -- M. of A. BRENNAN, BROOK-KRASNY, GLICK, GOTTFRIED, KELLNER, KOON, MAYERSOHN, MCENEANY, 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 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on 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 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

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

LBD05713-07-0

1 NOTIFICATIONS TO THE PUBLIC PURSUANT TO SUBDIVISION TWO OF THIS SECTION,
2 THE ALERT SHALL BE TITLED "GOLD ALERT".

3 2. THE COMMISSIONER SHALL BE AUTHORIZED TO:

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

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

9 (C) COOPERATE WITH THE DEPARTMENT OF HEALTH, OFFICE OF MENTAL HEALTH,
10 OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, OFFICE FOR
11 THE AGING, AND OTHER PUBLIC AND PRIVATE ORGANIZATIONS TO DEVELOP EDUCA-
12 TION AND PREVENTION PROGRAMS CONCERNING THE SAFETY OF VULNERABLE ADULTS;

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

15 (E) UTILIZE AVAILABLE RESOURCES TO DUPLICATE PHOTOGRAPHS AND POSTERS
16 OF VULNERABLE ADULTS REPORTED AS MISSING BY POLICE AND DISSEMINATE THIS
17 INFORMATION THROUGHOUT THE STATE PROVIDING SUCH POSTERS INDICATE ONLY
18 THAT THE ADULT IS MISSING WITH NO MENTION OF VULNERABILITY;

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

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

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

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

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

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

40 (2) SUCH PLANS SHALL, AT A MINIMUM, PROVIDE THAT: (A) THE NAME OF THE
41 MISSING VULNERABLE ADULT, A DESCRIPTION OF THE MISSING INDIVIDUAL, AND
42 OTHER PERTINENT INFORMATION MAY BE PROMPTLY DISPATCHED OVER THE POLICE
43 COMMUNICATION SYSTEM PURSUANT TO SUBDIVISION THREE OF SECTION TWO
44 HUNDRED TWENTY-ONE OF THIS CHAPTER; (B) SUCH INFORMATION MAY BE IMME-
45 DIATELY PROVIDED, IN SUCH A MANNER AS TO ENSURE THAT IT IS NOT REVEALED
46 TO THE PUBLIC THAT THE MISSING PERSON IS VULNERABLE, (I) ORALLY, ELEC-
47 TRONICALLY, OR BY FACSIMILE TRANSMISSION TO ONE OR MORE RADIO STATIONS
48 AND OTHER BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY INCLUDING, BUT
49 NOT LIMITED TO, THOSE WHO HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY
50 NOTIFY OTHER SUCH RADIO STATIONS AND BROADCAST MEDIA OUTLETS IN LIKE
51 MANNER AND (II) BY ELECTRONIC MAIL MESSAGE TO ONE OR MORE INTERNET
52 SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE
53 COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHICH HAVE VOLUNTARILY
54 AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH INTERNET SERVICE PROVID-
55 ERS IN LIKE MANNER; (C) PARTICIPATING RADIO STATIONS AND OTHER PARTIC-
56 IPATING BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY MAY VOLUNTARILY

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

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

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

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

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

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