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

2056

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the public health law, in relation to missing cognitively impaired citizens

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

Section 1. Section 837-f of the executive law, as added by chapter 880 of the laws of 1986, subdivision 10-a as added by chapter 600 of the laws of 1997, subdivision 12 as amended by chapter 579 of the laws of 1997, subdivision 14 as amended by chapter 381 of the laws of 2004 and paragraph (c) of subdivision 14 as amended by chapter 348 of the laws of 2005, is amended to read as follows:

S 837-f. Missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS clearinghouse. There is hereby established within the division a missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS clearinghouse to provide a comprehensive and coordinated approach to the tragic problems of missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS. In addition to the activities of the statewide central register for missing children AND MISSING COGNITIVELY IMPAIRED CITIZENS, the commissioner shall be authorized to:

1. Plan and implement programs to ensure the most effective use of federal, state and local resources in the investigation of missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS;

2. Exchange information and resources with other states, and within New York state, concerning missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS;

3. Establish a case data base which will include nonidentifying information on reported children and facts developed in the phases of a search, and analyze such data for the purposes of: assisting law enforcement in their current investigations of missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS, developing

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

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prevention programs and increasing understanding of the nature and extent of the problem; and share the data and analysis on a regular basis with the National Center for Missing and Exploited Children;

3-A. RESPOND WITHIN TWENTY-FOUR HOURS FROM THE MISSING COGNITIVELY IMPAIRED CITIZEN BEING IDENTIFIED AS MISSING BY A FAMILY MEMBER OR CARE-GIVER OR TWELVE HOURS FROM THE TIME SUCH PERSON WAS REPORTED MISSING. SUCH RESPONSE SHALL BE LOCALLY AT FIRST, UNLESS THERE IS A REASON TO WARRANT A STATEWIDE OR INTERSTATE RESPONSE. IN THE CASE OF A MISSING COGNITIVELY IMPAIRED CITIZEN, ONLY NON-MEDICAL INFORMATION SHALL BE RELEASED TO THE PUBLIC;

4. Disseminate a directory of resources to assist in the locating of missing children AND MISSING COGNITIVELY IMPAIRED CITIZENS;

5. Cooperate with public and private schools and organizations to develop education and prevention programs concerning child safety for communities, parents and children;

6. Provide assistance in returning recovered children AND MISSING COGNITIVELY IMPAIRED CITIZENS who are located out-of-state;

7. By January first, nineteen hundred eighty-seven arrange for the development of a curriculum for the training of law enforcement personnel investigating cases involving missing and exploited children;

8. Assist federal, state and local agencies in the investigation of cases involving missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS;

9. Utilize available resources to duplicate photographs and posters of children AND MISSING COGNITIVELY IMPAIRED CITIZENS reported as missing by police and with consent of parents, guardians or others legally responsible, disseminate this information throughout the state;

10. Beginning on January first, nineteen hundred eighty-seven, disseminate, on a regular basis, a bulletin containing information on children in the missing children's register to the state education department which shall then forward such bulletin to every public and private school where parents, guardians or others legally responsible for such children have given consent;

10-a. (a) By November first, nineteen hundred ninety-seven prescribe general guidelines to enable the state legislature and state agencies to assist in the location and recovery of missing children AND MISSING COGNITIVELY IMPAIRED CITIZENS. The guidelines shall provide information relating to: (i) the form and manner in which materials and information pertaining to missing children AND MISSING COGNITIVELY IMPAIRED CITIZENS including but not limited to biographical data and pictures, sketches or other likenesses may be included in stationery, newsletters and other written or electronic printings; (ii) appropriate sources from which such materials and information may be obtained; (iii) the procedures by which such materials and information may be obtained; and (iv) any other matter the clearinghouse considers appropriate.

(b) By January first, nineteen hundred ninety-eight arrange for the transmission of biographical information and pictures, sketches or other likenesses of missing children AND MISSING COGNITIVELY IMPAIRED CITIZENS to state agencies, departments and the legislature to use in printings.

11. Operate a toll-free twenty-four hour hotline for the public to use to relay information concerning missing children AND MISSING COGNITIVELY IMPAIRED CITIZENS;

12. Submit an annual report to the governor and legislature regarding the activities of the clearinghouse including statistical information involving reported cases of missing children pursuant to section eight hundred thirty-seven-m of this article and a summary of the division's

efforts with respect to the use of monies from the missing and exploited children clearinghouse fund created pursuant to section ninety-two-w of the state finance law; [and]

13. Take such other steps as necessary to assist in education, prevention, service provision and investigation of cases involving missing and exploited children AND MISSING COGNITIVELY IMPAIRED CITIZENS[.];

14. (a) In consultation with the division of state police and other appropriate agencies, develop, and regularly update and distribute, model missing child AND MISSING COGNITIVELY IMPAIRED CITIZEN prompt response and notification plans, which shall be available for use, in their discretion, as appropriate, by local communities and law enforcement personnel. Such plans shall involve a pro-active, coordinated response, planned in advance, 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 child, as defined in subdivision one of section eight hundred thirty-seven-e of this article.

(b) Such plans shall, at a minimum, provide that: (i) the name of such missing child AND MISSING COGNITIVELY IMPAIRED CITIZEN, a description of the child 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; (ii) such information may be immediately provided 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 which have voluntarily agreed, in advance, to promptly notify other such radio stations and other broadcast media outlets in like manner; (iii) such information may be immediately provided 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; (iv) participating radio stations and other participating broadcast media outlets serving the community may voluntarily agree to promptly broadcast a missing child AND MISSING COGNITIVELY IMPAIRED CITIZEN alert providing pertinent details concerning the child's OR MISSING COGNITIVELY IMPAIRED CITIZEN'S disappearance, breaking into regular programming where appropriate; (v) participating internet service providers and commercial mobile service providers serving the community may voluntarily agree to promptly provide by electronic mail message a missing child OR MISSING COGNITIVELY IMPAIRED CITIZEN alert providing pertinent details concerning the child's OR MISSING COGNITIVELY IMPAIRED CITIZEN'S disappearance; (vi) police agencies not connected with the basic police communication system in use in such jurisdiction may transmit such information to the nearest or most convenient electronic entry point, from which point it may be promptly dispatched, in conformity with the orders, rules or regulations governing the system; and (vii) no dispatch or transmission of a report concerning a missing child OR MISSING COGNITIVELY IMPAIRED CITIZEN shall be required by such plan if the investigating police department advises, in its discretion, that the release of such information may jeopardize the investigation or the safety of the child OR MISSING COGNITIVELY IMPAIRED CITIZEN, or requests forbearance for any reason.

(c) The commissioner shall also designate a unit within the division that shall assist law enforcement agencies and representatives of radio stations, broadcast media outlets, internet service providers and commercial mobile service providers in the design, implementation and improvement of missing child prompt response and notification plans.

Such unit shall make ongoing outreach efforts to local government entities and local law enforcement agencies to assist such entities and agencies in the implementation and operation of such plans with the goal of implementing and operating such plans in every jurisdiction in New York state.

(d) The commissioner shall also maintain and make available to appropriate state and local law enforcement agencies up-to-date information concerning technological advances that may assist in facilitating the recovery of missing children OR MISSING COGNITIVELY IMPAIRED CITIZENS. Such information shall include, but not be limited to, technology using computer assisted imaging to "age enhance" photographs of missing children, and technology that may be used to enter such photographs and other pertinent information concerning missing children into a database accessible to appropriate officials and persons[.];

15. FOR THE PURPOSES OF THIS SECTION, THE TERM "MISSING COGNITIVELY IMPAIRED CITIZEN" SHALL MEAN AN INDIVIDUAL DIAGNOSED WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA, AS DOCUMENTED BY A TREATING PHYSICIAN;

16. THE COMMISSIONER, IN CONJUNCTION WITH THE OFFICE FOR THE AGING AND THE DEPARTMENT OF HEALTH, SHALL REQUIRE AND CONDUCT TRAINING AND EDUCATION FOR LAW ENFORCEMENT PERSONNEL REGARDING THE RECOGNITION AND MANAGEMENT OF PATIENTS WITH ALZHEIMER'S DISEASE AND OTHER DEMENTIA; AND

17. ANY PERSONS ACTING IN GOOD FAITH SHALL HEREBY BE GRANTED IMMUNITY FROM PROSECUTION.

S 2. Subdivision 4 of section 2004-a of the public health law is amended by adding two new paragraphs (c) and (d) to read as follows:

(C) THE COUNCIL SHALL REVIEW AND MAKE RECOMMENDATIONS REGARDING THE BEST USE OF LOCATOR TECHNOLOGY, INCLUDING THE USE OF GLOBAL POSITIONING DEVICES AND OTHER SERVICES THAT ASSIST IN THE EXPEDITED LOCATION OF INDIVIDUALS WITH ALZHEIMER'S DISEASE AND OTHER DEMENTIAS THAT ARE MISSING DUE TO THE SYMPTOMS OF SUCH DISEASES.

(D) THE COUNCIL SHALL DEVELOP AN APPROPRIATE INFORMATION ADVISORY FOR USE BY PHYSICIANS TO ALERT PATIENTS AND CAREGIVERS AS TO OPTIONS FOR CARE AND LOCATOR TECHNOLOGY.

S 3. Severability. If any clause, sentence, paragraph, section or part or this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.