

2141

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

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

AN ACT to amend the elder law, the penal law, the criminal procedure law and the state finance law, in relation to crime prevention and control, making an appropriation therefor and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The elder law is amended by adding a new article 4 to read
2 as follows:

3 ARTICLE IV

4 ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND ACT

5 SECTION 401. SHORT TITLE.

6 402. LEGISLATIVE FINDING AND DECLARATION.

7 403. DEFINITIONS.

8 404. ADMINISTRATION OF TRUST FUND.

9 405. APPLICATION PROCEDURES.

10 406. RULES AND REGULATIONS.

11 407. REPORTING.

12 408. LEGISLATIVE HEARINGS.

13 S 401. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
14 "THE ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND ACT".

15 S 402. LEGISLATIVE FINDING AND DECLARATION. THIS LEGISLATURE DOES
16 HEREBY FIND AND DECLARE THAT THE ELDERLY POPULATION OF THIS STATE, WHICH
17 FOR THE PURPOSES OF THIS ARTICLE IS DEFINED AS INDIVIDUALS OVER THE AGE
18 OF SIXTY-TWO YEARS, IS UNIQUELY VULNERABLE TO ACTUAL AND POTENTIAL CRIM-
19 INAL VICTIMIZATION BY VIRTUE OF PHYSICAL FRAILTY, CONCENTRATIONS IN HIGH
20 RISK URBAN NEIGHBORHOODS, AND SOCIO-ECONOMIC HOUSEHOLD FACTORS ADVERTIS-
21 ING SENIORS AS HIGH VISIBILITY CRIME TARGETS. THIS HEIGHTENED VULNER-
22 ABILITY ACTS AS A PRECURSOR FOR A GENERALIZED AND DEBILITATING SENSE OF
23 FEAR WHICH IMPACTS ON MOBILITY, CONCEPTS OF SELF-WORTH, AND ISOLATION

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

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1 FROM THE LARGER SOCIETY. THE LEGISLATURE FURTHER FINDS AND DECLARES THAT
2 ON THE BASIS OF AVAILABLE DEMOGRAPHIC INFORMATION, THE ELDERLY POPU-
3 LATION OF THIS STATE WILL CONTINUE TO EXPAND, THUS REQUIRING THAT THE
4 PROBLEM OF CRIMINAL VICTIMIZATION OF THE ELDERLY BE A FOCUS OF CONTINU-
5 ING AND PARAMOUNT CONCERN. THIS LEGISLATURE FURTHER FINDS THAT ALTHOUGH
6 THE STATE'S COMMITMENT OF GENERAL REVENUE FUNDS TO THE CRIMINAL JUSTICE
7 SYSTEM HAS INCREASED NEARLY THREE-FOLD IN THE PAST DECADE, CRIME
8 PREVENTION AND CONTROL ACTIVITIES TARGETED TO OUR ELDERLY POPULATION
9 HAVE BEEN WEDDED TO MONEYS ORIGINATING WITHIN THE FEDERAL SYSTEM. ADDI-
10 TIONALLY, STATISTICAL TRENDS IN THE CRIMINAL VICTIMIZATION OF THE ELDER-
11 LY PROMISE A CONTINUED ESCALATION IN SEEMINGLY RAMPANT CRIME RATES
12 DESPITE THE BEST EFFORTS OF LAW ENFORCEMENT AND COMMUNITY BASED ORGAN-
13 IZATIONS. THESE FINDINGS, COUPLED WITH THE PHILOSOPHIC SHIFTS OCCURRING
14 ON A NATIONAL LEVEL, MANDATE THAT RESPONSIBILITY FOR THE SAFETY AND
15 WELL-BEING OF ELDERLY CITIZENS RESTS PRINCIPALLY WITH THIS LEGISLATURE.
16 IN RESPONSE TO THAT OBLIGATION, THIS LEGISLATURE DOES HEREBY DECLARE
17 AND ENDORSE THE ESTABLISHMENT OF AN EXCLUSIVE DEDICATED REVENUE SOURCE
18 FOR THE OPERATION AND MAINTENANCE OF CRIME PREVENTION, DETECTION, AND
19 ENFORCEMENT ACTIVITIES FOR THE SOLE BENEFIT OF ELDERLY CITIZENS IN THIS
20 STATE.

21 S 403. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

22 1. "ELDERLY PERSON" MEANS A PERSON SIXTY-TWO YEARS OF AGE OR OLDER.

23 2. "COMMISSIONER" MEANS THE CHIEF ADMINISTRATIVE OFFICER OF THE DIVI-
24 SION OF CRIMINAL JUSTICE SERVICES.

25 3. "GRANT RECIPIENT" MEANS ANY LOCAL GOVERNMENT, TO INCLUDE ANY TOWN,
26 CITY, OR COUNTY WITH A POPULATION IN EXCESS OF ONE HUNDRED THOUSAND, OR
27 COMBINATION THEREOF, OR ANY LOCAL GOVERNMENT AGENCY THAT ADMINISTERS A
28 CRIME PREVENTION, DETECTION OR ENFORCEMENT PROGRAM PRINCIPALLY FOR THE
29 BENEFIT OF ELDERLY PERSONS.

30 S 404. ADMINISTRATION OF TRUST FUND. THE ELDERLY CRIME PREVENTION AND
31 CONTROL TRUST FUND, WHICH IS ESTABLISHED PURSUANT TO SECTION NINETY-SEV-
32 EN-JJJJ OF THE STATE FINANCE LAW SHALL BE ADMINISTERED AND SUPERVISED
33 UNDER THE DIRECTION OF THE COMMISSIONER PURSUANT TO THIS ARTICLE, AND IT
34 SHALL BE FOR THE ESTABLISHMENT AND CONTINUANCE OF CRIME PREVENTION,
35 DETECTION OR ENFORCEMENT PROGRAMS PRINCIPALLY BENEFITTING ELDERLY
36 PERSONS.

37 S 405. APPLICATION PROCEDURES. FUNDS APPROPRIATED OR AVAILABLE FOR THE
38 PURPOSES OF THIS ARTICLE MAY BE ALLOCATED FOR THE PURPOSE OF DESIGNING,
39 EXPANDING, OR IMPLEMENTING INTERACTIVE CRIME PREVENTION, DETECTION, AND
40 ENFORCEMENT ACTIVITIES THAT PRINCIPALLY ENHANCE THE SAFETY, MOBILITY,
41 PHYSICAL SECURITY AND EMOTIONAL WELL-BEING OF ELDERLY PERSONS AS
42 PROPOSED BY GRANT RECIPIENTS.

43 1. GRANT RECIPIENTS SHALL BE SELECTED BY THE COMMISSIONER FROM APPLI-
44 CATIONS SUBMITTED.

45 2. THE DIRECTOR SHALL REQUIRE THAT APPLICATIONS SUBMITTED FOR FUNDING
46 INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

47 (A) THE COST OF EACH PROPOSED PROGRAM INCLUDING THE PROPOSED COMPEN-
48 SATION OF EMPLOYEES AND PURCHASE OF SUPPORT SERVICES AND HARDWARE;

49 (B) A DESCRIPTION OF THE PROPOSED COMMUNITY AREA OF SERVICE AND OTHER
50 CHARACTERISTICS AS DETERMINED BY THE COMMISSIONER;

51 (C) A PROGRAM GOAL TO BE ACHIEVED AND AN ASSESSMENT STANDARD MEASURING
52 ACHIEVEMENT OF THAT GOAL;

53 (D) AN ENDORSEMENT OF THE CHIEF ADMINISTRATIVE OFFICER OF THE LOCALITY
54 IN WHICH THE GRANT RECIPIENT PROPOSES TO OPERATE A PROGRAM, THAT SAID
55 PROGRAM IS IN CONGRUENCE WITH OVERALL EFFORTS OF THAT LOCALITY IN

1 CONTROLLING, CONTAINING OR REDUCING THE CRIMINAL VICTIMIZATION OF ELDER-
2 LY PERSONS;

3 (E) SUCH ADDITIONAL INFORMATION AS IS DETERMINED TO BE RELEVANT BY THE
4 COMMISSIONER OR THE LEGISLATURE.

5 S 406. RULES AND REGULATIONS. THE COMMISSIONER SHALL PROMULGATE RULES
6 AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, INCLUDING
7 BUT NOT LIMITED TO:

8 1. PROVISIONS FOR PERIODIC MONITORING AND EVALUATION OF EACH PROGRAM
9 AWARDED A GRANT RECIPIENT;

10 2. PROVISIONS THAT LIMIT THE EXPENDITURE OF FUNDS FOR ADMINISTRATIVE
11 PURPOSES TO FIFTY PER CENTUM OF THE GRANT AWARD; PROVIDED, HOWEVER, IF
12 THE LOCAL GOVERNMENT, LOCAL GOVERNMENT AGENCY, OR COMMUNITY BASED ORGAN-
13 IZATION SHALL MATCH THE STATE GRANT AWARD WITH EQUAL LOCAL RESOURCES,
14 SEVENTY-FIVE PER CENTUM MAY BE USED FOR ADMINISTRATIVE PURPOSES;

15 3. PROVISIONS THAT GRANTS AWARDED TO LOCAL GOVERNMENTS, LOCAL GOVERN-
16 MENT AGENCIES, OR COMMUNITY BASED ORGANIZATIONS SHALL NOT, EXCEPT IN THE
17 FIRST YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE, EXCEED ONE HUNDRED
18 TWENTY-FIVE PER CENTUM OF THE PREVIOUS CALENDAR YEAR MONEYS DERIVED FROM
19 MANDATORY ADMINISTRATIVE ASSESSMENTS DERIVED FROM CONVICTIONS IN COURTS
20 OF COMPETENT JURISDICTION LOCATED WHOLLY WITHIN THE COUNTY OF ORIGIN OF
21 THE GRANT RECIPIENT; PROVIDED, HOWEVER, THAT CONVICTIONS ARISING IN THE
22 SUPREME COURT SHALL BE CREDITED TO THE COUNTY IN WHICH THE ORIGINAL
23 ARREST OCCURRED.

24 S 407. REPORTING. GRANT RECIPIENTS SHALL BI-ANNUALLY PROVIDE THE
25 COMMISSIONER SUCH DATA AS TO REASONABLY REFLECT THE FUNDED PROGRAM
26 ACTIVITIES FOR THE INCLUSIVE PERIOD OF JANUARY FIRST THROUGH JUNE THIR-
27 TIETH, AND JULY FIRST THROUGH DECEMBER THIRTY-FIRST OF EACH CALENDAR
28 YEAR IN WHICH FUND MONEYS ARE RECEIVED AND EXPENDED. 1. THE COMMISSIONER
29 SHALL ANNUALLY REPORT TO THE APPROPRIATE COMMITTEES OF THE LEGISLATURE:

30 (A) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICA-
31 TIONS RECEIVED AND FUNDING LEVEL SOUGHT;

32 (B) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICA-
33 TIONS APPROVED;

34 (C) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICA-
35 TIONS DENIED AND A BRIEF EXPLANATION FOR THE BASIS OF DENIAL.

36 2. AN ANNUAL REPORT FOR PUBLIC DISTRIBUTION DETAILING THE ACTIVITIES
37 AND ACCOMPLISHMENTS OF PROGRAMS FUNDED UNDER THE PROVISIONS OF THIS
38 ARTICLE SHALL ALSO BE SUBMITTED.

39 S 408. LEGISLATIVE HEARINGS. THE LEGISLATURE SHALL ANNUALLY CONDUCT
40 PUBLIC HEARINGS ON THE PROPOSED USE AND DISTRIBUTION OF FUNDS TO BE
41 PROVIDED UNDER THIS ARTICLE. 1. THE COMMISSIONER SHALL CAUSE TO BE
42 PREPARED A DETAILED PLAN, FOR SUBMISSION TO THE APPROPRIATE LEGISLATIVE
43 COMMITTEES, PROJECTING:

44 (A) ANTICIPATED REVENUES AVAILABLE UNDER THIS TRUST FUND FOR THE
45 FORTHCOMING STATE FISCAL YEAR;

46 (B) UNEXPENDED FUNDS FROM THE CURRENT STATE FISCAL YEAR OPERATIONS;
47 AND

48 (C) ENCUMBERED AND CONTRACTED FUNDS FROM THE CURRENT STATE FISCAL
49 YEAR.

50 2. ON THE BASIS OF THE PLAN SUBMITTED BY THE COMMISSIONER, JOINT
51 LEGISLATIVE COMMITTEE HEARINGS SHALL BE CONDUCTED AT THE PLEASURE AND
52 CONVENIENCE OF THE APPROPRIATE COMMITTEE CHAIRPERSONS.

53 3. EXPENSES ATTENDANT TO LEGISLATIVE HEARINGS CONDUCTED PURSUANT TO
54 THIS ARTICLE SHALL BE BORNE BY THE DIVISION OF CRIMINAL JUSTICE
55 SERVICES.

1 S 2. The penal law is amended by adding a new section 80.20 to read as
2 follows:

3 S 80.20 MANDATORY ADMINISTRATIVE ASSESSMENTS REQUIRED UPON CONVICTION OF
4 A FELONY WHERE AN ELDERLY PERSON IS A VICTIM.

5 1. FOR PURPOSES OF THIS SECTION "ELDERLY PERSON" MEANS A PERSON
6 SIXTY-TWO YEARS OF AGE OR OLDER.

7 2. EVERY PERSON CONVICTED OF A FELONY INVOLVING A VICTIM WHO IS AN
8 ELDERLY PERSON SHALL, IN ADDITION TO ANY SENTENCE IMPOSED BY THE COURT,
9 PAY A MANDATORY ADMINISTRATIVE ASSESSMENT OF TWO HUNDRED DOLLARS.

10 3. A PERSON CONVICTED AND SUBJECT TO THE PROVISIONS SET FORTH IN THIS
11 ARTICLE SHALL PAY THE MANDATORY ADMINISTRATIVE ASSESSMENT TO THE CLERK
12 OF THE COURT THAT RENDERED THE CONVICTION. EACH MANDATORY ADMINISTRATIVE
13 ASSESSMENT COLLECTED BY THE CLERK SHALL BE PAID OVER TO THE STATE COMP-
14 TROLLER FOR DEPOSIT UNDER THE PROVISIONS OF SECTION NINETY-SEVEN-JJJJ OF
15 THE STATE FINANCE LAW.

16 4. WHEN A PERSON IS CONVICTED OF A FELONY INVOLVING A VICTIM WHO IS AN
17 ELDERLY PERSON, THE MANDATORY ADMINISTRATIVE ASSESSMENT SHALL BE PAID TO
18 THE STATE COMPTROLLER FOR DEPOSIT UNDER THE PROVISIONS OF SECTION NINE-
19 TY-SEVEN-JJJJ OF THE STATE FINANCE LAW.

20 5. FOR THE PURPOSES OF THIS SECTION, ADJUDICATION AS A YOUTHFUL OFFEN-
21 DER SHALL NOT EXEMPT A PERSON FROM THE PROVISIONS OF THIS SECTION.

22 6. THE CLERK OF THE COURT, WHEREIN THE CONVICTION OCCURRED, RESULTING
23 IN A MANDATORY ADMINISTRATIVE ASSESSMENT BEING COLLECTED, SHALL BE ENTI-
24 TLED, ON BEHALF OF THE COURT, TO RETAIN A FEE NOT TO EXCEED FIVE PER
25 CENTUM OF THE MANDATORY ADMINISTRATIVE ASSESSMENT.

26 S 3. The criminal procedure law is amended by adding a new section
27 420.37 to read as follows:

28 S 420.37 MANDATORY ADMINISTRATIVE ASSESSMENTS; APPLICABILITY TO
29 SENTENCES MANDATING PAYMENT OF FINES.

30 THE PROVISIONS OF SECTION 430.20 OF THIS CHAPTER GOVERNING THE COMMIT-
31 MENT OF A DEFENDANT FOR FAILURE TO PAY A FINE SHALL BE APPLICABLE TO
32 MANDATORY ADMINISTRATIVE ASSESSMENTS IMPOSED PURSUANT TO SECTION 80.20
33 OF THE PENAL LAW.

34 S 4. The state finance law is amended by adding a new section 97-jjjj
35 to read as follows:

36 S 97-JJJJ. ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND. 1. THERE
37 IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL
38 FUND TO BE KNOWN AS THE "ELDERLY CRIME PREVENTION AND CONTROL TRUST
39 FUND".

40 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSES
41 OF SUCH FUND, AND ALL MONEYS RECEIVED AS A RESULT OF MANDATORY ADMINIS-
42 TRATIVE ASSESSMENTS AND ANY OTHER SUMS PAYABLE TO THE FUND PURSUANT TO
43 SECTION 80.20 OF THE PENAL LAW.

44 3. MONEYS OF THE ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND, WHEN
45 ALLOCATED, SHALL BE AVAILABLE TO THE DIVISION OF CRIMINAL JUSTICE
46 SERVICES FOR THE PURPOSES OF ADMINISTERING AND FUNDING ACTIVITIES
47 RELATED TO THE PREVENTION AND CONTROL OF CRIMINAL VICTIMIZATION OF THE
48 ELDERLY PURSUANT TO THE PROVISIONS OF ARTICLE FOUR OF THE ELDER LAW.

49 4. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW, NO
50 MONEYS SHALL BE AVAILABLE FROM THE ELDERLY CRIME PREVENTION AND CONTROL
51 TRUST FUND UNTIL A CERTIFICATE OF ALLOCATION AND A SCHEDULE OF AMOUNTS
52 TO BE AVAILABLE THEREFOR SHALL HAVE BEEN ISSUED BY THE DIRECTOR OF THE
53 BUDGET, UPON THE RECOMMENDATION OF THE COMMISSIONER OF THE DIVISION OF
54 CRIMINAL JUSTICE SERVICES AND A COPY OF SUCH CERTIFICATE FILED WITH THE
55 COMPTROLLER, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE
56 CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE. SUCH CERTIFICATE

1 MAY BE AMENDED FROM TIME TO TIME BY THE DIRECTOR OF THE BUDGET, UPON THE
2 RECOMMENDATION OF THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE
3 SERVICES AND A COPY OF EACH SUCH AMENDMENT SHALL BE FILED WITH THE COMP-
4 TROLLER, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIR-
5 PERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

6 5. THE MONEYS, WHEN ALLOCATED, SHALL BE PAID OUT OF THE FUND ON THE
7 AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED
8 BY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES OR BY
9 AN OFFICER OR EMPLOYEE OF THE DIVISION OF CRIMINAL JUSTICE SERVICES
10 DESIGNATED BY THE COMMISSIONER.

11 S 5. The sum of two million dollars (\$2,000,000), or so much thereof
12 as may be necessary, is hereby appropriated out of any moneys in the
13 state treasury in the general fund to the credit of the state purposes
14 account, not otherwise appropriated, to the elderly crime prevention and
15 control trust fund, as added by this act, and made immediately available
16 to carry out the provisions of this act, provided, however, that no part
17 of such moneys in excess of ten percent may be used by the division of
18 criminal justice services to pay the cost of personal services or main-
19 tenance incurred by the division of criminal justice services pursuant
20 to this act.

21 S 6. This act shall take effect immediately and shall expire June 30,
22 2012 when upon such date the provisions of this act shall be deemed
23 repealed.