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

2061

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

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

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, 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:

Section 1. The elder law is amended by adding a new article 3 to read as follows:

ARTICLE III

ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND ACT

SECTION 301. SHORT TITLE.
302. LEGISLATIVE FINDING AND DECLARATION.
303. DEFINITIONS.
304. ADMINISTRATION OF TRUST FUND.
305. APPLICATION PROCEDURES.
306. RULES AND REGULATIONS.
307. REPORTING.
308. LEGISLATIVE HEARINGS.

S 301. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS "THE ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND ACT".

S 302. LEGISLATIVE FINDING AND DECLARATION. THIS LEGISLATURE DOES HEREBY FIND AND DECLARE THAT THE ELDERLY POPULATION OF THIS STATE, WHICH FOR THE PURPOSES OF THIS ARTICLE IS DEFINED AS INDIVIDUALS OVER THE AGE OF SIXTY-TWO YEARS, IS UNIQUELY VULNERABLE TO ACTUAL AND POTENTIAL CRIMINAL VICTIMIZATION BY VIRTUE OF PHYSICAL FRAILTY, CONCENTRATIONS IN HIGH RISK URBAN NEIGHBORHOODS, AND SOCIO-ECONOMIC HOUSEHOLD FACTORS ADVERTISING SENIORS AS HIGH VISIBILITY CRIME TARGETS. THIS HEIGHTENED VULNERABILITY ACTS AS A PRECURSOR FOR A GENERALIZED AND DEBILITATING SENSE OF 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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FROM THE LARGER SOCIETY. THE LEGISLATURE FURTHER FINDS AND DECLARES THAT ON THE BASIS OF AVAILABLE DEMOGRAPHIC INFORMATION, THE ELDERLY POPULATION OF THIS STATE WILL CONTINUE TO EXPAND, THUS REQUIRING THAT THE PROBLEM OF CRIMINAL VICTIMIZATION OF THE ELDERLY BE A FOCUS OF CONTINUING AND PARAMOUNT CONCERN. THIS LEGISLATURE FURTHER FINDS THAT ALTHOUGH THE STATE'S COMMITMENT OF GENERAL REVENUE FUNDS TO THE CRIMINAL JUSTICE SYSTEM HAS INCREASED NEARLY THREE-FOLD IN THE PAST DECADE, CRIME PREVENTION AND CONTROL ACTIVITIES TARGETED TO OUR ELDERLY POPULATION HAVE BEEN WEDDED TO MONEYS ORIGINATING WITHIN THE FEDERAL SYSTEM. ADDITIONALLY, STATISTICAL TRENDS IN THE CRIMINAL VICTIMIZATION OF THE ELDERLY PROMISE A CONTINUED ESCALATION IN SEEMINGLY RAMPANT CRIME RATES DESPITE THE BEST EFFORTS OF LAW ENFORCEMENT AND COMMUNITY BASED ORGANIZATIONS. THESE FINDINGS, COUPLED WITH THE PHILOSOPHIC SHIFTS OCCURRING ON A NATIONAL LEVEL, MANDATE THAT RESPONSIBILITY FOR THE SAFETY AND WELL-BEING OF ELDERLY CITIZENS RESTS PRINCIPALLY WITH THIS LEGISLATURE. IN RESPONSE TO THAT OBLIGATION, THIS LEGISLATURE DOES HEREBY DECLARE AND ENDORSE THE ESTABLISHMENT OF AN EXCLUSIVE DEDICATED REVENUE SOURCE FOR THE OPERATION AND MAINTENANCE OF CRIME PREVENTION, DETECTION, AND ENFORCEMENT ACTIVITIES FOR THE SOLE BENEFIT OF ELDERLY CITIZENS IN THIS STATE.

S 303. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

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

2. "COMMISSIONER" MEANS THE CHIEF ADMINISTRATIVE OFFICER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

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

S 304. ADMINISTRATION OF TRUST FUND. THE ELDERLY CRIME PREVENTION AND CONTROL TRUST FUND, WHICH IS ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-KKKK OF THE STATE FINANCE LAW SHALL BE ADMINISTERED AND SUPERVISED UNDER THE DIRECTION OF THE COMMISSIONER PURSUANT TO THIS ARTICLE, AND IT SHALL BE FOR THE ESTABLISHMENT AND CONTINUANCE OF CRIME PREVENTION, DETECTION OR ENFORCEMENT PROGRAMS PRINCIPALLY BENEFITTING ELDERLY PERSONS.

S 305. APPLICATION PROCEDURES. FUNDS APPROPRIATED OR AVAILABLE FOR THE PURPOSES OF THIS ARTICLE MAY BE ALLOCATED FOR THE PURPOSE OF DESIGNING, EXPANDING, OR IMPLEMENTING INTERACTIVE CRIME PREVENTION, DETECTION, AND ENFORCEMENT ACTIVITIES THAT PRINCIPALLY ENHANCE THE SAFETY, MOBILITY, PHYSICAL SECURITY AND EMOTIONAL WELL-BEING OF ELDERLY PERSONS AS PROPOSED BY GRANT RECIPIENTS.

1. GRANT RECIPIENTS SHALL BE SELECTED BY THE COMMISSIONER FROM APPLICATIONS SUBMITTED.

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

(A) THE COST OF EACH PROPOSED PROGRAM INCLUDING THE PROPOSED COMPENSATION OF EMPLOYEES AND PURCHASE OF SUPPORT SERVICES AND HARDWARE;

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

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

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

CONTROLLING, CONTAINING OR REDUCING THE CRIMINAL VICTIMIZATION OF ELDERLY PERSONS;

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

S 306. RULES AND REGULATIONS. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO:

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

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

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

S 307. REPORTING. GRANT RECIPIENTS SHALL BI-ANNUALLY PROVIDE THE COMMISSIONER SUCH DATA AS TO REASONABLY REFLECT THE FUNDED PROGRAM ACTIVITIES FOR THE INCLUSIVE PERIOD OF JANUARY FIRST THROUGH JUNE THIRTIETH, AND JULY FIRST THROUGH DECEMBER THIRTY-FIRST OF EACH CALENDAR YEAR IN WHICH FUND MONEYS ARE RECEIVED AND EXPENDED. 1. THE COMMISSIONER SHALL ANNUALLY REPORT TO THE APPROPRIATE COMMITTEES OF THE LEGISLATURE:

(A) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICATIONS RECEIVED AND FUNDING LEVEL SOUGHT;

(B) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICATIONS APPROVED;

(C) THE NAME, ADDRESS, AND PROGRAM DESCRIPTION OF ALL GRANT APPLICATIONS DENIED AND A BRIEF EXPLANATION FOR THE BASIS OF DENIAL.

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

S 308. LEGISLATIVE HEARINGS. THE LEGISLATURE SHALL ANNUALLY CONDUCT PUBLIC HEARINGS ON THE PROPOSED USE AND DISTRIBUTION OF FUNDS TO BE PROVIDED UNDER THIS ARTICLE. 1. THE COMMISSIONER SHALL CAUSE TO BE PREPARED A DETAILED PLAN, FOR SUBMISSION TO THE APPROPRIATE LEGISLATIVE COMMITTEES, PROJECTING:

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

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

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

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

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

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

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

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

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

3. A PERSON CONVICTED AND SUBJECT TO THE PROVISIONS SET FORTH IN THIS ARTICLE SHALL PAY THE MANDATORY ADMINISTRATIVE ASSESSMENT TO THE CLERK OF THE COURT THAT RENDERED THE CONVICTION. EACH MANDATORY ADMINISTRATIVE ASSESSMENT COLLECTED BY THE CLERK SHALL BE PAID OVER TO THE STATE COMPTROLLER FOR DEPOSIT UNDER THE PROVISIONS OF SECTION NINETY-SEVEN-KKKK OF THE STATE FINANCE LAW.

4. WHEN A PERSON IS CONVICTED OF A FELONY INVOLVING A VICTIM WHO IS AN ELDERLY PERSON, THE MANDATORY ADMINISTRATIVE ASSESSMENT SHALL BE PAID TO THE STATE COMPTROLLER FOR DEPOSIT UNDER THE PROVISIONS OF SECTION NINETY-SEVEN-KKKK OF THE STATE FINANCE LAW.

5. FOR THE PURPOSES OF THIS SECTION, ADJUDICATION AS A YOUTHFUL OFFENDER SHALL NOT EXEMPT A PERSON FROM THE PROVISIONS OF THIS SECTION.

6. THE CLERK OF THE COURT, WHEREIN THE CONVICTION OCCURRED, RESULTING IN A MANDATORY ADMINISTRATIVE ASSESSMENT BEING COLLECTED, SHALL BE ENTITLED, ON BEHALF OF THE COURT, TO RETAIN A FEE NOT TO EXCEED FIVE PER CENTUM OF THE MANDATORY ADMINISTRATIVE ASSESSMENT.

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

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

THE PROVISIONS OF SECTION 430.20 OF THIS TITLE GOVERNING THE COMMITMENT OF A DEFENDANT FOR FAILURE TO PAY A FINE SHALL BE APPLICABLE TO MANDATORY ADMINISTRATIVE ASSESSMENTS IMPOSED PURSUANT TO SECTION 80.20 OF THE PENAL LAW.

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

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

2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSES OF SUCH FUND, AND ALL MONEYS RECEIVED AS A RESULT OF MANDATORY ADMINISTRATIVE ASSESSMENTS AND ANY OTHER SUMS PAYABLE TO THE FUND PURSUANT TO SECTION 80.20 OF THE PENAL LAW.

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

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

MAY BE AMENDED FROM TIME TO TIME BY THE DIRECTOR OF THE BUDGET, UPON THE RECOMMENDATION OF THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES AND A COPY OF EACH SUCH AMENDMENT SHALL BE FILED WITH THE COMPTROLLER, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

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

S 5. This act shall take effect immediately and shall expire June 30, 2015 when upon such date the provisions of this act shall be deemed repealed.