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

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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, in relation to making technical corrections with respect to the activities of the office for the aging

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

Section 1. Subdivisions 4 and 5 of section 201 of the elder law are amended to read as follows:

4. [In carrying out its powers and duties under this title, the office is organized and operated to have as a primary purpose informing and instructing the public, especially the elderly themselves, on subjects beneficial to the community which relate to the needs, abilities, resources, opportunities, rights, entitlements, and other issues affecting older people in New York state.

5.] For the purposes of this chapter, "office" shall refer to the state office for the aging created pursuant to this section, and "director" shall refer to the director of the state office for the aging established by this section.

S 2. Section 202 of the elder law, subdivisions 11, 12 and 13 as amended and subdivision 14 as added by section 24-d of part B of chapter 58 of the laws of 2007 and paragraph (a) of subdivision 14 as amended by chapter 319 of the laws of 2010, is amended to read as follows:

S 202. General powers and duties of office. IN CARRYING OUT ITS POWERS AND DUTIES UNDER THIS ARTICLE, THE OFFICE SHALL BE ORGANIZED AND OPERATED TO HAVE AS A PRIMARY PURPOSE INFORMING AND INSTRUCTING THE PUBLIC, ESPECIALLY THE ELDERLY THEMSELVES, ON SUBJECTS BENEFICIAL TO THE COMMUNITY WHICH RELATE TO THE NEEDS, ABILITIES, RESOURCES, OPPORTUNITIES, RIGHTS, ENTITLEMENTS, AND OTHER ISSUES AFFECTING OLDER PEOPLE IN NEW YORK STATE. The office shall have the following powers and duties:

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

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1. to advise and assist the governor AND THE LEGISLATURE in developing policies designed to help meet the needs of the aging and to encourage the full participation of the aging in society;

2. [to coordinate state programs and activities relating to the aging;

3. to stimulate community interest in the problems of the aging;

4.] TO BE PRIMARILY RESPONSIBLE FOR THE COORDINATION OF ALL STATE ACTIVITIES RELATED TO THE PURPOSE OF THIS ARTICLE;

3. to promote public awareness of resources available for the aging, and to refer the public to the appropriate departments and agencies of the state and federal governments for advice, assistance and available services in connection with particular problems;

[5.] 4. TO ESTABLISH AN EDUCATIONAL AND PUBLIC INFORMATION PROGRAM TO FOSTER PUBLIC UNDERSTANDING OF THE PROBLEMS AND OPPORTUNITIES OF THE AGING; PROVIDE INFORMATION ON PROGRAMS AVAILABLE TO ASSIST THE AGING;

5. to cooperate with and assist political subdivisions of the state in the development of local programs for the aging;

6. to consult and cooperate with universities, colleges and institutions in the state for the development of courses of study for persons engaged in public and private programs for the aging;

7. to make such studies of needs of the aging as the director may deem appropriate or as may be requested by the governor;

8. to foster and support studies, research and education relating to problems of and services for the aging;

9. to serve as a clearinghouse for information relating to the needs of the aging;

10. to sponsor conferences relating to problems of and services for the aging;

11. to enter into contracts, within the amount available by appropriation therefor, with individuals, organizations and institutions, in the exercise of any of its powers or the performance of any of its duties;

12. to make recommendations to the governor for the presentation of an annual award to a senior citizen for outstanding and unusual contribution to his or her community;

13. to conduct a program of education and information on age discrimination and the preparation and filing of complaints relating to persons sixty years of age or older; [and]

14. to, in cooperation with the department of state:

(a) prepare or cause to be prepared and made available to cities, towns and villages model zoning and planning guidelines that foster age-integrated communities including provisions to allow for accessory senior citizen units in areas zoned for single family residences and for mixed-use development accommodating senior citizen residential housing; and

(b) make recommendations, in consultation with the division of housing and community renewal, to the governor and legislature for assisting mixed-use age-integrated housing development or redevelopment demonstration projects in urban, suburban and rural areas of the state. The director of the office for the aging and secretary of state shall establish an advisory committee for purposes of this subdivision. Such committee shall include, but not be limited to, top representatives of local government, senior citizen organizations, developers, senior service providers and planners[.];

15. TO ESTABLISH, EVALUATE AND IMPROVE OPPORTUNITIES FOR THE AGING TO PROVIDE VOLUNTEER SERVICES;

16. TO PROVIDE OPPORTUNITIES FOR DESIGNATED AGENCIES AS DEFINED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED FOURTEEN

OF THIS ARTICLE, AND THE AGING THEMSELVES, TO EXPRESS THEIR VIEWS ON POLICY DEVELOPMENT AND PROGRAM IMPLEMENTATION.

S 3. Paragraph (f) of subdivision 2 of section 203 of the elder law is amended to read as follows:

(f) [retired senior] volunteer programs PROVIDED BY OLDER PERSONS.

S 4. Section 213 of the elder law, subdivision 4 as added and subdivision 5 as amended by chapter 640 of the laws of 2004 and paragraph (i) of subdivision 4 as amended by chapter 95 of the laws of 2005, is amended to read as follows:

S 213. Reports. 1. The office shall [from time to time report to the governor, and shall make an annual report to the governor and legislature] DEVELOP A TRIENNIAL STATE PLAN ON AGING WITH YEARLY UPDATES REGARDING THE PRIORITY NEEDS OF THE AGING, AS WELL AS RECOMMENDATIONS FOR FUTURE ACTION. THE PLAN WILL TAKE INTO CONSIDERATION THE VARIOUS REGIONAL, COUNTY AND LOCAL COMMUNITY NEEDS AND RESOURCES AS STIPULATED IN COUNTY REPORTS PURSUANT TO SUBDIVISION TWO OF SECTION TWO HUNDRED FOURTEEN OF THIS ARTICLE.

2. THE OFFICE SHALL FROM TIME TO TIME REPORT ON PRIORITY, CRITICAL, OR LONG-RANGE PREVENTATIVE ISSUES RELATING TO THE AGING.

3. THE OFFICE SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY BY JANUARY THIRTY-FIRST, OF EACH YEAR.

[2.] 4. Such annual report shall:

(a) Describe the progress, problems and other matters related to the provision of services to older persons by programs administered by the office including, but not limited to the federal older Americans act of 1965, the community services for the aging program and the recreation program for the elderly AND DETAIL THE ACTION OF THE OFFICE IN IMPLEMENTING THE TRIENNIAL PLAN;

(b) Assess the effectiveness of the community services for aging program pursuant to section two hundred fourteen of this title in coordinating and improving the local delivery of services to the elderly; [and]

(c) Include recommendation for expanding or replicating service programs that have been determined effective in helping needy elderly remain in the community and to avoid institutional care; AND

(D) EVALUATE THE IMPACT OF A GROWING SENIOR POPULATION ON THE ECONOMY AND HUMAN SERVICES RESOURCES OF THE STATE.

[3.] 5. Such annual report shall also present in quantitative, as well as in qualitative, terms, a report on the quality of life of the aged in our state, including BUT NOT LIMITED TO:

[(a) A report on the impact of inflation on the aged.

(b) A report on mortality trends in the upper age brackets, including chronic disease trends among older persons.

(c) A report on crime trends impacting on the aged.

(d) A report on the numbers of elderly living in substandard housing, numbers of new housing facilities for the aged in public, non-profit or limited profit housing.

(e) A report on coverage of the aged in the state by various public social security programs, pension plans, private retirement plans, and assistance programs.

(f) A report on unemployment and employment of older persons, including prevalence of age discrimination in the labor market and efforts to provide education, information, and recommendations for legislation, trends toward early or later retirement, duration of unemployment by age groupings, self-employment and partial employment of older persons.

(g) A report on the hot meal program within the state, including costs per meal, number of aged served, as well as a report on the meals-on-wheels program.

(h) A report on the recreational services for the aged, including numbers of senior centers and clubs, membership and programming provided.

(i) A report on the extent to which the aged are provided adult education courses in public schools or are attending college courses.

(j) A report on institutionalization of aged, including trends in mental hospitals, skilled nursing homes, health related facilities, adult homes, including length of stay, costs, occupancy rates, extent to which local communities are providing care for institutionally released aged.]

(A) A REPORT ON STATE SUPPORT STRATEGIES AND SERVICES FOR ASSISTING INFORMAL CAREGIVERS.

(B) A REPORT ON THE AVAILABILITY, TYPE, ACCESSIBILITY AND AFFORDABILITY OF HOUSING FOR THE ELDERLY INCLUDING RETIREMENT COMMUNITIES AND OPTIONS TO CONVENTIONAL HOUSING.

(C) A REPORT ON COVERAGE OF THE AGED IN THE STATE BY VARIOUS PUBLIC SOCIAL SECURITY PROGRAMS, PRIVATE AND PUBLIC PENSION PLANS, AND ASSISTANCE PROGRAMS.

(D) A REPORT ON UNEMPLOYMENT AND EMPLOYMENT OF OLDER PERSONS, INCLUDING PREVALENCE OF AGE DISCRIMINATION IN THE LABOR MARKET, TRENDS TOWARD EARLY OR LATER RETIREMENT, DURATION OF UNEMPLOYMENT BY AGE GROUPINGS, SELF-EMPLOYMENT AND PARTIAL EMPLOYMENT OF OLDER PERSONS.

(E) A REPORT ON TRENDS IN ECONOMIC STATUS FOR THE AGING.

(F) A REPORT ON NUTRITIONAL PROGRAMS FOR THE ELDERLY, INCLUDING THE HOME DELIVERED AND CONGREGATE MEALS PROGRAMS.

(G) A REPORT ON THE SOCIAL AND EDUCATIONAL OPPORTUNITIES AFFORDED THE AGING IN THIS STATE INCLUDING NUMBERS OF SENIOR CENTERS AND CLUBS, MEMBERSHIP AND PROGRAMMING PROVIDED.

(H) A REPORT ON THE TECHNICAL ASSISTANCE OFFERED BY THE OFFICE INCLUDING THE PROMOTION OF SELF-HELP GROUPS AMONG THE ELDERLY.

(I) A REPORT ON HOME AND COMMUNITY HEALTH AND SOCIAL SERVICES FOR THE AGING WHICH ASSIST OLDER PERSONS TO LIVE INDEPENDENTLY IN A HOME ENVIRONMENT.

(J) A REPORT ON MORTALITY TRENDS IN THE UPPER AGE BRACKETS, INCLUDING CHRONIC DISEASE TRENDS AMONG OLDER PERSONS.

(K) A REPORT ON INSTITUTIONALIZATION OF AGED, INCLUDING TRENDS IN MENTAL HOSPITALS, SKILLED NURSING HOMES, HEALTH RELATED FACILITIES, ADULT HOMES, INCLUDING LENGTH OF STAY, COSTS, OCCUPANCY RATES, EXTENT TO WHICH LOCAL COMMUNITIES ARE PROVIDING CARE FOR INSTITUTIONALLY RELEASED AGED.

(L) A REPORT ON CRIME TRENDS IMPACTING ON THE AGED.

[4.] 6. The legislature hereby declares that, as a matter of state policy, caring services and programs for seniors should be shaped by the principles of strengthening independence, affirming dignity, and maximizing choice, and a recognition that seniors and their families and intimates provide a vast potential source of social, cultural, historic, and spiritual enrichment and leadership.

The office shall enunciate these principles in the form of a bill of rights for seniors, and shall, in addition to any other report required by this section, report annually, not later than June first of each year, on the progress being made in their advancement by state agencies and local governments in the development and operation of programs for

seniors. Such report shall discuss progress in the following principles with respect to programs for seniors:

(a) Seniors needing long term care in an institution or in an appropriate community-based alternative should be able to obtain such care at an affordable cost in a timely manner from reliable and responsible providers who can provide choices that meet the preferences of these seniors, and who have the capacity to provide a smooth transition to other forms of long term care when appropriate. Such programs should, whenever possible, provide a continuum of quality health care, either within a single institution, or through a consortium of providers.

(b) Public policy should affirm seniors' desire to maintain a high quality of life by living with dignity in their own communities, by supporting the efforts of informal caregivers such as family, friends and neighbors who provide eighty percent of all personal care and assistance to seniors.

(c) A goal of policy and programs in New York should be to help seniors obtain or maintain affordable and secure housing that allows them to age in place in their own communities with supportive assistance and access to health related services in a manner that ameliorates problems of income, changes in family structure, health, threats to personal safety, and architectural and structural inadequacies.

(d) Programs intended to offset excessive health care and prescription drug costs for seniors, and to make health care, particularly wellness and prevention programs, more affordable, should be designed to expand choice and promote ease of access for seniors rather than to simply provide ease of management and control for bureaucrats and program managers.

(e) State and local policies and program guidelines should support the most creative and flexible approaches to providing care for seniors, so as to promote and sustain the autonomy and mobility of seniors, and to tap their potential to enrich their communities.

(f) Seniors should be able to continue their productive lives in the community of New York without fear of discrimination based on age, and public policy should seek means of increasing opportunities for contribution from these respected members of our community by supporting and encouraging a healthy social environment that enables seniors to continue their productive lives if they wish, that affirms and encourages their ability to achieve financial security, and that works to preserve their dignity, safety, and independence.

(g) Public programs should promote personal security for seniors, encourage personal responsibility of their families and intimates, and recognize and build on the interdependence of all generations and the diversity of our population.

(h) Public investment in programs providing health care and other social help for seniors should be provided at a level which supports public mandates with respect to these programs.

(i) No declaratory relief, injunctive remedy or monetary liability against the state of New York or any political subdivision thereof, or any public or private entity, domiciled or doing business in the state of New York, or any employee or officer thereof, shall be created or granted based upon the principles set forth in this subdivision, or upon the enunciation of said principles to be made by the office pursuant thereto. No claim for contribution or indemnification shall be created based upon this subdivision. No assignment of claim shall be prosecuted based upon this subdivision.

(j) Existing powers of the office for the aging shall not be changed by this subdivision.

[5.] 7. Every state department, bureau, or agency or office shall cooperate to the fullest extent possible in providing such data as the office may need to assemble such reports, including recommendations by the director to the governor and legislature.

S 5. This act shall take effect immediately.