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I N S E N A T E

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Introduced by Sens. DeFRANCISCO, VALESKY, AVELLA, CARLUCCI, KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in 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
2 837-f-1 to read as follows:
3 S 837-F-1. 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 A COGNITIVE IMPAIRMENT, MENTAL DISABILITY, OR BRAIN
10 DISORDER AND WHOSE DISAPPEARANCE HAS BEEN DETERMINED BY LAW ENFORCEMENT
11 TO POSE A CREDITABLE THREAT OF HARM TO SUCH MISSING INDIVIDUAL.
12 (B) "MISSING VULNERABLE ADULT ALERT" SHALL MEAN A METHOD TO DISSEM-
13 INATE INFORMATION REGARDING A MISSING VULNERABLE ADULT TO THE GENERAL
14 PUBLIC IN A MANNER CONSISTENT WITH PARAGRAPH (N) OF SUBDIVISION TWO OF
15 THIS SECTION.
16 2. THE COMMISSIONER SHALL BE AUTHORIZED TO:
17 (A) PLAN AND IMPLEMENT PROGRAMS TO ENSURE THE MOST EFFECTIVE USE OF
18 FEDERAL, STATE, AND LOCAL RESOURCES IN THE INVESTIGATION OF MISSING
19 VULNERABLE ADULTS;

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

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1 (B) DISSEMINATE A DIRECTORY OF RESOURCES TO ASSIST IN LOCATING MISSING
2 VULNERABLE ADULTS;
3 (C) COOPERATE WITH THE DEPARTMENT OF HEALTH, OFFICE OF MENTAL HEALTH,
4 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR THE AGING,
5 AND OTHER PUBLIC AND PRIVATE ORGANIZATIONS TO DEVELOP EDUCATION AND
6 PREVENTION PROGRAMS CONCERNING THE SAFETY OF VULNERABLE ADULTS;
7 (D) ASSIST FEDERAL, STATE, AND LOCAL AGENCIES IN THE INVESTIGATION OF
8 CASES INVOLVING MISSING VULNERABLE ADULTS;
9 (E) UTILIZE AVAILABLE RESOURCES TO DUPLICATE PHOTOGRAPHS AND POSTERS
10 OF VULNERABLE ADULTS REPORTED AS MISSING BY POLICE AND DISSEMINATE THIS
11 INFORMATION THROUGHOUT THE STATE;
12 (F) PROVIDE ASSISTANCE IN RETURNING MISSING VULNERABLE ADULTS WHO ARE
13 LOCATED OUT OF STATE;
14 (G) DEVELOP A CURRICULUM FOR THE TRAINING OF LAW ENFORCEMENT PERSONNEL
15 INVESTIGATING CASES INVOLVING MISSING VULNERABLE ADULTS, INCLUDING
16 RECOGNITION AND MANAGEMENT OF VULNERABLE ADULTS;
17 (H) OPERATE A TOLL-FREE TWENTY-FOUR HOUR HOTLINE FOR THE PUBLIC TO USE
18 TO RELAY INFORMATION CONCERNING MISSING VULNERABLE ADULTS;
19 (I) ESTABLISH A CASE DATABASE THAT SHALL INCLUDE NON-IDENTIFYING
20 INFORMATION ON REPORTED MISSING VULNERABLE ADULTS AND FACTS DEVELOPED IN
21 THE PHASES OF A SEARCH; AND ANALYZE SUCH DATA FOR THE PURPOSES OF
22 ASSISTING LAW ENFORCEMENT IN THEIR CURRENT INVESTIGATIONS OF MISSING
23 VULNERABLE ADULTS, DEVELOPING PREVENTION PROGRAMS AND INCREASING UNDER-
24 STANDING OF THE NATURE AND EXTENT OF THE PROBLEM;
25 (J) PRESCRIBE GENERAL GUIDELINES TO ENABLE STATE AGENCIES TO ASSIST IN
26 THE LOCATION AND RECOVERY OF MISSING VULNERABLE ADULTS. THE GUIDELINES
27 SHALL PROVIDE INFORMATION RELATING TO:
28 (I) THE FORM AND MANNER IN WHICH MATERIALS AND INFORMATION PERTAINING
29 TO MISSING VULNERABLE ADULTS, INCLUDING, BUT NOT LIMITED TO, BIOGRAPH-
30 ICAL DATA AND PICTURES, SKETCHES, OR OTHER LIKENESSES, MAY BE INCLUDED
31 IN STATIONARY, NEWSLETTERS, AND OTHER WRITTEN OR ELECTRONIC PRINTINGS,
32 PROVIDED SUCH GUIDELINES ARE CONSISTENT WITH PARAGRAPH (N) OF THIS
33 SUBDIVISION;
34 (II) APPROPRIATE SOURCES FROM WHICH SUCH MATERIALS AND INFORMATION MAY
35 BE OBTAINED;
36 (III) THE PROCEDURES BY WHICH SUCH MATERIALS AND INFORMATION MAY BE
37 OBTAINED; AND
38 (IV) ANY OTHER MATTER THE CLEARINGHOUSE MAY DEEM IMPORTANT;
39 (K) MAINTAIN AND MAKE AVAILABLE TO APPROPRIATE STATE AND LOCAL LAW
40 ENFORCEMENT AGENCIES INFORMATION CONCERNING TECHNOLOGICAL ADVANCES THAT
41 MAY ASSIST IN FACILITATING THE RECOVERY OF MISSING VULNERABLE ADULTS;
42 (L) TAKE SUCH OTHER STEPS AS NECESSARY TO ASSIST IN EDUCATION,
43 PREVENTION, SERVICE PROVISION, AND INVESTIGATION OF CASES INVOLVING
44 MISSING VULNERABLE ADULTS;
45 (M) (I) IN CONSULTATION WITH THE DIVISION OF STATE POLICE AND OTHER
46 APPROPRIATE AGENCIES, DEVELOP, REGULARLY UPDATE, AND DISTRIBUTE MODEL
47 MISSING VULNERABLE ADULT PROMPT RESPONSE AND NOTIFICATION PLANS. SUCH
48 PLANS SHALL BE AVAILABLE FOR USE BY LOCAL COMMUNITIES AND LAW ENFORCE-
49 MENT PERSONNEL, AND SHALL INVOLVE A PROACTIVE, COORDINATED RESPONSE THAT
50 MAY BE PROMPTLY TRIGGERED BY LAW ENFORCEMENT PERSONNEL UPON CONFIRMATION
51 BY A POLICE OFFICER, PEACE OFFICER, OR POLICE AGENCY OF A REPORT OF A
52 MISSING VULNERABLE ADULT, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION.
53 (II) SUCH PLANS SHALL, AT A MINIMUM, PROVIDE THAT: (A) THE NAME OF THE
54 MISSING VULNERABLE ADULT, A DESCRIPTION OF THE MISSING INDIVIDUAL, AND
55 OTHER PERTINENT INFORMATION MAY BE PROMPTLY DISPATCHED OVER THE POLICE
56 COMMUNICATION SYSTEM PURSUANT TO SUBDIVISION THREE OF SECTION TWO

1 HUNDRED TWENTY-ONE OF THIS CHAPTER; (B) SUCH INFORMATION MAY BE IMME-
2 DIATELY PROVIDED, IN A MANNER CONSISTENT WITH PARAGRAPH (N) OF THIS
3 SUBDIVISION, BOTH (1) ORALLY, ELECTRONICALLY, OR BY FACSIMILE TRANS-
4 MISSION TO ONE OR MORE RADIO STATIONS AND OTHER BROADCAST MEDIA OUTLETS
5 SERVING THE COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHO HAVE
6 VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH RADIO
7 STATIONS AND BROADCAST MEDIA OUTLETS IN LIKE MANNER AND (2) BY ELECTRON-
8 IC MAIL MESSAGE TO ONE OR MORE INTERNET SERVICE PROVIDERS AND COMMERCIAL
9 MOBILE SERVICE PROVIDERS SERVING THE COMMUNITY INCLUDING, BUT NOT LIMIT-
10 ED TO, THOSE WHICH HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY
11 OTHER SUCH INTERNET SERVICE PROVIDERS IN LIKE MANNER; (C) PARTICIPATING
12 RADIO STATIONS AND OTHER PARTICIPATING BROADCAST MEDIA OUTLETS SERVING
13 THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY BROADCAST A MISSING
14 VULNERABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISS-
15 ING VULNERABLE ADULT'S DISAPPEARANCE, BREAKING INTO REGULAR PROGRAMMING
16 WHERE APPROPRIATE; (D) PARTICIPATING INTERNET SERVICE PROVIDERS AND
17 COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE COMMUNITY MAY VOLUNTAR-
18 ILY AGREE TO PROMPTLY PROVIDE BY ELECTRONIC MAIL MESSAGE A MISSING
19 VULNERABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISS-
20 ING VULNERABLE ADULT'S DISAPPEARANCE; (E) POLICE AGENCIES NOT CONNECTED
21 WITH THE BASIC POLICE COMMUNICATION SYSTEM IN USE IN SUCH JURISDICTION
22 MAY TRANSMIT SUCH INFORMATION TO THE NEAREST OR MOST CONVENIENT ELEC-
23 TRONIC ENTRY POINT, FROM WHICH POINT IT MAY BE PROMPTLY DISPATCHED IN
24 CONFORMITY WITH THE ORDERS, RULES, OR REGULATIONS GOVERNING THE SYSTEM;
25 (F) A STATEWIDE RESPONSE MAY BE INITIATED AS SOON AS THE DIVISION DEEMS
26 IT IS NECESSARY TO FIND THE MISSING VULNERABLE ADULT. SUCH A PLAN MAY
27 NOT REQUIRE THE ISSUANCE OF AN ALERT IF THE INVESTIGATING POLICE DEPART-
28 MENT, IN ITS DISCRETION, ADVISES THAT THE RELEASE OF SUCH INFORMATION
29 MAY JEOPARDIZE THE INVESTIGATION OR THE SAFETY OF THE MISSING VULNERABLE
30 ADULT OR THE INVESTIGATING POLICE DEPARTMENT REQUESTS FORBEARANCE FOR
31 ANY REASON.

32 (III) THE COMMISSIONER SHALL ALSO DESIGNATE A UNIT WITHIN THE DIVISION
33 THAT SHALL ASSIST LAW ENFORCEMENT AGENCIES AND REPRESENTATIVES OF RADIO
34 STATIONS, BROADCAST MEDIA OUTLETS, INTERNET SERVICE PROVIDERS, AND
35 COMMERCIAL MOBILE SERVICE PROVIDERS IN THE DESIGN, IMPLEMENTATION, AND
36 IMPROVEMENT OF MISSING VULNERABLE ADULT RESPONSE AND NOTIFICATION PLANS.
37 SUCH UNIT SHALL MAKE ONGOING OUTREACH EFFORTS TO LOCAL GOVERNMENT ENTI-
38 TIES AND LOCAL LAW ENFORCEMENT AGENCIES TO ASSIST SUCH ENTITIES AND
39 AGENCIES IN THE IMPLEMENTATION AND OPERATION OF SUCH PLANS WITH THE GOAL
40 OF IMPLEMENTING AND OPERATING SUCH PLANS IN EVERY JURISDICTION IN NEW
41 YORK STATE.

42 (N) DISSEMINATE SPECIFIC MEDICAL INFORMATION ABOUT A MISSING VULNER-
43 ABLE ADULT TO THE EXTENT THAT SUCH MEDICAL INFORMATION INDICATES A PHYS-
44 ICAL QUALITY OR BEHAVIORAL TRAIT THAT IS READILY APPARENT AND CONTRIB-
45 UTES TO A PHYSICAL OR BEHAVIORAL DESCRIPTION OF THE MISSING VULNERABLE
46 ADULT, PROVIDED THAT MORE EXTENSIVE INFORMATION RELATING TO THE MISSING
47 VULNERABLE ADULT'S MEDICAL DIAGNOSIS AND CONDITION MAY BE PROVIDED TO
48 LAW ENFORCEMENT PERSONNEL AS NEEDED.

49 3. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND
50 LEGISLATURE REGARDING THE ACTIVITIES OF THE MISSING VULNERABLE ADULTS
51 CLEARINGHOUSE, INCLUDING STATISTICAL INFORMATION INVOLVING REPORTED
52 CASES OF MISSING VULNERABLE ADULTS AND A SUMMARY OF THE DIVISION'S
53 EFFORTS WITH RESPECT TO THE ACTIVITIES AUTHORIZED UNDER SUBDIVISION TWO
54 OF THIS SECTION.

1 S 2. Subdivision 7 of section 838 of the executive law, as added by
2 chapter 670 of the laws of 1982, is amended and two new subdivisions 10
3 and 11 are added to read as follows:

4 7. (A) When a person previously reported missing has been found, the
5 superintendent of state police, sheriff, chief of police, coroner or
6 medical examiner, or other law enforcement authority shall erase all
7 records with respect to such person and/or destroy any documents which
8 are maintained pursuant to this section and shall report to the division
9 that the person has been found and that the records and documents have
10 been so erased or destroyed. After receiving such a report, the division
11 shall erase all records with respect to such person and/or destroy any
12 documents which are maintained pursuant to this section.

13 (B) NOTHING IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE CONSTRUED AS
14 PROHIBITING LAW ENFORCEMENT AGENCIES FROM MAINTAINING CASE FILES RELAT-
15 ING TO VULNERABLE ADULTS, AS DEFINED IN SECTION EIGHT HUNDRED
16 THIRTY-SEVEN-F-ONE, WHO WERE REPORTED MISSING, PROVIDED, HOWEVER, THAT
17 ANY DNA, FINGERPRINTS AND/OR DENTAL RECORDS ACQUIRED IN THE COURSE OF
18 SUCH INVESTIGATION SHALL BE ERASED AND/OR DESTROYED IN ACCORDANCE WITH
19 PARAGRAPH (A) OF THIS SUBDIVISION AFTER THE PERSON PREVIOUSLY REPORTED
20 MISSING HAS BEEN FOUND.

21 (C) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDI-
22 VISION, IF A VULNERABLE ADULT, AS DEFINED IN SECTION EIGHT HUNDRED
23 THIRTY-SEVEN-F-ONE OF THIS ARTICLE, PREVIOUSLY REPORTED MISSING HAS BEEN
24 FOUND, THE DIVISION SHALL MAINTAIN A SEALED RECORD OF THE CASE FILE FOR
25 A PERIOD OF TEN YEARS, AFTER WHICH IT SHALL BE ERASED AND/OR DESTROYED.
26 THE SEALED RECORD SHALL BE UNSEALED IF THE INDIVIDUAL TO WHOM THE RECORD
27 PERTAINS IS REPORTED MISSING ON A SUBSEQUENT OCCASION OR IF NEEDED FOR
28 EVIDENTIARY PURPOSES IN ANY CIVIL LITIGATION AGAINST THE DIVISION OR ITS
29 PERSONNEL THAT ARISES FROM THE INVESTIGATION. HOWEVER, IN THE EVENT
30 THAT THERE ARE GROUNDS FOR A CRIMINAL ACTION ARISING FROM THE INVESTI-
31 GATION, NOTHING IN THIS SUBDIVISION SHALL BE INTERPRETED AS PROHIBITING
32 THE DIVISION FROM ALLOWING SUCH RECORDS TO REMAIN UNSEALED UNTIL SUCH
33 CRIMINAL ACTION IS CONCLUDED OR OTHERWISE RESOLVED.

34 (II) THE DIVISION SHALL ESTABLISH RULES AND REGULATIONS RELATING TO
35 THE UNSEALING OF RECORDS. SUCH RULES AND REGULATIONS SHALL REQUIRE THAT,
36 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PROCESS OF UNSEALING
37 SUCH RECORDS SHALL TAKE NO LONGER THAN TWO HOURS FROM THE TIME THE DIVI-
38 SION RECEIVES A REPORT THAT A VULNERABLE ADULT, FOR WHOM THERE IS A
39 PREVIOUS RECORD, IS MISSING.

40 10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO CRIMINAL JUSTICE
41 AGENCY SHALL ESTABLISH OR MAINTAIN ANY POLICY THAT REQUIRES THE OBSER-
42 VANCE OF A WAITING PERIOD BEFORE ACCEPTING AND INVESTIGATING A REPORT OF
43 A MISSING VULNERABLE ADULT AS DEFINED IN SECTION EIGHT HUNDRED
44 THIRTY-SEVEN-F-ONE OF THIS ARTICLE. UPON RECEIPT OF A REPORT OF SUCH
45 MISSING VULNERABLE ADULT, CRIMINAL JUSTICE AGENCIES SHALL MAKE ENTRIES
46 OF SUCH REPORT IN THE MANNER PROVIDED BY SUBDIVISION ELEVEN OF THIS
47 SECTION.

48 11. WHENEVER A CRIMINAL JUSTICE AGENCY DETERMINES THAT A PERSON IS A
49 MISSING VULNERABLE ADULT, AS DEFINED IN SECTION EIGHT HUNDRED
50 THIRTY-SEVEN-F-ONE OF THIS ARTICLE, OR THAT AN UNIDENTIFIED LIVING
51 PERSON MAY BE A MISSING VULNERABLE ADULT, SUCH CRIMINAL JUSTICE AGENCY
52 SHALL ENTER THE REPORT OF SUCH MISSING VULNERABLE ADULT IN ANY DATABASE
53 OF MISSING PERSONS MAINTAINED BY THE DIVISION AND THE FEDERAL GOVERN-
54 MENT.

55 S 3. The provisions of this act shall not be construed to limit in any
56 way the authority of a municipality to enact, implement, and continue to

1 enforce local laws and regulations relating to an alert system to locate
2 missing individuals that were in effect prior to the effective date of
3 this act, or to enact, implement, and enforce any amendments thereto
4 after the effective date of this act.

5 S 4. Severability. If any clause, sentence, paragraph, section or part
6 of this act shall be adjudged by any court of competent jurisdiction to
7 be invalid and after exhaustion of all further judicial review, the
8 judgment shall not affect, impair or invalidate the remainder thereof,
9 but shall be confined in its operation to the clause, sentence, para-
10 graph, section or part of this act directly involved in the controversy
11 in which the judgment shall have been rendered.

12 S 5. This act shall take effect on the ninetieth day after it shall
13 have become law. Effective immediately, the addition, amendment, and
14 repeal of any rule or regulation necessary for the implementation of
15 this act on its effective date are authorized and directed to be made
16 and completed on or before such effective date.