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I N S E N A T E

March 8, 2012

Introduced by Sen. SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to establishing the institutional abuse and neglect intervention committee for vulnerable persons

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

1 Section 1. The mental hygiene law is amended by adding a new section  
2 45.23 to read as follows:

3 S 45.23 INSTITUTIONAL ABUSE AND NEGLECT INTERVENTION COMMITTEE FOR  
4 VULNERABLE PERSONS.

5 (A) THERE IS HEREBY ESTABLISHED WITHIN THE COMMISSION, AN INSTITU-  
6 TIONAL ABUSE AND NEGLECT INTERVENTION COMMITTEE FOR VULNERABLE PERSONS.  
7 THE COMMITTEE SHALL BE COMPRISED OF THE COMMISSIONER OF THE OFFICE OF  
8 PERSONS WITH DEVELOPMENTAL DISABILITIES, THE COMMISSIONER OF THE OFFICE  
9 OF MENTAL HEALTH, THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE  
10 SERVICES, THE COMMISSIONER OF HEALTH, THE CHAIR OF THE COMMISSION, AT  
11 LEAST TWO REPRESENTATIVES OF STATE AND REGIONAL PROVIDER ORGANIZATIONS  
12 THAT REPRESENT PROVIDERS OF RESIDENTIAL SERVICES TO THE DISABLED COMMU-  
13 NITY, AT LEAST TWO REPRESENTATIVES OF STATE AND REGIONAL PROVIDER ORGAN-  
14 IZATIONS THAT REPRESENT PROVIDERS OF VULNERABLE PERSONS, INCLUDING THE  
15 ELDERLY, AT LEAST TWO MENTAL HEALTH PROFESSIONALS WHO PROVIDE DIRECT  
16 CARE TO VULNERABLE PERSONS, INCLUDING THE ELDERLY, AND AT LEAST ONE  
17 FAMILY REPRESENTATIVE. REPRESENTATIVES SHALL BE APPOINTED BY THE GOVER-  
18 NOR.

19 (B) THE COMMITTEE SHALL IDENTIFY THE MOST EFFECTIVE MEANS FOR REPORT-  
20 ING INSTITUTIONAL NEGLECT OF VULNERABLE PERSONS AND SHALL:

21 (I) REVIEW ALL AGENCY GUIDELINES, REGULATIONS, AND STATUTORY REQUIRE-  
22 MENTS REGARDING ABUSE, NEGLECT, AND MALTREATMENT IN FACILITIES;

23 (II) EXAMINE THE NEED FOR, AND USE OF, UNIFORM AND COORDINATED DEFI-  
24 NITIONS AND STANDARDS REGARDING ABUSE, MALTREATMENT AND NEGLECT ACROSS  
25 AGENCIES PROVIDING FOR VULNERABLE PERSONS;

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

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1 (III) EXAMINE THE NEED FOR MEMORANDUMS OF UNDERSTANDING BETWEEN AGEN-  
2 CIES, LOCAL SOCIAL SERVICES DISTRICTS, AND LAW ENFORCEMENT REGARDING  
3 APPROPRIATE RESPONSES TO AND INVESTIGATIONS OF ABUSE, NEGLECT, AND  
4 MALTREATMENT CLAIMS WITHIN FACILITIES;

5 (IV) OUTLINE AN IMMEDIATE RESPONSE PROTOCOL FOR ANY CLAIMS RISING TO  
6 THE LEVEL OF A SERIOUS CRIME IN FACILITIES, INCLUDING BUT NOT LIMITED  
7 TO, PHYSICAL AND SEXUAL ABUSE OF THOSE IN CARE. SUCH PROTOCOL SHALL  
8 INCLUDE THE IMMEDIATE NOTIFICATION AND REFERRAL OF SUCH CASES TO LAW  
9 ENFORCEMENT;

10 (V) EXAMINE THE USE OF A TWENTY-FOUR HOUR HOTLINE TO RECEIVE AND MAIN-  
11 TAIN ABUSE ALLEGATIONS WITHIN FACILITIES PROVIDING CARE FOR VULNERABLE  
12 PERSONS;

13 (VI) EXAMINE THE NEED FOR LEGISLATION OR REGULATORY OR STATUTORY  
14 AMENDMENTS GOVERNING THE OVERSIGHT OF STAFF TRAINING CURRICULUM;

15 (VII) EXAMINE THE NEED FOR, AND ISSUES INVOLVED WITH THE CREATION OF A  
16 MANDATED REPORTER SYSTEM FOR VULNERABLE PERSONS;

17 (VIII) OUTLINE A RISK ASSESSMENT TOOL FOR THE POSSIBLE USE BY STAFF  
18 WITH RESPECT TO INTERVENTION SCREENING, AND REFERRALS OF ABUSED, AND  
19 NEGLECTED VULNERABLE PERSONS; AND

20 (IX) ESTABLISH RECOMMENDED PROCEDURES FOR:

21 1. AN APPEALS PROCESS FOR ANY DETERMINATION ALLEGING ABUSE AND  
22 MALTREATMENT AGAINST A FACILITY OR EMPLOYEE THEREOF;

23 2. DISSEMINATION OF INFORMATION FROM THE REGISTRY TO LAW ENFORCEMENT  
24 INCLUDING CONFIDENTIAL INFORMATION;

25 3. A REPORTING SYSTEM BETWEEN AGENCIES, NOT-FOR-PROFITS, LICENSEES,  
26 AND PROVIDERS OF ABUSE, NEGLECT AND MALTREATMENT BY EMPLOYEES REGARDING  
27 SUBSTANTIATED REPORTS IN OTHER FACILITIES; AND

28 4. THE INVESTIGATION OF REPORTED INCIDENTS AND SUBSEQUENT SUBSTANTI-  
29 ATION OF AN ALLEGATION OF ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF  
30 A VULNERABLE PERSON.

31 S 2. The institutional abuse and neglect intervention committee for  
32 vulnerable persons shall develop additional recommendations as it deems  
33 appropriate. Such recommendations shall be included in a report submit-  
34 ted to the Legislature no later than April 1, 2013.

35 S 3. This act shall take effect on the one hundred twentieth day after  
36 it shall have become a law.