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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. MAGNARELLI, DESTITO, GUNTHER, ZEBROWSKI, REILLY, ABBATE, DINOWITZ, TITONE, PHEFFER, JAFFEE, MENG, TITUS, BOYLAND, SPANO, LUPARDO -- Multi-Sponsored by -- M. of A. BRENNAN, BROOK-KRASNYY, GLICK, GOTTFRIED, KELLNER, MAYERSOHN, McENENY, O'DONNELL, RUSSELL, SCHIMEL, SWEENEY, WEISENBERG -- read once and referred to the Committee on Aging

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 837-ff
2 to read as follows:
3 S 837-FF. 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 BEEN DIAGNOSED BY A PHYSICIAN AS BEING VULNERABLE OR
10 WHO HAS BEEN DESCRIBED AS VULNERABLE BY THE INDIVIDUAL MAKING THE
11 REPORT.
12 (B) "VULNERABLE" SHALL DESCRIBE A PERSON WITH ANY COGNITIVE IMPAIR-
13 MENT, MENTAL DISABILITY, OR BRAIN DISORDER.
14 (C) "MISSING VULNERABLE ADULT ALERT" SHALL MEAN A METHOD TO DISSEM-
15 INATE INFORMATION REGARDING A MISSING VULNERABLE ADULT TO THE GENERAL
16 PUBLIC. SUCH ALERTS SHALL PROVIDE NO MEDICAL INFORMATION AND IN NO WAY
17 INDICATE THAT THE MISSING PERSON IS VULNERABLE. FOR THE PURPOSES OF
18 NOTIFICATIONS TO THE PUBLIC PURSUANT TO SUBDIVISION TWO OF THIS SECTION,
19 THE ALERT SHALL BE TITLED "GOLD ALERT".
20 2. THE COMMISSIONER SHALL BE AUTHORIZED TO:

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

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1 (A) PLAN AND IMPLEMENT PROGRAMS TO ENSURE THE MOST EFFECTIVE USE OF
2 FEDERAL, STATE, AND LOCAL RESOURCES IN THE INVESTIGATION OF MISSING
3 VULNERABLE ADULTS;

4 (B) DISSEMINATE A DIRECTORY OF RESOURCES TO ASSIST IN LOCATING MISSING
5 VULNERABLE ADULTS;

6 (C) COOPERATE WITH THE DEPARTMENT OF HEALTH, OFFICE OF MENTAL HEALTH,
7 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR THE AGING,
8 AND OTHER PUBLIC AND PRIVATE ORGANIZATIONS TO DEVELOP EDUCATION AND
9 PREVENTION PROGRAMS CONCERNING THE SAFETY OF VULNERABLE ADULTS;

10 (D) ASSIST FEDERAL, STATE, AND LOCAL AGENCIES IN THE INVESTIGATION OF
11 CASES INVOLVING MISSING VULNERABLE ADULTS;

12 (E) UTILIZE AVAILABLE RESOURCES TO DUPLICATE PHOTOGRAPHS AND POSTERS
13 OF VULNERABLE ADULTS REPORTED AS MISSING BY POLICE AND DISSEMINATE THIS
14 INFORMATION THROUGHOUT THE STATE PROVIDING SUCH POSTERS INDICATE ONLY
15 THAT THE ADULT IS MISSING WITH NO MENTION OF VULNERABILITY;

16 (F) PROVIDE ASSISTANCE IN RETURNING MISSING VULNERABLE ADULTS WHO ARE
17 LOCATED OUT OF STATE;

18 (G) DEVELOP A CURRICULUM FOR THE TRAINING OF LAW ENFORCEMENT PERSONNEL
19 INVESTIGATING CASES INVOLVING MISSING VULNERABLE ADULTS, INCLUDING
20 RECOGNITION AND MANAGEMENT OF VULNERABLE ADULTS;

21 (H) OPERATE A TOLL-FREE TWENTY-FOUR HOUR HOTLINE FOR THE PUBLIC TO USE
22 TO RELAY INFORMATION CONCERNING MISSING VULNERABLE ADULTS;

23 (I) MAINTAIN AND MAKE AVAILABLE TO APPROPRIATE STATE AND LOCAL LAW
24 ENFORCEMENT AGENCIES INFORMATION CONCERNING TECHNOLOGICAL ADVANCES THAT
25 MAY ASSIST IN FACILITATING THE RECOVERY OF MISSING VULNERABLE ADULTS;

26 (J) TAKE SUCH OTHER STEPS AS NECESSARY TO ASSIST IN EDUCATION,
27 PREVENTION, SERVICE PROVISION, AND INVESTIGATION OF CASES INVOLVING
28 MISSING VULNERABLE ADULTS;

29 (K) (1) IN CONSULTATION WITH THE DIVISION OF STATE POLICE AND OTHER
30 APPROPRIATE AGENCIES, DEVELOP, REGULARLY UPDATE, AND DISTRIBUTE MODEL
31 MISSING VULNERABLE ADULT PROMPT RESPONSE AND NOTIFICATION PLANS. SUCH
32 PLANS SHALL BE AVAILABLE FOR USE BY LOCAL COMMUNITIES AND LAW ENFORCE-
33 MENT PERSONNEL AND SHALL INVOLVE A PRO-ACTIVE, COORDINATED RESPONSE THAT
34 MAY BE PROMPTLY TRIGGERED BY LAW ENFORCEMENT PERSONNEL UPON CONFIRMATION
35 BY A POLICE OFFICER, PEACE OFFICER, OR POLICE AGENCY OF A REPORT OF A
36 MISSING VULNERABLE ADULT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION.

37 (2) SUCH PLANS SHALL, AT A MINIMUM, PROVIDE THAT: (A) THE NAME OF THE
38 MISSING VULNERABLE ADULT, A DESCRIPTION OF THE MISSING INDIVIDUAL, AND
39 OTHER PERTINENT INFORMATION MAY BE PROMPTLY DISPATCHED OVER THE POLICE
40 COMMUNICATION SYSTEM PURSUANT TO SUBDIVISION THREE OF SECTION TWO
41 HUNDRED TWENTY-ONE OF THIS CHAPTER; (B) SUCH INFORMATION MAY BE IMME-
42 DIATELY PROVIDED, IN SUCH A MANNER AS TO ENSURE THAT IT IS NOT REVEALED
43 TO THE PUBLIC THAT THE MISSING PERSON IS VULNERABLE, (I) ORALLY, ELEC-
44 TRONICALLY, OR BY FACSIMILE TRANSMISSION TO ONE OR MORE RADIO STATIONS
45 AND OTHER BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY INCLUDING, BUT
46 NOT LIMITED TO, THOSE WHO HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY
47 NOTIFY OTHER SUCH RADIO STATIONS AND BROADCAST MEDIA OUTLETS IN LIKE
48 MANNER AND (II) BY ELECTRONIC MAIL MESSAGE TO ONE OR MORE INTERNET
49 SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE
50 COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHICH HAVE VOLUNTARILY
51 AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH INTERNET SERVICE PROVID-
52 ERS IN LIKE MANNER; (C) PARTICIPATING RADIO STATIONS AND OTHER PARTIC-
53 IPATING BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY MAY VOLUNTARILY
54 AGREE TO PROMPTLY BROADCAST A MISSING VULNERABLE ADULT ALERT PROVIDING
55 PERTINENT DETAILS CONCERNING THE MISSING VULNERABLE ADULT'S DISAPPEAR-
56 ANCE, BREAKING INTO REGULAR PROGRAMMING WHERE APPROPRIATE; (D) PARTIC-

1 IPATING INTERNET SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVID-
2 ERS SERVING THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY PROVIDE BY
3 ELECTRONIC MAIL MESSAGE A MISSING VULNERABLE ADULT ALERT PROVIDING
4 PERTINENT DETAILS CONCERNING THE MISSING VULNERABLE ADULT'S DISAPPEAR-
5 ANCE; (E) POLICE AGENCIES NOT CONNECTED WITH THE BASIC POLICE COMMUNI-
6 CATION SYSTEM IN USE IN SUCH JURISDICTION MAY TRANSMIT SUCH INFORMATION
7 TO THE NEAREST OR MOST CONVENIENT ELECTRONIC ENTRY POINT, FROM WHICH
8 POINT IT MAY BE PROMPTLY DISPATCHED IN CONFORMITY WITH THE ORDERS,
9 RULES, OR REGULATIONS GOVERNING THE SYSTEM; (F) A STATEWIDE RESPONSE
10 MUST BE INITIATED AS SOON AS LOCAL LAW ENFORCEMENT DEEMS IT IS NECESSARY
11 TO FIND THE MISSING VULNERABLE ADULT UNLESS THE INVESTIGATING POLICE
12 DEPARTMENT, IN THEIR DISCRETION, ADVISES THAT THE RELEASE OF SUCH INFOR-
13 MATION MAY JEOPARDIZE THE INVESTIGATION OR THE SAFETY OF THE MISSING
14 VULNERABLE ADULT OR THE INVESTIGATING POLICE DEPARTMENT REQUESTS
15 FORBEARANCE FOR ANY REASON.

16 (3) THE COMMISSIONER SHALL ALSO DESIGNATE A UNIT WITHIN THE DIVISION
17 THAT SHALL ASSIST LAW ENFORCEMENT AGENCIES AND REPRESENTATIVES OF RADIO
18 STATIONS, BROADCAST MEDIA OUTLETS, INTERNET SERVICE PROVIDERS, AND
19 COMMERCIAL MOBILE SERVICE PROVIDERS IN THE DESIGN, IMPLEMENTATION, AND
20 IMPROVEMENT OF MISSING VULNERABLE ADULT RESPONSE AND NOTIFICATION PLANS.
21 SUCH UNIT SHALL MAKE ONGOING OUTREACH EFFORTS TO LOCAL GOVERNMENT ENTI-
22 TIES AND LOCAL LAW ENFORCEMENT AGENCIES TO ASSIST SUCH ENTITIES AND
23 AGENCIES IN THE IMPLEMENTATION AND OPERATION OF SUCH PLANS WITH THE GOAL
24 OF IMPLEMENTING AND OPERATING SUCH PLANS IN EVERY JURISDICTION IN NEW
25 YORK STATE.

26 3. ANY INDIVIDUAL WHO KNOWINGLY MAKES A FALSE REPORT OF A MISSING
27 VULNERABLE ADULT SHALL BE GUILTY OF FALSELY REPORTING AN INCIDENT IN THE
28 THIRD DEGREE, WHICH IS PUNISHABLE BY A CLASS A MISDEMEANOR.

29 4. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND
30 LEGISLATURE REGARDING THE ACTIVITIES OF THE MISSING VULNERABLE ADULTS
31 CLEARINGHOUSE INCLUDING STATISTICAL INFORMATION INVOLVING REPORTED CASES
32 OF MISSING VULNERABLE ADULTS AND A SUMMARY OF THE DIVISION'S EFFORTS
33 WITH RESPECT TO THE ACTIVITIES AUTHORIZED UNDER SUBDIVISION TWO OF THIS
34 SECTION.

35 S 2. Severability. If any clause, sentence, paragraph, section or part
36 of this act shall be adjudged by any court of competent jurisdiction to
37 be invalid and after exhaustion of all further judicial review, the
38 judgment shall not affect, impair or invalidate the remainder thereof,
39 but shall be confined in its operation to the clause, sentence, para-
40 graph, section or part of this act directly involved in the controversy
41 in which the judgment shall have been rendered.

42 S 3. This act shall take effect on the one hundred twentieth day after
43 it shall have become law. Effective immediately, the addition, amend-
44 ment, and repeal of any rule or regulation necessary for the implementa-
45 tion of this act on its effective date are authorized and directed to be
46 made and completed on or before such effective date.