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

676

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-KRASNY, 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:

Section 1. The executive law is amended by adding a new section 837-ff to read as follows:

S 837-FF. MISSING VULNERABLE ADULTS CLEARINGHOUSE. THERE IS HEREBY ESTABLISHED WITHIN THE DIVISION A MISSING VULNERABLE ADULTS CLEARINGHOUSE TO PROVIDE A COMPREHENSIVE AND COORDINATED APPROACH TO THE PROBLEM OF MISSING VULNERABLE ADULTS.

1. FOR PURPOSES OF THIS SECTION:

(A) "VULNERABLE ADULT" SHALL MEAN AN INDIVIDUAL EIGHTEEN YEARS OF AGE OR OLDER WHO HAS BEEN DIAGNOSED BY A PHYSICIAN AS BEING VULNERABLE OR WHO HAS BEEN DESCRIBED AS VULNERABLE BY THE INDIVIDUAL MAKING THE REPORT.

(B) "VULNERABLE" SHALL DESCRIBE A PERSON WITH ANY COGNITIVE IMPAIRMENT, MENTAL DISABILITY, OR BRAIN DISORDER.

(C) "MISSING VULNERABLE ADULT ALERT" SHALL MEAN A METHOD TO DISSEMINATE INFORMATION REGARDING A MISSING VULNERABLE ADULT TO THE GENERAL PUBLIC. SUCH ALERTS SHALL PROVIDE NO MEDICAL INFORMATION AND IN NO WAY INDICATE THAT THE MISSING PERSON IS VULNERABLE. FOR THE PURPOSES OF NOTIFICATIONS TO THE PUBLIC PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THE ALERT SHALL BE TITLED "GOLD ALERT".

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

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

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

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

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

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

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

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

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

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

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

(2) SUCH PLANS SHALL, AT A MINIMUM, PROVIDE THAT: (A) THE NAME OF THE MISSING VULNERABLE ADULT, A DESCRIPTION OF THE MISSING INDIVIDUAL, AND OTHER PERTINENT INFORMATION MAY BE PROMPTLY DISPATCHED OVER THE POLICE COMMUNICATION SYSTEM PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-ONE OF THIS CHAPTER; (B) SUCH INFORMATION MAY BE IMMEDIATELY PROVIDED, IN SUCH A MANNER AS TO ENSURE THAT IT IS NOT REVEALED TO THE PUBLIC THAT THE MISSING PERSON IS VULNERABLE, (I) ORALLY, ELECTRONICALLY, OR BY FACSIMILE TRANSMISSION TO ONE OR MORE RADIO STATIONS AND OTHER BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHO HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH RADIO STATIONS AND BROADCAST MEDIA OUTLETS IN LIKE MANNER AND (II) BY ELECTRONIC MAIL MESSAGE TO ONE OR MORE INTERNET SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE COMMUNITY INCLUDING, BUT NOT LIMITED TO, THOSE WHICH HAVE VOLUNTARILY AGREED IN ADVANCE TO PROMPTLY NOTIFY OTHER SUCH INTERNET SERVICE PROVIDERS IN LIKE MANNER; (C) PARTICIPATING RADIO STATIONS AND OTHER PARTICIPATING BROADCAST MEDIA OUTLETS SERVING THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY BROADCAST A MISSING VULNERABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISSING VULNERABLE ADULT'S DISAPPEARANCE, BREAKING INTO REGULAR PROGRAMMING WHERE APPROPRIATE; (D) PARTIC-

IPATING INTERNET SERVICE PROVIDERS AND COMMERCIAL MOBILE SERVICE PROVIDERS SERVING THE COMMUNITY MAY VOLUNTARILY AGREE TO PROMPTLY PROVIDE BY ELECTRONIC MAIL MESSAGE A MISSING VULNERABLE ADULT ALERT PROVIDING PERTINENT DETAILS CONCERNING THE MISSING VULNERABLE ADULT'S DISAPPEARANCE; (E) POLICE AGENCIES NOT CONNECTED WITH THE BASIC POLICE COMMUNICATION SYSTEM IN USE IN SUCH JURISDICTION MAY TRANSMIT SUCH INFORMATION TO THE NEAREST OR MOST CONVENIENT ELECTRONIC ENTRY POINT, FROM WHICH POINT IT MAY BE PROMPTLY DISPATCHED IN CONFORMITY WITH THE ORDERS, RULES, OR REGULATIONS GOVERNING THE SYSTEM; (F) A STATEWIDE RESPONSE MUST BE INITIATED AS SOON AS LOCAL LAW ENFORCEMENT DEEMS IT IS NECESSARY TO FIND THE MISSING VULNERABLE ADULT UNLESS THE INVESTIGATING POLICE DEPARTMENT, IN THEIR DISCRETION, ADVISES THAT THE RELEASE OF SUCH INFORMATION MAY JEOPARDIZE THE INVESTIGATION OR THE SAFETY OF THE MISSING VULNERABLE ADULT OR THE INVESTIGATING POLICE DEPARTMENT REQUESTS FORBEARANCE FOR ANY REASON.

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

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

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

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

S 3. This act shall take effect on the one hundred twentieth day after it shall have become law. Effective immediately, the addition, amendment, and repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.