

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

676--B

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I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. MAGNARELLI, GUNTHER, ZEBROWSKI, REILLY, ABBATE, DINOWITZ, TITONE, JAFFEE, MENG, TITUS, BOYLAND, SPANO, LUPARDO, P. RIVERA -- Multi-Sponsored by -- M. of A. BRENNAN, BRONSON, BROOK-KRASNY, GLICK, GOTTFRIED, KELLNER, MCENENY, O'DONNELL, RUSSELL, SCHIMEL, SWEENEY, WEISENBERG -- read once and referred to the Committee on Aging -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

53 3. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND
54 LEGISLATURE REGARDING THE ACTIVITIES OF THE MISSING VULNERABLE ADULTS
55 CLEARINGHOUSE, INCLUDING STATISTICAL INFORMATION INVOLVING REPORTED
56 CASES OF MISSING VULNERABLE ADULTS AND A SUMMARY OF THE DIVISION'S

1 EFFORTS WITH RESPECT TO THE ACTIVITIES AUTHORIZED UNDER SUBDIVISION TWO
2 OF THIS SECTION.

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

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

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

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

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

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

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

1 S 3. The provisions of this act shall not be construed to limit in any
2 way the authority of a municipality to enact, implement, and continue to
3 enforce local laws and regulations relating to an alert system to locate
4 missing individuals that were in effect prior to the effective date of
5 this act, or to enact, implement, and enforce any amendments thereto
6 after the effective date of this act.

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

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