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

6043--A

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sens. MONTGOMERY, DUANE, KRUEGER, OPPENHEIMER, PARKER, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the criminal procedure law, in relation to developing and instituting child-sensitive arrest policies and procedures

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 214-d to read as follows:

S 214-D. CHILD-SENSITIVE ARRESTS. THE SUPERINTENDENT, IN CONSULTATION WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE DIVISION OF CRIMINAL JUSTICE SERVICES, SHALL DEVELOP, MAINTAIN AND DISSEMINATE TO ALL MEMBERS OF THE STATE POLICE, INCLUDING NEW AND VETERAN OFFICERS, WRITTEN POLICIES AND PROCEDURES, REGARDING CHILD-SENSITIVE ARREST PRACTICES. SUCH POLICIES AND PROCEDURES SHALL ENSURE THE IDENTIFICATION AND SAFETY OF A CHILD LESS THAN EIGHTEEN YEARS OLD WHEN SUCH CHILD'S PARENT, GUARDIAN, OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD IS ARRESTED. SUCH POLICIES AND PROCEDURES SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) PROCEDURES TO ENSURE THAT STATE POLICE OFFICERS INQUIRE AND DOCUMENT WHETHER AN ARRESTEE IS THE PARENT, GUARDIAN OR PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD;

(B) PROCEDURES TO ALLOW FOR THE ARRANGEMENT OF TEMPORARY CARE FOR THE CHILD OF AN ARRESTED PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD TO ENSURE SUCH CHILD'S SAFETY AND WELL-BEING, WHICH MAY INCLUDE ALLOWING THE ARRESTED PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD TO PLACE ADDITIONAL PHONE CALLS TO ARRANGE FOR CHILD CARE;

(C) EDUCATION ON HOW WITNESSING VIOLENCE CAUSES EMOTIONAL HARM TO CHILDREN AND HOW LAW ENFORCEMENT CAN ASSIST IN MINIMIZING THE IMPACT OF SUCH HARM; AND

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

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(D) INFORMATION ON THE AVAILABILITY OF ACCESS TO COMMUNITY-BASED PROVIDERS OF CRISIS INTERVENTION, CHILD PROTECTION AND OTHER SUPPORTIVE RESOURCES THAT COULD AID THE CHILD OF AN ARRESTED PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD.

S 2. Subdivision 3 of section 840 of the executive law is amended by adding a new paragraph (f-1) to read as follows:

(F-1) DEVELOPING, MAINTAINING AND DISSEMINATING, IN CONSULTATION WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES, WRITTEN POLICIES AND PROCEDURES REGARDING CHILD-SENSITIVE ARREST PRACTICES. SUCH POLICIES AND PROCEDURES SHALL ENSURE THE IDENTIFICATION AND SAFETY OF A CHILD LESS THAN EIGHTEEN YEARS OLD WHEN SUCH CHILD'S PARENT, GUARDIAN, OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD IS ARRESTED. SUCH POLICES AND PROCEDURES SHALL INCLUDE, BUT NOT BE LIMITED TO:

(1) PROCEDURES TO ENSURE THAT LOCAL LAW ENFORCEMENT OFFICERS INQUIRE AND DOCUMENT WHETHER AN ARRESTEE IS THE PARENT, GUARDIAN OR PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD;

(2) PROCEDURES TO ALLOW FOR THE ARRANGEMENT OF TEMPORARY CARE FOR THE CHILD OF AN ARRESTED PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD TO ENSURE SUCH CHILD'S SAFETY AND WELL-BEING, WHICH MAY INCLUDE ALLOWING THE ARRESTED PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD TO PLACE ADDITIONAL PHONE CALLS TO ARRANGE FOR CHILD CARE;

(3) EDUCATION ON HOW WITNESSING VIOLENCE CAUSES EMOTIONAL HARM TO CHILDREN AND HOW LAW ENFORCEMENT CAN ASSIST IN MINIMIZING THE IMPACT OF SUCH HARM; AND

(4) INFORMATION ON THE AVAILABILITY OF ACCESS TO COMMUNITY-BASED PROVIDERS OF CRISES INTERVENTION, CHILD PROTECTION AND OTHER SUPPORTIVE RESOURCES THAT COULD AID THE CHILD OF AN ARRESTED PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD;

S 3. The criminal procedure law is amended by adding two new sections 120.85 and 140.17 to read as follows:

S 120.85 CHILD-SENSITIVE ARRESTS.

A STATE OR LOCAL LAW ENFORCEMENT OFFICER WHO ARRESTS AN INDIVIDUAL SHALL, AT THE TIME OF THE ARREST, INQUIRE WHETHER SUCH INDIVIDUAL IS THE PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD LESS THAN EIGHTEEN YEARS OLD WHO MAY BE AT RISK AS A RESULT OF THE ARREST. THE OFFICER SHALL MAKE REASONABLE EFFORTS TO ENSURE THE SAFETY OF SUCH CHILD IN ACCORDANCE WITH THE POLICIES AND PROCEDURES ESTABLISHED PURSUANT TO SECTION TWO HUNDRED FOURTEEN-D OR PARAGRAPH (F-1) OF SUBDIVISION THREE OF SECTION EIGHT HUNDRED FORTY OF THE EXECUTIVE LAW AS APPLICABLE.

S 140.17 CHILD-SENSITIVE ARRESTS.

A STATE OR LOCAL LAW ENFORCEMENT OFFICER WHO ARRESTS AN INDIVIDUAL SHALL, AT THE TIME OF THE ARREST, INQUIRE WHETHER SUCH INDIVIDUAL IS THE PARENT, GUARDIAN OR OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF A CHILD LESS THAN EIGHTEEN YEARS OLD WHO MAY BE AT RISK AS A RESULT OF THE ARREST. THE OFFICER SHALL MAKE REASONABLE EFFORTS TO ENSURE THE SAFETY OF SUCH CHILD IN ACCORDANCE WITH THE POLICIES AND PROCEDURES ESTABLISHED PURSUANT TO SECTION TWO HUNDRED FOURTEEN-D OR PARAGRAPH (F-1) OF SUBDIVISION THREE OF SECTION EIGHT HUNDRED FORTY OF THE EXECUTIVE LAW AS APPLICABLE.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.