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

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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:

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

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

(A) THERE IS HEREBY ESTABLISHED WITHIN THE COMMISSION, AN INSTITUTIONAL ABUSE AND NEGLECT INTERVENTION COMMITTEE FOR VULNERABLE PERSONS. THE COMMITTEE SHALL BE COMPRISED OF THE COMMISSIONER OF THE OFFICE OF PERSONS WITH DEVELOPMENTAL DISABILITIES, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE COMMISSIONER OF HEALTH, THE CHAIR OF THE COMMISSION, AT LEAST TWO REPRESENTATIVES OF STATE AND REGIONAL PROVIDER ORGANIZATIONS THAT REPRESENT PROVIDERS OF RESIDENTIAL SERVICES TO THE DISABLED COMMUNITY, AT LEAST TWO REPRESENTATIVES OF STATE AND REGIONAL PROVIDER ORGANIZATIONS THAT REPRESENT PROVIDERS OF VULNERABLE PERSONS, INCLUDING THE ELDERLY, AT LEAST TWO MENTAL HEALTH PROFESSIONALS WHO PROVIDE DIRECT CARE TO VULNERABLE PERSONS, INCLUDING THE ELDERLY, AND AT LEAST ONE FAMILY REPRESENTATIVE. REPRESENTATIVES SHALL BE APPOINTED BY THE GOVERNOR.

(B) THE COMMITTEE SHALL IDENTIFY THE MOST EFFECTIVE MEANS FOR REPORTING INSTITUTIONAL NEGLECT OF VULNERABLE PERSONS AND SHALL:

(I) REVIEW ALL AGENCY GUIDELINES, REGULATIONS, AND STATUTORY REQUIREMENTS REGARDING ABUSE, NEGLECT, AND MALTREATMENT IN FACILITIES;

(II) EXAMINE THE NEED FOR, AND USE OF, UNIFORM AND COORDINATED DEFINITIONS AND STANDARDS REGARDING ABUSE, MALTREATMENT AND NEGLECT ACROSS 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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(III) EXAMINE THE NEED FOR MEMORANDUMS OF UNDERSTANDING BETWEEN AGENCIES, LOCAL SOCIAL SERVICES DISTRICTS, AND LAW ENFORCEMENT REGARDING APPROPRIATE RESPONSES TO AND INVESTIGATIONS OF ABUSE, NEGLECT, AND MALTREATMENT CLAIMS WITHIN FACILITIES;

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

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

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

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

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

(IX) ESTABLISH RECOMMENDED PROCEDURES FOR:

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

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

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

4. THE INVESTIGATION OF REPORTED INCIDENTS AND SUBSEQUENT SUBSTANTIATION OF AN ALLEGATION OF ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF A VULNERABLE PERSON.

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

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