

1507

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes

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:

1 Section 1. The executive law is amended by adding a new section 214-d
2 to read as follows:

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

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

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

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

25 (D) INFORMATION ON THE AVAILABILITY OF ACCESS TO COMMUNITY-BASED
26 PROVIDERS OF CRISIS INTERVENTION, CHILD PROTECTION AND OTHER SUPPORTIVE

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

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1 RESOURCES THAT COULD AID THE CHILD OF AN ARRESTED PARENT, GUARDIAN OR
2 OTHER PERSON LEGALLY CHARGED WITH THE CARE OR CUSTODY OF SUCH CHILD.

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

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

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

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

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

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

29 S 3. The criminal procedure law is amended by adding two new sections
30 120.85 and 140.17 to read as follows:

31 S 120.85 CHILD-SENSITIVE ARRESTS.

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

41 S 140.17 CHILD-SENSITIVE ARRESTS.

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

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