

1416

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MONTGOMERY, KRUEGER, PARKER, PERKINS -- read twice
and ordered printed, and when printed to be committed to the Committee
on Children and Families

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 ASSEM-
BLY, 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

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

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

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

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

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

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

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

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

31 S 3. The criminal procedure law is amended by adding two new sections
32 120.85 and 140.17 to read as follows:

33 S 120.85 CHILD-SENSITIVE ARRESTS.

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

43 S 140.17 CHILD-SENSITIVE ARRESTS.

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

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