

1507

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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 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  
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.

LBD04042-01-3

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.