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

January 31, 2014

Introduced by Sens. SERRANO, ESPAILLAT, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, MONTGOMERY, SMITH, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to requiring an arresting authority to notify the local social services district when the parent, legal guardian or care-giver of a minor is arrested or taken into custody; requires the local social services district to monitor the placement of the minor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as "Myls' law".

S 2. The social services law is amended by adding a new section 384-d to read as follows:

S 384-D. CARE AND CUSTODY OF CHILDREN IN THE EVENT OF A CARE-GIVER'S ARREST. 1. AS USED IN THIS SECTION, "ARRESTING AUTHORITY" REFERS TO ALL POLICE AGENCIES IN THE STATE, INCLUDING BUT NOT LIMITED TO ALL STATE AND MUNICIPAL POLICE AGENCIES AND ALL PEACE OFFICERS AS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW.

2. IN THE EVENT THAT A PERSON IS ARRESTED OR TAKEN INTO CUSTODY, THE ARRESTING AUTHORITY SHALL INQUIRE WHETHER SUCH PERSON IS A PARENT, LEGAL GUARDIAN OR CARE-GIVER OF A MINOR, AND THE ARRESTING AUTHORITY SHALL:

(A) ASCERTAIN THE LOCATION OF THE MINOR AND THE IDENTITY OF ANY PERSON TO WHOM THE PARENT, LEGAL GUARDIAN OR CARE-GIVER HAS ENTRUSTED THE CARE OF THE MINOR; AND

(B) AS SOON AS PRACTICABLE, NOTIFY THE LOCAL SOCIAL SERVICES DISTRICT OF THE LOCATION OF THE MINOR AND THE IDENTITY OF THE PERSON ENTRUSTED WITH THE CARE OF THE MINOR.

3. UPON RECEIVING NOTIFICATION FROM AN ARRESTING AUTHORITY PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROMPTLY CONFIRM THE LOCATION OF THE MINOR; CONTACT THE PERSON TO WHOM CARE OF THE MINOR HAS BEEN ENTRUSTED BY THE ARRESTED PARENT, LEGAL GUARDIAN OR CARE-GIVER AND CONFIRM THAT THE MINOR IS WITH SUCH PERSON.

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

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4. (A) WITHIN TWENTY-FOUR HOURS OF NOTIFICATION, THE LOCAL SOCIAL SERVICES DISTRICT SHALL:

(1) COMMENCE AN INVESTIGATION INTO THE APPROPRIATENESS OF THE PLACEMENT BY THE ARRESTED PARENT, LEGAL GUARDIAN OR CARE-GIVER OF THE MINOR WITH THE PERSON TO WHOM THE ARRESTED PARENT, LEGAL GUARDIAN OR CARE-GIVER HAS ENTRUSTED THE CARE OF THE MINOR;

(2)(I) COMMENCE A SEARCH TO LOCATE ANY NON-RESPONDENT PARENT OF THE CHILD OR OTHER RELATIVES OF THE MINOR, INCLUDING BUT NOT LIMITED TO ALL OF THE MINOR'S GRANDPARENTS, AND ALL RELATIVES IDENTIFIED BY A MINOR OVER THE AGE OF FIVE AS A RELATIVE WHO PLAYS OR HAS PLAYED A SIGNIFICANT POSITIVE ROLE IN HIS OR HER LIFE, AND TO INFORM THEM OF THE OPPORTUNITY TO SEEK TEMPORARY CUSTODY OR CARE OF THE MINOR; AND (II) DETERMINE WHETHER THE MINOR MAY APPROPRIATELY BE PLACED WITH A SUITABLE PERSON RELATED TO THE MINOR AND WHETHER SUCH RELATIVE IS WILLING TO CARE FOR SUCH MINOR AND CAN PROVIDE APPROPRIATE CARE FOR THE MINOR; AND

(3) DETERMINE THE LOCATION OF ANY MINOR SIBLINGS, HALF-SIBLINGS, STEP-SIBLINGS, FOSTER-SIBLINGS, OR NON-BLOOD RELATED SIBLINGS OF THE MINOR.

(B) PROVIDED, HOWEVER, THAT IF THE LOCAL SOCIAL SERVICES DISTRICT FINDS THAT THE MINOR IS IN THE CARE OF A CUSTODIAL PARENT OR LEGAL GUARDIAN, NOT IN CUSTODY, THE INVESTIGATIONS REQUIRED PURSUANT TO THIS SECTION SHALL CEASE.

5. THE LOCAL SOCIAL SERVICES DISTRICT SHALL MAKE A DETERMINATION AS TO THE APPROPRIATENESS OF THE PLACEMENT OF THE MINOR BY THE PARENT, LEGAL GUARDIAN OR CARE-GIVER THAT WAS ARRESTED OR TAKEN INTO CUSTODY, WITHIN TWENTY-FOUR HOURS OF NOTIFICATION BY THE ARRESTING AUTHORITY. IN THE EVENT THAT THE PLACEMENT IS FOUND BY THE LOCAL SOCIAL SERVICES DISTRICT TO BE CONTRARY TO THE MINOR'S HEALTH, SAFETY OR WELFARE, OR OTHERWISE NOT IN THE BEST INTERESTS OF THE MINOR, THE LOCAL SOCIAL SERVICES DISTRICT SHALL IMMEDIATELY PROVIDE OR ARRANGE FOR THE PROVISION OF CARE FOR SUCH MINOR.

6. THE LOCAL SOCIAL SERVICES DISTRICT SHALL REMAIN RESPONSIBLE FOR MONITORING THE WELFARE OF ANY MINOR SUBJECT TO THE PROVISIONS OF THIS SECTION UNTIL THE LOCAL SOCIAL SERVICES DISTRICT RECEIVES NOTIFICATION FROM THE PARENT, LEGAL GUARDIAN OR CARE-GIVER THAT HE OR SHE IS NO LONGER UNDER ARREST OR IN CUSTODY AND THAT THE PARENT, LEGAL GUARDIAN OR CARE-GIVER REQUESTS THE IMMEDIATE RETURN OF THE MINOR. UPON RECEIPT OF SUCH NOTIFICATION, THE LOCAL SOCIAL SERVICES DISTRICT SHALL RETURN SUCH MINOR TO THE PARENT, LEGAL GUARDIAN OR CARE-GIVER AS SOON AS PRACTICABLE BUT NO LATER THAN TEN DAYS OF RECEIVING NOTIFICATION, EXCEPT WHERE A CONTRARY COURT ORDER HAS BEEN ISSUED PURSUANT TO PART TWO, FIVE OR SEVEN OF ARTICLE TEN OF THE FAMILY COURT ACT.

S 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.