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2015-2016 Regular Sessions

I N   A S S E M B L Y

January 7, 2015

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Introduced by M. of A. ROSENTHAL, SCHIMEL, BROOK-KRASNY, MOSLEY, CAMARA, ENGLEBRIGHT, COOK, MAYER, JAFFEE, DAVILA, MONTESANO, COLTON, SALADINO, FINCH, CLARK -- Multi-Sponsored by -- M. of A. ARROYO, CERETTO, GALEF, GARBARINO, HIKIND, MARKEY, McDONOUGH, PEOPLES-STOKES, PERRY, RIVERA, STECK -- read once and referred 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:

1     Section 1. This act shall be known and may be cited as "Myls' law".  
2     S 2. The social services law is amended by adding a new section 384-d  
3     to read as follows:  
4     S 384-D. CARE AND CUSTODY OF CHILDREN IN THE EVENT OF A CARE-GIVER'S  
5     ARREST. 1. AS USED IN THIS SECTION, "ARRESTING AUTHORITY" REFERS TO ALL  
6     POLICE AGENCIES IN THE STATE, INCLUDING BUT NOT LIMITED TO ALL STATE AND  
7     MUNICIPAL POLICE AGENCIES AND ALL PEACE OFFICERS AS DEFINED IN SECTION  
8     2.10 OF THE CRIMINAL PROCEDURE LAW.  
9     2. IN THE EVENT THAT A PERSON IS ARRESTED OR TAKEN INTO CUSTODY, THE  
10    ARRESTING AUTHORITY SHALL INQUIRE WHETHER SUCH PERSON IS A PARENT, LEGAL  
11    GUARDIAN OR CARE-GIVER OF A MINOR, AND THE ARRESTING AUTHORITY SHALL:  
12    (A) ASCERTAIN THE LOCATION OF THE MINOR AND THE IDENTITY OF ANY PERSON  
13    TO WHOM THE PARENT, LEGAL GUARDIAN OR CARE-GIVER HAS ENTRUSTED THE CARE  
14    OF THE MINOR; AND  
15    (B) AS SOON AS PRACTICABLE, NOTIFY THE LOCAL SOCIAL SERVICES DISTRICT  
16    OF THE LOCATION OF THE MINOR AND THE IDENTITY OF THE PERSON ENTRUSTED  
17    WITH THE CARE OF THE MINOR.

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

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

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

9 (1) COMMENCE AN INVESTIGATION INTO THE APPROPRIATENESS OF THE PLACE-  
10 MENT BY THE ARRESTED PARENT, LEGAL GUARDIAN OR CARE-GIVER OF THE MINOR  
11 WITH THE PERSON TO WHOM THE ARRESTED PARENT, LEGAL GUARDIAN OR CARE-GIV-  
12 ER HAS ENTRUSTED THE CARE OF THE MINOR;

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

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

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

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

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

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