

1203

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sens. SERRANO, ESPAILLAT, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, MONTGOMERY, SANDERS, 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:

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.
18 3. UPON RECEIVING NOTIFICATION FROM AN ARRESTING AUTHORITY PURSUANT TO
19 THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, THE LOCAL SOCIAL
20 SERVICES DISTRICT SHALL PROMPTLY CONFIRM THE LOCATION OF THE MINOR;

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

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1 CONTACT THE PERSON TO WHOM CARE OF THE MINOR HAS BEEN ENTRUSTED BY THE
2 ARRESTED PARENT, LEGAL GUARDIAN OR CARE-GIVER AND CONFIRM THAT THE MINOR
3 IS WITH SUCH PERSON.

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

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

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

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

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

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

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

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