

# STATE OF NEW YORK

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5119

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

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Introduced by M. of A. McDONOUGH -- read once and referred to the  
Committee on Children and Families

AN ACT to amend the executive law, in relation to requiring the superintendent of state police to develop and disseminate policies and procedures in regard to notifying a non-custodial parent of a minor child when such child has been the victim of violence or sexual abuse; to amend the criminal procedure law, in relation to notifying a non-custodial parent of the custodial parent's arrest for the commission of a felony; and to amend the family court act, in relation to requiring family courts to include such notice requirements within the text of child custody determinations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 214-a of the executive law, as added by chapter 504  
2 of the laws of 1988, is amended to read as follows:

3 § 214-a. Child abuse prevention. The superintendent shall, for all  
4 members of the state police:

5 (1) develop, maintain and disseminate written policies and procedures  
6 pursuant to title six of article six of the social services law and  
7 applicable provisions of article ten of the family court act, regarding  
8 the mandatory reporting of child abuse or neglect, reporting procedures  
9 and obligations of persons required to report, provisions for taking a  
10 child into protective custody, mandatory reporting of deaths, immunity  
11 from liability, penalties for failure to report and obligations for the  
12 provision of services and procedures necessary to safeguard the life or  
13 health of the child; [~~and~~]

14 (2) develop, maintain and disseminate written policies and procedures  
15 regarding mandatory notification to a non-custodial parent of a minor  
16 child when such minor child has been the victim of a crime of violence  
17 or sexual abuse; and

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

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1     (3) establish, and implement on an ongoing basis, a training program  
2     for all current and new employees regarding the policies and procedures  
3     established pursuant to this section.

4     § 2. Section 170.10 of the criminal procedure law is amended by adding  
5     two new subdivisions 11 and 12 to read as follows:

6     11. Upon the arraignment, the court shall instruct the defendant that  
7     if the defendant is the custodial parent of a child, the defendant shall  
8     immediately make an appropriate plan for the child while the defendant  
9     remains in custody. The court shall further instruct the defendant that  
10    failure to make an appropriate plan for the child may be considered  
11    child neglect and/or abuse pursuant to article ten of the family court  
12    act.

13    If the court discovers that the defendant has left a child at home  
14    without adult supervision, the court shall immediately contact the  
15    office of children and family services.

16    12. Notwithstanding any other provision of law to the contrary, if a  
17    person is charged with the commission of a felony, the court shall:

18    (a) Upon the arraignment, inquire whether the defendant is the custo-  
19    dial parent of a minor child. The court shall exercise due diligence in  
20    obtaining the whereabouts and contact information of such minor child  
21    and the name and contact information of the non-custodial parent, if  
22    any. For purposes of this subdivision, "non-custodial parent" shall mean  
23    any person recognized as the biological parent of a minor child, includ-  
24    ing, but not limited to, persons named on such minor child's birth  
25    certificate and/or named within a child support or custody/visitation  
26    order issued by a court of competent jurisdiction, and who does not have  
27    physical custody of the child at the time of the person's arrest; and

28    (b) Within ten days after the arraignment, contact the non-custodial  
29    parent and inform such parent of such arrest.

30    (c) The provisions of this subdivision shall not apply where an order  
31    of protection has been issued against the non-custodial parent by a  
32    court of competent jurisdiction.

33    § 3. The family court act is amended by adding a new section 658 to  
34    read as follows:

35    § 658. Required conditions to a child custody determination when a  
36    party to the custody and/or visitation proceeding has been previously  
37    arrested on a felony charge. Where a party to a custody and/or visita-  
38    tion proceeding has been previously arrested and/or convicted on a felo-  
39    ny charge, the court shall not accept or issue a child custody determi-  
40    nation without requiring the following conditions:

41    (a) If either party to the custody and/or visitation proceeding is  
42    subsequently arrested on a felony charge, such party shall immediately  
43    notify the other party of their arrest;

44    (b) If either party to the custody and/or visitation proceeding relo-  
45    cates to another state, the relocating party shall register the custody  
46    and/or visitation determination with the other state within thirty days  
47    after relocation and such party's failure to register the determination  
48    within the specified time period shall be considered a per se violation  
49    of the child custody determination of this state; and

50    (c) Both parties shall promptly notify the state in which the child  
51    currently resides of any change in address and/or other contact informa-  
52    tion deemed appropriate.

53    § 4. This act shall take effect the first of January next succeeding  
54    the date on which it shall have become a law.