

# STATE OF NEW YORK

741

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sens. MONTGOMERY, BAILEY, PARKER, PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the criminal procedure law, in relation to directing the superintendent of state police to develop and institute child-sensitive arrest policies and procedures for instances where police are arresting an individual who is a parent, guardian or other person legally charged with the care or custody of a child

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

1 Section 1. The executive law is amended by adding a new section 214-g  
2 to read as follows:

3 § 214-g. 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

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

LBD03434-01-9

1 other person legally charged with the care or custody of such child to  
2 place additional phone calls to arrange for child care;

3 (c) education on how witnessing violence causes emotional harm to  
4 children and how law enforcement can assist in minimizing the impact of  
5 such harm; and

6 (d) information on the availability of access to community-based  
7 providers of crisis intervention, child protection and other supportive  
8 resources that could aid the child of an arrested parent, guardian or  
9 other person legally charged with the care or custody of such child.

10 § 2. Subdivision 3 of section 840 of the executive law is amended by  
11 adding a new paragraph (f-2) to read as follows:

12 (f-2) Developing, maintaining and disseminating, in consultation with  
13 the office of children and family services, written policies and proce-  
14 dures regarding child-sensitive arrest practices. Such policies and  
15 procedures shall ensure the identification and safety of a child less  
16 than eighteen years old when such child's parent, guardian, or other  
17 person legally charged with the care or custody of such child is  
18 arrested. Such polices and procedures shall include, but not be limited  
19 to:

20 (1) procedures to ensure that local law enforcement officers inquire  
21 and document whether an arrestee is the parent, guardian or person  
22 legally charged with the care or custody of a child;

23 (2) procedures to allow for the arrangement of temporary care for the  
24 child of an arrested parent, guardian or other person legally charged  
25 with the care or custody of such child to ensure such child's safety and  
26 well-being, which may include allowing the arrested parent, guardian or  
27 other person legally charged with the care or custody of such child to  
28 place additional phone calls to arrange for child care;

29 (3) education on how witnessing violence causes emotional harm to  
30 children and how law enforcement can assist in minimizing the impact of  
31 such harm; and

32 (4) information on the availability of access to community-based  
33 providers of crises intervention, child protection and other supportive  
34 resources that could aid the child of an arrested parent, guardian or  
35 other person legally charged with the care or custody of such child;

36 § 3. The criminal procedure law is amended by adding two new sections  
37 120.85 and 140.17 to read as follows:

38 § 120.85 Child-sensitive arrests.

39 A state or local law enforcement officer who arrests an individual  
40 shall, at the time of the arrest, inquire whether such individual is the  
41 parent, guardian or other person legally charged with the care or custo-  
42 dy of a child less than eighteen years old who may be at risk as a  
43 result of the arrest. The officer shall make reasonable efforts to  
44 ensure the safety of such child in accordance with the policies and  
45 procedures established pursuant to section two hundred fourteen-g or  
46 paragraph (f-2) of subdivision three of section eight hundred forty of  
47 the executive law as applicable.

48 § 140.17 Child-sensitive arrests.

49 A state or local law enforcement officer who arrests an individual  
50 shall, at the time of the arrest, inquire whether such individual is the  
51 parent, guardian or other person legally charged with the care or custo-  
52 dy of a child less than eighteen years old who may be at risk as a  
53 result of the arrest. The officer shall make reasonable efforts to  
54 ensure the safety of such child in accordance with the policies and  
55 procedures established pursuant to section two hundred fourteen-g or

1 paragraph (f-2) of subdivision three of section eight hundred forty of  
2 the executive law as applicable.  
3 § 4. This act shall take effect on the one hundred eightieth day after  
4 it shall have become a law.