

# STATE OF NEW YORK

8043

2021-2022 Regular Sessions

## IN ASSEMBLY

June 11, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Governmental Operations

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 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 person with an intellectual or developmental disability

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. Person with an intellectual or developmental disability-sensitive  
4 arrests. The superintendent, in consultation with the office for  
5 people with developmental disabilities and the division of criminal  
6 justice services, shall develop, maintain and disseminate to all members  
7 of the state police, including new and veteran officers, written poli-  
8 cies and procedures, regarding arrest practices sensitive to persons  
9 with an intellectual or developmental disability. Such policies and  
10 procedures shall ensure the identification and safety of a person with  
11 intellectual disability when such person's parent, guardian, or other  
12 person legally charged with the care or custody of such person is  
13 arrested. Such policies and procedures shall include, but not be limit-  
14 ed to:

15 (a) procedures to ensure that state police officers inquire and docu-  
16 ment whether an arrestee is the parent, guardian or person legally  
17 charged with the care or custody of a person with intellectual or devel-  
18 opmental disability;

19 (b) procedures to allow for the arrangement of temporary care for the  
20 person with an intellectual or developmental disability when the parent,  
21 guardian or other person legally charged with the care or custody of

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

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1 such person is arrested to ensure such person's safety and well-being,  
2 which may include allowing the arrested parent, guardian or other person  
3 legally charged with the care or custody of such person with an intel-  
4 lectual or developmental disability to place additional phone calls to  
5 arrange for the person's care;

6 (c) education on how witnessing violence causes emotional harm to a  
7 person with an intellectual or developmental disability and how law  
8 enforcement can assist in minimizing the impact of such harm; and

9 (d) information on the availability of access to community-based  
10 providers of crisis intervention, protection and other supportive  
11 resources that could aid the person with an intellectual or develop-  
12 mental disability when such person's parent, guardian or other person  
13 legally charged with the care or custody of such person is arrested.

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

16 (f-2) Developing, maintaining and disseminating, in consultation with  
17 the office for people with developmental disabilities, written policies  
18 and procedures regarding arrest practices sensitive to persons with an  
19 intellectual or developmental disability. Such policies and procedures  
20 shall ensure the identification and safety of a person with an intellec-  
21 tual or developmental disability when such person's parent, guardian, or  
22 other person legally charged with the care or custody of such person is  
23 arrested. Such polices and procedures shall include, but not be limited  
24 to:

25 (1) procedures to ensure that local law enforcement officers inquire  
26 and document whether an arrestee is the parent, guardian or person  
27 legally charged with the care or custody of a person with an intellectu-  
28 al or developmental disability;

29 (2) procedures to allow for the arrangement of temporary care for the  
30 person with an intellectual or developmental disability when such  
31 person's parent, guardian or other person legally charged with the care  
32 or custody of such person is arrested to ensure such person's safety and  
33 well-being, which may include allowing the arrested parent, guardian or  
34 other person legally charged with the care or custody of the person with  
35 an intellectual or developmental disability to place additional phone  
36 calls to arrange for child care;

37 (3) education on how witnessing violence causes emotional harm to a  
38 person with an intellectual or developmental disability and how law  
39 enforcement can assist in minimizing the impact of such harm; and

40 (4) information on the availability of access to community-based  
41 providers of crises intervention, protection and other supportive  
42 resources that could aid the person with an intellectual or develop-  
43 mental disability when such person's parent, guardian or other person  
44 legally charged with the care or custody of such person;

45 § 3. The criminal procedure law is amended by adding two new sections  
46 120.85 and 140.17 to read as follows:

47 § 120.85 Arrests sensitive to persons with an intellectual or develop-  
48 mental disability.

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 person with an intellectual or developmental disability who may  
53 be at risk as a result of the arrest. The officer shall make reasonable  
54 efforts to ensure the safety of such person in accordance with the poli-  
55 cies and procedures established pursuant to section two hundred four-

1 teen-g or paragraph (f-2) of subdivision three of section eight hundred  
2 forty of the executive law as applicable.

3 § 140.17 Arrests sensitive to persons with an intellectual or develop-  
4 mental disability.

5 A state or local law enforcement officer who arrests an individual  
6 shall, at the time of the arrest, inquire whether such individual is the  
7 parent, guardian or other person legally charged with the care or custo-  
8 dy of a person with an intellectual or developmental disability who may  
9 be at risk as a result of the arrest. The officer shall make reasonable  
10 efforts to ensure the safety of such person in accordance with the poli-  
11 cies and procedures established pursuant to section two hundred four-  
12 teen-g or paragraph (f-2) of subdivision three of section eight hundred  
13 forty of the executive law as applicable.

14 § 4. This act shall take effect on the one hundred eightieth day after  
15 it shall have become a law.