STATE OF NEW YORK

61

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the mental hygiene law and the executive law, in relation to establishing an electronic monitoring program for children diagnosed with developmental disabilities

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

Section 1. The mental hygiene law is amended by adding a new section 13.44 to read as follows:

§ 13.44 Electronic monitoring for children with developmental disabilities.

1. For the purposes of this section the following terms shall have the following meanings:

(a) "Eligible applicant" shall mean a designated parent, grandparent, adult sibling, or otherwise qualified person as defined under section 33.16 of this chapter, of a child who has been diagnosed by a physician as an individual with a developmental disability as defined by section 1.03 of this chapter.

(b) "Electronic monitoring device" shall mean any radio, global positioning system, cellular device or any other satellite-based monitoring device that can provide continuous tracking of the geographic location of children and an automated monitoring system that can be used by an appropriate law enforcement agency at the request of an eligible applicant.

2. The commissioner, in consultation with the commissioner of the division of criminal justice services, shall establish a voluntary program to provide electronic monitoring devices to an eligible applicant for the purpose of being able to geographically locate a child upon circumstances where the child is lost, missing or otherwise unable to be accounted for.

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

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3. (a) Upon the request of an eligible applicant, the nonprofit organization or local governmental unit shall issue such electronic monitoring device in accordance with eligibility and documentation criteria established by the office for a fee to be determined by the commissioner. At a minimum, such eligibility and documentation criteria shall require the active involvement of the child when such child has the capacity to make an informed decision, for the purpose of determining the child's willingness to participate in the voluntary program established under this section.

(b) If a child is lost, missing or otherwise unable to be accounted for, an eligible applicant may coordinate with the appropriate law enforcement agency and inform the agency of the location of the child using the electronic monitoring device and receiver.

(c) All applicant information provided by the parent to the office or the division of criminal justice services shall remain confidential and not be divulged by the office or the division of criminal justice services except in cases where the eligible applicant signs a separate consent form providing that any personally identifiable information on the child may only be released in the event that an eligible applicant seeks law enforcement action to find the location of a child who is lost, missing or otherwise unable to be accounted for.

4. To the extent practicable, the commissioner shall utilize local governmental units or nonprofit organizations which currently provide electronic monitoring devices for the purposes of being able to geographically track children who have an developmental disability as defined in section 1.03 of this chapter.

§ 2. Section 837 of the executive law is amended by adding a new subdivision 24 to read as follows:

24. The division, in cooperation with the office for people with developmental disabilities, shall provide recommendations to law enforcement agencies regarding the risks associated with developmental disabilities as defined in section 1.03 of the mental hygiene law and appropriate response techniques concerning such disabilities. Recommendations shall include information pertaining to the utilization of electronic monitoring devices to determine the location of children diagnosed with developmental disabilities.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.