

# 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:

1 Section 1. The mental hygiene law is amended by adding a new section  
2 13.44 to read as follows:

3 § 13.44 Electronic monitoring for children with developmental disabili-  
4 ties.

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

7 (a) "Eligible applicant" shall mean a designated parent, grandparent,  
8 adult sibling, or otherwise qualified person as defined under section  
9 33.16 of this chapter, of a child who has been diagnosed by a physician  
10 as an individual with a developmental disability as defined by section  
11 1.03 of this chapter.

12 (b) "Electronic monitoring device" shall mean any radio, global posi-  
13 tioning system, cellular device or any other satellite-based monitoring  
14 device that can provide continuous tracking of the geographic location  
15 of children and an automated monitoring system that can be used by an  
16 appropriate law enforcement agency at the request of an eligible appli-  
17 cant.

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

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

LBD01524-01-3

1 3. (a) Upon the request of an eligible applicant, the nonprofit organ-  
2 ization or local governmental unit shall issue such electronic monitor-  
3 ing device in accordance with eligibility and documentation criteria  
4 established by the office for a fee to be determined by the commission-  
5 er. At a minimum, such eligibility and documentation criteria shall  
6 require the active involvement of the child when such child has the  
7 capacity to make an informed decision, for the purpose of determining  
8 the child's willingness to participate in the voluntary program estab-  
9 lished under this section.

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

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

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

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

29 24. The division, in cooperation with the office for people with  
30 developmental disabilities, shall provide recommendations to law  
31 enforcement agencies regarding the risks associated with developmental  
32 disabilities as defined in section 1.03 of the mental hygiene law and  
33 appropriate response techniques concerning such disabilities. Recommen-  
34 dations shall include information pertaining to the utilization of elec-  
35 tronic monitoring devices to determine the location of children diag-  
36 nosed with developmental disabilities.

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