Kevin and Avonte's Law of 2017

Summary

Prepared by the Autism Society Public Policy Staff

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On March 23, 2018 President Trump signed the omnibus bill providing final appropriations for Fiscal Year 2018. The funding bill includes Kevin and Avonte’s Law (H.R. 4421 and S. 2070), a bipartisan bill for which the Autism Society has advocated since it was first introduced in 2014 by Senator Chuck Schumer (D-NY). The lead sponsors of the bills in this Congress are Senators Chuck Grassley (R-IA) and Amy Klobuchar (D-MN), along with 12 co-sponsors in the Senate and Chris Smith (R-NJ), Maxine Waters (D-CA) and Mike Doyle (D-PA), along with 34 co-sponsors in the House.

The bill honors the memory of Kevin Willis and Avonte Oquendo, two boys with autism who drowned after wandering from a supervised setting. The Centers for Disease Control and Prevention (CDC) identified one in sixty-eight children as having autism spectrum disorder (ASD), and up to a one-half of these children may wander away from a supervised setting.

Specifically, the bill amends the Violent Crime Control and Law Enforcement Act of 1994 to reauthorize the Missing Alzheimer’s Disease Patient Alert Program and promote initiatives intended to reduce the risk of injury or death relating to the wandering or elopement of children and adults with autism, other developmental I disabilities or dementia.

The Autism Society published a statement following the bill’s signing. “We are pleased that the appropriations bill includes the Kevin and Avonte’s Law, a legislative priority for our organization for the last four years, said Scott Badesch, Autism Society President and Chief Executive Officer. “Kevin and Avonte’s Law will infuse necessary funding to states to train first responders and help families supporting people with autism or other disabilities who tend to wander, sometimes resulting in death or injuries.” Following is a summary of the law’s major provisions.

Competitive Grant Program

The law authorizes a $2 million grant program in Sec. 102 aimed at reducing the number of deaths and injuries of people with intellectual and developmental disabilities such as autism
and Alzheimer Disease. The Department of Justice will, subject to appropriations, provide competitive grants to health care agencies, State and local law enforcement agencies, or public safety agencies and nonprofit organizations (such as Autism Society affiliates) that provide prevention and response information, including online training resources, and referrals to families or guardians of such individuals who, wander from a safe environment; and provide education and training, including online training resources, to first responders, school personnel, clinicians, and the public in order to increase safety, facilitate rescue and recovery, and be able to recognize and respond appropriately to such individuals.

These grants will also develop, operate, or enhance a notification or communications systems for alerts, advisories, or dissemination of other information for the recovery of missing individuals with developmental disabilities, such as autism; and assist agencies in designing and operating locative tracking technology programs for individuals who have wandered from safe environments.

While the law authorizes these grants, the Appropriations Committee will be responsible for providing the funding for these programs. The Autism Society will be advocating for such funding and will share the announcement of awards as soon as they become available.

Annual Report

Beginning two years after the law is signed and annually, the Attorney General will be required to submit a report to Congress to address the number of individuals who benefitted from the Missing Americans Alert Program, including information such as the number of individuals with reduced unsafe wandering, the number of people who were trained through the program, and the estimated number of people who were impacted by the program. The report must also track the number of State, local, and tribal law enforcement or public safety agencies that applied for and used funding under the Missing Americans Alert Program. The report will show the reveal the companies for which their locative tracking technology was used by State, local, and tribal law enforcement or public safety agencies; the nonprofit organizations that partnered with agencies and the result of each partnership; the number of children with autism or another developmental disability with wandering tendencies or adults with Alzheimer's being served; and any recommendations for improving the Missing Americans Alert Program.

Missing Children’s Assistance Act

Title II, Sec. 201 amends the Missing Children’s Assistance Act (34 U.S.C. 11293(b)(1)(H)) by including cases involving children with developmental disabilities such as autism. This means that the existing national program for identifying and finding missing children will explicitly include children with autism.
Standards and Best Practices for Tracking Devices

To protect the civil rights of individuals with autism, Sec. 302 of the law requires the Attorney General, in consultation with the Secretary of Health and Human Services and leading research, advocacy, self-advocacy, and service organizations to establish standards and best practices relating to the use of non-invasive and non-permanent tracking technology. These tracking devices are to be used only when the parent or guardian has determined that a tracking device is the least restrictive alternative option available to help locate the child in the event of a crisis.

When determining these standards, the Attorney General must determine the criteria used to determine which individuals would benefit from the use of a tracking device; who should have direct access to the tracking system; and which non-invasive and non-permanent types of tracking devices can be used in compliance with the standards and best practices. Procedures must be developed to safeguard the privacy of the data used by the tracking device. In addition, training must be provided for law enforcement agencies to recognize signs of abuse during interactions with applicants for tracking devices. Tracking data may not be used by a Federal entity to create a database. Parents and guardians may not be coerced into using tracking devices.

Next Steps

Now that the law has been signed, the next steps will be to advocate for appropriations for the grant program and to work with the office of the Attorney General and Department of Health and Human Services to assist in identifying standards and best practices related to the use of tracking technologies. The Autism Society will be reaching out to affiliates for assistance and will keep the network informed of the implementation of the law.

For more history and details about this new law, please see the full text of the bill and the Senate Committee Report.