S T A T E O F N E W Y O R K

2937

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN, CLARK, GREENE -- Multi-Sponsored by -- M. of A. EDDINGTON, MAYERSOHN, PERRY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the social services law, in relation to training in and limitations on the use of taser stun guns by law enforcement officers and certain residential care providers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new section 838-a to read as follows:

S 838-A. USE OF TASER STUN GUNS; TRAINING REQUIRED; LIMITS. 1. NO POLICE DEPARTMENT THAT USES A TASER STUN GUN AS PART OF ITS LAW ENFORCEMENT ARSENAL OF WEAPONS SHALL ISSUE SUCH TASER STUN GUNS TO A POLICE OFFICER OR SECURITY GUARD FOR USE WHILE ON OFFICIAL DUTY UNLESS AND UNTIL SUCH OFFICER OR GUARD HAS RECEIVED MANDATORY TRAINING IN THE SAFE USE AND HANDLING OF SUCH TASER STUN GUN, AS PROVIDED IN SECTION EIGHT HUNDRED THIRTY-SEVEN-S OF THIS ARTICLE.

2. NO POLICE OFFICER OR SECURITY GUARD SHALL USE SUCH TASER STUN GUN ON ANY PERSON WHO APPEARS TO BE UNDER THE AGE OF EIGHTEEN YEARS.

3. AS USED IN THIS SECTION, "POLICE DEPARTMENT" MEANS A STATE, COUNTY, CITY, VILLAGE OR TOWN POLICE DEPARTMENT, POLICE DISTRICT, OR SHERIFF'S DEPARTMENT.

4. AS USED IN THIS SECTION, A "SECURITY GUARD" MEANS A PRIVATE COLLEGE CAMPUS SECURITY OFFICER, AS PROVIDED IN SECTION TWO HUNDRED NINE-AA OF THE GENERAL MUNICIPAL LAW, SECTION SIX HUNDRED SIXTY-TWO OF THE COUNTY LAW, OR SECTION SIXTY-FOUR HUNDRED THIRTY-FIVE OF THE EDUCATION LAW; OR A SECURITY GUARD AS DEFINED IN SECTION EIGHTY-NINE-F OF THE GENERAL BUSINESS LAW.

S 2. The executive law is amended by adding a new section 837-s to read as follows:

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

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S 837-S. TASER STUN GUN SAFETY PROGRAM. THE COMMISSIONER, IN CONSULTATION WITH THE DIVISION OF STATE POLICE, THE MUNICIPAL TRAINING COUNCIL, AND THE COMMISSIONER OF THE NEW YORK CITY POLICE DEPARTMENT, OR HIS OR HER DESIGNEE, SHALL DEVELOP A TASER STUN GUN SAFETY PROGRAM TO ENSURE THE SAFE USE AND HANDLING OF SUCH WEAPON BY POLICE OFFICERS AND SECURITY GUARDS, AS DEFINED IN SECTION EIGHT HUNDRED THIRTY-EIGHT-A OF THIS ARTICLE, IN THE STATE OF NEW YORK. THE COMMISSIONER SHALL THEN PROMULGATE RULES AND REGULATIONS NECESSARY FOR THE EFFICIENT IMPLEMENTATION OF SUCH SAFETY PROGRAM AND THE REQUIREMENTS FOR ANNUAL RECERTIFICATION OF POLICE OFFICERS AND SECURITY GUARDS WHO SUCCESSFULLY COMPLETE SUCH PROGRAM.

S 3. Subdivision 2 of section 483-e of the social services law, as added by chapter 624 of the laws of 2006, is amended to read as follows:

2. Establishment of coordinated standards. The committee shall identify the most effective, least restrictive and safest techniques for the modification of a child's behavior in response to an actual or perceived threat by such child of harm or bodily injury to such child, or to another person, where such child is a resident of, or otherwise served by a residential treatment facility, a children's day treatment program, a family based treatment home, a community residence, an individualized residential alternative, a family care home, day habilitation, day treatment, an intermediary care facility, residential habilitation, an agency operated boarding home, an approved private residential school or an approved private non-residential school. Such techniques shall include, but not be limited to, the use of physical restraint, therapeutic crisis intervention, crisis management or such other de-escalation techniques designed to help staff assist children to manage crisis situations; PROVIDED, HOWEVER, THAT THE USE OF TASER STUN GUNS SHALL BE PROHIBITED. The committee shall review models of crisis prevention and intervention, including the use of physical restraints. The committee shall establish uniform and coordinated standards giving preference to the least restrictive alternative for the use of such techniques in such children service settings.

S 4. This act shall take effect immediately.