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

6262

2009-2010 Regular Sessions

I N A S S E M B L Y

February 27, 2009

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

AN ACT to amend the executive law, in relation to establishing a statewide gang database

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 231 to read as follows:

S 231. STATEWIDE GANG DATABASE. 1. THE SUPERINTENDENT OF THE DIVISION OF STATE POLICE IS HEREBY AUTHORIZED TO DEVELOP AND MAINTAIN A STATEWIDE GANG DATABASE CONSISTING OF IDENTIFICATION INFORMATION PERTAINING TO GANG MEMBERS. FOR THE PURPOSE OF THIS SECTION, "GANG MEMBER" OR "CRIMINAL STREET GANG MEMBER" SHALL MEAN AN INDIVIDUAL WHO IS A MEMBER OF A FORMAL OR INFORMAL GROUP, CLUB, ORGANIZATION, OR ASSOCIATION OF THREE OR MORE INDIVIDUALS WHO PARTICIPATE, OR AGREE TO PARTICIPATE, IN CRIMINAL ACTIVITY.

2. IN DEVELOPING AND MAINTAINING THE STATEWIDE GANG DATABASE ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE SUPERINTENDENT OF THE DIVISION OF STATE POLICE SHALL:

(A) CREATE A UNIFORM REPORTING FORMAT FOR THE ENTRY OF PERTINENT INFORMATION REGARDING THE REPORT OF AN ARRESTED CRIMINAL STREET GANG MEMBER OR ORGANIZED GANG AFFILIATES INTO THE STATEWIDE GANG DATABASE;

(B) NOTIFY ALL STATE AND LOCAL LAW ENFORCEMENT AGENCIES THAT REPORTS OF ARRESTED CRIMINAL STREET GANG MEMBERS OR ORGANIZED GANG AFFILIATES SHALL BE ENTERED INTO THE STATEWIDE GANG DATABASE AS SOON AS THE MINIMUM LEVEL OF DATA, TO BE SPECIFIED BY SUCH SUPERINTENDENT, IS AVAILABLE TO THE REPORTING AGENCY;

(C) DEVELOP AND IMPLEMENT A POLICY FOR NOTIFYING STATE AND LOCAL LAW ENFORCEMENT AGENCIES OF THE EMERGENCE OF NEW ORGANIZED CRIMINAL STREET GANGS, OR THE CHANGE OF A NAME OR OTHER IDENTIFYING INFORMATION, SIGN OR SYMBOL OF AN EXISTING ORGANIZED CRIMINAL STREET GANG;

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

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(D) COMPILE AND RETAIN INFORMATION REGARDING ORGANIZED CRIMINAL STREET GANGS AND THEIR MEMBERS AND AFFILIATES, IN A MANNER THAT ALLOWS THE INFORMATION TO BE USED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND OTHER STATE AGENCIES, AS DEEMED APPROPRIATE BY THE SUPERINTENDENT OF THE DIVISION OF STATE POLICE, FOR INVESTIGATIVE PURPOSES;

(E) COMPILE AND MAINTAIN A HISTORY DATA REPOSITORY RELATING TO ORGANIZED CRIMINAL STREET GANGS AND THEIR MEMBERS AND AFFILIATES IN ORDER TO DEVELOP AND IMPROVE TECHNIQUES UTILIZED BY LAW ENFORCEMENT AGENCIES AND PROSECUTORS IN THE INVESTIGATION, APPREHENSION, AND PROSECUTION OF MEMBERS AND AFFILIATES OF ORGANIZED GANGS;

(F) CREATE A QUALITY CONTROL PROGRAM REGARDING CONFIRMATION OF ORGANIZED CRIMINAL STREET GANG MEMBERSHIP AND ORGANIZED GANG AFFILIATION DATA, TIMELINESS AND ACCURACY OF INFORMATION ENTERED INTO THE STATEWIDE GANG DATABASE AND PERFORMANCE AUDITS OF ALL AGENCIES ENTERING INFORMATION;

(G) DETERMINE WHICH LAW ENFORCEMENT AGENCIES MAY BENEFIT FROM ACCESS TO THE STATEWIDE GANG DATABASE, AND NOTIFY THEM OF ITS EXISTENCE; AND

(H) COOPERATE WITH ALL LAW ENFORCEMENT AGENCIES WISHING TO GAIN ACCESS TO THE STATEWIDE GANG DATABASE, AND FACILITATE THEIR ENTRY INTO AND CONTINUED ACCESS TO THE DATABASE SYSTEM.

S 2. Severability. If any provision of this act, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision of this act, or in its application to the person or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.