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

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I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. KAVANAGH, PERALTA, ESPAILLAT, PHEFFER, ARROYO, HOOPER -- Multi-Sponsored by -- M. of A. GABRYSZAK, GLICK, KOON, MAISEL, McDONOUGH, REILLY, TITONE -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, the executive law and the county law, in relation to arrests for violations of orders of protection and mandatory training for police officers with regard to the assessing and handling of domestic violence matters

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

Section 1. The opening paragraph of subdivision 4 of section 140.10 of the criminal procedure law, as added by chapter 222 of the laws of 1994, is amended to read as follows:

Notwithstanding any other provisions of this section, a police officer [shall] MAY arrest a person[, and shall not attempt to reconcile the parties or mediate,] where such officer has reasonable cause to believe that:

S 2. Section 575 of the executive law is amended by adding a new subdivision 3-a to read as follows:

3-A. DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT PERSONNEL. (A) THE OFFICE, IN CONJUNCTION WITH THE SUPERINTENDENT OF THE STATE POLICE AND THE COUNTY TASK FORCE AUTHORIZED BY SUBDIVISION SEVEN OF THIS SECTION, SHALL, BY JANUARY FIRST, TWO THOUSAND TEN, DEVELOP A COMPREHENSIVE, STANDARDIZED TRAINING COURSE FOR LAW ENFORCEMENT OFFICERS IN THE STATE, WHICH COURSE SHALL FOCUS ON THE RECOGNITION, ASSESSMENT, HANDLING, DOCUMENTATION AND INVESTIGATION OF DOMESTIC VIOLENCE, POLICE INTERVENTION IN DOMESTIC VIOLENCE MATTERS, AND THE ACTIONS NECESSARY AND THE NEED AND MEANS AVAILABLE TO PROTECT THE VICTIMS OF DOMESTIC VIOLENCE. THE COURSE SHALL PROVIDE INSTRUCTION IN APPLICABLE PROVISIONS OF LAW, INCLUDING, BUT NOT LIMITED TO, RELEVANT SECTIONS OF THE FAMILY COURT ACT, DOMESTIC RELATIONS LAW, AND CRIMINAL PROCEDURE LAW. THE OFFICE SHALL DEVELOP WRITTEN MATERIALS AND OTHER MEDIA TO BE USED IN CONJUNC-

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

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TION WITH THE COURSE AND SHALL PROVIDE SUCH MATERIALS TO LAW ENFORCEMENT ENTITIES AT A COST TO BE DETERMINED BY THE EXECUTIVE DIRECTOR.

(B) EVERY LAW ENFORCEMENT OFFICER IN THIS STATE SHALL, ON OR BEFORE JULY FIRST, TWO THOUSAND TEN, AND EVERY FOUR YEARS THEREAFTER, COMPLETE COURSE WORK OR TRAINING APPROPRIATE TO THE OFFICER'S PROFESSIONAL ACTIVITIES AS APPROVED BY THE OFFICE. EACH LAW ENFORCEMENT AGENCY AND DEPARTMENT SHALL DOCUMENT THAT THE PROFESSIONAL HAS COMPLETED TRAINING IN ACCORDANCE WITH THIS SECTION.

(C) THE OFFICE SHALL PROVIDE AN EXEMPTION FROM THIS REQUIREMENT TO ANY LAW ENFORCEMENT OFFICER WHO REQUESTS SUCH AN EXEMPTION AND WHO: (I) CLEARLY DEMONSTRATES TO THE OFFICE'S SATISFACTION THAT THERE WOULD BE NO NEED FOR HIM OR HER TO COMPLETE SUCH COURSE WORK OR TRAINING BECAUSE OF THE NATURE OF HIS OR HER PROFESSIONAL ACTIVITIES; OR (II) HAS COMPLETED COURSE WORK OR TRAINING DEEMED BY THE OFFICE TO BE EQUIVALENT TO THE TRAINING REQUIRED PURSUANT TO THIS SECTION. THE OFFICE SHALL CONSULT WITH ORGANIZATIONS REPRESENTATIVE OF PROFESSIONS, INSTITUTIONS AND THOSE WITH EXPERTISE IN DOMESTIC VIOLENCE WITH RESPECT TO DETERMINING STANDARDS FOR THE NATURE, CONTENT AND LENGTH OF COURSE WORK AND TRAINING DEEMED SATISFACTORY FOR PURPOSES OF GRANTING AN EXEMPTION AS PROVIDED IN THIS PARAGRAPH.

S 3. Section 214-b of the executive law, as added by chapter 222 of the laws of 1994, is amended to read as follows:

S 214-b. Family offense intervention. 1. The superintendent shall, for all members of the state police including new and veteran officers, develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention in incidents of family offenses. Such policies and procedures shall make provision for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(a) intake and recording of victim statements, on a standardized "domestic violence incident report form" promulgated by the state division of criminal justice services in consultation with the superintendent and with the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act and section 530.11 of the criminal procedure law; AND

(b) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law, and notifying victims of their rights, including but not limited to immediately providing the victim with the written notice provided in subdivision six of section 530.11 of the criminal procedure law and subdivision five of section eight hundred twelve of the family court act.

2. THE SUPERINTENDENT SHALL INSTITUTE A MANDATORY TRAINING PROGRAM FOR ALL MEMBERS OF THE STATE POLICE, INCLUDING NEW AND VETERAN OFFICERS, IN THE ASSESSMENT, HANDLING AND INVESTIGATION OF, AND INTERVENTION IN, DOMESTIC VIOLENCE MATTERS, IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION THREE-A OF SECTION FIVE HUNDRED SEVENTY-FIVE OF THIS CHAPTER.

S 4. The county law is amended by adding a new section 238 to read as follows:

S 238. DOMESTIC VIOLENCE TRAINING. 1. BY JANUARY FIRST, TWO THOUSAND TEN, THE GOVERNING BODY OF EACH COUNTY SHALL AUTHORIZE AND DIRECT THE CHIEF LAW ENFORCEMENT OFFICER OF THE COUNTY TO ESTABLISH AND MAINTAIN A TRAINING PROGRAM FOR ALL LAW ENFORCEMENT OFFICERS IN THE COUNTY IN THE ASSESSMENT AND HANDLING OF DOMESTIC VIOLENCE MATTERS IN COMPLIANCE WITH THE PROVISIONS OF SECTION FIVE HUNDRED SEVENTY-FIVE OF THE EXECUTIVE LAW, AND SHALL AUTHORIZE ANY EXPENDITURES AS MAY BE NECESSARY TO IMPLEMENT AND MAINTAIN SUCH PROGRAM.

2. THE CHIEF LAW ENFORCEMENT OFFICER OF THE COUNTY SHALL IMPLEMENT SUCH REPORTING PROGRAM BY JULY FIRST, TWO THOUSAND TEN.

3. ANY COUNTY WHICH HAS ALREADY IMPLEMENTED A DOMESTIC VIOLENCE TRAINING PROGRAM WHICH COMPLIES WITH THE PROVISIONS OF SECTION FIVE HUNDRED SEVENTY-FIVE OF THE EXECUTIVE LAW MAY CONTINUE TO UTILIZE SUCH PROGRAM, PROVIDED THE PROGRAM REMAINS CAPABLE OF SATISFYING THE REQUIREMENTS SET FORTH IN SUBDIVISION THREE-A OF SECTION FIVE HUNDRED SEVENTY-FIVE OF THE EXECUTIVE LAW.

S 5. This act shall take effect immediately; provided, however, the amendments to subdivision 4 of section 140.10 of the criminal procedure law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.