

3297

2009-2010 Regular Sessions

I N A S S E M B L Y

January 26, 2009

Introduced by M. of A. BRADLEY, PERALTA, ESPAILLAT, PHEFFER -- Multi-Sponsored by -- M. of A. EDDINGTON, GABRYSZAK, KOON, MAISEL, McDO-NOUGH, REILLY -- 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:

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

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

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

10 3-A. DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT PERSONNEL. (A)  
11 THE OFFICE, IN CONJUNCTION WITH THE SUPERINTENDENT OF THE STATE POLICE  
12 AND THE COUNTY TASK FORCE AUTHORIZED BY SUBDIVISION SEVEN OF THIS  
13 SECTION, SHALL, BY JANUARY FIRST, TWO THOUSAND TEN, DEVELOP A COMPREHEN-  
14 SIVE, STANDARDIZED TRAINING COURSE FOR LAW ENFORCEMENT OFFICERS IN THE  
15 STATE, WHICH COURSE SHALL FOCUS ON THE RECOGNITION, ASSESSMENT, HANDL-  
16 ING, DOCUMENTATION AND INVESTIGATION OF DOMESTIC VIOLENCE, POLICE INTER-  
17 VENTION IN DOMESTIC VIOLENCE MATTERS, AND THE ACTIONS NECESSARY AND THE  
18 NEED AND MEANS AVAILABLE TO PROTECT THE VICTIMS OF DOMESTIC VIOLENCE.  
19 THE COURSE SHALL PROVIDE INSTRUCTION IN APPLICABLE PROVISIONS OF LAW,  
20 INCLUDING, BUT NOT LIMITED TO, RELEVANT SECTIONS OF THE FAMILY COURT  
21 ACT, DOMESTIC RELATIONS LAW, AND CRIMINAL PROCEDURE LAW. THE OFFICE  
22 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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1 TION WITH THE COURSE AND SHALL PROVIDE SUCH MATERIALS TO LAW ENFORCEMENT  
2 ENTITIES AT A COST TO BE DETERMINED BY THE EXECUTIVE DIRECTOR.

3 (B) EVERY LAW ENFORCEMENT OFFICER IN THIS STATE SHALL, ON OR BEFORE  
4 JULY FIRST, TWO THOUSAND TEN, AND EVERY FOUR YEARS THEREAFTER, COMPLETE  
5 COURSE WORK OR TRAINING APPROPRIATE TO THE OFFICER'S PROFESSIONAL ACTIV-  
6 ITIES AS APPROVED BY THE OFFICE. EACH LAW ENFORCEMENT AGENCY AND DEPART-  
7 MENT SHALL DOCUMENT THAT THE PROFESSIONAL HAS COMPLETED TRAINING IN  
8 ACCORDANCE WITH THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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