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

63

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to the temporary surrender of firearms for public safety purposes

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

Section 1. Section 400.05 of the penal law is amended by adding a new subdivision 7 to read as follows:

7. (A) ANY PERSON WHO IS TAKEN INTO CUSTODY BY THE POLICE FOR THE PURPOSE OF A MENTAL EXAMINATION, AND PRIOR TO AN EXAMINATION ORDERED PURSUANT TO ARTICLE SEVEN HUNDRED THIRTY OF THE CRIMINAL PROCEDURE LAW, SHALL BE REQUIRED TO SURRENDER HIS OR HER FIREARMS AS DEFINED IN SUBDIVISION THREE OF SECTION 265.00 OF THIS CHAPTER, TO THE POLICE.

(B) THERE SHALL BE A "COOLING OFF PERIOD" FOLLOWING THE DISCHARGE FROM PSYCHIATRIC CARE DURING WHICH TIME FIREARMS, WHICH CAME INTO POLICE CUSTODY DURING THE PERSON'S PRE-HOSPITALIZATION INTERVENTION OR DURING HOSPITALIZATION, MAY BE KEPT IN POLICE CUSTODY FOR THIRTY DAYS, OR AFTER A PSYCHIATRIC EXAMINER HAS DETERMINED WHETHER THE PERSON IS A THREAT TO HIMSELF OR HERSELF OR OTHERS. HOWEVER, A JUDGE OF THE LOCAL JURISDICTION MAY ORDER AN EARLY RETURN OF THE FIREARMS IF HE OR SHE DETERMINES THAT IT WOULD BE APPROPRIATE TO DO SO.

S 2. This act shall take effect immediately.

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

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