

6219

2011-2012 Regular Sessions

I N A S S E M B L Y

March 9, 2011

Introduced by M. of A. KAVANAGH, PHEFFER, ARROYO, HOOPER, SCARBOROUGH --
Multi-Sponsored by -- M. of A. GABRYSZAK, GLICK, 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 ASSEM-
BLY, 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 TWELVE, DEVELOP A COMPRE-
14 HENSIVE, STANDARDIZED TRAINING COURSE FOR LAW ENFORCEMENT OFFICERS IN
15 THE STATE, WHICH COURSE SHALL FOCUS ON THE RECOGNITION, ASSESSMENT,
16 HANDLING, DOCUMENTATION AND INVESTIGATION OF DOMESTIC VIOLENCE, POLICE
17 INTERVENTION IN DOMESTIC VIOLENCE MATTERS, AND THE ACTIONS NECESSARY AND
18 THE NEED AND MEANS AVAILABLE TO PROTECT THE VICTIMS OF DOMESTIC
19 VIOLENCE. THE COURSE SHALL PROVIDE INSTRUCTION IN APPLICABLE PROVISIONS
20 OF LAW, INCLUDING, BUT NOT LIMITED TO, RELEVANT SECTIONS OF THE FAMILY
21 COURT ACT, DOMESTIC RELATIONS LAW, AND CRIMINAL PROCEDURE LAW. THE
22 OFFICE SHALL DEVELOP WRITTEN MATERIALS AND OTHER MEDIA TO BE USED IN

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

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1 CONJUNCTION WITH THE COURSE AND SHALL PROVIDE SUCH MATERIALS TO LAW
2 ENFORCEMENT ENTITIES AT A COST TO BE DETERMINED BY THE EXECUTIVE DIREC-
3 TOR.

4 (B) EVERY LAW ENFORCEMENT OFFICER IN THIS STATE SHALL, ON OR BEFORE
5 JULY FIRST, TWO THOUSAND TWELVE, AND EVERY FOUR YEARS THEREAFTER,
6 COMPLETE COURSE WORK OR TRAINING APPROPRIATE TO THE OFFICER'S PROFES-
7 SIONAL ACTIVITIES AS APPROVED BY THE OFFICE. EACH LAW ENFORCEMENT AGENCY
8 AND DEPARTMENT SHALL DOCUMENT THAT THE PROFESSIONAL HAS COMPLETED TRAIN-
9 ING IN ACCORDANCE WITH THIS SECTION.

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

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

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

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

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

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

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

1 S 238. DOMESTIC VIOLENCE TRAINING. 1. BY JANUARY FIRST, TWO THOUSAND
2 TWELVE, 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 TWELVE.

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.