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

4288

2015-2016 Regular Sessions

I N S E N A T E

March 11, 2015

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the executive law and the criminal procedure law, in relation to translations and notification to be made in other than the English language in family offense interventions

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

Section 1. 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. 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, AND THE PROMPT TRANSLATION OF SUCH STATEMENTS IF MADE IN A LANGUAGE OTHER THAN ENGLISH, IN ACCORDANCE WITH SUBDIVISION (C) OF THIS SECTION, 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;

(b) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision

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

LBD03999-01-5

four of section 140.10 of the criminal procedure law, and notifying victims of their rights, IN THEIR NATIVE LANGUAGE, IF IDENTIFIED AS OTHER THAN ENGLISH, IN ACCORDANCE WITH SUBDIVISION (C) OF THIS SECTION, 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.

(C) THE SUPERINTENDENT, IN CONSULTATION WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE SHALL DETERMINE THE LANGUAGES IN WHICH SUCH TRANSLATION REQUIRED BY SUBDIVISION (A) OF THIS SECTION, AND THE NOTIFICATION REQUIRED PURSUANT TO SUBDIVISION (B) OF THIS SECTION, SHALL BE PROVIDED. SUCH DETERMINATION SHALL BE BASED ON THE SIZE OF THE NEW YORK STATE POPULATION THAT SPEAKS EACH LANGUAGE AND ANY OTHER RELEVANT FACTOR. SUCH WRITTEN NOTICE REQUIRED PURSUANT TO SUBDIVISION (B) OF THIS SECTION SHALL BE MADE AVAILABLE TO ALL STATE POLICE OFFICERS IN THE STATE.

S 2. Paragraph (f) of subdivision 3 of section 840 of the executive law, as amended by section 5 of part Q of chapter 56 of the laws of 2009, is amended to read as follows:

(f) 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 by new and veteran police officers in incidents of family offenses. Such policies and procedures shall make provisions for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(1) intake and recording of victim statements, AND THE PROMPT TRANSLATION OF SUCH STATEMENTS IF MADE IN A LANGUAGE OTHER THAN ENGLISH, IN ACCORDANCE WITH SUBPARAGRAPH THREE OF THIS PARAGRAPH, on a standardized "domestic violence incident report form" promulgated by the division of criminal justice services in consultation with the superintendent of state police, representatives of local police forces and 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

(2) 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, IN THEIR NATIVE LANGUAGE, IF IDENTIFIED AS OTHER THAN ENGLISH, IN ACCORDANCE WITH SUBPARAGRAPH THREE OF THIS PARAGRAPH, including but not limited to immediately providing the victim with the written notice required 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;

(3) DETERMINE, IN CONSULTATION WITH THE SUPERINTENDENT OF STATE POLICE AND THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, THE LANGUAGES IN WHICH SUCH TRANSLATION REQUIRED BY SUBPARAGRAPH ONE OF THIS PARAGRAPH, AND THE NOTIFICATION REQUIRED BY SUBPARAGRAPH TWO OF THIS PARAGRAPH, SHALL BE PROVIDED. SUCH DETERMINATION SHALL BE BASED ON THE SIZE OF THE NEW YORK STATE POPULATION THAT SPEAKS EACH LANGUAGE AND ANY OTHER RELEVANT FACTOR. SUCH WRITTEN NOTICE REQUIRED PURSUANT TO SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE MADE AVAILABLE TO ALL LOCAL LAW ENFORCEMENT

AGENCIES THROUGHOUT THE STATE. NOTHING IN THIS PARAGRAPH SHALL PREVENT THE COUNCIL FROM USING THE DETERMINATIONS MADE BY THE SUPERINTENDENT OF STATE POLICE PURSUANT TO SUBDIVISION (C) OF SECTION TWO HUNDRED FOURTEEN-B OF THIS CHAPTER;

S 3. The opening paragraph of subdivision 15 of section 837 of the executive law, as amended by chapter 626 of the laws of 1997, is amended to read as follows:

Promulgate, in consultation with the superintendent of state police and the state office for the prevention of domestic violence, AND IN ACCORDANCE WITH PARAGRAPH (F) OF SUBDIVISION THREE OF SECTION EIGHT HUNDRED FORTY OF THIS ARTICLE, a standardized "domestic violence incident report form" for use by state and local law enforcement agencies in the reporting, recording and investigation of all alleged incidents of domestic violence, regardless of whether an arrest is made as a result of such investigation. Such form shall be prepared in multiple parts, one of which shall be immediately provided to the victim, and shall include designated spaces for: the recordation of the results of the investigation by the law enforcement agency and the basis for any action taken; the recordation of a victim's allegations of domestic violence; the age and gender of the victim and the alleged offender or offenders; and immediately thereunder a space on which the victim may sign and verify such victim's allegations. Such form shall also include, but not be limited to spaces to identify:

S 4. Subdivision 5 of section 140.10 of the criminal procedure law, as amended by section 72 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

5. Upon investigating a report of a crime or offense between members of the same family or household as such terms are defined in section 530.11 of this chapter and section eight hundred twelve of the family court act, a law enforcement officer shall prepare [and], file, AND TRANSLATE, IN ACCORDANCE WITH SECTION TWO HUNDRED FOURTEEN-B OR EIGHT HUNDRED FORTY OF THE EXECUTIVE LAW, a written report of the incident, on a form promulgated pursuant to section eight hundred thirty-seven of the executive law, including statements made by the victim and by any witnesses, and make any additional reports required by local law enforcement policy or regulations. Such report shall be prepared and filed, whether or not an arrest is made as a result of the officers' investigation, and shall be retained by the law enforcement agency for a period of not less than four years. Where the reported incident involved an offense committed against a person who is sixty-five years of age or older a copy of the report required by this subdivision shall be sent to the New York state committee for the coordination of police services to elderly persons established pursuant to section eight hundred forty-four-b of the executive law. Where the reported incident involved an offense committed by an individual known by the law enforcement officer to be under probation or parole supervision, he or she shall transmit a copy of the report as soon as practicable to the supervising probation department or the department of corrections and community supervision.

S 5. This act shall take effect on the ninetieth day after it shall have become a law.