

7443

I N S E N A T E

May 2, 2016

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

AN ACT to amend the criminal procedure law, in relation to establishing the safe homes act

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

1 Section 1. This act shall be known and may be cited as the "safe homes
2 act".

3 S 2. Section 140.10 of the criminal procedure law is amended by adding
4 a new subdivision 6 to read as follows:

5 6. (A) A POLICE OFFICER WHO RESPONDS TO A REPORT OF A FAMILY OFFENSE
6 AS DEFINED IN SECTION 530.11 OF THIS CHAPTER AND SECTION EIGHT HUNDRED
7 TWELVE OF THE FAMILY COURT ACT MAY, IN THE INTEREST OF PUBLIC SAFETY,
8 TAKE TEMPORARY CUSTODY OF ANY FIREARM, RIFLE, ELECTRONIC DART GUN, ELEC-
9 TRONIC STUN GUN, DISGUISED GUN, IMITATION WEAPON, SHOTGUN, ANTIQUE
10 FIREARM, BLACK POWDER RIFLE, BLACK POWDER SHOTGUN, OR MUZZLE-LOADING
11 FIREARM THAT IS IN PLAIN SIGHT OR IS DISCOVERED PURSUANT TO A CONSENSUAL
12 OR OTHER LAWFUL SEARCH, AND SHALL TAKE TEMPORARY CUSTODY OF ANY SUCH
13 WEAPON THAT IS IN THE POSSESSION OF ANY PERSON ARRESTED FOR THE COMMIS-
14 SION OF SUCH FAMILY OFFENSE OR SUSPECTED OF ITS COMMISSION. AN OFFICER
15 WHO TAKES CUSTODY OF ANY WEAPON PURSUANT TO THIS PARAGRAPH SHALL ALSO
16 TAKE CUSTODY OF ANY LICENSE TO CARRY, POSSESS, REPAIR AND DISPOSE OF
17 SUCH WEAPON ISSUED TO THE PERSON SUSPECTED OF SUCH FAMILY OFFENSE. THE
18 OFFICER SHALL DELIVER SUCH WEAPON AND/OR LICENSE TO THE APPROPRIATE LAW
19 ENFORCEMENT OFFICER AS PROVIDED IN PARAGRAPH (F) OF SUBDIVISION ONE OF
20 SECTION 265.20 OF THE PENAL LAW.

21 (B) UPON TAKING CUSTODY OF WEAPONS OR A LICENSE DESCRIBED IN PARAGRAPH
22 (A) OF THIS SUBDIVISION, THE RESPONDING OFFICER SHALL GIVE THE OWNER OR
23 PERSON IN POSSESSION OF SUCH WEAPONS OR LICENSE A RECEIPT DESCRIBING
24 SUCH WEAPONS OR LICENSE AND INDICATING ANY IDENTIFICATION OR SERIAL
25 NUMBER ON SUCH WEAPONS. SUCH RECEIPT SHALL INDICATE WHERE THE WEAPONS OR
26 LICENSE CAN BE RECOVERED AND DESCRIBE THE PROCESS FOR RECOVERY PROVIDED
27 IN PARAGRAPH (D) OF THIS SUBDIVISION.

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

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1 (C) A WEAPON DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION THAT IS
2 UTILIZED IN THE COMMISSION OF AN OFFENSE, THAT IS UNLAWFULLY POSSESSED,
3 OR THAT A COURT ORDERS TO BE SURRENDERED PURSUANT TO SUBDIVISION TWO OR
4 SUBDIVISION THREE OF SECTION EIGHT HUNDRED FORTY-TWO-A OF THE FAMILY
5 COURT ACT SHALL BE DECLARED A NUISANCE AS PROVIDED IN SUBDIVISION ONE OF
6 SECTION 400.05 OF THE PENAL LAW AND EITHER DISPOSED OF IN THE MANNER
7 DESCRIBED IN SUBDIVISION TWO OR RETAINED AS PROVIDED IN SUBDIVISION
8 THREE OF SECTION 400.05 OF THE PENAL LAW.

9 (D) NOT LESS THAN ONE HUNDRED TWENTY HOURS OR, IN THE EVENT THAT A
10 SATURDAY, SUNDAY OR LEGAL HOLIDAY OCCURS DURING SUCH PERIOD, ONE HUNDRED
11 FORTY-FOUR HOURS AFTER A WEAPON, OTHER THAN A WEAPON DESCRIBED IN PARA-
12 GRAPH (C) OF THIS SUBDIVISION, IS TAKEN INTO TEMPORARY CUSTODY AS
13 PROVIDED IN PARAGRAPH (A) OF THIS SUBDIVISION, THE OWNER OR PERSON WHO
14 WAS IN LAWFUL POSSESSION OF SUCH WEAPON SHALL HAVE THE RIGHT TO ARRANGE
15 FOR THE SALE OR TRANSFER OF SUCH WEAPON TO A DEALER, OR TO HIMSELF OR
16 HERSELF, IN THE MANNER PROVIDED IN SUBDIVISION SIX OF SECTION 400.05 OF
17 THE PENAL LAW.

18 S 3. This act shall take effect immediately.