

4347

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. DAVILA, LENTOL, MOSLEY, OTIS, GOTTFRIED, ROZIC, ROBINSON, HOOPER, WRIGHT -- Multi-Sponsored by -- M. of A. ARROYO, BROOK-KRASNY, MARKEY, McDONOUGH, PERRY, RIVERA, SEPULVEDA, SOLAGES -- read once and referred to the Committee on Codes

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:

1 Section 1. Section 214-b of the executive law, as added by chapter 222
2 of the laws of 1994, is amended to read as follows:
3 S 214-b. Family offense intervention. The superintendent shall, for
4 all members of the state police including new and veteran officers,
5 develop, maintain and disseminate, in consultation with the state office
6 for the prevention of domestic violence, written policies and procedures
7 consistent with article eight of the family court act and applicable
8 provisions of the criminal procedure and domestic relations laws,
9 regarding the investigation of and intervention in incidents of family
10 offenses. Such policies and procedures shall make provision for educa-
11 tion and training in the interpretation and enforcement of New York's
12 family offense laws, including but not limited to:
13 (a) intake and recording of victim statements, AND THE PROMPT TRANS-
14 LATION OF SUCH STATEMENTS IF MADE IN A LANGUAGE OTHER THAN ENGLISH, IN
15 ACCORDANCE WITH SUBDIVISION (C) OF THIS SECTION, on a standardized
16 "domestic violence incident report form" promulgated by the state divi-
17 sion of criminal justice services in consultation with the superinten-
18 dent and with the state office for the prevention of domestic violence,
19 and the investigation thereof so as to ascertain whether a crime has
20 been committed against the victim by a member of the victim's family or
21 household as such terms are defined in section eight hundred twelve of
22 the family court act and section 530.11 of the criminal procedure law;

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

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1 (b) the need for immediate intervention in family offenses including
2 the arrest and detention of alleged offenders, pursuant to subdivision
3 four of section 140.10 of the criminal procedure law, and notifying
4 victims of their rights, IN THEIR NATIVE LANGUAGE, IF IDENTIFIED AS
5 OTHER THAN ENGLISH, IN ACCORDANCE WITH SUBDIVISION (C) OF THIS SECTION,
6 including but not limited to immediately providing the victim with the
7 written notice provided in subdivision six of section 530.11 of the
8 criminal procedure law and subdivision five of section eight hundred
9 twelve of the family court act.

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

19 S 2. Paragraph (f) of subdivision 3 of section 840 of the executive
20 law, as amended by section 5 of part Q of chapter 56 of the laws of
21 2009, is amended to read as follows:

22 (f) Develop, maintain and disseminate, in consultation with the state
23 office for the prevention of domestic violence, written policies and
24 procedures consistent with article eight of the family court act and
25 applicable provisions of the criminal procedure and domestic relations
26 laws, regarding the investigation of and intervention by new and veteran
27 police officers in incidents of family offenses. Such policies and
28 procedures shall make provisions for education and training in the
29 interpretation and enforcement of New York's family offense laws,
30 including but not limited to:

31 (1) intake and recording of victim statements, AND THE PROMPT TRANS-
32 LATION OF SUCH STATEMENTS IF MADE IN A LANGUAGE OTHER THAN ENGLISH, IN
33 ACCORDANCE WITH SUBPARAGRAPH THREE OF THIS PARAGRAPH, on a standardized
34 "domestic violence incident report form" promulgated by the division of
35 criminal justice services in consultation with the superintendent of
36 state police, representatives of local police forces and the state
37 office for the prevention of domestic violence, and the investigation
38 thereof so as to ascertain whether a crime has been committed against
39 the victim by a member of the victim's family or household as such terms
40 are defined in section eight hundred twelve of the family court act and
41 section 530.11 of the criminal procedure law; and

42 (2) 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, IN THEIR NATIVE LANGUAGE, IF IDENTIFIED AS
46 OTHER THAN ENGLISH, IN ACCORDANCE WITH SUBPARAGRAPH THREE OF THIS PARA-
47 GRAPH, including but not limited to immediately providing the victim
48 with the written notice required in subdivision six of section 530.11 of
49 the criminal procedure law and subdivision five of section eight hundred
50 twelve of the family court act;

51 (3) DETERMINE, IN CONSULTATION WITH THE SUPERINTENDENT OF STATE POLICE
52 AND THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, THE LANGUAGES IN
53 WHICH SUCH TRANSLATION REQUIRED BY SUBPARAGRAPH ONE OF THIS PARAGRAPH,
54 AND THE NOTIFICATION REQUIRED BY SUBPARAGRAPH TWO OF THIS PARAGRAPH,
55 SHALL BE PROVIDED. SUCH DETERMINATION SHALL BE BASED ON THE SIZE OF THE
56 NEW YORK STATE POPULATION THAT SPEAKS EACH LANGUAGE AND ANY OTHER RELE-

1 VANT FACTOR. SUCH WRITTEN NOTICE REQUIRED PURSUANT TO SUBPARAGRAPH TWO
2 OF THIS PARAGRAPH SHALL BE MADE AVAILABLE TO ALL LOCAL LAW ENFORCEMENT
3 AGENCIES THROUGHOUT THE STATE. NOTHING IN THIS PARAGRAPH SHALL PREVENT
4 THE COUNCIL FROM USING THE DETERMINATIONS MADE BY THE SUPERINTENDENT OF
5 STATE POLICE PURSUANT TO SUBDIVISION (C) OF SECTION TWO HUNDRED FOUR-
6 TEEN-B OF THIS CHAPTER;

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

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

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

29 5. Upon investigating a report of a crime or offense between members
30 of the same family or household as such terms are defined in section
31 530.11 of this chapter and section eight hundred twelve of the family
32 court act, a law enforcement officer shall prepare [and], file, AND
33 TRANSLATE, IN ACCORDANCE WITH SECTION TWO HUNDRED FOURTEEN-B OR EIGHT
34 HUNDRED FORTY OF THE EXECUTIVE LAW, a written report of the incident, on
35 a form promulgated pursuant to section eight hundred thirty-seven of the
36 executive law, including statements made by the victim and by any
37 witnesses, and make any additional reports required by local law
38 enforcement policy or regulations. Such report shall be prepared and
39 filed, whether or not an arrest is made as a result of the officers'
40 investigation, and shall be retained by the law enforcement agency for a
41 period of not less than four years. Where the reported incident involved
42 an offense committed against a person who is sixty-five years of age or
43 older a copy of the report required by this subdivision shall be sent to
44 the New York state committee for the coordination of police services to
45 elderly persons established pursuant to section eight hundred forty-
46 four-b of the executive law. Where the reported incident involved an
47 offense committed by an individual known by the law enforcement officer
48 to be under probation or parole supervision, he or she shall transmit a
49 copy of the report as soon as practicable to the supervising probation
50 department or the department of corrections and community supervision.

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