# STATE OF NEW YORK

446

2019-2020 Regular Sessions

# IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sens. HOYLMAN, SEPULVEDA -- 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:

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

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

6. (a) A police officer who responds to a report of a family offense as defined in section 530.11 of this chapter and section eight hundred twelve of the family court act may, in the interest of public safety, take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle-loading firearm that is in plain sight or is discovered pursuant to a consensual or other lawful search, and shall take temporary custody of any such weapon that is in the possession of any person arrested for the commission of such family offense or suspected of its commission. An officer who takes custody of any weapon pursuant to this paragraph shall also take custody of any license to carry, possess, repair and dispose of such weapon issued to the person suspected of such family offense. The officer shall deliver such weapon and/or license to the appropriate law enforcement officer as provided in subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law.

(b) Upon taking custody of weapons or a license described in paragraph (a) of this subdivision, the responding officer shall give the owner or person in possession of such weapons or license a receipt describing such weapons or license and indicating any identification or serial

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

LBD00828-01-9

number on such weapons. Such receipt shall indicate where the weapons or license can be recovered and describe the process for recovery provided in paragraph (d) of this subdivision.

(c) A weapon described in paragraph (a) of this subdivision that is utilized in the commission of an offense, that is unlawfully possessed, or that a court orders to be surrendered pursuant to subdivision two or subdivision three of section eight hundred forty-two-a of the family court act shall be declared a nuisance as provided in subdivision one of section 400.05 of the penal law and either disposed of in the manner described in subdivision two or retained as provided in subdivision three of section 400.05 of the penal law.

(d) Not less than one hundred twenty hours or, in the event that a Saturday, Sunday or legal holiday occurs during such period, one hundred forty-four hours after a weapon, other than a weapon described in paragraph (c) of this subdivision, is taken into temporary custody as provided in paragraph (a) of this subdivision, the owner or person who was in lawful possession of such weapon shall have the right to arrange for the sale or transfer of such weapon to a dealer, or to himself or herself, in the manner provided in subdivision six of section 400.05 of the penal law.

§ 3. This act shall take effect immediately.