STATE OF NEW YORK

4522

2021-2022 Regular Sessions

IN SENATE

February 5, 2021

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

AN ACT to amend the executive law, in relation to providing increased and uniform training requirements and outreach for law enforcement; and to amend the mental hygiene law, in relation to administering law enforcement peer support

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph 2 of paragraph (d) of subdivision 4 of section 840 of the executive law, as added by section 1 of part ZZ of chapter 55 of the laws of 2019, is amended and a new subparagraph 5 is added to read as follows:

(2) The model law enforcement use of force policy shall include, but is not limited to:

(i) information on current law as it relates to the use of force by police and peace officers;

(ii) guidelines regarding when use of force is permitted **and requiring such force to be reasonable**;

(iii) requirements for **reporting and** documenting use of force;

(iv) procedures for **reporting to a supervisor and** investigating use of force incidents;

(v) guidelines regarding excessive use of force including duty to intervene **when appropriate and safe**, reporting, and timely medical treatment for injured persons**, including immediate medical aid to gunshot victims, including victims injured during an officer-involved shooting**;

(vi) standards for failure to adhere to use of force guidelines;

(vii) training mandates on use of force, conflict prevention, conflict resolution and negotiation, de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition; [~~and~~]

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

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(viii) prohibited uses of force[.]; (ix) training mandates on first-aid procedures including the use of tourniquets and QuikClot in addition to annual CPR and AED training; (x) requirements for de-escalation by officers without compromising safety; and (xi) guidelines for holding officers accountable to use sound tactics, including, but not limited to, time, distance and cover, to reduce the need to use force.

(5) Establish in conjunction with the division of state police and regularly update a data collection and reporting system for the purpose of tracking all officer-involved deadly force encounters. Such deadly force encounters and uses of force resulting in serious bodily injury shall also be reported to the bureau of criminal apprehension for inclusion in the FBI's national use-of-force database.

§ 2. Paragraph (a) of subdivision 5 of section 840 of the executive law, as added by section 4 of part JJ of chapter 57 of the laws of 2018, is amended to read as follows:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities and in consultation with individuals with developmental, physical or intellectual disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental, physical or intellectual disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental, physical or intellectual disabilities; and

§ 3. Section 840 of the executive law is amended by adding a new subdivision 7 to read as follows:

7. The council, in conjunction with the office of public safety, shall ensure compliance with mandatory training requirements pursuant to section eight hundred thirty-nine-a of this article by all training academies, police departments in this state and all agencies that employ police or peace officers.

§ 4. The executive law is amended by adding a new section 839-a to read as follows:

§ 839-a. Mandatory trainings. 1. The office of public safety shall develop, regularly update and maintain trainings to be administered by law enforcement and training academies to all prospective and current police officers and peace officers, as defined under section eight hundred thirty-five of this article; provided, however, any individual specifically excluded from the definition of police officer under subdivision seven of section eight hundred thirty-five of this article shall be included for the purposes of this section.

2. Trainings regarding contemporary law enforcement topics shall be developed, with expert and community input, including, but not limited to youth individuals of color. Such training topics shall include, but not be limited to:

(a) implicit bias, including implicit racial bias testing which shall include testing for bias in shoot/don't shoot decision-making and a clear policy for considering an officer's level of racial bias in law enforcement certification and the hiring process; if it is determined that a prospective police officer or peace officer's bias is such that he or she cannot be deployed in a community of color, he or she shall not be hired;

(b) de-escalation, minimization of the use of force and defensive tactics;
(c) procedural justice;
(d) historical community trauma;
(e) relationship-based policing;
(f) community interaction and diversity;
(g) crisis intervention, mental health crises, mediation, conflict management and conflict resolution;
(h) appropriate engagement with youth;
(i) appropriate engagement with lesbian, gay, bisexual, transgender, questioning and gender nonconforming individuals;
(j) appropriate engagement with individuals with limited English proficiency;
(k) appropriate engagement with individuals with various religious affiliations; and
(l) appropriate engagement with individuals with developmental, physical or intellectual disabilities.
3. Trainings regarding the proper use of firearms and defensive tactics used to de-escalate and properly detain suspects shall be developed and administered on a monthly basis.
4. Implementation of the requirements of this section shall include scenario-based trainings. Such trainings shall require all participating individuals to engage in simulated real life situations to ensure when such individual is faced with such situation in the field, his or her response is in accordance with the requirements and guidelines set forth in this section. Such scenario-based trainings shall be administered at a minimum, quarterly.

§ 5. Section 837 of the executive law is amended by adding two new subdivisions 23 and 24 to read as follows:

23. Work in conjunction with the division of state police and the office of mental health to establish law enforcement peer support services pursuant to section 7.49 of the mental hygiene law. The division shall provide all police officers and peace officers unfettered access to mental health checks.
24. Require every law enforcement agency to determine the amount of additional funding necessary to provide for and enforce the provisions of subdivision twenty-three of this section and sections eight hundred thirty-nine-a and eight hundred forty of this article. Such information shall be provided to the division no later than one hundred twenty days after the effective date of this subdivision. No later than ninety days after such data is compiled, the division shall provide the governor and the legislature with a comprehensive report on the amount of additional funding needed to ensure such provisions of law are adequately instilled and enforced by each law enforcement agency located within the state.

§ 6. Section 210 of the executive law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

§ 210. Division of state police. 1. The division of state police in the executive department shall be known as the "New York State Police." The head of the New York state police shall be the superintendent of state police who shall be appointed by the governor by and with the advice and consent of the senate, and hold office during his or her pleasure. The superintendent shall be a member of the state police, shall receive as salary such sum as may be appropriated by law, and shall accrue such leave credits and be eligible for the same retirement benefits, service credits and other benefits as any other member of the state police. If, prior to appointment, the superintendent served as a

member of the state police, he or she, upon appointment, shall be entitled to continue to accrue and receive such credits and benefits as he or she would have been entitled to accrue and receive prior to appointment.

2. If, prior to his or her appointment, the superintendent shall have served as a member of the State Police for a period of ten years or more, he or she shall, provided he or she is not eligible for retirement, upon termination of service as superintendent, be reappointed, without examination, as a member of the state police in the grade held by him or her prior to appointment as superintendent, notwithstanding the absence of any vacancy in such grade. For the purpose of determining the annual salary to be paid upon such reappointment, the period of service as superintendent shall be counted as service in the grade to which reappointed.

3. The division shall ensure compliance with mandatory training requirements pursuant to sections two hundred ten-a, two hundred fourteen-e, and two hundred fourteen-f of this article by all training schools or academies, including those established pursuant to section two hundred fourteen of this article, and by all current members of the state police.

4. Work in conjunction with the division of criminal justice services and the office of mental health to establish law enforcement peer support services pursuant to section 7.49 of the mental hygiene law. The division shall provide all members unfettered access to mental health checks.

5. The superintendent shall determine the amount of additional funding necessary to provide for and enforce the provisions of subdivision four of this section and sections two hundred ten-a, two hundred fourteen-e, and two hundred fourteen-f of this article. Such information shall be compiled no later than one hundred twenty days after the effective date of this subdivision. No later than ninety days after such data is compiled, the division shall provide the governor and the legislature with a comprehensive report on the amount of additional funding needed to ensure such provisions of law are adequately instilled and enforced by the division.

§ 7. The executive law is amended by adding a new section 210-a to read as follows:

§ 210-a. Mandatory trainings. 1. The division shall develop, regularly update and maintain trainings to be administered by law enforcement and training academies, in consultation with the office of public safety, to all prospective and current members of the division.

2. Trainings regarding contemporary law enforcement topics shall be developed, with expert and community input, including, but not limited to youth individuals of color. Such training topics shall include, but not be limited to:

(a) implicit bias, including implicit racial bias testing which shall include testing for bias in shoot/don't shoot decision-making and a clear policy for considering a member's level of racial bias in law enforcement certification and the hiring process; if it is determined that a prospective police officer or peace officer's bias is such that he or she cannot be deployed in a community of color, he or she shall not be hired;

(b) de-escalation, minimization of the use of force and defensive tactics;

(c) procedural justice;

(d) historical community trauma;

(e) relationship-based policing;
(f) community interaction and diversity;
(g) crisis intervention, mental health crises, mediation, conflict management and conflict resolution;
(h) appropriate engagement with youth;
(i) appropriate engagement with lesbian, gay, bisexual, transgender, questioning and gender nonconforming individuals;
(j) appropriate engagement with individuals with limited English proficiency;
(k) appropriate engagement with individuals with various religious affiliations; and
(l) appropriate engagement with individuals with developmental, physical or intellectual disabilities.
3. Trainings regarding the proper use of firearms and defensive tactics used to de-escalate and properly detain suspects shall be developed and administered on a monthly basis.
4. Implementation of the requirements of this section shall include scenario-based trainings. Such trainings shall require all participating individuals to engage in simulated real life situations to ensure when such individual is faced with such situation in the field, his or her response is in accordance with the requirements and guidelines set forth in this section. Such scenario-based trainings shall be administered at a minimum, quarterly.

§ 8. The executive law is amended by adding a new section 210-b to read as follows:

§ 210-b. Use of force division policies. 1. The division shall establish a mandatory use of force policy, which shall include, but not be limited to:
(a) information on current law as it relates to the use of force by members;
(b) guidelines regarding when use of force is permitted and requiring such force to be reasonable;
(c) requirements for reporting and documenting use of force;
(d) procedures for reporting to a supervisor and investigating use of force incidents;
(e) guidelines regarding excessive use of force including duty to intervene when appropriate and safe, reporting, and timely medical treatment for injured persons, including immediate medical aid to gunshot victims, including victims injured during an officer-involved shooting;
(f) standards for failure to adhere to use of force guidelines;
(g) training mandates on use of force, conflict prevention, conflict resolution and negotiation, de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition;
(h) prohibited uses of force;
(i) training mandates on first-aid procedures including the use of tourniquets and QuikClot in addition to annual CPR and AED training pursuant to section two hundred fourteen-e of this article;
(j) requirements for de-escalation by members without compromising safety; and
(k) guidelines for holding members accountable to use sound tactics, including, but not limited to, time, distance and cover, to reduce the need to use force.
2. The division shall establish in conjunction with the division of criminal justice services and regularly update a data collection and

reporting system for the purpose of tracking all officer-involved deadly force encounters. Such deadly force encounters and uses of force resulting in serious bodily injury shall also be reported to the bureau of criminal apprehension for inclusion in the FBI's national use-of-force database.

§ 9. Section 214-e of the executive law, as added by chapter 271 of the laws of 2017, is amended to read as follows:

§ 214-e. Cardiopulmonary resuscitation and AED training and retraining. 1. For the purposes of this section, "cardiopulmonary resuscitation" shall have the same meaning as provided in subdivision six of section six hundred twenty-one of the general business law and "AED" shall mean automated external defibrillator.

2. Each member of the division of state police shall be:

(a) trained in cardiopulmonary resuscitation and the use of an AED during the training process to become a trooper;

(b) retrained in cardiopulmonary resuscitation and the use of an AED every [~~two years~~] year; and

(c) required to demonstrate the satisfactory completion of training in cardiopulmonary resuscitation and the use of an AED.

§ 10. Subdivision 1 of section 214-f of the executive law, as added by section 5 of part JJ of chapter 57 of the laws of 2018, is amended to read as follows:

1. Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities and in consultation with individuals with developmental, physical or intellectual disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law, regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental, physical or intellectual disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with developmental, physical or intellectual disabilities; and

§ 11. The mental hygiene law is amended by adding a new section 7.49 to read as follows:

§ 7.49 Law enforcement peer support.

(a) The commissioner, in conjunction with the commissioner of the division of criminal justice services and the superintendent of the division of state police, shall develop and establish regional or county based peer support services programs for all police officers in the state. Services provided by the recognized or certified peer support services program shall include, but not be limited to, peer counseling techniques for mental illness including post-traumatic stress disorder, critical incident stress management, alcohol and substance abuse counseling, family support services, domestic violence, mental health, child care, physical health and wellness, and legal issues.

(b) The commissioner shall foster programs for the training and development of persons capable of providing the services set forth in this section, including, but not limited to, a process of issuing, either directly or through contract, credentials for recognized or certified peer counselors in accordance with the following:

(1) The office shall establish minimum qualifications for recognized or certified peer counselors in all phases of delivery of services to officers who are evaluated and certified or recognized by the department on factors including, but not limited to, completion of approved courses of study or equivalent on-the-job experience in mental health counseling

and/or alcoholism and substance abuse counseling or other credentials established or recognized by the department and/or the division of criminal justice services and the division of state police; and

(2) The office shall establish procedures for issuing, directly or through contract, credentials to certified peer counselors who meet minimum qualifications, and shall further establish procedures to suspend, revoke, or annul such credentials for good cause.

§ 12. This act shall take effect immediately.