

# 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:

- 1 Section 1. Subparagraph 2 of paragraph (d) of subdivision 4 of section  
2 840 of the executive law, as added by section 1 of part ZZ of chapter 55  
3 of the laws of 2019, is amended and a new subparagraph 5 is added to  
4 read as follows:  
5 (2) The model law enforcement use of force policy shall include, but  
6 is not limited to:  
7 (i) information on current law as it relates to the use of force by  
8 police and peace officers;  
9 (ii) guidelines regarding when use of force is permitted and requiring  
10 such force to be reasonable;  
11 (iii) requirements for reporting and documenting use of force;  
12 (iv) procedures for reporting to a supervisor and investigating use of  
13 force incidents;  
14 (v) guidelines regarding excessive use of force including duty to  
15 intervene when appropriate and safe, reporting, and timely medical  
16 treatment for injured persons, including immediate medical aid to  
17 gunshot victims, including victims injured during an officer-involved  
18 shooting;  
19 (vi) standards for failure to adhere to use of force guidelines;  
20 (vii) training mandates on use of force, conflict prevention, conflict  
21 resolution and negotiation, de-escalation techniques and strategies,  
22 including, but not limited to, interacting with persons presenting in an  
23 agitated condition; [~~and~~]

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

LBD08828-01-1

1 (viii) prohibited uses of force[-];

2 (ix) training mandates on first-aid procedures including the use of  
3 tourniquets and QuikClot in addition to annual CPR and AED training;

4 (x) requirements for de-escalation by officers without compromising  
5 safety; and

6 (xi) guidelines for holding officers accountable to use sound tactics,  
7 including, but not limited to, time, distance and cover, to reduce the  
8 need to use force.

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

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

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

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

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

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

38 § 839-a. Mandatory trainings. 1. The office of public safety shall  
39 develop, regularly update and maintain trainings to be administered by  
40 law enforcement and training academies to all prospective and current  
41 police officers and peace officers, as defined under section eight  
42 hundred thirty-five of this article; provided, however, any individual  
43 specifically excluded from the definition of police officer under subdi-  
44 vision seven of section eight hundred thirty-five of this article shall  
45 be included for the purposes of this section.

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

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

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

3 (c) procedural justice;

4 (d) historical community trauma;

5 (e) relationship-based policing;

6 (f) community interaction and diversity;

7 (g) crisis intervention, mental health crises, mediation, conflict  
8 management and conflict resolution;

9 (h) appropriate engagement with youth;

10 (i) appropriate engagement with lesbian, gay, bisexual, transgender,  
11 questioning and gender nonconforming individuals;

12 (j) appropriate engagement with individuals with limited English  
13 proficiency;

14 (k) appropriate engagement with individuals with various religious  
15 affiliations; and

16 (l) appropriate engagement with individuals with developmental, phys-  
17 ical or intellectual disabilities.

18 3. Trainings regarding the proper use of firearms and defensive  
19 tactics used to de-escalate and properly detain suspects shall be devel-  
20 oped and administered on a monthly basis.

21 4. Implementation of the requirements of this section shall include  
22 scenario-based trainings. Such trainings shall require all participating  
23 individuals to engage in simulated real life situations to ensure when  
24 such individual is faced with such situation in the field, his or her  
25 response is in accordance with the requirements and guidelines set forth  
26 in this section. Such scenario-based trainings shall be administered at  
27 a minimum, quarterly.

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

30 23. Work in conjunction with the division of state police and the  
31 office of mental health to establish law enforcement peer support  
32 services pursuant to section 7.49 of the mental hygiene law. The divi-  
33 sion shall provide all police officers and peace officers unfettered  
34 access to mental health checks.

35 24. Require every law enforcement agency to determine the amount of  
36 additional funding necessary to provide for and enforce the provisions  
37 of subdivision twenty-three of this section and sections eight hundred  
38 thirty-nine-a and eight hundred forty of this article. Such information  
39 shall be provided to the division no later than one hundred twenty days  
40 after the effective date of this subdivision. No later than ninety days  
41 after such data is compiled, the division shall provide the governor and  
42 the legislature with a comprehensive report on the amount of additional  
43 funding needed to ensure such provisions of law are adequately instilled  
44 and enforced by each law enforcement agency located within the state.

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

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

1 member of the state police, he or she, upon appointment, shall be enti-  
2 tled to continue to accrue and receive such credits and benefits as he  
3 or she would have been entitled to accrue and receive prior to appoint-  
4 ment.

5 2. If, prior to his or her appointment, the superintendent shall have  
6 served as a member of the State Police for a period of ten years or  
7 more, he or she shall, provided he or she is not eligible for retire-  
8 ment, upon termination of service as superintendent, be reappointed,  
9 without examination, as a member of the state police in the grade held  
10 by him or her prior to appointment as superintendent, notwithstanding  
11 the absence of any vacancy in such grade. For the purpose of determin-  
12 ing the annual salary to be paid upon such reappointment, the period of  
13 service as superintendent shall be counted as service in the grade to  
14 which reappointed.

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

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

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

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

38 § 210-a. Mandatory trainings. 1. The division shall develop, regularly  
39 update and maintain trainings to be administered by law enforcement and  
40 training academies, in consultation with the office of public safety, to  
41 all prospective and current members of the division.

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

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

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

55 (c) procedural justice;

56 (d) historical community trauma;

1 (e) relationship-based policing;  
2 (f) community interaction and diversity;  
3 (g) crisis intervention, mental health crises, mediation, conflict  
4 management and conflict resolution;  
5 (h) appropriate engagement with youth;  
6 (i) appropriate engagement with lesbian, gay, bisexual, transgender,  
7 questioning and gender nonconforming individuals;  
8 (j) appropriate engagement with individuals with limited English  
9 proficiency;  
10 (k) appropriate engagement with individuals with various religious  
11 affiliations; and  
12 (l) appropriate engagement with individuals with developmental, phys-  
13 ical or intellectual disabilities.

14 3. Trainings regarding the proper use of firearms and defensive  
15 tactics used to de-escalate and properly detain suspects shall be devel-  
16 oped and administered on a monthly basis.

17 4. Implementation of the requirements of this section shall include  
18 scenario-based trainings. Such trainings shall require all participating  
19 individuals to engage in simulated real life situations to ensure when  
20 such individual is faced with such situation in the field, his or her  
21 response is in accordance with the requirements and guidelines set forth  
22 in this section. Such scenario-based trainings shall be administered at  
23 a minimum, quarterly.

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

26 § 210-b. Use of force division policies. 1. The division shall estab-  
27 lish a mandatory use of force policy, which shall include, but not be  
28 limited to:

29 (a) information on current law as it relates to the use of force by  
30 members;

31 (b) guidelines regarding when use of force is permitted and requiring  
32 such force to be reasonable;

33 (c) requirements for reporting and documenting use of force;

34 (d) procedures for reporting to a supervisor and investigating use of  
35 force incidents;

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

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

42 (g) training mandates on use of force, conflict prevention, conflict  
43 resolution and negotiation, de-escalation techniques and strategies,  
44 including, but not limited to, interacting with persons presenting in an  
45 agitated condition;

46 (h) prohibited uses of force;

47 (i) training mandates on first-aid procedures including the use of  
48 tourniquets and QuikClot in addition to annual CPR and AED training  
49 pursuant to section two hundred fourteen-e of this article;

50 (j) requirements for de-escalation by members without compromising  
51 safety; and

52 (k) guidelines for holding members accountable to use sound tactics,  
53 including, but not limited to, time, distance and cover, to reduce the  
54 need to use force.

55 2. The division shall establish in conjunction with the division of  
56 criminal justice services and regularly update a data collection and

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

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

8 § 214-e. Cardiopulmonary resuscitation and AED training and retrain-  
9 ing. 1. For the purposes of this section, "cardiopulmonary resusci-  
10 tation" shall have the same meaning as provided in subdivision six of  
11 section six hundred twenty-one of the general business law and "AED"  
12 shall mean automated external defibrillator.

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

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

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

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

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

23 1. Develop, maintain and disseminate, in consultation with the commis-  
24 sioner of the office for people with developmental disabilities and in  
25 consultation with individuals with developmental, physical or intellec-  
26 tual disabilities, written policies and procedures consistent with  
27 section 13.43 of the mental hygiene law, regarding the handling of emer-  
28 gency situations involving individuals with autism spectrum disorder and  
29 other developmental, physical or intellectual disabilities. Such poli-  
30 cies and procedures shall make provisions for the education and training  
31 of new and veteran police officers on the handling of emergency situ-  
32 ations involving individuals with developmental, physical or intellectu-  
33 al disabilities; and

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

36 § 7.49 Law enforcement peer support.

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

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

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

1 and/or alcoholism and substance abuse counseling or other credentials  
2 established or recognized by the department and/or the division of crim-  
3 inal justice services and the division of state police; and

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

8 § 12. This act shall take effect immediately.