

STATE OF NEW YORK

4686

2023-2024 Regular Sessions

IN SENATE

February 13, 2023

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

AN ACT to amend the criminal procedure law and the executive law, in relation to enacting the "New York State Phoenix 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 "New York
2 State Phoenix Act".
- 3 § 2. Legislative findings. The legislature finds and declares all of
4 the following:
- 5 1. More than one in three women and one in four men in the United
6 States have experienced rape, physical violence, or stalking by an inti-
7 mate partner in their lifetime.
- 8 2. One in five female high school students report being physically or
9 sexually assaulted by a dating partner.
- 10 3. Many perpetrators of domestic violence were themselves abused.
- 11 4. Better education and resources can help prevent domestic violence
12 from occurring.
- 13 5. When domestic violence occurs, the statute of limitations varies
14 depending on the crime committed.
- 15 6. Victims may not report a crime for myriad reasons, including their
16 age at the time of abuse, ongoing trauma, threats from the perpetrator,
17 or lack of evidence.
- 18 7. Without resources or any intervention, many perpetrators of domes-
19 tic violence will abuse multiple partners.
- 20 8. It is the intent of the legislature to allow for victims of domes-
21 tic violence to come forward by extending the statute of limitations in
22 order to ensure those victims see justice.
- 23 9. It is the intent of the legislature to increase training for law
24 enforcement to ensure victims are protected and to prevent future domes-
25 tic violence from occurring.

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

LBD01990-01-3

1 § 3. Subdivision 3 of section 30.10 of the criminal procedure law is
2 amended by adding a new paragraph (h) to read as follows:

3 (h) A prosecution of a felony family offense defined in subdivision
4 one of section 530.11 of this chapter with a period of limitation of
5 less than ten years may be commenced within ten years of the commission
6 thereof. A prosecution of a misdemeanor family offense defined in subdi-
7 vision one of section 530.11 of this chapter with a period of limitation
8 of less than five years may be commenced within five years of the
9 commission thereof.

10 § 4. Section 214-b of the executive law, as amended by chapter 432 of
11 the laws of 2015, is amended to read as follows:

12 § 214-b. Family offense intervention. The superintendent shall, for
13 all members of the state police including new and veteran officers,
14 develop, maintain and disseminate, in consultation with the state office
15 for the prevention of domestic violence, written policies and procedures
16 consistent with article eight of the family court act and applicable
17 provisions of the criminal procedure and domestic relations laws,
18 regarding the investigation of and intervention in incidents of family
19 offenses. The written policies and procedures shall include a brief
20 current and historical context on communities of color impacted by
21 incarceration and violence, enforcement of criminal laws in family
22 offense situations, availability of civil remedies and community
23 resources, and protection of the victim. Such policies and procedures
24 shall make provision for education and training in the interpretation
25 and enforcement of New York's family offense laws, including but not
26 limited to:

27 (a) techniques for handling incidents of family offenses that minimize
28 the likelihood of injury to the officer and that promote the safety of
29 the victim. These techniques shall include, but are not limited to, the
30 following:

31 (i) methods for ensuring victim interviews occur in a venue separate
32 from the alleged perpetrator and with appropriate sound barriers to
33 prevent the conversation from being overheard;

34 (ii) intake and recording of victim statements, and the prompt trans-
35 lation of such statements if made in a language other than English, in
36 accordance with [~~subdivision (e)~~] paragraph (iv) of this [~~section~~]
37 subdivision, on a standardized "domestic violence incident report form"
38 promulgated by the state division of criminal justice services in
39 consultation with the superintendent and with the state office for the
40 prevention of domestic violence, and the investigation thereof so as to
41 ascertain whether a crime has been committed against the victim by a
42 member of the victim's family or household as such terms are defined in
43 section eight hundred twelve of the family court act and section 530.11
44 of the criminal procedure law; and

45 [~~(b)~~] (iii) the need for immediate intervention in family offenses
46 including the arrest and detention of alleged offenders, pursuant to
47 subdivision four of section 140.10 of the criminal procedure law, and
48 notifying victims of their rights, in their native language, if identi-
49 fied as other than English, in accordance with [~~subdivision (e)~~] para-
50 graph (iv) of this [~~section~~] subdivision, including but not limited to
51 immediately providing the victim with the written notice provided in
52 subdivision six of section 530.11 of the criminal procedure law and
53 subdivision five of section eight hundred twelve of the family court
54 act.

55 [~~(e)~~] (iv) The superintendent, in consultation with the division of
56 criminal justice services and the office for the prevention of domestic

1 violence shall determine the languages in which such translation
2 required by ~~[subdivision (a)]~~ paragraph (ii) of this ~~[section]~~ subdivi-
3 sion, and the notification required pursuant to ~~[subdivision (b)]~~ para-
4 graph (iii) of this ~~[section]~~ subdivision, shall be provided. Such
5 determination shall be based on the size of the New York state popu-
6 lation that speaks each language and any other relevant factor. Such
7 written notice required pursuant to ~~[subdivision (b)]~~ paragraph (iii) of
8 this ~~[section]~~ subdivision shall be made available to all state police
9 officers in the state~~[-]~~;

10 (b) the nature and extent of family offenses;

11 (c) the signs of family offenses;

12 (d) criminal conduct that may be related to family offenses, includ-
13 ing, but not limited to, any of the following:

14 (i) coercion for purposes of committing or impeding the investigation
15 or prosecution of family offenses;

16 (ii) unlawful imprisonment, as defined in article one hundred thirty-
17 five of the penal law;

18 (iii) extortion and the use of fear;

19 (iv) crimes of fraud as defined in article one hundred ninety of the
20 penal law; and

21 (v) unlawful dissemination or publication of an intimate image;

22 (e) the assessment of lethality or signs of lethal violence in family
23 offense situations;

24 (f) the legal rights of, and remedies available to, victims of family
25 offenses;

26 (g) documentation, report writing, and evidence collection;

27 (h) family offense diversion;

28 (i) tenancy issues and family offenses;

29 (j) the impact on children of law enforcement intervention in family
30 offenses;

31 (k) the services and facilities available to victims and offenders;

32 (l) the use and applications of the penal law in family offense situ-
33 ations;

34 (m) verification and enforcement of orders of protection when

35 (i) the suspect is present and (ii) the suspect has fled;

36 (n) cite and release policies; and

37 (o) emergency assistance to victims and how to assist victims in
38 pursuing criminal justice options.

39 § 5. Paragraph (f) of subdivision 3 of section 840 of the executive
40 law, as amended by chapter 432 of the laws of 2015, is amended to read
41 as follows:

42 (f) Develop, maintain and disseminate, in consultation with the state
43 office for the prevention of domestic violence, written policies and
44 procedures and a course or courses of instruction consistent with arti-
45 cle eight of the family court act and applicable provisions of the crim-
46 inal procedure and domestic relations laws, regarding the investigation
47 of and intervention by new and veteran police officers in incidents of
48 family offenses. The course or courses of instruction and the written
49 policies and procedures shall include a brief current and historical
50 context on communities of color impacted by incarceration and violence,
51 enforcement of criminal laws in family offense situations, availability
52 of civil remedies and community resources, and protection of the victim.
53 If appropriate, the training presenters shall include family offense
54 experts, who may include victims and people who have committed family
55 offenses and have been or are in the process of being rehabilitated,
56 with expertise in the delivery of direct services to victims and people

1 who have committed family offenses, including, but not limited to,
2 utilizing the staff of shelters for victims. Such courses of instruction
3 and policies and procedures shall make provisions for education and
4 training in the interpretation and enforcement of New York's family
5 offense laws, including but not limited to:

6 (1) techniques for handling incidents of family offenses that minimize
7 the likelihood of injury to the officer and that promote the safety of
8 the victim. These techniques shall include, but are not limited to, the
9 following:

10 (i) methods for ensuring victim interviews occur in a venue separate
11 from the alleged perpetrator and with appropriate sound barriers to
12 prevent the conversation from being overheard;

13 (ii) 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 [~~subparagraph three~~] clause (iv) of this [~~paragraph~~]
16 subparagraph, on a standardized "domestic violence incident report form"
17 promulgated by the division of criminal justice services in consultation
18 with the superintendent of state police, representatives of local police
19 forces and the state office for the prevention of domestic violence, and
20 the investigation thereof so as to ascertain whether a crime has been
21 committed against the victim by a member of the victim's family or
22 household as such terms are defined in section eight hundred twelve of
23 the family court act and section 530.11 of the criminal procedure law;
24 and

25 [~~(2)~~] (iii) the need for immediate intervention in family offenses
26 including the arrest and detention of alleged offenders, pursuant to
27 subdivision four of section 140.10 of the criminal procedure law, and
28 notifying victims of their rights, in their native language, if identi-
29 fied as other than English, in accordance with [~~subparagraph three~~]
30 clause (iv) of this [~~paragraph~~] subparagraph, including but not limited
31 to immediately providing the victim with the written notice required in
32 subdivision six of section 530.11 of the criminal procedure law and
33 subdivision five of section eight hundred twelve of the family court
34 act;

35 [~~(3)~~] (iv) determine, in consultation with the superintendent of state
36 police and the office for the prevention of domestic violence, the
37 languages in which such translation required by [~~subparagraph one~~]
38 clause (ii) of this [~~paragraph~~] subparagraph, and the notification
39 required by [~~subparagraph two~~] clause (iii) of this [~~paragraph~~] subpara-
40 graph, shall be provided. Such determination shall be based on the size
41 of the New York state population that speaks each language and any other
42 relevant factor. Such written notice required pursuant to [~~subparagraph~~]
43 two] clause (iii) of this [~~paragraph~~] subparagraph shall be made avail-
44 able to all local law enforcement agencies throughout the state. Nothing
45 in this [~~paragraph~~] subparagraph shall prevent the council from using
46 the determinations made by the superintendent of state police pursuant
47 to paragraph (iv) of subdivision [~~(e)~~] (a) of section two hundred four-
48 teen-b of this chapter;

49 (2) the nature and extent of family offenses;

50 (3) the signs of family offenses;

51 (4) criminal conduct that may be related to family offenses, includ-
52 ing, but not limited to, any of the following:

53 (i) coercion for purposes of committing or impeding the investigation
54 or prosecution of family offenses;

55 (ii) unlawful imprisonment, as defined in article one hundred thirty-
56 five of the penal law;

- 1 (iii) extortion and the use of fear;
2 (iv) crimes of fraud as defined in article one hundred ninety of the
3 penal law; and
4 (v) unlawful dissemination or publication of an intimate image;
5 (5) the assessment of lethality or signs of lethal violence in family
6 offense situations;
7 (6) the legal rights of, and remedies available to, victims of family
8 offenses;
9 (7) documentation, report writing, and evidence collection;
10 (8) family offense diversion;
11 (9) tenancy issues and family offenses;
12 (10) the impact on children of law enforcement intervention in family
13 offenses;
14 (11) the services and facilities available to victims and offenders;
15 (12) the use and applications of the penal law in family offense situ-
16 ations;
17 (13) verification and enforcement of orders of protection when
18 (i) the suspect is present and (ii) the suspect has fled;
19 (14) cite and release policies; and
20 (15) emergency assistance to victims and how to assist victims in
21 pursuing criminal justice options;

22 § 6. This act shall take effect on the first of January next succeed-
23 ing the date upon which it shall have become a law; provided that
24 section three of this act shall apply to crimes committed on or after
25 such date and to crimes for which the statute of limitations that was in
26 effect prior to such date has not elapsed as of such date.