STATE OF NEW YORK

6522

2023-2024 Regular Sessions

IN ASSEMBLY

April 12, 2023

Introduced by M. of A. J. A. GIGLIO -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to extreme risk protection orders for law enforcement officers

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

Section 1. The civil practice law and rules is amended by adding two new sections 6349 and 6350 to read as follows:

§ 6349. Legal representation for state law enforcement officers applying for an extreme risk protection order. In accordance with this article, any sworn member of the New York state police or any state law enforcement entity which files a sworn application for an extreme risk protection order justifying the issuance of a temporary extreme risk protection order when there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to himself, herself, or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law, shall be afforded legal representation by the office of the attorney general, including at all court appearances throughout all stages of such process or processes.

§ 6350. Discretion for law enforcement officers applying for an extreme risk protection order. 1. Notwithstanding any other provision of this article, police officers and district attorneys shall not be required to file an application for an extreme risk protection order when:

(a) there is no nexus to a firearm for the respondent; or

(b) there is already an existing order, charge, or condition including, but not limited to, those relating to criminal charges and convictions or those relating to a disqualifying mental health condition which bars the respondent from owning, possessing, or purchasing a firearm or attempting to own, possess, or purchase a firearm.

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

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2. When an application is not required pursuant to subdivision one of this section, the decision to apply for an extreme risk protection order shall be made at the discretion of the relevant law enforcement officer or district attorney.

§ 2. This act shall take effect immediately.