

3744--A

Cal. No. 438

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

Introduced by Sens. LANZA, GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the executive law and the penal law, in relation to preventing certain sex offenders who are released on parole or sentenced to probation from entering public, association or free libraries

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 14 of section 259-c of the executive law, as
2 amended by section 38-b of subpart A of part C of chapter 62 of the laws
3 of 2011, is amended to read as follows:
4 14. notwithstanding any other provision of law to the contrary, where
5 a person serving a sentence for an offense defined in article one
6 hundred thirty, one hundred thirty-five or two hundred sixty-three of
7 the penal law or section 255.25, 255.26 or 255.27 of the penal law and
8 the victim of such offense was under the age of eighteen at the time of
9 such offense or such person has been designated a level three sex offender
10 pursuant to subdivision six of section one hundred sixty-eight-1 of
11 the correction law, is released on parole or conditionally released
12 pursuant to subdivision one or two of this section, the board shall
13 require, as a mandatory condition of such release, that such sentenced
14 offender shall refrain from knowingly entering into or upon any school
15 grounds, as that term is defined in subdivision fourteen of section
16 220.00 of the penal law, OR ANY PUBLIC LIBRARY, ASSOCIATION LIBRARY OR
17 FREE LIBRARY, AS DEFINED IN SUBDIVISION TWO OF SECTION TWO HUNDRED
18 FIFTY-THREE OF THE EDUCATION LAW, or any other facility or institution

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

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1 primarily used for the care or treatment of persons under the age of
2 eighteen while one or more of such persons under the age of eighteen are
3 present, provided however, that when such sentenced offender is a regis-
4 tered student or participant or an employee of such facility or institu-
5 tion or entity contracting therewith or has a family member enrolled in
6 such facility or institution, such sentenced offender may, with the
7 written authorization of his or her parole officer and the superinten-
8 dent or chief administrator of such facility, institution or grounds,
9 enter such facility, institution or upon such grounds for the limited
10 purposes authorized by the parole officer and superintendent or chief
11 officer. Nothing in this subdivision shall be construed as restricting
12 any lawful condition of supervision that may be imposed on such
13 sentenced offender.

14 S 2. Subdivision 4-a of section 65.10 of the penal law, as amended by
15 chapter 67 of the laws of 2008, is amended to read as follows:

16 4-a. Mandatory conditions for sex offenders. (a) When imposing a
17 sentence of probation or conditional discharge upon a person convicted
18 of an offense defined in article one hundred thirty, two hundred thir-
19 ty-five or two hundred sixty-three of this chapter, or section 255.25,
20 255.26 or 255.27 of this chapter, and the victim of such offense was
21 under the age of eighteen at the time of such offense or such person has
22 been designated a level three sex offender pursuant to subdivision six
23 of section [168-1] ONE HUNDRED SIXTY-EIGHT-L of the correction law, the
24 court shall require, as a mandatory condition of such sentence, that
25 such sentenced offender shall refrain from knowingly entering into or
26 upon any school grounds, as that term is defined in subdivision fourteen
27 of section 220.00 of this chapter, OR ANY PUBLIC LIBRARY, ASSOCIATION
28 LIBRARY OR FREE LIBRARY, AS DEFINED IN SUBDIVISION TWO OF SECTION TWO
29 HUNDRED FIFTY-THREE OF THE EDUCATION LAW, or any other facility or
30 institution primarily used for the care or treatment of persons under
31 the age of eighteen while one or more of such persons under the age of
32 eighteen are present, provided however, that when such sentenced offen-
33 der is a registered student or participant or an employee of such facil-
34 ity or institution or entity contracting therewith or has a family
35 member enrolled in such facility or institution, such sentenced offender
36 may, with the written authorization of his or her probation officer or
37 the court and the superintendent or chief administrator of such facili-
38 ty, institution or grounds, enter such facility, institution or upon
39 such grounds for the limited purposes authorized by the probation offi-
40 cer or the court and superintendent or chief officer. Nothing in this
41 subdivision shall be construed as restricting any lawful condition of
42 supervision that may be imposed on such sentenced offender.

43 (b) When imposing a sentence of probation or conditional discharge
44 upon a person convicted of an offense for which registration as a sex
45 offender is required pursuant to subdivision two or three of section one
46 hundred sixty-eight-a of the correction law, and the victim of such
47 offense was under the age of eighteen at the time of such offense or
48 such person has been designated a level three sex offender pursuant to
49 subdivision six of section one hundred sixty-eight-l of the correction
50 law or the internet was used to facilitate the commission of the crime,
51 the court shall require, as mandatory conditions of such sentence, that
52 such sentenced offender be prohibited from using the internet to access
53 pornographic material, access a commercial social networking website,
54 communicate with other individuals or groups for the purpose of promot-
55 ing sexual relations with persons under the age of eighteen, and commu-
56 nicate with a person under the age of eighteen when such offender is

1 over the age of eighteen, provided that the court may permit an offender
2 to use the internet to communicate with a person under the age of eigh-
3 teen when such offender is the parent of a minor child and is not other-
4 wise prohibited from communicating with such child. Nothing in this
5 subdivision shall be construed as restricting any other lawful condition
6 of supervision that may be imposed on such sentenced offender. As used
7 in this subdivision, a "commercial social networking website" shall mean
8 any business, organization or other entity operating a website that
9 permits persons under eighteen years of age to be registered users for
10 the purpose of establishing personal relationships with other users,
11 where such persons under eighteen years of age may: (i) create web pages
12 or profiles that provide information about themselves where such web
13 pages or profiles are available to the public or to other users; (ii)
14 engage in direct or real time communication with other users, such as a
15 chat room or instant messenger; and (iii) communicate with persons over
16 eighteen years of age; provided, however, that, for purposes of this
17 subdivision, a commercial social networking website shall not include a
18 website that permits users to engage in such other activities as are not
19 enumerated herein.

20 S 3. This act shall take effect immediately.