

1531

2011-2012 Regular Sessions

I N S E N A T E

January 10, 2011

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to the maintenance of information on sex offenders, registration and verification by sex offenders, the subdirectory of sex offenders, and the penalty for the failure of a sex offender to comply with verification and registration requirements

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

1 Section 1. Paragraphs (a) and (e) of subdivision 1 of section 168-b of
2 the correction law, paragraph (a) as amended by chapter 67 of the laws
3 of 2008 and paragraph (e) as amended by chapter 10 of the laws of 2003,
4 are amended and a new paragraph (e-1) is added to read as follows:
5 (a) The sex offender's name, all aliases used, SOCIAL SECURITY NUMBER,
6 date of birth, sex, race, height, weight, eye color, driver's license
7 number, LICENSE PLATE NUMBER AND DESCRIPTION OF ANY MOTOR VEHICLE OWNED
8 OR OPERATED BY THE SEX OFFENDER, home address and/or expected place of
9 domicile, any internet accounts with internet access providers belonging
10 to such offender and internet identifiers that such offender uses.
11 (e) [If the sex offender has been given a level three designation,
12 such] THE offender's employment address and/or expected place of employ-
13 ment.
14 (E-1) THE CRIMINAL HISTORY OF THE SEX OFFENDER, INCLUDING THE DATE OF
15 ALL ARRESTS AND CONVICTIONS; THE STATUS OF PAROLE, PROBATION OR RELEASE
16 UNDER SUPERVISION; REGISTRATION STATUS; THE EXISTENCE OF ANY OUTSTANDING
17 ARREST WARRANTS FOR THE SEX OFFENDER; AND A PHOTOCOPY OF THE SEX
18 OFFENDER'S DRIVER'S LICENSE OR GOVERNMENT ISSUED IDENTIFICATION CARD.
19 S 2. Subdivisions 1 and 2 of section 168-c of the correction law, as
20 amended by chapter 11 of the laws of 2002, are amended to read as
21 follows:

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

LBD06234-01-1

1 1. In the case of any sex offender, it shall be the duty of the
2 department, hospital or local correctional facility at least ten calen-
3 dar days prior to the release or discharge of any sex offender from a
4 correctional facility, hospital or local correctional facility to notify
5 the division of the contemplated release or discharge of such sex offen-
6 der, informing the division in writing on a form provided by the divi-
7 sion indicating the address at which he or she proposes to reside and
8 the name and address of any institution of higher education at which he
9 or she expects to be enrolled, attending or employed, whether for
10 compensation or not, and whether he or she resides in or will reside in
11 a facility owned or operated by such institution, AND THE SEX OFFENDER'S
12 EMPLOYMENT ADDRESS AND/OR EXPECTED PLACE OF EMPLOYMENT. If such sex
13 offender changes his or her place of residence while on parole, such
14 notification of the change of residence shall be sent by the sex
15 offender's parole officer within forty-eight hours to the division on a
16 form provided by the division. If such sex offender changes the status
17 of his or her enrollment, attendance, employment or residence at any
18 institution of higher education, OR EMPLOYMENT ADDRESS OR PLACE OF
19 EMPLOYMENT while on parole, such notification of the change of status
20 shall be sent by the sex offender's parole officer within forty-eight
21 hours to the division on a form provided by the division.

22 2. In the case of any sex offender on probation, it shall be the duty
23 of the sex offender's probation officer to notify the division within
24 forty-eight hours of the new place of residence on a form provided by
25 the division. If such sex offender changes the status of his or her
26 enrollment, attendance, employment or residence at any institution of
27 higher education, OR EMPLOYMENT ADDRESS OR PLACE OF EMPLOYMENT while on
28 probation, such notification of the change of status shall be sent by
29 the sex offender's probation officer within forty-eight hours to the
30 division on a form provided by the division.

31 S 3. Subdivision 2 of section 168-d of the correction law, as amended
32 by chapter 684 of the laws of 2005, is amended to read as follows:

33 2. Any sex offender, who is released on probation or discharged upon
34 payment of a fine, conditional discharge or unconditional discharge
35 shall, prior to such release or discharge, be informed of his or her
36 duty to register under this article by the court in which he or she was
37 convicted. At the time sentence is imposed, such sex offender shall
38 register with the division on a form prepared by the division. The court
39 shall require the sex offender to read and sign such form and to
40 complete the registration portion of such form. The court shall on such
41 form obtain the address where the sex offender expects to reside upon
42 his or her release, and the name and address of any institution of high-
43 er education he or she expects to be employed by, enrolled in, attending
44 or employed, whether for compensation or not, and whether he or she
45 expects to reside in a facility owned or operated by such an institu-
46 tion, AND THE SEX OFFENDER'S EMPLOYMENT ADDRESS AND/OR EXPECTED PLACE OF
47 EMPLOYMENT, and shall report such information to the division. The court
48 shall give one copy of the form to the sex offender and shall send two
49 copies to the division which shall forward the information to the law
50 enforcement agencies having jurisdiction. The court shall also notify
51 the district attorney and the sex offender of the date of the determi-
52 nation proceeding to be held pursuant to subdivision three of this
53 section, which shall be held at least forty-five days after such notice
54 is given. This notice shall include the following statement or a
55 substantially similar statement: "This proceeding is being held to
56 determine whether you will be classified as a level 3 offender (risk of

1 repeat offense is high), a level 2 offender (risk of repeat offense is
2 moderate), or a level 1 offender (risk of repeat offense is low), or
3 whether you will be designated as a sexual predator, a sexually violent
4 offender or a predicate sex offender, which will determine how long you
5 must register as a sex offender and how much information can be provided
6 to the public concerning your registration. If you fail to appear at
7 this proceeding, without sufficient excuse, it shall be held in your
8 absence. Failure to appear may result in a longer period of registration
9 or a higher level of community notification because you are not present
10 to offer evidence or contest evidence offered by the district attorney."
11 The court shall also advise the sex offender that he or she has a right
12 to a hearing prior to the court's determination, that he or she has the
13 right to be represented by counsel at the hearing and that counsel will
14 be appointed if he or she is financially unable to retain counsel. If
15 the sex offender applies for assignment of counsel to represent him or
16 her at the hearing and counsel was not previously assigned to represent
17 the sex offender in the underlying criminal action, the court shall
18 determine whether the offender is financially unable to retain counsel.
19 If such a finding is made, the court shall assign counsel to represent
20 the sex offender pursuant to article eighteen-B of the county law. Where
21 the court orders a sex offender released on probation, such order must
22 include a provision requiring that he or she comply with the require-
23 ments of this article. Where such sex offender violates such provision,
24 probation may be immediately revoked in the manner provided by article
25 four hundred ten of the criminal procedure law.

26 S 4. Subdivision 1 of section 168-e of the correction law, as amended
27 by chapter 11 of the laws of 2002, is amended to read as follows:

28 1. Any sex offender, to be discharged, paroled, released to post-re-
29 lease supervision or released from any state or local correctional
30 facility, hospital or institution where he or she was confined or
31 committed, shall at least fifteen calendar days prior to discharge,
32 parole or release, be informed of his or her duty to register under this
33 article, by the facility in which he or she was confined or committed.
34 The facility shall require the sex offender to read and sign such form
35 as may be required by the division stating the duty to register and the
36 procedure for registration has been explained to him or her and to
37 complete the registration portion of such form. The facility shall
38 obtain on such form the address where the sex offender expects to reside
39 upon his or her discharge, parole or release and the name and address of
40 any institution of higher education he or she expects to be employed by,
41 enrolled in, attending or employed, whether for compensation or not, and
42 whether he or she expects to reside in a facility owned or operated by
43 such an institution, AND THE SEX OFFENDER'S EMPLOYMENT ADDRESS AND/OR
44 EXPECTED PLACE OF EMPLOYMENT, and shall report such information to the
45 division. The facility shall give one copy of the form to the sex offen-
46 der, retain one copy and shall send one copy to the division which shall
47 provide the information to the law enforcement agencies having jurisdic-
48 tion. The facility shall give the sex offender a form prepared by the
49 division, to register with the division at least fifteen calendar days
50 prior to release and such form shall be completed, signed by the sex
51 offender and sent to the division by the facility at least ten days
52 prior to the sex offender's release or discharge.

53 S 5. Subdivisions 2 and 4 of section 168-f of the correction law,
54 subdivision 2 as added by chapter 192 of the laws of 1995, paragraph
55 (b-1) of subdivision 2 as amended by chapter 10 of the laws of 2003,
56 paragraphs (b-2), (b-3) and (c-1) of subdivision 2 as added by section 2

1 of part 0 of chapter 56 of the laws of 2005, paragraph (c) of subdivi-
2 sion 2 as amended by chapter 453 of the laws of 1999 and subdivision 4
3 as amended by chapter 67 of the laws of 2008, are amended to read as
4 follows:

5 2. For a sex offender required to register under this article on each
6 anniversary of the sex offender's initial registration date during the
7 period in which he OR SHE is required to register under this section the
8 following applies:

9 (a) The sex offender shall mail the verification form to the division
10 within ten calendar days after receipt of the form.

11 (b) The verification form shall be signed by the sex offender, and
12 state that he OR SHE still resides at the address last reported to the
13 division[.

14 (b-1) If the sex offender has been given a level three designation,
15 such offender shall sign the verification form, and state that he or
16 she] AND still is employed at the address last reported to the division.

17 [(b-2)] (B-1) If the sex offender has been given a level three desig-
18 nation, he or she shall personally appear at the law enforcement agency
19 having jurisdiction within [twenty days of the first anniversary] THREE
20 MONTHS of the sex offender's initial registration and every [year] THREE
21 MONTHS thereafter during the period of registration for the purpose of
22 providing a current photograph of such offender. The law enforcement
23 agency having jurisdiction shall photograph the sex offender and shall
24 promptly forward a copy of such photograph to the division. For purposes
25 of this paragraph, if such sex offender is confined in a state or local
26 correctional facility, the local law enforcement agency having jurisdic-
27 tion shall be the warden, superintendent, sheriff or other person in
28 charge of the state or local correctional facility.

29 [(b-3)] (B-2) If the sex offender has been given a [level one or]
30 level two designation, he or she shall personally appear at the law
31 enforcement agency having jurisdiction within [twenty days of the third
32 anniversary] SIX MONTHS of the sex offender's initial registration and
33 every [three years] SIX MONTHS thereafter during the period of registra-
34 tion for the purpose of providing a current photograph of such offender.
35 The law enforcement agency having jurisdiction shall photograph the sex
36 offender and shall promptly forward a copy of such photograph to the
37 division. For purposes of this paragraph, if such sex offender is
38 confined in a state or local correctional facility, the local law
39 enforcement agency having jurisdiction shall be the warden, superinten-
40 dent, sheriff or other person in charge of the state or local correc-
41 tional facility.

42 (B-3) IF THE SEX OFFENDER HAS BEEN GIVEN A LEVEL ONE DESIGNATION, HE
43 OR SHE SHALL PERSONALLY APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING
44 JURISDICTION WITHIN TWENTY DAYS OF THE FIRST ANNIVERSARY OF THE SEX
45 OFFENDER'S INITIAL REGISTRATION AND EVERY YEAR THEREAFTER DURING THE
46 PERIOD OF REGISTRATION FOR THE PURPOSE OF PROVIDING A CURRENT PHOTOGRAPH
47 OF SUCH OFFENDER. THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION SHALL
48 PHOTOGRAPH THE SEX OFFENDER AND SHALL PROMPTLY FORWARD A COPY OF SUCH
49 PHOTOGRAPH TO THE DIVISION. FOR THE PURPOSES OF THIS PARAGRAPH, IF SUCH
50 SEX OFFENDER IS CONFINED IN A STATE OR LOCAL CORRECTIONAL FACILITY, THE
51 LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION SHALL BE THE WARDEN,
52 SUPERINTENDENT, SHERIFF OR OTHER PERSON IN CHARGE OF THE STATE OR LOCAL
53 CORRECTIONAL FACILITY.

54 (c) If the sex offender fails to mail the signed verification form to
55 the division within ten calendar days after receipt of the form, he or

1 she shall be in violation of this section unless he proves that he or
2 she has not changed his or her residence address.

3 (c-1) If the sex offender, to whom a notice has been mailed at the
4 last reported address pursuant to paragraph [b] (B) of subdivision one
5 of section one hundred sixty-eight-b of this article, fails to
6 personally appear at the law enforcement agency having jurisdiction, as
7 provided in paragraph (B-1), (b-2) or (b-3) of this subdivision[, within
8 twenty days of the anniversary of the sex offender's initial registra-
9 tion], or an alternate later date scheduled by the law enforcement agen-
10 cy having jurisdiction, he or she shall be in violation of this section.
11 The duty to personally appear for such updated photograph shall be
12 temporarily suspended during any period in which the sex offender is
13 confined in any hospital or institution, and such sex offender shall
14 personally appear for such updated photograph no later than ninety days
15 after release from such hospital or institution, or an alternate later
16 date scheduled by the law enforcement agency having jurisdiction.

17 4. Any sex offender shall register with the division no later than
18 [ten calendar] THREE BUSINESS days after any change of NAME OR address,
19 internet accounts with internet access providers belonging to such
20 offender, internet identifiers that such offender uses, or his or her
21 status of enrollment, attendance, employment or residence at any insti-
22 tution of higher education. THE SEX OFFENDER SHALL ALSO PERSONALLY
23 APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WITHIN THREE
24 BUSINESS DAYS AFTER ANY CHANGE OF NAME OR ADDRESS OR ANY CHANGE OF HIS
25 OR HER STATUS OF ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY
26 INSTITUTION OF HIGHER EDUCATION AND PROVIDE SUCH INFORMATION TO THE LAW
27 ENFORCEMENT AGENCY HAVING JURISDICTION. A fee of ten dollars, as author-
28 ized by subdivision eight of section one hundred sixty-eight-b of this
29 article, shall be submitted by the sex offender each time such offender
30 registers any change of NAME OR address or any change of his or her
31 status of enrollment, attendance, employment or residence at any insti-
32 tution of higher education. Any failure or omission to submit the
33 required fee shall not affect the acceptance by the division of the
34 change of address or change of status.

35 S 6. Subdivisions 4 and 5 of section 168-j of the correction law, as
36 added by chapter 11 of the laws of 2002, are amended to read as follows:

37 4. Upon receipt of a change in the status of the enrollment, attend-
38 ance, employment or residence at an institution of higher education, OR
39 EMPLOYMENT ADDRESS OR PLACE OF EMPLOYMENT by a sex offender required to
40 register under this article, the division shall notify each law enforce-
41 ment agency having jurisdiction which is affected by such change.

42 5. Upon receipt of change in the status of the enrollment, attendance,
43 employment or residence at an institution of higher education, OR
44 EMPLOYMENT ADDRESS OR PLACE OF EMPLOYMENT by a sex offender required to
45 register under this article, each law enforcement agency having juris-
46 diction shall adhere to the notification provisions set forth in subdi-
47 vision six of section one hundred sixty-eight-1 of this article.

48 S 7. Subdivision 2 of section 168-k of the correction law, as amended
49 by chapter 684 of the laws of 2005, is amended to read as follows:

50 2. The division shall advise the board that the sex offender has
51 established residence in this state. The board shall determine whether
52 the sex offender is required to register with the division. If it is
53 determined that the sex offender is required to register, the division
54 shall notify the sex offender of his or her duty to register under this
55 article and shall require the sex offender to sign a form as may be
56 required by the division acknowledging that the duty to register and the

1 procedure for registration has been explained to the sex offender. The
2 division shall obtain on such form the address where the sex offender
3 expects to reside within the state AND SUCH ADDITIONAL INFORMATION AS
4 THE DIVISION MAY REQUIRE, and the sex offender shall retain one copy of
5 the form and send two copies to the division which shall provide the
6 information to the law enforcement agency having jurisdiction where the
7 sex offender expects to reside within this state. No later than thirty
8 days prior to the board making a recommendation, the sex offender shall
9 be notified that his or her case is under review and that he or she is
10 permitted to submit to the board any information relevant to the review.
11 After reviewing any information obtained, and applying the guidelines
12 established in subdivision five of section one hundred sixty-eight-1 of
13 this article, the board shall within sixty calendar days make a recom-
14 mendation regarding the level of notification pursuant to subdivision
15 six of section one hundred sixty-eight-1 of this article and whether
16 such sex offender shall be designated a sexual predator, sexually
17 violent offender, or predicate sex offender as defined in subdivision
18 seven of section one hundred sixty-eight-a of this article. This recom-
19 mendation shall be confidential and shall not be available for public
20 inspection. It shall be submitted by the board to the county court or
21 supreme court and to the district attorney in the county of residence of
22 the sex offender and to the sex offender. It shall be the duty of the
23 county court or supreme court in the county of residence of the sex
24 offender, applying the guidelines established in subdivision five of
25 section one hundred sixty-eight-1 of this article, to determine the
26 level of notification pursuant to subdivision six of section one hundred
27 sixty-eight-1 of this article and whether such sex offender shall be
28 designated a sexual predator, sexually violent offender, or predicate
29 sex offender as defined in subdivision seven of section one hundred
30 sixty-eight-a of this article. At least thirty days prior to the deter-
31 mination proceeding, such court shall notify the district attorney and
32 the sex offender, in writing, of the date of the determination proceed-
33 ing and the court shall also provide the district attorney and sex
34 offender with a copy of the recommendation received from the board and
35 any statement of the reasons for the recommendation received from the
36 board. This notice shall include the following statement or a substan-
37 tially similar statement: "This proceeding is being held to determine
38 whether you will be classified as a level 3 offender (risk of repeat
39 offense is high), a level 2 offender (risk of repeat offense is moder-
40 ate), or a level 1 offender (risk of repeat offense is low), or whether
41 you will be designated as a sexual predator, a sexually violent offender
42 or a predicate sex offender, which will determine how long you must
43 register as a sex offender and how much information can be provided to
44 the public concerning your registration. If you fail to appear at this
45 proceeding, without sufficient excuse, it shall be held in your absence.
46 Failure to appear may result in a longer period of registration or a
47 higher level of community notification because you are not present to
48 offer evidence or contest evidence offered by the district attorney."
49 The court shall also advise the sex offender that he or she has a right
50 to a hearing prior to the court's determination, that he or she has the
51 right to be represented by counsel at the hearing and that counsel will
52 be appointed if he or she is financially unable to retain counsel. A
53 returnable form shall be enclosed in the court's notice to the sex
54 offender on which the sex offender may apply for assignment of counsel.
55 If the sex offender applies for assignment of counsel and the court
56 finds that the offender is financially unable to retain counsel, the

1 court shall assign counsel to represent the sex offender pursuant to
2 article eighteen-B of the county law. If the district attorney seeks a
3 determination that differs from the recommendation submitted by the
4 board, at least ten days prior to the determination proceeding the
5 district attorney shall provide to the court and the sex offender a
6 statement setting forth the determinations sought by the district attor-
7 ney together with the reasons for seeking such determinations. The court
8 shall allow the sex offender to appear and be heard. The state shall
9 appear by the district attorney, or his or her designee, who shall bear
10 the burden of proving the facts supporting the determinations sought by
11 clear and convincing evidence. It shall be the duty of the court apply-
12 ing the guidelines established in subdivision five of section one
13 hundred sixty-eight-1 of this article to determine the level of notifi-
14 cation pursuant to subdivision six of section one hundred sixty-eight-1
15 of this article and whether such sex offender shall be designated a
16 sexual predator, sexually violent offender, or predicate sex offender as
17 defined in subdivision seven of section one hundred sixty-eight-a of
18 this article. Where there is a dispute between the parties concerning
19 the determinations, the court shall adjourn the hearing as necessary to
20 permit the sex offender or the district attorney to obtain materials
21 relevant to the determinations from the state board of examiners of sex
22 offenders or any state or local facility, hospital, institution, office,
23 agency, department or division. Such materials may be obtained by
24 subpoena if not voluntarily provided to the requesting party. In making
25 the determinations the court shall review any victim's statement and any
26 relevant materials and evidence submitted by the sex offender and the
27 district attorney and the recommendation and any material submitted by
28 the board, and may consider reliable hearsay evidence submitted by
29 either party, provided that it is relevant to the determinations. If
30 available, facts proven at trial or elicited at the time of a plea of
31 guilty shall be deemed established by clear and convincing evidence and
32 shall not be relitigated. The court shall render an order setting forth
33 its determinations and the findings of fact and conclusions of law on
34 which the determinations are based. A copy of the order shall be submit-
35 ted by the court to the division. Upon application of either party, the
36 court shall seal any portion of the court file or record which contains
37 material that is confidential under any state or federal statute. Either
38 party may appeal as of right from the order pursuant to the provisions
39 of articles fifty-five, fifty-six and fifty-seven of the civil practice
40 law and rules. Where counsel has been assigned to represent the sex
41 offender upon the ground that the sex offender is financially unable to
42 retain counsel, that assignment shall be continued throughout the
43 pendency of the appeal, and the person may appeal as a poor person
44 pursuant to article eighteen-B of the county law.

45 S 8. Paragraphs (a), (b) and (c) of subdivision 6 of section 168-1 of
46 the correction law, paragraphs (a) and (b) as amended by chapter 106 of
47 the laws of 2006 and paragraph (c) as separately amended by chapters 318
48 and 680 of the laws of 2005, are amended to read as follows:

49 (a) If the risk of repeat offense is low, a level one designation
50 shall be given to such sex offender. In such case the law enforcement
51 agency or agencies having jurisdiction and the law enforcement agency or
52 agencies having had jurisdiction at the time of his or her conviction
53 shall be notified and may disseminate relevant information which may
54 include a photograph and description of the offender and which may
55 include the name of the sex offender, approximate address based on sex
56 offender's zip code, background information including the offender's

1 crime of conviction, modus of operation, type of victim targeted, the
2 name and address of any institution of higher education at which the sex
3 offender is enrolled, attends, is employed or resides and the
4 description of special conditions imposed on the offender to any entity
5 with vulnerable populations related to the nature of the offense commit-
6 ted by such sex offender. Any entity receiving information on a sex
7 offender may disclose or further disseminate such information at its
8 discretion. IN ADDITION, IN SUCH CASE, THE INFORMATION DESCRIBED IN
9 SECTION ONE HUNDRED SIXTY-EIGHT-Q OF THIS ARTICLE SHALL ALSO BE PROVIDED
10 IN THE SUBDIRECTORY ESTABLISHED IN THIS ARTICLE AND NOTWITHSTANDING ANY
11 OTHER PROVISION OF LAW, SUCH INFORMATION SHALL, UPON REQUEST, BE MADE
12 AVAILABLE TO THE PUBLIC.

13 (b) If the risk of repeat offense is moderate, a level two designation
14 shall be given to such sex offender. In such case the law enforcement
15 agency or agencies having jurisdiction and the law enforcement agency or
16 agencies having had jurisdiction at the time of his or her conviction
17 shall be notified and may disseminate relevant information which shall
18 include a photograph and description of the offender and which may
19 include the exact name and any aliases used by the sex offender, approx-
20 imate address based on sex offender's zip code, background information
21 including the offender's crime of conviction, mode of operation, type of
22 victim targeted, the name and address of any institution of higher
23 education at which the sex offender is enrolled, attends, is employed or
24 resides and the description of special conditions imposed on the offen-
25 der to any entity with vulnerable populations related to the nature of
26 the offense committed by such sex offender. Any entity receiving infor-
27 mation on a sex offender may disclose or further disseminate such infor-
28 mation at its discretion. In addition, in such case, the information
29 described [herein] IN SECTION ONE HUNDRED SIXTY-EIGHT-Q OF THIS ARTICLE
30 shall also be provided in the subdirectory established in this article
31 and notwithstanding any other provision of law, such information shall,
32 upon request, be made available to the public.

33 Such law enforcement agencies shall compile, maintain and update a
34 listing of vulnerable organizational entities within its jurisdiction.
35 Such listing shall be utilized for notification of such organizations in
36 disseminating such information on level two sex offenders pursuant to
37 this paragraph. Such listing shall include and not be limited to:
38 superintendents of schools or chief school administrators, superinten-
39 dents of parks, public and private libraries, public and private school
40 bus transportation companies, day care centers, nursery schools, pre-
41 schools, neighborhood watch groups, community centers, civic associ-
42 ations, nursing homes, victim's advocacy groups and places of worship.

43 (c) If the risk of repeat offense is high and there exists a threat to
44 the public safety a level three designation shall be given to such sex
45 offender. In such case, the law enforcement agency or agencies having
46 jurisdiction and the law enforcement agency or agencies having had
47 jurisdiction at the time of his or her conviction shall be notified and
48 may disseminate relevant information which shall include a photograph
49 and description of the offender and which may include the sex offender's
50 exact name and any aliases used by the offender, exact address, address
51 of the offender's place of employment, background information including
52 the offender's crime of conviction, mode of operation, type of victim
53 targeted, the name and address of any institution of higher education at
54 which the sex offender is enrolled, attends, is employed or resides and
55 the description of special conditions imposed on the offender to any
56 entity with vulnerable populations related to the nature of the offense

1 committed by such sex offender. Any entity receiving information on a
2 sex offender may disclose or further disseminate such information at its
3 discretion. In addition, in such case, the information described [here-
4 in] IN SECTION ONE HUNDRED SIXTY-EIGHT-Q OF THIS ARTICLE shall also be
5 provided in the subdirectory established in this article and notwith-
6 standing any other provision of law, such information shall, upon
7 request, be made available to the public.

8 Such law enforcement agencies shall compile, maintain and update a
9 listing of vulnerable organizational entities within its jurisdiction.
10 Such listing shall be utilized for notification of such organizations in
11 disseminating such information on level three sex offenders pursuant to
12 this paragraph. Such listing shall include and not be limited to:
13 superintendents of schools or chief school administrators, superinten-
14 dents of parks, public and private libraries, public and private school
15 bus transportation companies, day care centers, nursery schools, pre-
16 schools, neighborhood watch groups, community centers, civic associ-
17 ations, nursing homes, victim's advocacy groups and places of worship.

18 S 9. Subdivision 1 of section 168-q of the correction law, as amended
19 by chapter 478 of the laws of 2009, is amended to read as follows:

20 1. The division shall maintain a subdirectory of [level two and three]
21 sex offenders. The subdirectory shall include [the exact address,
22 address of the offender's place of employment and photograph of the sex
23 offender along with the following information, if available: name, phys-
24 ical description, age and distinctive markings. Background information
25 including the sex offender's crime of conviction, modus of operation,
26 type of victim targeted, the name and address of any institution of
27 higher education at which the sex offender is enrolled, attends, is
28 employed or resides and a description of special conditions imposed on
29 the sex offender shall also be included] ALL REGISTRATION INFORMATION
30 MAINTAINED BY THE DIVISION PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-B
31 OF THIS ARTICLE, PROVIDED THAT THE SUBDIRECTORY SHALL NOT INCLUDE THE
32 IDENTITY OF THE VICTIM OF A SEX OFFENSE, THE SOCIAL SECURITY NUMBER OF
33 THE SEX OFFENDER OR ANY REFERENCE TO ARRESTS OF THE SEX OFFENDER THAT
34 DID NOT RESULT IN A CONVICTION. The subdirectory shall have sex offender
35 listings categorized by county and zip code. [A copy of the subdirectory
36 shall annually be distributed to the offices of local village, town,
37 city, county or state law enforcement agencies for purposes of public
38 access. The division shall distribute monthly updates to the offices of
39 local village, town, city, county or state law enforcement agencies for
40 purposes of public access. Such departments shall require that a person
41 in writing provide their name and address prior to viewing the subdirec-
42 tory. Any information identifying the victim by name, birth date,
43 address or relation to the sex offender shall be excluded from the
44 subdirectory distributed for purposes of public access. The subdirectory
45 provided for herein shall be updated monthly to maintain its efficiency
46 and usefulness and shall be computer accessible.] Such subdirectory
47 shall be made available at all times on the internet via the division
48 homepage. Any person may apply to the division to receive automated
49 e-mail notifications whenever a new or updated subdirectory registration
50 occurs in a geographic area specified by such person. The division shall
51 furnish such service at no charge to such person, who shall request
52 e-mail notification by county and/or zip code on forms developed and
53 provided by the division. E-mail notification is limited to three
54 geographic areas per e-mail account.

55 S 10. Section 168-t of the correction law, as amended by chapter 373
56 of the laws of 2007, is amended to read as follows:

1 S 168-t. Penalty. Any sex offender required to register or to verify
2 pursuant to the provisions of this article who fails to register or
3 verify in the manner and within the time periods provided for in this
4 article [shall be guilty of a class E felony upon conviction for the
5 first offense, and upon conviction for a second or subsequent offense
6 shall be guilty of a class D felony. Any sex offender] OR who violates
7 the provisions of section one hundred sixty-eight-v of this article
8 shall be guilty of a class [A misdemeanor upon conviction for the first
9 offense, and upon conviction for a second or subsequent offense shall be
10 guilty of a class] D felony. Any such failure to register or verify may
11 also be the basis for revocation of parole pursuant to section two
12 hundred fifty-nine-i of the executive law or the basis for revocation of
13 probation pursuant to article four hundred ten of the criminal procedure
14 law.

15 S 11. This act shall take effect on the first of November next
16 succeeding the date on which it shall have become a law, and shall apply
17 to all sex offenders registered or required to register immediately
18 prior to the effective date of this act, and to all sex offenders
19 required to register on or after such effective date.