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538

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Introduced by M. of A. BRAUNSTEIN, WEPRIN, OTIS, ENGLEBRIGHT, COOK, JACOBSON, RA, PALMESANO, MONTESANO, BRABENEC, FRIEND -- Multi-Sponsored by -- M. of A. BARCLAY, BLANKENBUSH, FITZPATRICK, HAWLEY, HEVE-SI, LUPARDO, SOLAGES -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, the executive law, the mental hygiene law, the penal law and the social services law, in relation to the residence of a sex offender

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

Section 1. Section 168-c of the correction law is amended by adding a new subdivision 2-a to read as follows:

2-a. Upon notification pursuant to subdivisions one or two of this section, it shall be the duty of the division to confirm that a sex offender's proposed residence is not within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, or a playground, as such term is defined in subdivision twenty-two of section 10.00 of the penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the nearest real property boundary line comprising such school grounds or playground.

§ 2. Subdivisions 2 and 3 of section 168-d of the correction law, subdivision 2 as amended by chapter 684 of the laws of 2005, and subdivision 3 as amended by chapter 11 of the laws of 2002, are amended to read as follows:

2. Any sex offender, who is released on probation or discharged upon payment of a fine, conditional discharge or unconditional discharge shall, prior to such release or discharge, be informed of his or her duty to register under this article by the court in which he or she was convicted. At the time sentence is imposed, such sex offender shall

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

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1 register with the division on a form prepared by the division. The court
2 shall require the sex offender to read and sign such form and to
3 complete the registration portion of such form. The court shall on such
4 form obtain the address where the sex offender expects to reside upon
5 his or her release, and the name and address of any institution of high-
6 er education he or she expects to be employed by, enrolled in, attending
7 or employed, whether for compensation or not, and whether he or she
8 expects to reside in a facility owned or operated by such an institu-
9 tion, and shall report such information to the division. The court shall
10 give one copy of the form to the sex offender and shall send two copies
11 to the division which shall forward the information to the law enforce-
12 ment agencies having jurisdiction. The court shall also notify the
13 district attorney and the sex offender of the date of the determination
14 proceeding to be held pursuant to subdivision three of this section,
15 which shall be held at least forty-five days after such notice is given.
16 This notice shall include the following statement or a substantially
17 similar statement: "This proceeding is being held to determine whether
18 you will be classified as a level 3 offender (risk of repeat offense is
19 high), a level 2 offender (risk of repeat offense is moderate), or a
20 level 1 offender (risk of repeat offense is low), or whether you will be
21 designated as a sexual predator, a sexually violent offender or a predi-
22 cate sex offender, which will determine how long you must register as a
23 sex offender, where you may reside, work or travel, and how much infor-
24 mation can be provided to the public concerning your registration. If
25 you fail to appear at this proceeding, without sufficient excuse, it
26 shall be held in your absence. Failure to appear may result in a longer
27 period of registration or a higher level of community notification
28 because you are not present to offer evidence or contest evidence
29 offered by the district attorney." The court shall also advise the sex
30 offender that he or she has a right to a hearing prior to the court's
31 determination, that he or she has the right to be represented by counsel
32 at the hearing and that counsel will be appointed if he or she is finan-
33 cially unable to retain counsel. If the sex offender applies for assign-
34 ment of counsel to represent him or her at the hearing and counsel was
35 not previously assigned to represent the sex offender in the underlying
36 criminal action, the court shall determine whether the offender is
37 financially unable to retain counsel. If such a finding is made, the
38 court shall assign counsel to represent the sex offender pursuant to
39 article eighteen-B of the county law. Where the court orders a sex
40 offender released on probation, such order must include a provision
41 requiring that he or she comply with the requirements of this article.
42 Where such sex offender violates such provision, probation may be imme-
43 diately revoked in the manner provided by article four hundred ten of
44 the criminal procedure law.

45 3. For sex offenders released on probation or discharged upon payment
46 of a fine, conditional discharge or unconditional discharge, it shall be
47 the duty of the court applying the guidelines established in subdivision
48 five of section one hundred sixty-eight-1 of this article to determine
49 the level of notification pursuant to subdivision six of section one
50 hundred sixty-eight-1 of this article and whether such sex offender
51 shall be designated a sexual predator, sexually violent offender, or
52 predicate sex offender as defined in subdivision seven of section one
53 hundred sixty-eight-a of this article. At least fifteen days prior to
54 the determination proceeding, the district attorney shall provide to the
55 court and the sex offender a written statement setting forth the deter-
56 minations sought by the district attorney together with the reasons for

1 seeking such determinations. The court shall allow the sex offender to
2 appear and be heard. The state shall appear by the district attorney, or
3 his or her designee, who shall bear the burden of proving the facts
4 supporting the determinations sought by clear and convincing evidence.
5 Where there is a dispute between the parties concerning the determi-
6 nations, the court shall adjourn the hearing as necessary to permit the
7 sex offender or the district attorney to obtain materials relevant to
8 the determinations from any state or local facility, hospital, institu-
9 tion, office, agency, department or division. Such materials may be
10 obtained by subpoena if not voluntarily provided to the requesting
11 party. In making the determinations, the court shall review any victim's
12 statement and any relevant materials and evidence submitted by the sex
13 offender and the district attorney and the court may consider reliable
14 hearsay evidence submitted by either party provided that it is relevant
15 to the determinations. Facts previously proven at trial or elicited at
16 the time of entry of a plea of guilty shall be deemed established by
17 clear and convincing evidence and shall not be relitigated. The court
18 shall render an order setting forth its determinations and the findings
19 of fact and conclusions of law on which the determinations are based.
20 such order shall also include any conditions that are required to be
21 imposed pursuant to section 65.10 of the penal law. A copy of the order
22 shall be submitted by the court to the division. Upon application of
23 either party, the court shall seal any portion of the court file or
24 record which contains material that is confidential under any state or
25 federal statute. Either party may appeal as of right from the order
26 pursuant to the provisions of articles fifty-five, fifty-six and fifty-
27 seven of the civil practice law and rules. Where counsel has been
28 assigned to represent the sex offender upon the ground that the sex
29 offender is financially unable to retain counsel, that assignment shall
30 be continued throughout the pendency of the appeal, and the person may
31 appeal as a poor person pursuant to article eighteen-B of the county
32 law.

33 § 3. Section 168-f of the correction law is amended by adding a new
34 subdivision 4-a to read as follows:

35 4-a. A sex offender who has established a residence shall not change
36 said residence so as to reside within the area defined as school
37 grounds, as such term is defined in subdivision fourteen of section
38 220.00 of the penal law, or a playground, as such term is defined in
39 subdivision twenty-two of section 10.00 of the penal law, the measure-
40 ments to be taken in straight lines from the center of the nearest
41 entrance of the residence to the real property boundary line comprising
42 such school grounds or playground.

43 § 4. Subdivision 2 of section 168-k of the correction law, as amended
44 by chapter 684 of the laws of 2005, is amended to read as follows:

45 2. The division shall advise the board that the sex offender has
46 established residence in this state. The board shall determine whether
47 the sex offender is required to register with the division. If it is
48 determined that the sex offender is required to register, the division
49 shall notify the sex offender of his or her duty to register under this
50 article and shall require the sex offender to sign a form as may be
51 required by the division acknowledging that the duty to register and the
52 procedure for registration has been explained to the sex offender. The
53 division shall obtain on such form the address where the sex offender
54 expects to reside within the state and the sex offender shall retain one
55 copy of the form and send two copies to the division which shall provide
56 the information to the law enforcement agency having jurisdiction where

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

1 nations sought by the district attorney together with the reasons for
2 seeking such determinations. The court shall allow the sex offender to
3 appear and be heard. The state shall appear by the district attorney, or
4 his or her designee, who shall bear the burden of proving the facts
5 supporting the determinations sought by clear and convincing evidence.
6 It shall be the duty of the court applying the guidelines established in
7 subdivision five of section one hundred sixty-eight-1 of this article to
8 determine the level of notification pursuant to subdivision six of
9 section one hundred sixty-eight-1 of this article and whether such sex
10 offender shall be designated a sexual predator, sexually violent offen-
11 der, or predicate sex offender as defined in subdivision seven of
12 section one hundred sixty-eight-a of this article. Where there is a
13 dispute between the parties concerning the determinations, the court
14 shall adjourn the hearing as necessary to permit the sex offender or the
15 district attorney to obtain materials relevant to the determinations
16 from the state board of examiners of sex offenders or any state or local
17 facility, hospital, institution, office, agency, department or division.
18 Such materials may be obtained by subpoena if not voluntarily provided
19 to the requesting party. In making the determinations the court shall
20 review any victim's statement and any relevant materials and evidence
21 submitted by the sex offender and the district attorney and the recom-
22 mendation and any material submitted by the board, and may consider
23 reliable hearsay evidence submitted by either party, provided that it is
24 relevant to the determinations. If available, facts proven at trial or
25 elicited at the time of a plea of guilty shall be deemed established by
26 clear and convincing evidence and shall not be relitigated. The court
27 shall render an order setting forth its determinations and the findings
28 of fact and conclusions of law on which the determinations are based,
29 such order shall also include any conditions that are required to be
30 imposed pursuant to section 65.10 of the penal law. A copy of the order
31 shall be submitted by the court to the division. Upon application of
32 either party, the court shall seal any portion of the court file or
33 record which contains material that is confidential under any state or
34 federal statute. Either party may appeal as of right from the order
35 pursuant to the provisions of articles fifty-five, fifty-six and fifty-
36 seven of the civil practice law and rules. Where counsel has been
37 assigned to represent the sex offender upon the ground that the sex
38 offender is financially unable to retain counsel, that assignment shall
39 be continued throughout the pendency of the appeal, and the person may
40 appeal as a poor person pursuant to article eighteen-B of the county
41 law.

42 § 5. Subdivision 3 of section 168-n of the correction law, as amended
43 by chapter 684 of the laws of 2005, is amended to read as follows:

44 3. No later than thirty days prior to the board's recommendation, the
45 sex offender shall be notified that his or her case is under review and
46 that he or she is permitted to submit to the board any information rele-
47 vant to the review. Upon receipt of the board's recommendation, the
48 sentencing court shall determine whether the sex offender was previously
49 found to be eligible for assigned counsel in the underlying case. Where
50 such a finding was previously made, the court shall assign counsel to
51 represent the offender, pursuant to article eighteen-B of the county
52 law. At least twenty days prior to the determination proceeding, the
53 sentencing court shall notify the district attorney, the sex offender
54 and the sex offender's counsel, in writing, of the date of the determi-
55 nation proceeding and shall also provide the district attorney, the sex
56 offender and the sex offender's counsel with a copy of the recommenda-

tion received from the board and any statement of the reasons for the recommendation received from the board. This notice shall include the following statement or a substantially similar statement: "This proceeding is being held to determine whether you will be classified as a level 3 offender (risk of repeat offense is high), a level 2 offender (risk of repeat offense is moderate), or a level 1 offender (risk of repeat offense is low), or whether you will be designated as a sexual predator, a sexually violent offender or a predicate sex offender, which will determine how long you must register as a sex offender, where you may reside, work or travel, and how much information can be provided to the public concerning your registration. If you fail to appear at this proceeding, without sufficient excuse, it shall be held in your absence. Failure to appear may result in a longer period of registration or a higher level of community notification because you are not present to offer evidence or contest evidence offered by the district attorney." The written notice to the sex offender shall also advise the offender that he or she has a right to a hearing prior to the court's determination, and that he or she has the right to be represented by counsel at the hearing. If counsel has been assigned to represent the offender at the determination proceeding, the notice shall also provide the name, address and telephone number of the assigned counsel. Where counsel has not been assigned, the notice shall advise the sex offender that counsel will be appointed if he or she is financially unable to retain counsel, and a returnable form shall be enclosed in the court's notice to the sex offender on which the sex offender may apply for assignment of counsel. If the sex offender applies for assignment of counsel and the court finds that the offender is financially unable to retain counsel, the court shall assign counsel to represent the sex offender pursuant to article eighteen-B of the county law. If the district attorney seeks a determination that differs from the recommendation submitted by the board, at least ten days prior to the determination proceeding the district attorney shall provide to the court and the sex offender a statement setting forth the determinations sought by the district attorney together with the reasons for seeking such determinations. The court shall allow the sex offender to appear and be heard. The state shall appear by the district attorney, or his or her designee, who shall bear the burden of proving the facts supporting the determinations sought by clear and convincing evidence. Where there is a dispute between the parties concerning the determinations, the court shall adjourn the hearing as necessary to permit the sex offender or the district attorney to obtain materials relevant to the determinations from the state board of examiners of sex offenders or any state or local facility, hospital, institution, office, agency, department or division. Such materials may be obtained by subpoena if not voluntarily provided to the requesting party. In making the determinations the court shall review any victim's statement and any relevant materials and evidence submitted by the sex offender and the district attorney and the recommendation and any materials submitted by the board, and may consider reliable hearsay evidence submitted by either party, provided that it is relevant to the determinations. Facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated. The court shall render an order setting forth its determinations and the findings of fact and conclusions of law on which the determinations are based, such order shall also include any conditions that are required to be imposed pursuant to section 65.10 of the penal law. A copy of the order shall be

submitted by the court to the division. Upon application of either party, the court shall seal any portion of the court file or record which contains material that is confidential under any state or federal statute. Either party may appeal as of right from the order pursuant to the provisions of articles fifty-five, fifty-six and fifty-seven of the civil practice law and rules. Where counsel has been assigned to represent the sex offender upon the ground that the sex offender is financially unable to retain counsel, that assignment shall be continued throughout the pendency of the appeal, and the person may appeal as a poor person pursuant to article eighteen-B of the county law.

§ 6. Subdivision 1 of section 203 of the correction law, as added by section 32 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. The commissioner shall promulgate rules and regulations that shall include guidelines and procedures on the placement of sex offenders designated as level two or level three offenders pursuant to article six-C of this chapter, provided that such guidelines and procedures shall prohibit the placement of such sex offenders within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, or a playground, as such term is defined in subdivision twenty-two of section 10.00 of the penal law.

Such regulations shall provide instruction on certain factors to be considered when investigating and approving the residence of level two or level three sex offenders released on presumptive release, parole, conditional release or post-release supervision. Such factors shall include the following:

(a) the location of other sex offenders required to register under the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

(b) the number of registered sex offenders residing at a particular property;

(c) the proximity of entities with vulnerable populations;

(d) accessibility to family members, friends or other supportive services, including, but not limited to, locally available sex offender treatment programs with preference for placement of such individuals into programs that have demonstrated effectiveness in reducing sex offender recidivism and increasing public safety; and

(e) the availability of permanent, stable housing in order to reduce the likelihood that such offenders will be transient.

§ 7. The correction law is amended by adding a new section 209 to read as follows:

§ 209. Regulations for release of sex offenders designated as level one offenders. The commissioner shall promulgate rules and regulations that shall include guidelines and procedures on the placement of sex offenders designated as level one sexual predators, sexually violent offenders, or predicate sex offenders pursuant to article six-C of this chapter and the victim of the offense for which such designation was received was under the age of eighteen at the time of such offense, provided that such guidelines and procedures shall prohibit the placement of such sex offenders within any school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, or a playground, as such term is defined in subdivision twenty-two of section 10.00 of the penal law.

§ 8. Subdivision 14 of section 259-c of the executive law, as amended by section 38-b of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

14. notwithstanding any other provision of law to the contrary, where a person serving a sentence for an offense defined in article one hundred thirty, one hundred thirty-five or two hundred sixty-three of the penal law or section 255.25, 255.26 or 255.27 of the penal law and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level two or level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law, is released on parole or conditionally released pursuant to subdivision one or two of this section, the board shall require, as a mandatory condition of such release, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of the penal law, ~~[or]~~ any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, or any playground, as that term is defined in subdivision twenty-two of section 10.00 of the penal law, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her parole officer and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the parole officer and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.

§ 9. Subdivision 4 of section 243 of the executive law, as added by chapter 568 of the laws of 2008 and the opening paragraph as amended by section 17 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

4. The office shall recommend to the commissioner rules and regulations which shall include guidelines and procedures on the placement of sex offenders designated as level two or level three offenders pursuant to article six-C of the correction law, provided that such recommended rules and regulations shall prohibit the placement of such sex offenders within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, or a playground, as such term is defined in subdivision twenty-two of section 10.00 of the penal law. Such regulations shall instruct local probation departments to consider certain factors when investigating and approving the residence of level two or level three sex offenders sentenced to a period of probation. Such factors shall include the following:

(a) the location of other sex offenders required to register under the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

(b) the number of registered sex offenders residing at a particular property;

(c) the proximity of entities with vulnerable populations;

(d) accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs with preference for placement of such individuals

1 into programs that have demonstrated effectiveness in reducing sex
2 offender recidivism and increasing public safety; and

3 (e) the availability of permanent, stable housing in order to reduce
4 the likelihood that such offenders will be transient.

5 § 10. Subdivision (a) of section 10.11 of the mental hygiene law, as
6 added by chapter 7 of the laws of 2007, paragraphs 1 and 2 as amended by
7 section 118-e of subpart B of part C of chapter 62 of the laws of 2011,
8 is amended to read as follows:

9 (a) (1) Before ordering the release of a person to a regimen of strict
10 and intensive supervision and treatment pursuant to this article, the
11 court shall order that the department of corrections and community
12 supervision recommend supervision requirements to the court. These
13 supervision requirements, which shall be developed in consultation with
14 the commissioner, shall include a prohibition against knowingly entering
15 into or upon any school grounds, as that term is defined in subdivision
16 fourteen of section 220.00 of the penal law, any other facility or
17 institution primarily used for the care or treatment of persons under
18 the age of eighteen while one or more of such persons under the age of
19 eighteen are present, or a playground, as such term is defined in subdi-
20 vision twenty-two of section 10.00 of the penal law, and may include but
21 need not be limited to, electronic monitoring or global positioning
22 satellite tracking for an appropriate period of time, polygraph monitor-
23 ing, specification of residence or type or residence, prohibition of
24 contact with identified past or potential victims, strict and intensive
25 supervision by a parole officer, and any other lawful and necessary
26 conditions that may be imposed by a court. In addition, after consulta-
27 tion with the psychiatrist, psychologist or other professional primarily
28 treating the respondent, the commissioner shall recommend a specific
29 course of treatment. A copy of the recommended requirements for super-
30 vision and treatment shall be given to the attorney general and the
31 respondent and his or her counsel a reasonable time before the court
32 issues its written order pursuant to this section.

33 (2) Before issuing its written order, the court shall afford the
34 parties an opportunity to be heard, and shall consider any additional
35 submissions by the respondent and the attorney general concerning the
36 proposed conditions of the regimen of strict and intensive supervision
37 and treatment. The court shall issue an order specifying the conditions
38 of the regimen of strict and intensive supervision and treatment, which
39 shall include a condition that the respondent shall refrain from know-
40 ingly entering into or upon any school grounds, as that term is defined
41 in subdivision fourteen of section 220.00 of the penal law, any other
42 facility or institution primarily used for the care or treatment of
43 persons under the age of eighteen while one or more of such persons
44 under the age of eighteen are present, or a playground, as such term is
45 defined in subdivision twenty-two of section 10.00 of the penal law,
46 specified supervision requirements and compliance with a specified
47 course of treatment. A written statement of the conditions of the regi-
48 men of strict and intensive supervision and treatment shall be given to
49 the respondent and to his or her counsel, any designated service provid-
50 ers or treating professionals, the commissioner, the attorney general
51 and the supervising parole officer. The court shall require the depart-
52 ment of corrections and community supervision to take appropriate
53 actions to implement the supervision plan and assure compliance with the
54 conditions of the regimen of strict and intensive supervision and treat-
55 ment and to investigate and approve the location of the respondent's
56 residence. A regimen of strict and intensive supervision does not toll

1 the running of any form of supervision in criminal cases, including but
2 not limited to post-release supervision and parole.

3 § 11. Section 10.00 of the penal law is amended by adding a new subdivi-
4 sion 22 to read as follows:

5 22. "Playground" means (a) in or within any building, structure, play-
6 ing field, or land contained within the boundary of land owned, leased
7 or maintained by the state or any agency or municipality thereof or by
8 any not-for-profit corporation, corporation or association that is used
9 on a regular basis as a recreation area for children and is so desig-
10 nated, or (b) any area accessible to the public located within one thou-
11 sand feet of the perimeter of any such playground or any parked automo-
12 bile or other parked vehicle located within one thousand feet of the
13 real property boundary line comprising any such playground. For the
14 purposes of this section an "area accessible to the public" shall mean
15 sidewalks, streets, parking lots, parks, stores and restaurants.

16 § 12. Paragraph (a) of subdivision 4-a of section 65.10 of the penal
17 law, as amended by chapter 67 of the laws of 2008, is amended to read as
18 follows:

19 (a) When imposing a sentence of probation or conditional discharge
20 upon a person convicted of an offense defined in article one hundred
21 thirty, two hundred thirty-five or two hundred sixty-three of this chap-
22 ter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim
23 of such offense was under the age of eighteen at the time of such
24 offense or such person has been designated a level two or level three
25 sex offender pursuant to subdivision six of section [168-l] one hundred
26 sixty-eight-l of the correction law, the court shall require, as a
27 mandatory condition of such sentence, that such sentenced offender shall
28 refrain from knowingly entering into or upon any school grounds, as that
29 term is defined in subdivision fourteen of section 220.00 of this chap-
30 ter, ~~[or]~~ any other facility or institution primarily used for the care
31 or treatment of persons under the age of eighteen while one or more of
32 such persons under the age of eighteen are present, or any playground,
33 as that term is defined in subdivision twenty-two of section 10.00 of
34 this chapter, provided however, that when such sentenced offender is a
35 registered student or participant or an employee of such facility or
36 institution or entity contracting therewith or has a family member
37 enrolled in such facility or institution, such sentenced offender may,
38 with the written authorization of his or her probation officer or the
39 court and the superintendent or chief administrator of such facility,
40 institution or grounds, enter such facility, institution or upon such
41 grounds for the limited purposes authorized by the probation officer or
42 the court and superintendent or chief officer. Nothing in this subdivi-
43 sion shall be construed as restricting any lawful condition of super-
44 vision that may be imposed on such sentenced offender.

45 § 13. Subdivision 8 of section 20 of the social services law, as
46 amended by section 150 of subpart B of part C of chapter 62 of the laws
47 of 2011, is amended to read as follows:

48 8. (a) The office of temporary and disability assistance shall promul-
49 gate rules and regulations for the administration of this subdivision.
50 The rules and regulations shall provide for the conditions under which
51 local social services officials determine the placement of applicants
52 for and recipients of public assistance for whom a notice pursuant to
53 section two hundred three of the correction law~~[7]~~ has been received and
54 who are:

55 (i) determined to be in immediate need of shelter; and

1 (ii) designated a level two or level three sex offender pursuant to
2 article six-C of the correction law.

3 (b) When making determinations in regard to the placement of such
4 individuals in shelter, local social services officials shall not place
5 such individuals within the area defined as school grounds, as such term
6 is defined in subdivision fourteen of section 220.00 of the penal law,
7 or a playground, as such term is defined in subdivision twenty-two of
8 section 10.00 of the penal law, and shall consider the following
9 factors:

10 (i) the location of other sex offenders required to register pursuant
11 to the sex offender registration act, specifically whether there is a
12 concentration of registered sex offenders in a certain residential area
13 or municipality;

14 (ii) the number of registered sex offenders residing at a particular
15 property;

16 (iii) proximity of the entities with vulnerable populations;

17 (iv) accessibility to family members, friends or other supportive
18 services, including but not limited to locally available sex offender
19 treatment programs with preference for placement of such individuals
20 into programs that have demonstrated effectiveness in reducing sex
21 offender recidivism and increasing public safety; and

22 (v) investigation and approval of such placement by the department of
23 corrections and community supervision.

24 § 14. This act shall take effect on the first of November next
25 succeeding the date on which it shall have become a law.