

STATE OF NEW YORK

7174

2025-2026 Regular Sessions

IN ASSEMBLY

March 21, 2025

Introduced by M. of A. CHANDLER-WATERMAN -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to tracking certain sex offenders with a global positioning system

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

1 Section 1. Subdivision 3 of section 168-d of the correction law, as
2 amended by chapter 11 of the laws of 2002, is amended to read as
3 follows:

4 3. For sex offenders released on probation or discharged upon payment
5 of a fine, conditional discharge or unconditional discharge, it shall be
6 the duty of the court applying the guidelines established in subdivision
7 five of section one hundred sixty-eight-l of this article to determine
8 the level of notification pursuant to subdivision six of section one
9 hundred sixty-eight-l of this article ~~[and]~~; whether such sex offender
10 shall be designated a sexual predator, sexually violent offender, or
11 predicate sex offender as defined in subdivision seven of section one
12 hundred sixty-eight-a of this article; and, if such sex offender has
13 been convicted of an offense involving a child and designated a level
14 three offender and a sexual predator or predicate sex offender, the
15 period of time such sex offender shall submit to global positioning
16 system monitoring as provided in subdivision three-a of section one
17 hundred sixty-eight-f of this article. At least fifteen days prior to
18 the determination proceeding, the district attorney shall provide to the
19 court and the sex offender a written statement setting forth the deter-
20 minations sought by the district attorney together with the reasons for
21 seeking such determinations. The court shall allow the sex offender to
22 appear and be heard. The state shall appear by the district attorney, or
23 ~~[his or her]~~ such district attorney's designee, who shall bear the
24 burden of proving the facts supporting the determinations sought by
25 clear and convincing evidence. Where there is a dispute between the

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

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1 parties concerning the determinations, the court shall adjourn the hear-
2 ing as necessary to permit the sex offender or the district attorney to
3 obtain materials relevant to the determinations from any state or local
4 facility, hospital, institution, office, agency, department or division.
5 Such materials may be obtained by subpoena if not voluntarily provided
6 to the requesting party. In making the determinations, the court shall
7 review any victim's statement and any relevant materials and evidence
8 submitted by the sex offender and the district attorney and the court
9 may consider reliable hearsay evidence submitted by either party
10 provided that it is relevant to the determinations. Facts previously
11 proven at trial or elicited at the time of entry of a plea of guilty
12 shall be deemed established by clear and convincing evidence and shall
13 not be relitigated. The court shall render an order setting forth its
14 determinations and the findings of fact and conclusions of law on which
15 the determinations are based. A copy of the order shall be submitted by
16 the court to the division. Upon application of either party, the court
17 shall seal any portion of the court file or record which contains mate-
18 rial that is confidential under any state or federal statute. Either
19 party may appeal as of right from the order pursuant to the provisions
20 of articles fifty-five, fifty-six and fifty-seven of the civil practice
21 law and rules. Where counsel has been assigned to represent the sex
22 offender upon the ground that the sex offender is financially unable to
23 retain counsel, that assignment shall be continued throughout the
24 pendency of the appeal, and the person may appeal as a poor person
25 pursuant to article eighteen-B of the county law.

26 § 2. Section 168-f of the correction law is amended by adding a new
27 subdivision 3-a to read as follows:

28 3-a. The provisions of subdivision two of this section shall be
29 applied to a sex offender required to register under this article except
30 that a sex offender convicted of an offense involving a child and desig-
31 nated a level three offender and a sexual predator or predicate sex
32 offender, must also be fitted with a global positioning system monitor
33 immediately upon release or commencement of parole or post-release
34 supervision, or probation, or release on payment of a fine, conditional
35 discharge or unconditional discharge. Such global positioning device
36 shall be programmed to send forth an alarm when such sex offender leaves
37 a certain jurisdiction or enters a forbidden area. The period of such
38 monitoring for such sex offender shall be determined by the court, as
39 provided in subdivision three of section one hundred sixty-eight-d of
40 this article. The division shall annually evaluate such sex offender's
41 financial ability to offset the cost of administering the global posi-
42 tioning system and levy such assessment upon such offender. Failure to
43 pay such assessment shall result in a financial hardship hearing as
44 provided in section 420.40 of the criminal procedure law. Such sex
45 offender shall have the right to petition for relief or modification of
46 such duty to wear a global positioning system monitor as provided in
47 subdivision two-a of section one hundred sixty-eight-o of this article.
48 The duty to wear a global positioning system monitor shall be temporar-
49 ily suspended during any period in which such sex offender is confined
50 to any state or local correctional facility, hospital or institution and
51 shall immediately recommence on the date of such sex offender's release.

52 § 3. Section 168-o of the correction law is amended by adding a new
53 subdivision 2-a to read as follows:

54 2-a. Any sex offender required to wear a global positioning system
55 monitor pursuant to this article may petition the sentencing court or
56 the court which made the determination regarding such monitoring for an

order modifying or terminating the monitoring portion of the determination. The petition shall set forth the reasons supporting such modification or termination. The sex offender shall bear the burden of proving the facts supporting the requested modification or termination by clear and convincing evidence. Such a petition shall not be considered more than annually. In the event that the sex offender's petition to modify the level of notification is granted, the district attorney 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.

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