

10254

I N A S S E M B L Y

March 12, 2010

Introduced by M. of A. SWEENEY, ABBATE, HOOPER, JOHN, GALEF, KOON, DelMONTE, CHRISTENSEN, N. RIVERA, SPANO, JAFFEE, WEISENBERG, MARKEY, MAISEL, HIKIND, LANCMAN, GUNTHER, BENEDETTO, FIELDS, GIBSON, CRESPO, MOLINARO, RAIA -- Multi-Sponsored by -- M. of A. CARROZZA, MAGEE, THIELE, TITONE, TOWNS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the correction law, in relation to prohibiting sex offenders from residing within child day care centers

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

1 Section 1. Section 10.00 of the penal law is amended by adding a new
2 subdivision 21 to read as follows:
3 21. "CHILD DAY CARE CENTER" MEANS ANY BUILDING, STRUCTURE, ATHLETIC
4 PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY
5 BOUNDARY LINE OF A PROGRAM OR FACILITY CARING FOR CHILDREN FOR MORE THAN
6 THREE HOURS PER DAY PER CHILD IN WHICH CHILD DAY CARE IS PROVIDED BY A
7 CHILD DAY CARE PROVIDER, AS SUCH TERM IS DEFINED IN PARAGRAPH (B) OF
8 SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES
9 LAW, INCLUDING THOSE PROGRAMS OPERATING AS A GROUP FAMILY DAY CARE HOME,
10 AS SUCH TERM IS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
11 THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, A FAMILY DAY CARE HOME,
12 AS SUCH TERM IS DEFINED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION
13 THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, AND A SCHOOL AGE CHILD
14 CARE PROGRAM, AS SUCH TERM IS DEFINED IN PARAGRAPH (F) OF SUBDIVISION
15 ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW.
16 S 2. Subdivision 4-a of section 65.10 of the penal law is amended by
17 adding a new paragraph (c) to read as follows:
18 (C) WHEN IMPOSING A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE
19 UPON A PERSON CONVICTED OF AN OFFENSE FOR WHICH REGISTRATION AS A SEX
20 OFFENDER IS REQUIRED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW,
21 THE COURT SHALL REQUIRE, AS A MANDATORY CONDITION OF SUCH SENTENCE, THAT
22 SUCH SENTENCED OFFENDER SHALL REFRAIN FROM RESIDING WITHIN A CHILD DAY
23 CARE CENTER.

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

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1 S 3. Section 168-a of the correction law is amended by adding a new
2 subdivision 19 to read as follows:

3 19. "CHILD DAY CARE CENTER" MEANS ANY BUILDING, STRUCTURE, ATHLETIC
4 PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY
5 BOUNDARY LINE OF A PROGRAM OR FACILITY CARING FOR CHILDREN FOR MORE THAN
6 THREE HOURS PER DAY PER CHILD IN WHICH CHILD DAY CARE IS PROVIDED BY A
7 CHILD DAY CARE PROVIDER, AS SUCH TERM IS DEFINED IN PARAGRAPH (B) OF
8 SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES
9 LAW, INCLUDING THOSE PROGRAMS OPERATING AS A GROUP FAMILY DAY CARE HOME,
10 AS SUCH TERM IS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
11 THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, A FAMILY DAY CARE HOME,
12 AS SUCH TERM IS DEFINED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION
13 THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, AND A SCHOOL AGE CHILD
14 CARE PROGRAM, AS SUCH TERM IS DEFINED IN PARAGRAPH (F) OF SUBDIVISION
15 ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW.

16 S 4. Section 168-t of the correction law, as amended by chapter 373 of
17 the laws of 2007, is amended to read as follows:

18 S 168-t. Penalty. Any sex offender required to register or to verify
19 pursuant to the provisions of this article who fails to register or
20 verify in the manner and within the time periods provided for in this
21 article, OR WHO VIOLATES THE PROVISIONS OF SECTION ONE HUNDRED
22 SIXTY-EIGHT-W OF THIS ARTICLE shall be guilty of a class E felony upon
23 conviction for the first offense, and upon conviction for a second or
24 subsequent offense shall be guilty of a class D felony. Any sex offender
25 who violates the provisions of section one hundred sixty-eight-v of this
26 article shall be guilty of a class A misdemeanor upon conviction for the
27 first offense, and upon conviction for a second or subsequent offense
28 shall be guilty of a class D felony. Any such failure to register or
29 verify may also be the basis for revocation of parole pursuant to
30 section two hundred fifty-nine-i of the executive law or the basis for
31 revocation of probation pursuant to article four hundred ten of the
32 criminal procedure law.

33 S 5. Section 168-w of the correction law, as relettered by chapter 604
34 of the laws of 2005, is relettered section 168-x and a new section 168-w
35 is added to read as follows:

36 S 168-W. PROHIBITION ON RESIDING WITHIN A CHILD DAY CARE CENTER. NO
37 SEX OFFENDER REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE SHALL RESIDE
38 WITHIN ANY CHILD DAY CARE CENTER.

39 S 6. This act shall take effect on the first of November next succeed-
40 ing the date on which it shall have become a law.