S T A T E O F N E W Y O R K

1091

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. McDONOUGH, ERRIGO, KOLB, SPANO -- Multi-Sponsored by -- M. of A. THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the executive law, in relation to prohibiting sex offenders and violent felony offenders placed on conditional release or parole from entering upon school grounds or other facilities where children are cared for

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

Section 1. Short title. This act shall be known as and may be cited as "Carlie's law".

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

4-a. Mandatory conditions for sex offenders AND VIOLENT FELONY OFFENDERS. (a) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense defined in article one hundred thirty, two hundred thirty-five or two hundred sixty-three of this chapter, or section 255.25, 255.26 or 255.27 of this chapter, [and the victim of such offense was under the age of eighteen at the time of such offense] A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THIS TITLE or such person has been designated a level three sex offender pursuant to subdivision six of section 168-l of the correction law, the court shall require, as a mandatory condition of such sentence, 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 this chapter, 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, provided however, that when such sentenced offender is a registered student or participant or an employee

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

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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 probation officer or the court 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 probation officer or the court 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.

(b) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, [and the victim of such offense was under the age of eighteen at the time of such offense] A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THIS TITLE or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law or the internet was used to facilitate the commission of the crime, the court shall require, as mandatory conditions of such sentence, that such sentenced offender be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when such offender is over the age of eighteen, provided that the court may permit an offender to use the internet to communicate with a person under the age of eighteen when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child. Nothing in this subdivision shall be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender. As used in this subdivision, a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein.

S 3. Subdivision 14 of section 259-c of the executive law, as amended by chapter 320 of the laws of 2006, 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], A VIOLENT FELONY OFFENSE AS DEFINED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW or such person has been designated a 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, 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.

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