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

2694

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. SWEENEY, KOON, ABBATE, PERRY, LENTOL, AUBRY, N. RIVERA, REILLY, LUPARDO, GUNTHER, RAMOS, LATIMER, EDDINGTON, FIELDS, PHEFFER, GABRYSZAK -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BRADLEY, CARROZZA, COLTON, CUSICK, DelMONTE, DESTITO, ENGLEBRIGHT, GALEF, GOTTFRIED, JAFFEE, JOHN, LIFTON, MAGNARELLI, McENENY, PAULIN, SALADINO, SEMINERIO, WALKER, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to requiring the division of parole to establish sex offender treatment programs; to amend the penal law and the executive law, in relation to establishing mandatory treatment and supervision requirements for sex offenders

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

Section 1. Paragraph (b) of subdivision 2 of section 259-i of the executive law, as amended by section 11 of part E of chapter 62 of the laws of 2003, is amended to read as follows:

(b) (I) Persons presumptively released, paroled, conditionally released or released to post-release supervision from an institution under the jurisdiction of the department of correctional services or the department of mental hygiene shall, while on presumptive release, parole, conditional release or post-release supervision, be in the legal custody of the division of parole until expiration of the maximum term or period of sentence, or expiration of the period of supervision, including any period of post-release supervision, or return to the custody of the department of correctional services, as the case may be.

(II) THE DIVISION, USING SEX OFFENDER TREATMENT PROTOCOLS DEVELOPED BY THE OFFICE OF SEX OFFENDER MANAGEMENT ESTABLISHED PURSUANT TO SECTION EIGHT HUNDRED THIRTY-SEVEN-R OF THIS CHAPTER, SHALL DEVELOP AND IMPLEMENT A SEX OFFENDER TREATMENT PROGRAM WITH SUFFICIENT STAFFING AND RESOURCES TO ENROLL ALL PERSONS UNDER SUPERVISION CONVICTED AND SERVING A SENTENCE FOR A CRIME DEFINED IN ARTICLE ONE HUNDRED THIRTY OR TWO

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

LBD02804-01-9

HUNDRED SIXTY-THREE OR SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW. PARTICIPATION IN SUCH PROGRAM SHALL BE FOR AT LEAST ONE YEAR. SUCH PROGRAM SHALL NOT BE REQUIRED IF THE BOARD OR DIVISION FINDS THAT PARTICIPATION IN SUCH A PROGRAM IS INAPPROPRIATE IN ANY PARTICULAR CASE.

(III) THE DIVISION SHALL DEVELOP AND IMPLEMENT A REQUIREMENT THAT ALL PERSONS UNDER PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION FOR A FELONY DEFINED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE OR SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW SHALL BE SUBJECT TO A MINIMUM OF SIX FACE-TO-FACE SUPERVISION CONTACTS AND SIX COLLATERAL CONTACTS PER MONTH. SUCH CONDITION SHALL CONTINUE FOR THE FULL TERM OF SUPERVISION FOR SUCH OFFENSE.

(IV) AN INMATE RELEASED ON PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION WHO HAS BEEN DESIGNATED A LEVEL THREE SEX OFFENDER PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-L OF THE CORRECTION LAW, WHOSE OFFENSE INVOLVED A VICTIM UNDER SIXTEEN YEARS OF AGE, SHALL BE SUBJECT TO MANDATORY ELECTRONIC MONITORING FOR SUCH PERIOD OF THE OFFENDER'S SUPERVISORY TERM AS THE DIVISION DETERMINES IS NECESSARY, UNLESS THE DIVISION FINDS THAT SUCH CONDITION IS NOT APPROPRIATE IN ANY INDIVIDUAL CASE.

S 2. Subdivision 4 of section 65.10 of the penal law, as added by chapter 653 of the laws of 1996, is amended and two new subdivisions 4-b and 4-c are added to read as follows:

4. Electronic monitoring. When imposing a sentence of probation the court may, in addition to any conditions imposed pursuant to subdivisions two and three of this section, require the defendant to submit to the use of an electronic monitoring device and/or to follow a schedule that governs the defendant's daily movement. Such condition may be imposed only where the court, in its discretion, determines that requiring the defendant to comply with such condition will advance public safety, probationer control or probationer surveillance. Electronic monitoring shall be used in accordance with uniform procedures developed by the division of probation and correctional alternatives. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION, WHEN THE DEFENDANT IS CONVICTED OF AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE OR SECTION 255.25, 255.26 OR 255.27 OF THIS CHAPTER AGAINST A VICTIM UNDER SIXTEEN YEARS OF AGE, AND THE DEFENDANT IS ASSIGNED A LEVEL THREE SEX OFFENDER DESIGNATION PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-L OF THE CORRECTION LAW, THE COURT SHALL REQUIRE ELECTRONIC MONITORING FOR SUCH PERIOD OF THE OFFENDER'S PROBATIONARY TERM, AS THE COURT DETERMINES IS NECESSARY.

4-B. MANDATORY TREATMENT REQUIREMENTS. WHEN IMPOSING A SENTENCE OF PROBATION UPON A PERSON CONVICTED OF A CRIME DEFINED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE OR SECTION 255.25, 255.26 OR 255.27 OF THIS CHAPTER, THE COURT SHALL REQUIRE AS A MANDATORY CONDITION OF SUCH SENTENCE, THAT THE OFFENDER COMPLETE A SEX OFFENDER TREATMENT PROGRAM, PURSUANT TO SECTION TWO HUNDRED FIFTY-EIGHT-A OF THE EXECUTIVE LAW. SUCH PROGRAM SHALL BE A MINIMUM OF ONE FULL YEAR IN DURATION.

4-C. MANDATORY SUPERVISION REQUIREMENTS. WHEN IMPOSING A SENTENCE OF PROBATION UPON A PERSON CONVICTED OF A CRIME DEFINED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE OR SECTION 255.25, 255.26 OR 255.27 OF THIS CHAPTER, THE COURT SHALL IMPOSE AS A CONDITION OF SUCH PROBATION A MANDATORY SUPERVISION REQUIREMENT OF AT LEAST SIX FACE-TO-FACE SUPERVISION CONTACTS AND SIX COLLATERAL CONTACTS PER MONTH FOR THAT PORTION OF THE OFFENDER'S PROBATION SENTENCE WHICH THE PROBATION DEPARTMENT DETERMINES TO BE APPROPRIATE.

S 3. The executive law is amended by adding a new section 258-a to read as follows:

S 258-A. UNIFORM STATEWIDE SEX OFFENDER TREATMENT PROGRAM STANDARDS. THE DIVISION, USING SEX OFFENDER PROTOCOLS DEVELOPED BY THE OFFICE OF SEX OFFENDER MANAGEMENT ESTABLISHED PURSUANT TO SECTION EIGHT HUNDRED THIRTY-SEVEN-R OF THIS CHAPTER, SHALL DEVELOP, IMPLEMENT AND MONITOR UNIFORM STATEWIDE SEX OFFENDER TREATMENT PROGRAM STANDARDS TO BE UTILIZED BY PROBATION DEPARTMENTS.

S 4. This act shall take effect immediately.