

3505

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. BRADLEY, PHEFFER, HOYT, CANESTRARI, GALEF, PAULIN, ORTIZ, FIELDS, BENEDETTO, ESPAILLAT, CLARK, BENJAMIN, SCHROEDER, HOOPER -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, MAYER-SOHN, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the correction law, in relation to implementing the safety from sex offenders act; and making an appropriation therefor

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "safety from sex offenders act".

3 S 2. The penal law is amended by adding a new section 70.16 to read as  
4 follows:

5 S 70.16 ADDITIONAL SENTENCES FOR SEXUAL OFFENSES.

6 1. ANY PERSON WHO IS INCARCERATED UPON THE CONVICTION OF A SEXUAL  
7 OFFENSE OR A SEXUALLY VIOLENT OFFENSE AND SUCH OFFENSE IS A FELONY SHALL  
8 ALSO BE SENTENCED TO A SEX OFFENDER TREATMENT PROGRAM IMPLEMENTED BY THE  
9 DEPARTMENT OF CORRECTIONAL SERVICES PURSUANT TO SECTION ONE HUNDRED  
10 SIXTY-EIGHT-CC OF THE CORRECTION LAW.

11 2. ANY PERSON WHO FAILS TO COOPERATE AND COMPLY WITH THE TERMS AND  
12 CONDITIONS OF HIS OR HER SEX OFFENDER TREATMENT PROGRAM SHALL BE DEEMED  
13 TO HAVE VIOLATED THE PROVISIONS OF HIS OR HER SENTENCE. EACH INSTANCE OF  
14 FAILING TO COOPERATE AND COMPLY WITH THE TREATMENT PROGRAM SHALL CONSTI-  
15 TUTE A SEPARATE VIOLATION. THE LOCAL DEPARTMENT OF CORRECTIONS THROUGH  
16 THE ATTORNEY GENERAL'S OFFICE OR THE OFFICE OF THE LOCAL DISTRICT ATTOR-  
17 NEY SHALL FILE A PETITION WITH THE COURT REGARDING A DEFENDANT'S SEX  
18 OFFENDER TREATMENT PROGRAM VIOLATION. THE PETITION SHALL ALLEGE SUCH  
19 FACTS THAT CONSTITUTE VIOLATIONS OF THE PROGRAM.

20 3. A JUDGE, UPON A FINDING OF CLEAR AND CONVINCING EVIDENCE THAT THE  
21 VIOLATION OR VIOLATIONS ALLEGED IN THE PETITION DID EXIST, MAY IMPOSE AN  
22 ADDITIONAL TERM OF IMPRISONMENT OF UP TO THREE YEARS ON ANY INDIVIDUAL

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

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1 WHO VIOLATES THE PROVISIONS OF HIS OR HER SENTENCE. A JUDGE MAY IMPOSE  
2 SUCH ADDITIONAL TERM FOR EACH SEPARATE PETITION.

3 4. FOR PURPOSES OF THIS SECTION, A SEX OFFENSE SHALL BE ANY OFFENSE  
4 DEFINED IN ARTICLE ONE HUNDRED THIRTY OR SECTION 255.25 OF THIS CHAPTER.

5 S 3. The correction law is amended by adding a new section 168-cc to  
6 read as follows:

7 S 168-CC. SEX OFFENDER TREATMENT PROGRAM. 1. THE COMMISSIONER, IN  
8 CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE COMMISSIONER OF  
9 MENTAL HEALTH, SHALL IMPLEMENT A SEX OFFENDER TREATMENT PROGRAM. THE  
10 PROGRAM SHALL BE APPLICABLE TO ANY INDIVIDUAL WHO RECEIVES AN ADDITIONAL  
11 SENTENCE PURSUANT TO SECTION 70.16 OF THE PENAL LAW.

12 2. THE PROGRAM SHALL BE DESIGNED IN SUCH A WAY THAT A TREATMENT PLAN  
13 WILL BE TAILORED FOR EACH INDIVIDUAL'S SPECIFIC NEEDS.

14 3. THE COMMISSIONER SHALL ENSURE THAT AN INDIVIDUAL'S TREATMENT PLAN  
15 WILL BE SPECIFIC TO THE INDIVIDUAL AND IN PROPORTION TO THE CONVICTED  
16 OFFENSE.

17 4. AN INDIVIDUAL SHALL BE REQUIRED TO COMPLY WITH ALL TERMS, CONDI-  
18 TIONS, DATES, MEETINGS, ETC., IMPOSED BY THE COMMISSIONER AS PART OF THE  
19 INDIVIDUAL'S TREATMENT PLAN.

20 5. THE COMMISSIONER, OR HIS OR HER AGENT, SHALL NOTIFY THE DIVISION OF  
21 CRIMINAL JUSTICE SERVICES OF ANY VIOLATION BY AN INDIVIDUAL OF THE  
22 PROVISIONS OF HIS OR HER TREATMENT PROGRAM.

23 S 4. The sum of eight hundred thousand dollars (\$800,000), or so much  
24 thereof as may be necessary, is hereby appropriated to the department of  
25 correctional services out of moneys in the state treasury in the general  
26 fund to the credit of the sex offender treatment program, not otherwise  
27 appropriated, and made immediately available, for the purpose of carry-  
28 ing out the provisions of this act. Such moneys shall be payable on the  
29 audit and warrant of the comptroller on vouchers certified or approved  
30 by the commissioner of correctional services in the manner prescribed by  
31 law.

32 S 5. This act shall take effect on the ninetieth day after it shall  
33 have become a law.