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

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, MAYERSOHN, 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:

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

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

S 70.16 ADDITIONAL SENTENCES FOR SEXUAL OFFENSES.

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

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

3. A JUDGE, UPON A FINDING OF CLEAR AND CONVINCING EVIDENCE THAT THE VIOLATION OR VIOLATIONS ALLEGED IN THE PETITION DID EXIST, MAY IMPOSE AN 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.

LBD03349-01-9

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

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

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

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

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

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

4. AN INDIVIDUAL SHALL BE REQUIRED TO COMPLY WITH ALL TERMS, CONDITIONS, DATES, MEETINGS, ETC., IMPOSED BY THE COMMISSIONER AS PART OF THE INDIVIDUAL'S TREATMENT PLAN.

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

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

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