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

3913--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. KOON, JOHN -- Multi-Sponsored by -- M. of A. BING, McENENY, SWEENEY, WEISENBERG -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law and the executive law, in relation to photographs of sex offender registrants

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

Section 1. Paragraph (b) of subdivision 1 of section 168-b of the correction law, as amended by section 1 of part O of chapter 56 of the laws of 2005, is amended to read as follows:

(b) A photograph and set of fingerprints. THE PHOTOGRAPH SHALL BE CONTEMPORANEOUS WITH THE ACT OF REGISTRATION. For a sex offender given a level TWO OR three designation, the division shall, during the period of registration, update such photograph once each year. For a sex offender given a level one [or level two] designation, the division shall, during the period of registration, update such photograph once every three years. The division shall notify the sex offender by mail of the duty to appear and be photographed at [the] THEIR PROBATION OR PAROLE OFFICE OR OTHER specified law enforcement agency having jurisdiction. Such notification shall be mailed at least thirty days and not more than sixty days before the photograph is required to be taken pursuant to subdivision two of section one hundred sixty-eight-f of this article. IF A PHOTOGRAPH CANNOT BE TAKEN AT SUCH TIME, THE DIVISION SHALL PROVIDE A DISCLAIMER EXPLAINING WHEN SUCH PHOTOGRAPH WAS TAKEN.

S 2. Paragraphs (b-2) and (c-1) of subdivision 2 of section 168-f of the correction law, as added by section 2 of part O of chapter 56 of the laws of 2005, are amended to read as follows:

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

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(b-2) If the sex offender has been given a level TWO OR three designation, he or she shall personally appear at [the] THEIR PROBATION OR PAROLE OFFICE OR OTHER law enforcement agency having jurisdiction within twenty days of the first anniversary of the sex offender's initial registration and every year thereafter during the period of registration for the purpose of [providing] HAVING a current photograph of such offender TAKEN. The law enforcement agency, PROBATION OR PAROLE OFFICE, OR OTHER AGENCY having jurisdiction shall photograph the sex offender and shall promptly forward a copy of such photograph to the division. For purposes of this paragraph, if such sex offender is confined in a state or local correctional facility, the local law enforcement agency having jurisdiction shall be the warden, superintendent, sheriff or other person in charge of the state or local correctional facility.

(c-1) If the sex offender, to whom a notice has been mailed at the last reported address pursuant to paragraph b of subdivision one of section one hundred sixty-eight-b of this article, fails to personally appear at the law enforcement PROBATION OR PAROLE OFFICE OR OTHER agency having jurisdiction, as provided in paragraph (b-2) or (b-3) of this subdivision, within twenty days of the anniversary of the sex offender's initial registration, or an alternate later date scheduled by the law enforcement agency having jurisdiction, he or she shall be in violation of this section. The duty to personally appear for such updated photograph shall be temporarily suspended during any period in which the sex offender is confined in any hospital or institution, and such sex offender shall personally appear for such updated photograph no later than ninety days after release from such hospital or institution, or an alternate later date scheduled by the law enforcement agency having jurisdiction.

S 3. Subdivision 2 of section 259-a of the executive law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

2. The division shall cause complete records to be kept of every person on presumptive release, parole, conditional release or post-release supervision. Such records shall contain the aliases and photograph of each such person, and the other information referred to in subdivision one of this section, as well as all reports of parole officers in relation to such persons. IN THE CASE OF ALL SEX OFFENDERS WITH A LEVEL TWO OR THREE DESIGNATION THE DIVISION SHALL PHOTOGRAPH SUCH SEX OFFENDER AND UPDATE SUCH PHOTOGRAPH ONCE EACH YEAR. IN THE CASE OF ALL SEX OFFENDERS WITH A LEVEL ONE DESIGNATION, THE DIVISION SHALL PHOTOGRAPH SUCH SEX OFFENDER AND UPDATE SUCH PHOTOGRAPH ONCE EVERY THREE YEARS. Such records shall be maintained by the division and may be made available as deemed appropriate by the [chairman] CHAIRPERSON for use by the department of correctional services, the commissioner of mental health, the commissioner of mental retardation and developmental disabilities, the case review panel, and the attorney general pursuant to section 10.05 of the mental hygiene law, the division, and the board of parole. Such records shall be organized in accordance with methods of filing and indexing designed to insure the immediate availability of complete information about such persons.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.