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

6792

2009-2010 Regular Sessions

I N A S S E M B L Y

March 12, 2009

Introduced by M. of A. BALL -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to guidelines for location of sex offenders

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

Section 1. Section 168-w of the correction law, as relettered by chapter 604 of the laws of 2005, is relettered section 168-y and two new sections 168-w and 168-x are added to read as follows:

S 168-W. GUIDELINES FOR LOCATION OF SEX OFFENDERS. THE DIVISION, IN CONSULTATION AND COOPERATION WITH THE BOARD OF EXAMINERS OF SEX OFFENDERS, DIVISION OF PAROLE, THE OFFICE OF THE DEPARTMENT OF MENTAL HYGIENE AND LOCAL PROBATION DEPARTMENTS THROUGHOUT THE STATE, SHALL DEVELOP GUIDELINES AND PROCEDURES ON THE PLACEMENT, LOCATION, RELOCATION OR SETTLEMENT OF REGISTERED SEX OFFENDERS WITHIN THE COMMUNITY. SUCH GUIDELINES AND PROCEDURES SHALL BE BASED UPON, BUT NOT LIMITED TO, THE FOLLOWING:

1. THAT MUNICIPALITIES BE ALLOWED TO REJECT THE PLACEMENT OF ADDITIONAL SEX OFFENDERS IN SUCH MUNICIPALITY. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A MUNICIPALITY SHALL ACCEPT ANY MORE SUCH INDIVIDUALS SHALL INCLUDE:

(A) THAT SUCH INDIVIDUALS ARE NOT CURRENTLY OVER CONCENTRATED IN ONE MUNICIPALITY OR PORTION THEREOF;

(B) THAT ALL EFFORTS ARE MADE TO LOCATE SUCH INDIVIDUALS IN AREAS THAT HAVE ADEQUATE SUPPORT SERVICES TO MINIMIZE THE RISK OF RECIDIVISM;

(C) THAT FAMILY AND FRIENDS ARE LOCATED REASONABLY CLOSE BY TO PROVIDE FINANCIAL, PSYCHOLOGICAL, SOCIAL AND MORAL SUPPORT TO MINIMIZE THE RISK OF RECIDIVISM;

(D) THAT MEASURES ARE TAKEN TO ENSURE THAT SUCH INDIVIDUALS ARE PLACED IN COMMUNITIES THAT CAN PHYSICALLY ACCOMMODATE SUCH INDIVIDUALS AND THAT SUCH INDIVIDUALS ARE NOT LOCATED NEAR CENTERS WITH A HIGH RISK OF RECI-

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

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DIVISM, INCLUDING BUT NOT LIMITED TO SCHOOLS, DAY CARE CENTERS, PLAYGROUNDS AND OTHER AREAS CHILDREN CONGREGATE.

2. THAT MUNICIPALITIES SHALL BE PERMITTED TO ALLOW OR REJECT A SECURE COMMUNITY RESIDENCE FOR SEX OFFENDERS WITHIN SUCH MUNICIPALITY.

S 168-X. LOCATION OF SEX OFFENDERS; LIMITATIONS. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "PREMISES" INCLUDES A BUILDING AND ANY PIECE OF REAL PROPERTY.

(B) "BUILDING" MEANS AND INCLUDES, IN ADDITION TO ITS ORDINARY MEANING, ANY STRUCTURE, VEHICLE OR WATERCRAFT USED FOR THE OVERNIGHT LODGING OF A PERSON OR USED BY A PERSON FOR CARRYING ON BUSINESS THEREIN OR USED AS AN ELEMENTARY OR SECONDARY SCHOOL, OR ANY INCLOSED MOTOR TRUCK OR INCLOSED MOTOR TRUCK TRAILER. WHERE A BUILDING CONSISTS OF TWO OR MORE UNITS, WHICH ARE SEPARATELY SECURED OR OCCUPIED, EACH UNIT SHALL BE DEEMED BOTH A SEPARATE BUILDING IN ITSELF AND A PART OF THE MAIN BUILDING.

(C) "DWELLING" MEANS A BUILDING WHICH IS USUALLY OCCUPIED BY A PERSON LODGING THEREIN AT NIGHT.

(D) "HOUSING ACCOMMODATION" MEANS ANY BUILDING OR STRUCTURE, OR ANY PORTION THEREOF, WHICH IS USED OR OCCUPIED OR IS INTENDED, ARRANGED OR DESIGNED TO BE USED OR OCCUPIED AS THE HOME, RESIDENCE OR SLEEPING PLACE OF ONE OR MORE HUMAN BEINGS.

2. NO SEX OFFENDER WHO IS REQUIRED TO REGISTER OR TO VERIFY PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL RESIDE WITHIN THE SAME PREMISES, BUILDING, DWELLING OR HOUSING ACCOMMODATION AS ANY OTHER SUCH SEX OFFENDER, UNLESS MARRIED OR RELATED TO SUCH OTHER SEX OFFENDER AND SHARING THE SAME RESIDENCE.

3. NO PERSON SHALL KNOWINGLY PERMIT MORE THAN ONE SEX OFFENDER TO RESIDE IN ANY ONE PREMISE, BUILDING, DWELLING OR HOUSING ACCOMMODATION UNDER SUCH PERSON'S CONTROL UNLESS THE SEX OFFENDERS ARE MARRIED OR RELATED TO EACH OTHER AND SHARE THE RESIDENCE.

4. ANY PERSON CONVICTED OF A VIOLATION OF SUBDIVISION TWO OR THREE OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR UPON THE FIRST CONVICTION THEREOF, AND UPON A CONVICTION FOR A SECOND OR SUBSEQUENT OFFENSE SHALL BE GUILTY OF A CLASS D FELONY.

S 2. This act shall take effect immediately.