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

1300--A

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, the executive law and the penal law, in relation to certain residency requirements for sex offenders

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

Section 1. Section 168-b of the correction law is amended by adding a new subdivision 12 to read as follows:

12. THE DIVISION, WHEN ACKNOWLEDGING INITIAL REGISTRATION AND THEREAFTER IN ANNUAL CORRESPONDENCE, SHALL ADVISE EACH SEX OFFENDER TO WHOM THE RESIDENCY RESTRICTION IN SECTION ONE HUNDRED SIXTY-EIGHT-W OF THIS ARTICLE APPLIES, CONCERNING THE TERMS AND SPECIFIC DURATION OF SUCH RESTRICTION.

S 2. Section 168-t of the correction law, as amended by chapter 373 of the laws of 2007, is amended to read as follows:

S 168-t. Penalty. Any sex offender required to register or to verify pursuant to the provisions of this article who fails to register or verify in the manner and within the time periods provided for in this article shall be guilty of a class E felony upon conviction for the first offense, and upon conviction for a second or subsequent offense shall be guilty of a class D felony. Any sex offender who violates the provisions of section one hundred sixty-eight-v of this article shall be guilty of a class A misdemeanor upon conviction for the first offense, and upon conviction for a second or subsequent offense shall be guilty of a class D felony. ANY SEX OFFENDER WHO VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-EIGHT-W OF THIS ARTICLE SHALL BE GUILTY OF A CLASS E FELONY. Any such failure to register or verify may also be the basis for revocation of parole pursuant to section two hundred fifty-nine-i of the executive law or the basis for

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

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revocation of probation pursuant to article four hundred ten of the criminal procedure law.

S 3. Section 168-w of the correction law, as relettered by chapter 604 of the laws of 2005, is relettered section 168-x and a new section 168-w is added to read as follows:

S 168-W. RESIDENCY REQUIREMENTS FOR SEX OFFENDERS. 1. NO SEX OFFENDER SHALL RESIDE IN A RESIDENCE THAT IS WITHIN ONE-QUARTER OF A MILE OF ANY SCHOOL BUILDING REGULARLY USED FOR INSTRUCTIONAL PURPOSES, A BUILDING IN WHICH CHILD DAY CARE IS PROVIDED, A LICENSED DAY CARE FACILITY OR A PARK. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY FOR THE GREATER OF TEN YEARS OR THE PERIOD OR TERM OF PROBATION, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION APPLICABLE TO SUCH OFFENSE.

2. FOR PURPOSES OF THIS SECTION, "SCHOOL" SHALL MEAN A PUBLIC OR PRIVATE ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL OR HIGH SCHOOL.

3. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS RESTRICTING ANY LAWFUL CONDITION THAT MAY BE IMPOSED ON A SENTENCED SEX OFFENDER.

S 4. Section 259-c of the executive law is amended by adding a new subdivision 18 to read as follows:

18. WHEN THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT-W OF THE CORRECTION LAW CONCERNING CERTAIN RESTRICTIONS ON RESIDENCE APPLY, DIRECT THE DIVISION TO NOTIFY THE RELEASEE OF THE RESTRICTION IN WRITING AND DIRECT THE SUPERVISING PAROLE OFFICER TO NOTIFY THE RELEASEE OF SUCH RESTRICTION ORALLY AND IN WRITING.

S 5. Section 65.10 of the penal law is amended by adding a new subdivision 6 to read as follows:

6. NOTICE OF RESIDENCY REQUIREMENTS FOR SEX OFFENDERS. WHEN THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT-W OF THE CORRECTION LAW CONCERNING CERTAIN RESTRICTIONS ON RESIDENCE APPLY, THE COURT SHALL NOTIFY THE DEFENDANT OF THE RESTRICTION IN WRITING AND THE SUPERVISING PROBATION OFFICER SHALL NOTIFY THE OFFENDER OF THE RESTRICTION ORALLY AND IN WRITING.

S 6. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to sex offenders convicted or released on or after such date.