

1486

2009-2010 Regular Sessions

I N   S E N A T E

February 2, 2009

---

Introduced by Sens. SKELOS, ALESI, BONACIC, DeFRANCISCO, FARLEY, FUSCHILLO, GOLDEN, GRIFFO, LANZA, LAVALLE, LEIBELL, LITTLE, MARCELLINO, MAZIARZ, MORAHAN, SALAND, VOLKER, WINNER -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to the maintenance of information on sex offenders, registration and verification by sex offenders, the subdirectory of sex offenders, and the penalty for the failure of a sex offender to comply with verification and registration requirements

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

1     Section 1. Paragraphs (a) and (e) of subdivision 1 of section 168-b of  
2     the correction law, paragraph (a) as amended by chapter 67 of the laws  
3     of 2008 and paragraph (e) as amended by chapter 10 of the laws of 2003,  
4     are amended and a new paragraph (e-1) is added to read as follows:  
5     (a) The sex offender's name, all aliases used, SOCIAL SECURITY NUMBER,  
6     date of birth, sex, race, height, weight, eye color, driver's license  
7     number, LICENSE PLATE NUMBER AND DESCRIPTION OF ANY MOTOR VEHICLE OWNED  
8     OR OPERATED BY THE SEX OFFENDER, home address and/or expected place of  
9     domicile, any internet accounts with internet access providers belonging  
10    to such offender and internet identifiers that such offender uses.  
11    (e) [If the sex offender has been given a level three designation,  
12    such] THE offender's employment address and/or expected place of employ-  
13    ment.  
14    (E-1) THE CRIMINAL HISTORY OF THE SEX OFFENDER, INCLUDING THE DATE OF  
15    ALL ARRESTS AND CONVICTIONS; THE STATUS OF PAROLE, PROBATION OR RELEASE  
16    UNDER SUPERVISION; REGISTRATION STATUS; THE EXISTENCE OF ANY OUTSTANDING  
17    ARREST WARRANTS FOR THE SEX OFFENDER; AND A PHOTOCOPY OF THE SEX  
18    OFFENDER'S DRIVER'S LICENSE OR GOVERNMENT ISSUED IDENTIFICATION CARD.

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

LBD03392-01-9

1 S 2. Subdivisions 1 and 2 of section 168-c of the correction law, as  
2 amended by chapter 11 of the laws of 2002, are amended to read as  
3 follows:

4 1. In the case of any sex offender, it shall be the duty of the  
5 department, hospital or local correctional facility at least ten calen-  
6 dar days prior to the release or discharge of any sex offender from a  
7 correctional facility, hospital or local correctional facility to notify  
8 the division of the contemplated release or discharge of such sex offen-  
9 der, informing the division in writing on a form provided by the divi-  
10 sion indicating the address at which he or she proposes to reside and  
11 the name and address of any institution of higher education at which he  
12 or she expects to be enrolled, attending or employed, whether for  
13 compensation or not, and whether he or she resides in or will reside in  
14 a facility owned or operated by such institution, AND THE SEX OFFENDER'S  
15 EMPLOYMENT ADDRESS AND/OR EXPECTED PLACE OF EMPLOYMENT. If such sex  
16 offender changes his or her place of residence while on parole, such  
17 notification of the change of residence shall be sent by the sex  
18 offender's parole officer within forty-eight hours to the division on a  
19 form provided by the division. If such sex offender changes the status  
20 of his or her enrollment, attendance, employment or residence at any  
21 institution of higher education, OR EMPLOYMENT ADDRESS OR PLACE OF  
22 EMPLOYMENT while on parole, such notification of the change of status  
23 shall be sent by the sex offender's parole officer within forty-eight  
24 hours to the division on a form provided by the division.

25 2. In the case of any sex offender on probation, it shall be the duty  
26 of the sex offender's probation officer to notify the division within  
27 forty-eight hours of the new place of residence on a form provided by  
28 the division. If such sex offender changes the status of his or her  
29 enrollment, attendance, employment or residence at any institution of  
30 higher education, OR EMPLOYMENT ADDRESS OR PLACE OF EMPLOYMENT while on  
31 probation, such notification of the change of status shall be sent by  
32 the sex offender's probation officer within forty-eight hours to the  
33 division on a form provided by the division.

34 S 3. Subdivision 2 of section 168-d of the correction law, as amended  
35 by chapter 684 of the laws of 2005, is amended to read as follows:

36 2. Any sex offender, who is released on probation or discharged upon  
37 payment of a fine, conditional discharge or unconditional discharge  
38 shall, prior to such release or discharge, be informed of his or her  
39 duty to register under this article by the court in which he or she was  
40 convicted. At the time sentence is imposed, such sex offender shall  
41 register with the division on a form prepared by the division. The court  
42 shall require the sex offender to read and sign such form and to  
43 complete the registration portion of such form. The court shall on such  
44 form obtain the address where the sex offender expects to reside upon  
45 his or her release, and the name and address of any institution of high-  
46 er education he or she expects to be employed by, enrolled in, attending  
47 or employed, whether for compensation or not, and whether he or she  
48 expects to reside in a facility owned or operated by such an institu-  
49 tion, AND THE SEX OFFENDER'S EMPLOYMENT ADDRESS AND/OR EXPECTED PLACE OF  
50 EMPLOYMENT, and shall report such information to the division. The court  
51 shall give one copy of the form to the sex offender and shall send two  
52 copies to the division which shall forward the information to the law  
53 enforcement agencies having jurisdiction. The court shall also notify  
54 the district attorney and the sex offender of the date of the determi-  
55 nation proceeding to be held pursuant to subdivision three of this  
56 section, which shall be held at least forty-five days after such notice

1 is given. This notice shall include the following statement or a  
2 substantially similar statement: "This proceeding is being held to  
3 determine whether you will be classified as a level 3 offender (risk of  
4 repeat offense is high), a level 2 offender (risk of repeat offense is  
5 moderate), or a level 1 offender (risk of repeat offense is low), or  
6 whether you will be designated as a sexual predator, a sexually violent  
7 offender or a predicate sex offender, which will determine how long you  
8 must register as a sex offender and how much information can be provided  
9 to the public concerning your registration. If you fail to appear at  
10 this proceeding, without sufficient excuse, it shall be held in your  
11 absence. Failure to appear may result in a longer period of registration  
12 or a higher level of community notification because you are not present  
13 to offer evidence or contest evidence offered by the district attorney."  
14 The court shall also advise the sex offender that he or she has a right  
15 to a hearing prior to the court's determination, that he or she has the  
16 right to be represented by counsel at the hearing and that counsel will  
17 be appointed if he or she is financially unable to retain counsel. If  
18 the sex offender applies for assignment of counsel to represent him or  
19 her at the hearing and counsel was not previously assigned to represent  
20 the sex offender in the underlying criminal action, the court shall  
21 determine whether the offender is financially unable to retain counsel.  
22 If such a finding is made, the court shall assign counsel to represent  
23 the sex offender pursuant to article eighteen-B of the county law. Where  
24 the court orders a sex offender released on probation, such order must  
25 include a provision requiring that he or she comply with the require-  
26 ments of this article. Where such sex offender violates such provision,  
27 probation may be immediately revoked in the manner provided by article  
28 four hundred ten of the criminal procedure law.

29 S. 4. Subdivision 1 of section 168-e of the correction law, as amended  
30 by chapter 11 of the laws of 2002, is amended to read as follows:

31 1. Any sex offender, to be discharged, paroled, released to post-re-  
32 lease supervision or released from any state or local correctional  
33 facility, hospital or institution where he or she was confined or  
34 committed, shall at least fifteen calendar days prior to discharge,  
35 parole or release, be informed of his or her duty to register under this  
36 article, by the facility in which he or she was confined or committed.  
37 The facility shall require the sex offender to read and sign such form  
38 as may be required by the division stating the duty to register and the  
39 procedure for registration has been explained to him or her and to  
40 complete the registration portion of such form. The facility shall  
41 obtain on such form the address where the sex offender expects to reside  
42 upon his or her discharge, parole or release and the name and address of  
43 any institution of higher education he or she expects to be employed by,  
44 enrolled in, attending or employed, whether for compensation or not, and  
45 whether he or she expects to reside in a facility owned or operated by  
46 such an institution, AND THE SEX OFFENDER'S EMPLOYMENT ADDRESS AND/OR  
47 EXPECTED PLACE OF EMPLOYMENT, and shall report such information to the  
48 division. The facility shall give one copy of the form to the sex offen-  
49 der, retain one copy and shall send one copy to the division which shall  
50 provide the information to the law enforcement agencies having jurisdic-  
51 tion. The facility shall give the sex offender a form prepared by the  
52 division, to register with the division at least fifteen calendar days  
53 prior to release and such form shall be completed, signed by the sex  
54 offender and sent to the division by the facility at least ten days  
55 prior to the sex offender's release or discharge.

1 S 5. Subdivisions 2 and 4 of section 168-f of the correction law,  
2 subdivision 2 as added by chapter 192 of the laws of 1995, paragraph  
3 (b-1) of subdivision 2 as amended by chapter 10 of the laws of 2003,  
4 paragraphs (b-2), (b-3) and (c-1) of subdivision 2 as added by section 2  
5 of part 0 of chapter 56 of the laws of 2005, paragraph (c) of subdivi-  
6 sion 2 as amended by chapter 453 of the laws of 1999 and subdivision 4  
7 as amended by chapter 67 of the laws of 2008, are amended to read as  
8 follows:

9 2. For a sex offender required to register under this article on each  
10 anniversary of the sex offender's initial registration date during the  
11 period in which he OR SHE is required to register under this section the  
12 following applies:

13 (a) The sex offender shall mail the verification form to the division  
14 within ten calendar days after receipt of the form.

15 (b) The verification form shall be signed by the sex offender, and  
16 state that he OR SHE still resides at the address last reported to the  
17 division[.

18 (b-1) If the sex offender has been given a level three designation,  
19 such offender shall sign the verification form, and state that he or  
20 she] AND still is employed at the address last reported to the division.

21 [(b-2)] (B-1) If the sex offender has been given a level three desig-  
22 nation, he or she shall personally appear at the law enforcement agency  
23 having jurisdiction within [twenty days of the first anniversary] THREE  
24 MONTHS of the sex offender's initial registration and every [year] THREE  
25 MONTHS thereafter during the period of registration for the purpose of  
26 providing a current photograph of such offender. The law enforcement  
27 agency having jurisdiction shall photograph the sex offender and shall  
28 promptly forward a copy of such photograph to the division. For purposes  
29 of this paragraph, if such sex offender is confined in a state or local  
30 correctional facility, the local law enforcement agency having jurisdic-  
31 tion shall be the warden, superintendent, sheriff or other person in  
32 charge of the state or local correctional facility.

33 [(b-3)] (B-2) If the sex offender has been given a [level one or]  
34 level two designation, he or she shall personally appear at the law  
35 enforcement agency having jurisdiction within [twenty days of the third  
36 anniversary] SIX MONTHS of the sex offender's initial registration and  
37 every [three years] SIX MONTHS thereafter during the period of registra-  
38 tion for the purpose of providing a current photograph of such offender.  
39 The law enforcement agency having jurisdiction shall photograph the sex  
40 offender and shall promptly forward a copy of such photograph to the  
41 division. For purposes of this paragraph, if such sex offender is  
42 confined in a state or local correctional facility, the local law  
43 enforcement agency having jurisdiction shall be the warden, superinten-  
44 dent, sheriff or other person in charge of the state or local correc-  
45 tional facility.

46 (B-3) IF THE SEX OFFENDER HAS BEEN GIVEN A LEVEL ONE DESIGNATION, HE  
47 OR SHE SHALL PERSONALLY APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING  
48 JURISDICTION WITHIN TWENTY DAYS OF THE FIRST ANNIVERSARY OF THE SEX  
49 OFFENDER'S INITIAL REGISTRATION AND EVERY YEAR THEREAFTER DURING THE  
50 PERIOD OF REGISTRATION FOR THE PURPOSE OF PROVIDING A CURRENT PHOTOGRAPH  
51 OF SUCH OFFENDER. THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION SHALL  
52 PHOTOGRAPH THE SEX OFFENDER AND SHALL PROMPTLY FORWARD A COPY OF SUCH  
53 PHOTOGRAPH TO THE DIVISION. FOR THE PURPOSES OF THIS PARAGRAPH, IF SUCH  
54 SEX OFFENDER IS CONFINED IN A STATE OR LOCAL CORRECTIONAL FACILITY, THE  
55 LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION SHALL BE THE WARDEN,

1 SUPERINTENDENT, SHERIFF OR OTHER PERSON IN CHARGE OF THE STATE OR LOCAL  
2 CORRECTIONAL FACILITY.

3 (c) If the sex offender fails to mail the signed verification form to  
4 the division within ten calendar days after receipt of the form, he or  
5 she shall be in violation of this section unless he proves that he or  
6 she has not changed his or her residence address.

7 (c-1) If the sex offender, to whom a notice has been mailed at the  
8 last reported address pursuant to paragraph [b] (B) of subdivision one  
9 of section one hundred sixty-eight-b of this article, fails to  
10 personally appear at the law enforcement agency having jurisdiction, as  
11 provided in paragraph (B-1), (b-2) or (b-3) of this subdivision[, within  
12 twenty days of the anniversary of the sex offender's initial registra-  
13 tion], or an alternate later date scheduled by the law enforcement agen-  
14 cy having jurisdiction, he or she shall be in violation of this section.  
15 The duty to personally appear for such updated photograph shall be  
16 temporarily suspended during any period in which the sex offender is  
17 confined in any hospital or institution, and such sex offender shall  
18 personally appear for such updated photograph no later than ninety days  
19 after release from such hospital or institution, or an alternate later  
20 date scheduled by the law enforcement agency having jurisdiction.

21 4. Any sex offender shall register with the division no later than  
22 [ten calendar] THREE BUSINESS days after any change of NAME OR address,  
23 internet accounts with internet access providers belonging to such  
24 offender, internet identifiers that such offender uses, or his or her  
25 status of enrollment, attendance, employment or residence at any insti-  
26 tution of higher education. THE SEX OFFENDER SHALL ALSO PERSONALLY  
27 APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WITHIN THREE  
28 BUSINESS DAYS AFTER ANY CHANGE OF NAME OR ADDRESS OR ANY CHANGE OF HIS  
29 OR HER STATUS OF ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY  
30 INSTITUTION OF HIGHER EDUCATION AND PROVIDE SUCH INFORMATION TO THE LAW  
31 ENFORCEMENT AGENCY HAVING JURISDICTION. A fee of ten dollars, as author-  
32 ized by subdivision eight of section one hundred sixty-eight-b of this  
33 article, shall be submitted by the sex offender each time such offender  
34 registers any change of NAME OR address or any change of his or her  
35 status of enrollment, attendance, employment or residence at any insti-  
36 tution of higher education. Any failure or omission to submit the  
37 required fee shall not affect the acceptance by the division of the  
38 change of address or change of status.

39 S 6. Subdivisions 4 and 5 of section 168-j of the correction law, as  
40 added by chapter 11 of the laws of 2002, are amended to read as follows:

41 4. Upon receipt of a change in the status of the enrollment, attend-  
42 ance, employment or residence at an institution of higher education, OR  
43 EMPLOYMENT ADDRESS OR PLACE OF EMPLOYMENT by a sex offender required to  
44 register under this article, the division shall notify each law enforce-  
45 ment agency having jurisdiction which is affected by such change.

46 5. Upon receipt of change in the status of the enrollment, attendance,  
47 employment or residence at an institution of higher education, OR  
48 EMPLOYMENT ADDRESS OR PLACE OF EMPLOYMENT by a sex offender required to  
49 register under this article, each law enforcement agency having juris-  
50 diction shall adhere to the notification provisions set forth in subdi-  
51 vision six of section one hundred sixty-eight-l of this article.

52 S 7. Subdivision 2 of section 168-k of the correction law, as amended  
53 by chapter 684 of the laws of 2005, is amended to read as follows:

54 2. The division shall advise the board that the sex offender has  
55 established residence in this state. The board shall determine whether  
56 the sex offender is required to register with the division. If it is

1 determined that the sex offender is required to register, the division  
2 shall notify the sex offender of his or her duty to register under this  
3 article and shall require the sex offender to sign a form as may be  
4 required by the division acknowledging that the duty to register and the  
5 procedure for registration has been explained to the sex offender. The  
6 division shall obtain on such form the address where the sex offender  
7 expects to reside within the state AND SUCH ADDITIONAL INFORMATION AS  
8 THE DIVISION MAY REQUIRE, and the sex offender shall retain one copy of  
9 the form and send two copies to the division which shall provide the  
10 information to the law enforcement agency having jurisdiction where the  
11 sex offender expects to reside within this state. No later than thirty  
12 days prior to the board making a recommendation, the sex offender shall  
13 be notified that his or her case is under review and that he or she is  
14 permitted to submit to the board any information relevant to the review.  
15 After reviewing any information obtained, and applying the guidelines  
16 established in subdivision five of section one hundred sixty-eight-1 of  
17 this article, the board shall within sixty calendar days make a recom-  
18 mendation regarding the level of notification pursuant to subdivision  
19 six of section one hundred sixty-eight-1 of this article and whether  
20 such sex offender shall be designated a sexual predator, sexually  
21 violent offender, or predicate sex offender as defined in subdivision  
22 seven of section one hundred sixty-eight-a of this article. This recom-  
23 mendation shall be confidential and shall not be available for public  
24 inspection. It shall be submitted by the board to the county court or  
25 supreme court and to the district attorney in the county of residence of  
26 the sex offender and to the sex offender. It shall be the duty of the  
27 county court or supreme court in the county of residence of the sex  
28 offender, applying the guidelines established in subdivision five of  
29 section one hundred sixty-eight-1 of this article, to determine the  
30 level of notification pursuant to subdivision six of section one hundred  
31 sixty-eight-1 of this article and whether such sex offender shall be  
32 designated a sexual predator, sexually violent offender, or predicate  
33 sex offender as defined in subdivision seven of section one hundred  
34 sixty-eight-a of this article. At least thirty days prior to the deter-  
35 mination proceeding, such court shall notify the district attorney and  
36 the sex offender, in writing, of the date of the determination proceed-  
37 ing and the court shall also provide the district attorney and sex  
38 offender with a copy of the recommendation received from the board and  
39 any statement of the reasons for the recommendation received from the  
40 board. This notice shall include the following statement or a substan-  
41 tially similar statement: "This proceeding is being held to determine  
42 whether you will be classified as a level 3 offender (risk of repeat  
43 offense is high), a level 2 offender (risk of repeat offense is moder-  
44 ate), or a level 1 offender (risk of repeat offense is low), or whether  
45 you will be designated as a sexual predator, a sexually violent offender  
46 or a predicate sex offender, which will determine how long you must  
47 register as a sex offender and how much information can be provided to  
48 the public concerning your registration. If you fail to appear at this  
49 proceeding, without sufficient excuse, it shall be held in your absence.  
50 Failure to appear may result in a longer period of registration or a  
51 higher level of community notification because you are not present to  
52 offer evidence or contest evidence offered by the district attorney."  
53 The court shall also advise the sex offender that he or she has a right  
54 to a hearing prior to the court's determination, that he or she has the  
55 right to be represented by counsel at the hearing and that counsel will  
56 be appointed if he or she is financially unable to retain counsel. A

1 returnable form shall be enclosed in the court's notice to the sex  
2 offender on which the sex offender may apply for assignment of counsel.  
3 If the sex offender applies for assignment of counsel and the court  
4 finds that the offender is financially unable to retain counsel, the  
5 court shall assign counsel to represent the sex offender pursuant to  
6 article eighteen-B of the county law. If the district attorney seeks a  
7 determination that differs from the recommendation submitted by the  
8 board, at least ten days prior to the determination proceeding the  
9 district attorney shall provide to the court and the sex offender a  
10 statement setting forth the determinations sought by the district attor-  
11 ney together with the reasons for seeking such determinations. The court  
12 shall allow the sex offender to appear and be heard. The state shall  
13 appear by the district attorney, or his or her designee, who shall bear  
14 the burden of proving the facts supporting the determinations sought by  
15 clear and convincing evidence. It shall be the duty of the court apply-  
16 ing the guidelines established in subdivision five of section one  
17 hundred sixty-eight-1 of this article to determine the level of notifi-  
18 cation pursuant to subdivision six of section one hundred sixty-eight-1  
19 of this article and whether such sex offender shall be designated a  
20 sexual predator, sexually violent offender, or predicate sex offender as  
21 defined in subdivision seven of section one hundred sixty-eight-a of  
22 this article. Where there is a dispute between the parties concerning  
23 the determinations, the court shall adjourn the hearing as necessary to  
24 permit the sex offender or the district attorney to obtain materials  
25 relevant to the determinations from the state board of examiners of sex  
26 offenders or any state or local facility, hospital, institution, office,  
27 agency, department or division. Such materials may be obtained by  
28 subpoena if not voluntarily provided to the requesting party. In making  
29 the determinations the court shall review any victim's statement and any  
30 relevant materials and evidence submitted by the sex offender and the  
31 district attorney and the recommendation and any material submitted by  
32 the board, and may consider reliable hearsay evidence submitted by  
33 either party, provided that it is relevant to the determinations. If  
34 available, facts proven at trial or elicited at the time of a plea of  
35 guilty shall be deemed established by clear and convincing evidence and  
36 shall not be relitigated. The court shall render an order setting forth  
37 its determinations and the findings of fact and conclusions of law on  
38 which the determinations are based. A copy of the order shall be submit-  
39 ted by the court to the division. Upon application of either party, the  
40 court shall seal any portion of the court file or record which contains  
41 material that is confidential under any state or federal statute. Either  
42 party may appeal as of right from the order pursuant to the provisions  
43 of articles fifty-five, fifty-six and fifty-seven of the civil practice  
44 law and rules. Where counsel has been assigned to represent the sex  
45 offender upon the ground that the sex offender is financially unable to  
46 retain counsel, that assignment shall be continued throughout the  
47 pendency of the appeal, and the person may appeal as a poor person  
48 pursuant to article eighteen-B of the county law.

49 S 8. Paragraphs (a), (b) and (c) of subdivision 6 of section 168-1 of  
50 the correction law, paragraphs (a) and (b) as amended by chapter 106 of  
51 the laws of 2006 and paragraph (c) as separately amended by chapters 318  
52 and 680 of the laws of 2005, are amended to read as follows:

53 (a) If the risk of repeat offense is low, a level one designation  
54 shall be given to such sex offender. In such case the law enforcement  
55 agency or agencies having jurisdiction and the law enforcement agency or  
56 agencies having had jurisdiction at the time of his or her conviction

1 shall be notified and may disseminate relevant information which may  
2 include a photograph and description of the offender and which may  
3 include the name of the sex offender, approximate address based on sex  
4 offender's zip code, background information including the offender's  
5 crime of conviction, modus of operation, type of victim targeted, the  
6 name and address of any institution of higher education at which the sex  
7 offender is enrolled, attends, is employed or resides and the  
8 description of special conditions imposed on the offender to any entity  
9 with vulnerable populations related to the nature of the offense commit-  
10 ted by such sex offender. Any entity receiving information on a sex  
11 offender may disclose or further disseminate such information at its  
12 discretion. IN ADDITION, IN SUCH CASE, THE INFORMATION DESCRIBED IN  
13 SECTION ONE HUNDRED SIXTY-EIGHT-Q OF THIS ARTICLE SHALL ALSO BE PROVIDED  
14 IN THE SUBDIRECTORY ESTABLISHED IN THIS ARTICLE AND NOTWITHSTANDING ANY  
15 OTHER PROVISION OF LAW, SUCH INFORMATION SHALL, UPON REQUEST, BE MADE  
16 AVAILABLE TO THE PUBLIC.

17 (b) If the risk of repeat offense is moderate, a level two designation  
18 shall be given to such sex offender. In such case the law enforcement  
19 agency or agencies having jurisdiction and the law enforcement agency or  
20 agencies having had jurisdiction at the time of his or her conviction  
21 shall be notified and may disseminate relevant information which shall  
22 include a photograph and description of the offender and which may  
23 include the exact name and any aliases used by the sex offender, approx-  
24 imate address based on sex offender's zip code, background information  
25 including the offender's crime of conviction, mode of operation, type of  
26 victim targeted, the name and address of any institution of higher  
27 education at which the sex offender is enrolled, attends, is employed or  
28 resides and the description of special conditions imposed on the offen-  
29 der to any entity with vulnerable populations related to the nature of  
30 the offense committed by such sex offender. Any entity receiving infor-  
31 mation on a sex offender may disclose or further disseminate such infor-  
32 mation at its discretion. In addition, in such case, the information  
33 described [herein] IN SECTION ONE HUNDRED SIXTY-EIGHT-Q OF THIS ARTICLE  
34 shall also be provided in the subdirectory established in this article  
35 and notwithstanding any other provision of law, such information shall,  
36 upon request, be made available to the public.

37 Such law enforcement agencies shall compile, maintain and update a  
38 listing of vulnerable organizational entities within its jurisdiction.  
39 Such listing shall be utilized for notification of such organizations in  
40 disseminating such information on level two sex offenders pursuant to  
41 this paragraph. Such listing shall include and not be limited to:  
42 superintendents of schools or chief school administrators, superinten-  
43 dents of parks, public and private libraries, public and private school  
44 bus transportation companies, day care centers, nursery schools, pre-  
45 schools, neighborhood watch groups, community centers, civic associ-  
46 ations, nursing homes, victim's advocacy groups and places of worship.

47 (c) If the risk of repeat offense is high and there exists a threat to  
48 the public safety a level three designation shall be given to such sex  
49 offender. In such case, the law enforcement agency or agencies having  
50 jurisdiction and the law enforcement agency or agencies having had  
51 jurisdiction at the time of his or her conviction shall be notified and  
52 may disseminate relevant information which shall include a photograph  
53 and description of the offender and which may include the sex offender's  
54 exact name and any aliases used by the offender, exact address, address  
55 of the offender's place of employment, background information including  
56 the offender's crime of conviction, mode of operation, type of victim



1 targeted, the name and address of any institution of higher education at  
2 which the sex offender is enrolled, attends, is employed or resides and  
3 the description of special conditions imposed on the offender to any  
4 entity with vulnerable populations related to the nature of the offense  
5 committed by such sex offender. Any entity receiving information on a  
6 sex offender may disclose or further disseminate such information at its  
7 discretion. In addition, in such case, the information described [here-  
8 in] IN SECTION ONE HUNDRED SIXTY-EIGHT-Q OF THIS ARTICLE shall also be  
9 provided in the subdirectory established in this article and notwith-  
10 standing any other provision of law, such information shall, upon  
11 request, be made available to the public.

12 Such law enforcement agencies shall compile, maintain and update a  
13 listing of vulnerable organizational entities within its jurisdiction.  
14 Such listing shall be utilized for notification of such organizations in  
15 disseminating such information on level three sex offenders pursuant to  
16 this paragraph. Such listing shall include and not be limited to:  
17 superintendents of schools or chief school administrators, superinten-  
18 dents of parks, public and private libraries, public and private school  
19 bus transportation companies, day care centers, nursery schools, pre-  
20 schools, neighborhood watch groups, community centers, civic associ-  
21 ations, nursing homes, victim's advocacy groups and places of worship.

22 S 9. Subdivision 1 of section 168-q of the correction law, as amended  
23 by chapter 106 of the laws of 2006, is amended to read as follows:

24 1. The division shall maintain a subdirectory of [level two and three]  
25 sex offenders. The subdirectory shall include [the exact address,  
26 address of the offender's place of employment and photograph of the sex  
27 offender along with the following information, if available: name, phys-  
28 ical description, age and distinctive markings. Background information  
29 including the sex offender's crime of conviction, modus of operation,  
30 type of victim targeted, the name and address of any institution of  
31 higher education at which the sex offender is enrolled, attends, is  
32 employed or resides and a description of special conditions imposed on  
33 the sex offender shall also be included] ALL REGISTRATION INFORMATION  
34 MAINTAINED BY THE DIVISION PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-B  
35 OF THIS ARTICLE, PROVIDED THAT THE SUBDIRECTORY SHALL NOT INCLUDE THE  
36 IDENTITY OF THE VICTIM OF A SEX OFFENSE, THE SOCIAL SECURITY NUMBER OF  
37 THE SEX OFFENDER OR ANY REFERENCE TO ARRESTS OF THE SEX OFFENDER THAT  
38 DID NOT RESULT IN A CONVICTION. The subdirectory shall have sex offender  
39 listings categorized by county and zip code. [A copy of the subdirectory  
40 shall annually be distributed to the offices of local village, town,  
41 city, county or state law enforcement agencies for purposes of public  
42 access. The division shall distribute monthly updates to the offices of  
43 local village, town, city, county or state law enforcement agencies for  
44 purposes of public access. Such departments shall require that a person  
45 in writing provide their name and address prior to viewing the subdirec-  
46 tory. Any information identifying the victim by name, birth date,  
47 address or relation to the sex offender shall be excluded from the  
48 subdirectory distributed for purposes of public access. The subdirectory  
49 provided for herein shall be updated monthly to maintain its efficiency  
50 and usefulness and shall be computer accessible.] Such subdirectory  
51 shall be made available at all times on the internet via the division  
52 homepage.

53 S 10. Section 168-t of the correction law, as amended by chapter 373  
54 of the laws of 2007, is amended to read as follows:

55 S 168-t. Penalty. Any sex offender required to register or to verify  
56 pursuant to the provisions of this article who fails to register or

1 verify in the manner and within the time periods provided for in this  
2 article [shall be guilty of a class E felony upon conviction for the  
3 first offense, and upon conviction for a second or subsequent offense  
4 shall be guilty of a class D felony. Any sex offender] OR who violates  
5 the provisions of section one hundred sixty-eight-v of this article  
6 shall be guilty of a class [A misdemeanor upon conviction for the first  
7 offense, and upon conviction for a second or subsequent offense shall be  
8 guilty of a class] D felony. Any such failure to register or verify may  
9 also be the basis for revocation of parole pursuant to section two  
10 hundred fifty-nine-i of the executive law or the basis for revocation of  
11 probation pursuant to article four hundred ten of the criminal procedure  
12 law.

13 S 11. This act shall take effect on the first of November next  
14 succeeding the date on which it shall have become a law, and shall apply  
15 to all sex offenders registered or required to register immediately  
16 prior to the effective date of this act, and to all sex offenders  
17 required to register on or after such effective date.