

1488

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, HANNON, 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 registration of sex offenders

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

1 Section 1. Subdivision 6 of section 168-b of the correction law, as
2 amended by chapter 106 of the laws of 2006, is amended to read as
3 follows:
4 6. The division shall also establish a [subdirectory] DIRECTORY pursu-
5 ant to section one hundred sixty-eight-q of this article.
6 S 2. Paragraphs (a), (b) and (c) of subdivision 6 of section 168-1 of
7 the correction law, paragraphs (a) and (b) as amended by chapter 106 of
8 the laws of 2006 and paragraph (c) as separately amended by chapters 318
9 and 680 of the laws of 2005, are amended to read as follows:
10 (a) If the risk of repeat offense is low, a level one designation
11 shall be given to such sex offender. In such case the law enforcement
12 agency or agencies having jurisdiction and the law enforcement agency or
13 agencies having had jurisdiction at the time of his or her conviction
14 shall be notified and may disseminate relevant information which may
15 include a photograph and description of the offender and which may
16 include the name of the sex offender, approximate address based on sex
17 offender's zip code, background information including the offender's
18 crime of conviction, modus of operation, type of victim targeted, the
19 name and address of any institution of higher education at which the sex
20 offender is enrolled, attends, is employed or resides and the
21 description of special conditions imposed on the offender to any entity
22 with vulnerable populations related to the nature of the offense commit-

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

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ted by such sex offender. Any entity receiving information on a sex offender may disclose or further disseminate such information at its discretion. IN ADDITION, IN EACH SUCH CASE, THE NAME OF THE SEX OFFENDER, A PHOTOGRAPH OF THE SEX OFFENDER AND APPROXIMATE ADDRESS BASED ON THE SEX OFFENDER'S ZIP CODE SHALL ALSO BE PROVIDED IN THE DIRECTORY ESTABLISHED IN THIS ARTICLE.

(b) If the risk of repeat offense is moderate, a level two designation shall be given to such sex offender. In such case the law enforcement agency or agencies having jurisdiction and the law enforcement agency or agencies having had jurisdiction at the time of his or her conviction shall be notified and may disseminate relevant information which shall include a photograph and description of the offender and which may include the exact name and any aliases used by the sex offender, approximate address based on sex offender's zip code, background information including the offender's crime of conviction, mode of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to any entity with vulnerable populations related to the nature of the offense committed by such sex offender. Any entity receiving information on a sex offender may disclose or further disseminate such information at its discretion. In addition, in such case, the information described [herein] IN THIS PARAGRAPH shall also be provided in the [subdirectory] DIRECTORY established in this article and notwithstanding any other provision of law, such information shall, upon request, be made available to the public.

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

(c) If the risk of repeat offense is high and there exists a threat to the public safety a level three designation shall be given to such sex offender. In such case, the law enforcement agency or agencies having jurisdiction and the law enforcement agency or agencies having had jurisdiction at the time of his or her conviction shall be notified and may disseminate relevant information which shall include a photograph and description of the offender and which may include the sex offender's exact name and any aliases used by the offender, exact address, address of the offender's place of employment, background information including the offender's crime of conviction, mode of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to any entity with vulnerable populations related to the nature of the offense committed by such sex offender. Any entity receiving information on a sex offender may disclose or further disseminate such information at its discretion. In addition, in such case, the information described [herein] IN THIS PARAGRAPH shall also be provided in the [subdirectory] DIRECTORY established in this article and notwithstanding any other

1 provision of law, such information shall, upon request, be made avail-
2 able to the public.

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

13 S 3. Section 168-q of the correction law, as added by chapter 192 of
14 the laws of 1995, the section heading and subdivision 1 as amended by
15 chapter 106 of the laws of 2006, is amended to read as follows:

16 S 168-q. [Subdirectory] DIRECTORY; internet posting. 1. The division
17 shall maintain a [subdirectory of level two and three] DIRECTORY OF sex
18 offenders[. The subdirectory] WHICH SHALL BE MADE AVAILABLE AT ALL TIMES
19 ON THE INTERNET VIA THE DIVISION HOMEPAGE FOR PURPOSES OF PUBLIC ACCESS.

20 (A) IN THE CASE OF A SEX OFFENDER WHO HAS BEEN GIVEN A LEVEL ONE
21 DESIGNATION, THE DIRECTORY SHALL INCLUDE THE NAME OF THE SEX OFFENDER, A
22 PHOTOGRAPH OF THE SEX OFFENDER AND APPROXIMATE ADDRESS BASED ON THE SEX
23 OFFENDER'S ZIP CODE.

24 (B) IN THE CASE OF A SEX OFFENDER WHO HAS BEEN GIVEN A LEVEL TWO OR
25 THREE DESIGNATION, THE DIRECTORY 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. [The subdirectory shall have
34 sex offender listings categorized by county and zip code. A copy of the
35 subdirectory shall annually be distributed to the offices of local
36 village, town, city, county or state law enforcement agencies for
37 purposes of public access. The division shall distribute monthly updates
38 to the offices of local village, town, city, county or state law
39 enforcement agencies for purposes of public access. Such departments]

40 (C) THE DIVISION shall require that a person [in writing] provide
41 [their] HIS OR HER name and address prior to viewing the [subdirectory]
42 DIRECTORY. Any information identifying the victim by name, birth date,
43 address or relation to the sex offender shall be excluded from the
44 [subdirectory distributed for purposes of public access. The subdirecto-
45 ry provided for herein shall be updated monthly to maintain its effi-
46 ciency and usefulness and shall be computer accessible. Such subdirecto-
47 ry shall be made available at all times on the internet via the division
48 homepage] DIRECTORY.

49 (D) THE DIVISION SHALL, ON ITS INTERNET HOMEPAGE, PROVIDE A MEANS FOR
50 ANY PERSON TO REGISTER TO RECEIVE NOTICE AT SUCH PERSON'S ELECTRONIC
51 MAIL ADDRESS OF ALL SEX OFFENDERS WHO RESIDE OR MOVE INTO THE AREA
52 ENCOMPASSED BY SUCH PERSON'S ZIP CODE. THE DIVISION SHALL PROVIDE TIMELY
53 NOTICE BY ELECTRONIC MAIL TO EACH PERSON WHO REGISTERS PURSUANT TO THIS
54 PARAGRAPH OF EVERY SEX OFFENDER RESIDING IN AND OF EVERY SEX OFFENDER
55 WHO MOVES INTO THE PERSON'S ZIP CODE. SUCH NOTICE SHALL INCLUDE ALL

1 INFORMATION AUTHORIZED TO BE DISCLOSED ON EACH SUCH SEX OFFENDER PURSU-
2 ANT TO PARAGRAPH (A) OR (B) OF THIS SUBDIVISION.

3 2. Any person who uses information disclosed pursuant to this section
4 in violation of the law shall in addition to any other penalty or fine
5 imposed, be subject to a fine of not less than five hundred dollars and
6 not more than one thousand dollars. [Unauthorized removal or duplication
7 of the subdirectory from the offices of local, village or city police
8 department shall be punishable by a fine not to exceed one thousand
9 dollars.] In addition, the attorney general, any district attorney, or
10 any person aggrieved is authorized to bring a civil action in the appro-
11 priate court requesting preventive relief, including an application for
12 a permanent or temporary injunction, restraining order, or other order
13 against the person or group of persons responsible for such action. The
14 foregoing remedies shall be independent of any other remedies or proce-
15 dures that may be available to an aggrieved party under other provisions
16 of law.

17 S 4. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law.