

4396

2009-2010 Regular Sessions

I N   S E N A T E

April 22, 2009

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Introduced by Sen. SCHNEIDERMAN -- read twice and ordered printed, and  
when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the correction law, in relation to  
establishing penalties for failure to provide a DNA sample and failure  
to register or verify as a sex offender

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

1     Section 1. The penal law is amended by adding two new sections 195.01  
2     and 195.02 to read as follows:  
3     S 195.01 FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE.  
4     A PERSON IS GUILTY OF FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND  
5     DEGREE WHEN, BEING A DESIGNATED OFFENDER WHO HAS BEEN CONVICTED AND  
6     SENTENCED FOR A CRIME SPECIFIED IN SUBDIVISION SEVEN OF SECTION NINE  
7     HUNDRED NINETY-FIVE OF THE EXECUTIVE LAW AND HAVING BEEN GIVEN NOTICE  
8     THAT HE OR SHE IS REQUIRED TO PROVIDE A SAMPLE APPROPRIATE FOR DNA TEST-  
9     ING PURSUANT TO SUBDIVISION THREE OF SECTION NINE HUNDRED NINETY-FIVE-C  
10    OF THE EXECUTIVE LAW, SUCH PERSON REFUSES, RESISTS OR OTHERWISE FAILS TO  
11    PROVIDE SUCH SAMPLE.  
12    FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE IS A CLASS A  
13    MISDEMEANOR.  
14    S 195.02 FAILURE TO PROVIDE A DNA SAMPLE IN THE FIRST DEGREE.  
15    A PERSON IS GUILTY OF FAILURE TO PROVIDE A DNA SAMPLE IN THE FIRST  
16    DEGREE WHEN HE OR SHE COMMITS THE CRIME OF FAILURE TO PROVIDE A DNA  
17    SAMPLE IN THE SECOND DEGREE AND HAS PREVIOUSLY BEEN CONVICTED OF FAILURE  
18    TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE.  
19    FAILURE TO PROVIDE A DNA SAMPLE IN THE FIRST DEGREE IS A CLASS E FELO-  
20    NY.  
21    S 2. The penal law is amended by adding two new sections 195.03 and  
22    195.04 to read as follows:  
23    S 195.03 FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER IN THE SECOND  
24    DEGREE.

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

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1 A PERSON IS GUILTY OF FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER  
2 IN THE SECOND DEGREE WHEN, BEING A SEX OFFENDER REQUIRED TO REGISTER OR  
3 VERIFY PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW, HE OR SHE FAILS  
4 TO REGISTER OR VERIFY IN THE MANNER AND WITHIN THE TIME PERIODS PROVIDED  
5 FOR IN SUCH ARTICLE.

6 FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER IN THE SECOND DEGREE  
7 IS A CLASS E FELONY.

8 S 195.04 FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER IN THE FIRST  
9 DEGREE.

10 A PERSON IS GUILTY OF FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER  
11 IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME OF FAILURE TO  
12 REGISTER OR VERIFY AS A SEX OFFENDER IN THE SECOND DEGREE AND HAS PREVI-  
13 OUSLY BEEN CONVICTED OF FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER  
14 IN THE SECOND DEGREE AS DEFINED IN SECTION 195.03 OF THIS ARTICLE OR  
15 CONVICTED FOR FAILURE TO REGISTER OR VERIFY UNDER SECTION ONE HUNDRED  
16 SIXTY-EIGHT-T OF THE CORRECTION LAW AS IT EXISTED IMMEDIATELY PRIOR TO  
17 THE EFFECTIVE DATE OF THIS SECTION.

18 FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER IN THE FIRST DEGREE IS  
19 A CLASS D FELONY.

20 S 3. Section 168-t of the correction law, as amended by chapter 373 of  
21 the laws of 2007, is amended to read as follows:

22 S 168-t. [Penalty] VIOLATIONS; ADDITIONAL PENALTIES.

23 [Any sex offender required to register or to verify pursuant to the  
24 provisions of this article who fails to register or verify in the manner  
25 and within the time periods provided for in this article shall be guilty  
26 of a class E felony upon conviction for the first offense, and upon  
27 conviction for a second or subsequent offense shall be guilty of a class  
28 D felony.] Any sex offender who violates the provisions of section one  
29 hundred sixty-eight-v of this article shall be guilty of a class A  
30 misdemeanor upon conviction for the first offense, and upon conviction  
31 for a second or subsequent offense shall be guilty of a class D felony.  
32 [Any such] IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, ANY fail-  
33 ure to register or verify may also be the basis for revocation of parole  
34 pursuant to section two hundred fifty-nine-i of the executive law or the  
35 basis for revocation of probation pursuant to article four hundred ten  
36 of the criminal procedure law.

37 S 4. This act shall take effect on the first of November next succeed-  
38 ing the date on which it shall have become a law.