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

1716

2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. ENGLEBRIGHT, ABBATE, MARKEY, FIELDS, WEISENBERG, GIANARIS, MORELLE, KOON, HOYT, GUNTHER, CHRISTENSEN, ROBINSON, BENEDETTO, REILLY, GABRYSZAK, SPANO -- Multi-Sponsored by -- M. of A. BOYLAND, BRADLEY, CAMARA, CARROZZA, CLARK, COOK, DelMONTE, DESTITO, DIAZ, EDDINGTON, ESPAILLAT, GALEF, GANTT, HIKIND, MAGNARELLI, MAYERSOHN, ORTIZ, PHEFFER, N. RIVERA, SCHIMMINGER, SEMINERIO, SWEENEY -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to prohibiting sex offenders from any position involving substantial contact with children

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-x and a new section 168-w is added to read as follows:

S 168-W. SEX OFFENDERS SHALL NOT BE EMPLOYED IN A POSITION INVOLVING SUBSTANTIAL CONTACT WITH CHILDREN. 1. NO SEX OFFENDER SHALL APPLY FOR OR ACCEPT A POSITION WHICH INVOLVES SUBSTANTIAL CONTACT WITH CHILDREN. SUCH POSITION SHALL INCLUDE ANY JOB, TASK OR OCCUPATION, WHICH BY ITS NATURE, REQUIRES A PERSON TO BE IN SUBSTANTIAL CONTACT WITH CHILDREN IN THE REGULAR PERFORMANCE OF HIS OR HER DUTIES OR DEALINGS IN SUCH POSITION. THIS SECTION SHALL ALSO APPLY TO ANY PERSON SEEKING A PERMIT OR PERMISSION TO EXECUTE ANY ACTIVITY OR PERFORMANCE THAT WOULD PRESENT A DIRECT CONTACT WITH CHILDREN.

2. THE DEFINITION OF "POSITION" AS USED IN THIS SECTION SHALL APPLY TO ANY PERSON SEEKING EMPLOYMENT EITHER PAID OR NOT PAID, ANY PERSON SEEKING TO VOLUNTEER, OR ANY PERSON SEEKING A PERMIT OR PERMISSION THAT WOULD PRESENT A SUBSTANTIAL CONTACT WITH CHILDREN.

3. EXAMPLES OF SUCH EMPLOYMENT INCLUDE, BUT ARE NOT LIMITED TO:

A. ANY POSITION IN A SCHOOL INCLUDING TEACHERS, TEACHER-AIDES, ADMINISTRATORS, ASSISTANTS, CAFETERIA WORKERS, JANITORS, NURSES OR ANY OTHER

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

LBD01167-01-9

PERSON WORKING IN A SCHOOL THAT WOULD HAVE CONTACT WITH THE CHILDREN ATTENDING SAID SCHOOL;

B. ANY POSITION IN A CHILD-CARE FACILITY;

C. ANY RECREATIONAL POSITION SUCH AS A COACH, BOY SCOUT OR GIRL SCOUT LEADER, CAMP COUNSELOR, LIFEGUARD, INSTRUCTOR OR ANY OTHER RECREATIONAL AREA THAT WOULD PRESENT A SUBSTANTIAL CONTACT WITH CHILDREN;

D. ANY POSITION IN A PARK, PLAYGROUND, AMUSEMENT PARK, POOL OR ANY OTHER FACILITY OR AREA WHERE CHILDREN HAVE A PROPENSITY TO INHABIT;

E. ANY STORE OR RESTAURANT THAT IS SPECIFICALLY TARGETED TOWARDS CHILDREN SUCH AS A TOY STORE OR CHILDREN'S THEME RESTAURANT;

F. ANY POSITION WHEREIN A PERSON WOULD BE EMPLOYED IN AN AREA THAT SPECIFICALLY IS TARGETED TOWARDS CHILDREN SUCH AS AN ICE CREAM TRUCK OPERATOR;

G. ANY PERSON APPLYING FOR A PERMIT OR PERMISSION THAT WOULD GRANT SAID PERSON THE ABILITY TO CARRY OUT ANY ACTIVITY OR ACTION THAT IS DIRECTED TOWARDS OR WOULD INVOLVE SUBSTANTIAL CONTACT WITH CHILDREN.

4. EMPLOYERS, ORGANIZATIONS AND GOVERNMENT ENTITIES SHALL HAVE ACCESS TO THE STATEWIDE CENTRAL REGISTRY OF CHILD ABUSE AND MALTREATMENT FOR THE PURPOSE OF PERFORMING A BACKGROUND CHECK FOR ANY CONVICTIONS OF SEXUAL ABUSE OF A CHILD. EVERY EMPLOYER, ORGANIZATION AND GOVERNMENT ENTITY SHALL CHECK ANY POTENTIAL EMPLOYEES SEEKING TO ASSUME A POSITION THAT WILL BE IN SUBSTANTIAL CONTACT WITH CHILDREN AGAINST BOTH THE STATEWIDE CENTRAL REGISTRY OF CHILD ABUSE AND MALTREATMENT AND THE REGISTERED SEX OFFENDERS DATABASE TO ASCERTAIN IF SAID PERSON HAS A CONVICTION FOR SEXUAL ABUSE OF A CHILD.

5. "SUBSTANTIAL CONTACT WITH CHILDREN" AS USED IN THIS SECTION MEANS WORKING WITH CHILDREN, HAVING ACCESS TO CHILDREN, HAVING OPPORTUNITY TO BE ALONE WITH CHILDREN, SPENDING TIME WITH CHILDREN, PERFORMING FOR CHILDREN OR ANY OTHER ACTIVITY THAT INVOLVES CHILDREN.

6. A. ANY SEX OFFENDER WHO APPLIES FOR OR ACCEPTS EMPLOYMENT IN VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR UPON THE FIRST CONVICTION THEREOF, AND UPON A SECOND OR SUBSEQUENT CONVICTION THEREOF SHALL BE GUILTY OF A CLASS D FELONY.

B. ANY EMPLOYER WHO KNOWINGLY EMPLOYS A SEX OFFENDER IN VIOLATION OF THIS SECTION SHALL, UPON CONVICTION, BE GUILTY OF A CLASS A MISDEMEANOR.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.