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

5263

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. GIANARIS, JOHN, KOON, SPANO -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to the registration of sex offenders; and repealing certain provisions of such law relating thereto

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

Section 1. Paragraph (b) of subdivision 1 of section 168-b of the correction law, as amended by section 1 of part O of chapter 56 of the laws of 2005, is amended to read as follows:

(b) A photograph, INCLUDING THE DATE SUCH PHOTOGRAPH WAS TAKEN, IF KNOWN, and set of fingerprints. For a sex offender given a level three designation, the division shall, during the period of registration, update such photograph once each year. For a sex offender given a level one or level two designation, the division shall, during the period of registration, update such photograph once every three years. The division shall notify the sex offender by mail of the duty to appear and be photographed at the specified law enforcement agency having jurisdiction. Such notification shall be mailed at least thirty days and not more than sixty days before the photograph is required to be taken pursuant to subdivision two of section one hundred sixty-eight-f of this article.

S 2. Paragraphs (b-2) and (b-3) of subdivision 2 of section 168-f of the correction law are REPEALED and a new paragraph (b-2) is added to read as follows:

(B-2) NO LATER THAN THIRTY CALENDAR DAYS AFTER EACH ANNIVERSARY OF THE SEX OFFENDER'S INITIAL REGISTRATION DATE, THE SEX OFFENDER SHALL PERSONALLY APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION FOR THE PURPOSE OF PROVIDING A CURRENT PHOTOGRAPH OF SUCH OFFENDER. THE DUTY TO PERSONALLY APPEAR SHALL BE TEMPORARILY SUSPENDED DURING ANY PERIOD IN WHICH THE SEX OFFENDER IS CONFINED TO ANY STATE OR LOCAL CORRECTIONAL

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

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FACILITY, HOSPITAL OR INSTITUTION AND SHALL IMMEDIATELY RECOMMENCE ON THE DATE OF THE SEX OFFENDER'S RELEASE.

S 3. Paragraph (c-1) of subdivision 2 of section 168-f of the correction law, as added by section 2 of part O of chapter 56 of the laws of 2005, is amended to read as follows:

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

S 4. Section 168-j of the correction law is amended by adding a new subdivision 6 to read as follows:

6. THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION SHALL PHOTOGRAPH A SEX OFFENDER WHO PERSONALLY APPEARS PURSUANT TO PARAGRAPH (B-2) OF SUBDIVISION TWO OF SECTION ONE HUNDRED SIXTY-EIGHT-F OF THIS ARTICLE AND SHALL PROMPTLY FORWARD A COPY OF SUCH PHOTOGRAPH TO THE DIVISION ALONG WITH THE DATE THE PHOTOGRAPH WAS TAKEN.

S 5. Paragraphs (b) and (c) of subdivision 6 of section 168-l of the correction law, paragraph (b) as amended by chapter 106 of the laws of 2006 and paragraph (c) as separately amended by chapters 318 and 680 of the laws of 2005, are amended to read as follows:

(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, ALONG WITH THE DATE SUCH PHOTOGRAPH WAS TAKEN IF KNOWN, 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 shall also be provided in the subdirectory 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, superinten-

dents 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, ALONG WITH THE DATE SUCH PHOTOGRAPH WAS TAKEN IF KNOWN, 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 shall also be provided in the subdirectory 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 three 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.

S 6. Subdivision 1 of section 168-q of the correction law, as amended by chapter 106 of the laws of 2006, is amended to read as follows:

1. The division shall maintain a subdirectory of level two and three sex offenders. The subdirectory shall include the exact address, address of the offender's place of employment and photograph of the sex offender, ALONG WITH THE DATE SUCH PHOTOGRAPH WAS TAKEN IF KNOWN, along with the following information, if available: name, physical description, age and distinctive markings. Background information including the sex offender's crime of conviction, modus 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 a description of special conditions imposed on the sex offender shall also be included. The subdirectory shall have sex offender listings categorized by county and zip code. A copy of the subdirectory shall annually be distributed to the offices of local village, town, city, county or state law enforcement agencies for purposes of public access. The division shall distribute monthly updates to the offices of local village, town, city, county or state law enforcement agencies for purposes of public access. Such departments shall require that a person in writing provide their name and address prior to viewing the subdirectory. Any information identifying the

victim by name, birth date, address or relation to the sex offender shall be excluded from the subdirectory distributed for purposes of public access. The subdirectory provided for herein shall be updated monthly to maintain its efficiency and usefulness and shall be computer accessible. Such subdirectory shall be made available at all times on the internet via the division homepage.

S 7. This act shall take effect on the one hundred twentieth day after it shall have become a law.