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

4396

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The penal law is amended by adding two new sections 195.01 and 195.02 to read as follows:

S 195.01 FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE.

A PERSON IS GUILTY OF FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE WHEN, BEING A DESIGNATED OFFENDER WHO HAS BEEN CONVICTED AND SENTENCED FOR A CRIME SPECIFIED IN SUBDIVISION SEVEN OF SECTION NINE HUNDRED NINETY-FIVE OF THE EXECUTIVE LAW AND HAVING BEEN GIVEN NOTICE THAT HE OR SHE IS REQUIRED TO PROVIDE A SAMPLE APPROPRIATE FOR DNA TESTING PURSUANT TO SUBDIVISION THREE OF SECTION NINE HUNDRED NINETY-FIVE-C OF THE EXECUTIVE LAW, SUCH PERSON REFUSES, RESISTS OR OTHERWISE FAILS TO PROVIDE SUCH SAMPLE.

FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 195.02 FAILURE TO PROVIDE A DNA SAMPLE IN THE FIRST DEGREE.

A PERSON IS GUILTY OF FAILURE TO PROVIDE A DNA SAMPLE IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME OF FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE AND HAS PREVIOUSLY BEEN CONVICTED OF FAILURE TO PROVIDE A DNA SAMPLE IN THE SECOND DEGREE.

FAILURE TO PROVIDE A DNA SAMPLE IN THE FIRST DEGREE IS A CLASS E FELONY.

S 2. The penal law is amended by adding two new sections 195.03 and 195.04 to read as follows:

S 195.03 FAILURE TO REGISTER OR VERIFY AS A SEX OFFENDER IN THE SECOND DEGREE.

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

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

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

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

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

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

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

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

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

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.