

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT to amend the penal law, in relation to prohibiting certain sex offenders from entering a school bus or within one thousand feet of a school bus stop

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

1 Section 1. Subdivision 4-a of section 65.10 of the penal law, as  
2 amended by chapter 67 of the laws of 2008, is amended to read as  
3 follows:  
4 4-a. Mandatory conditions for sex offenders. (a) When imposing a  
5 sentence of probation or conditional discharge upon a person convicted  
6 of an offense defined in article one hundred thirty, two hundred thir-  
7 ty-five or two hundred sixty-three of this chapter, or section 255.25,  
8 255.26 or 255.27 of this chapter, and the victim of such offense was  
9 under the age of eighteen at the time of such offense or such person has  
10 been designated a level three sex offender pursuant to subdivision six  
11 of section 168-1 of the correction law, the court shall require, as a  
12 mandatory condition of such sentence, that such sentenced offender shall  
13 refrain from knowingly entering into or upon any school grounds, as that  
14 term is defined in subdivision fourteen of section 220.00 of this chap-  
15 ter, OR ANY SCHOOL BUS, AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF  
16 THE VEHICLE AND TRAFFIC LAW, OR WITHIN ONE THOUSAND FEET OF A DESIGNATED  
17 SCHOOL BUS STOP, DEFINED AS A REGULARLY OCCURRING STOP WHERE PASSENGERS  
18 ARE DISCHARGED OR TAKEN ON, or any other facility or institution prima-  
19 rily used for the care or treatment of persons under the age of eighteen  
20 while one or more of such persons under the age of eighteen are present,  
21 provided however, that when such sentenced offender is a registered  
22 student or participant or an employee of such facility or institution or  
23 entity contracting therewith or has a family member enrolled in such

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

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1 facility or institution, such sentenced offender may, with the written  
2 authorization of his or her probation officer or the court and the  
3 superintendent or chief administrator of such facility, institution or  
4 grounds, enter such facility, institution or upon such grounds for the  
5 limited purposes authorized by the probation officer or the court and  
6 superintendent or chief officer. Nothing in this subdivision shall be  
7 construed as restricting any lawful condition of supervision that may be  
8 imposed on such sentenced offender.

9 (b) When imposing a sentence of probation or conditional discharge  
10 upon a person convicted of an offense for which registration as a sex  
11 offender is required pursuant to subdivision two or three of section one  
12 hundred sixty-eight-a of the correction law, and the victim of such  
13 offense was under the age of eighteen at the time of such offense or  
14 such person has been designated a level three sex offender pursuant to  
15 subdivision six of section one hundred sixty-eight-1 of the correction  
16 law or the internet was used to facilitate the commission of the crime,  
17 the court shall require, as mandatory conditions of such sentence, that  
18 such sentenced offender be prohibited from using the internet to access  
19 pornographic material, access a commercial social networking website,  
20 communicate with other individuals or groups for the purpose of promot-  
21 ing sexual relations with persons under the age of eighteen, and commu-  
22 nicate with a person under the age of eighteen when such offender is  
23 over the age of eighteen, provided that the court may permit an offender  
24 to use the internet to communicate with a person under the age of eigh-  
25 teen when such offender is the parent of a minor child and is not other-  
26 wise prohibited from communicating with such child. Nothing in this  
27 subdivision shall be construed as restricting any other lawful condition  
28 of supervision that may be imposed on such sentenced offender. As used  
29 in this subdivision, a "commercial social networking website" shall mean  
30 any business, organization or other entity operating a website that  
31 permits persons under eighteen years of age to be registered users for  
32 the purpose of establishing personal relationships with other users,  
33 where such persons under eighteen years of age may: (i) create web pages  
34 or profiles that provide information about themselves where such web  
35 pages or profiles are available to the public or to other users; (ii)  
36 engage in direct or real time communication with other users, such as a  
37 chat room or instant messenger; and (iii) communicate with persons over  
38 eighteen years of age; provided, however, that, for purposes of this  
39 subdivision, a commercial social networking website shall not include a  
40 website that permits users to engage in such other activities as are not  
41 enumerated herein.

42 S 2. This act shall take effect immediately.