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

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I N S E N A T E

January 20, 2010

Introduced by Sen. O. JOHNSON -- 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 prohibiting sex offenders from residing within child day care centers

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

Section 1. Section 10.00 of the penal law is amended by adding a new subdivision 21 to read as follows:

21. "CHILD DAY CARE CENTER" MEANS ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY LINE OF A PROGRAM OR FACILITY CARING FOR CHILDREN FOR MORE THAN THREE HOURS PER DAY PER CHILD IN WHICH CHILD DAY CARE IS PROVIDED BY A CHILD DAY CARE PROVIDER, AS SUCH TERM IS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, INCLUDING THOSE PROGRAMS OPERATING AS A GROUP FAMILY DAY CARE HOME, AS SUCH TERM IS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, A FAMILY DAY CARE HOME, AS SUCH TERM IS DEFINED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, AND A SCHOOL AGE CHILD CARE PROGRAM, AS SUCH TERM IS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW.

S 2. Subdivision 4-a of section 65.10 of the penal law is amended by adding a new paragraph (c) to read as follows:

(C) WHEN IMPOSING A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE UPON A PERSON CONVICTED OF AN OFFENSE FOR WHICH REGISTRATION AS A SEX OFFENDER IS REQUIRED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW, THE COURT SHALL REQUIRE, AS A MANDATORY CONDITION OF SUCH SENTENCE, THAT SUCH SENTENCED OFFENDER SHALL REFRAIN FROM RESIDING WITHIN A CHILD DAY CARE CENTER.

S 3. Section 168-a of the correction law is amended by adding a new subdivision 19 to read as follows:

19. "CHILD DAY CARE CENTER" MEANS ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY LINE OF A PROGRAM OR FACILITY CARING FOR CHILDREN FOR MORE THAN

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

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THREE HOURS PER DAY PER CHILD IN WHICH CHILD DAY CARE IS PROVIDED BY A CHILD DAY CARE PROVIDER, AS SUCH TERM IS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, INCLUDING THOSE PROGRAMS OPERATING AS A GROUP FAMILY DAY CARE HOME, AS SUCH TERM IS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, A FAMILY DAY CARE HOME, AS SUCH TERM IS DEFINED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, AND A SCHOOL AGE CHILD CARE PROGRAM, AS SUCH TERM IS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW.

S 4. 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. 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, OR WHO VIOLATES THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT-W OF 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 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 5. 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. PROHIBITION ON RESIDING WITHIN A CHILD DAY CARE CENTER. NO SEX OFFENDER REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE SHALL RESIDE WITHIN ANY CHILD DAY CARE CENTER.

S 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.