

1751

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. GUNTHER -- read once and referred 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 thirty-five or two hundred sixty-three of this chapter, or section 255.25,
7 255.26 or 255.27 of this chapter, and the victim of such offense was
8 under the age of eighteen at the time of such offense or such person has
9 been designated a level three sex offender pursuant to subdivision six
10 of section [168-1] ONE HUNDRED SIXTY-EIGHT-L of the correction law, the
11 court shall require, as a mandatory condition of such sentence, that
12 such sentenced offender shall refrain from knowingly entering into or
13 upon any school grounds, as that term is defined in subdivision fourteen
14 of section 220.00 of this chapter, OR ANY SCHOOL BUS, AS DEFINED IN
15 SECTION ONE HUNDRED FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW, OR WITHIN
16 ONE THOUSAND FEET OF A DESIGNATED SCHOOL BUS STOP, DEFINED AS A REGULAR-
17 LY OCCURRING STOP WHERE PASSENGERS ARE DISCHARGED OR TAKEN ON, or any
18 other facility or institution primarily used for the care or treatment
19 of persons under the age of eighteen while one or more of such persons
20 under the age of eighteen are present, provided however, that when such
21 sentenced offender is a registered student or participant or an employee
22 of such facility or institution or entity contracting therewith or has a
23 family member enrolled in such facility or institution, such sentenced
24

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

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

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

41 S 2. This act shall take effect immediately.