

2923

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. SWEENEY, ABBATE, HOOPER, GALEF, GUNTHER,
N. RIVERA, SPANO, JAFFEE, WEISENBERG, MARKEY, MAISEL, HIKIND, LANCMAN,
BENEDETTO, GIBSON, CRESPO, MOLINARO, RAIA, CASTRO, GABRYSZAK --
Multi-Sponsored by -- M. of A. DESTITO, MAGEE, THIELE, TITONE, TOWNS
-- read once and referred 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 10.00 of the penal law is amended by adding a new
2 subdivision 21 to read as follows:
3 21. "CHILD DAY CARE CENTER" MEANS ANY BUILDING, STRUCTURE, ATHLETIC
4 PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY
5 BOUNDARY LINE OF A PROGRAM OR FACILITY CARING FOR CHILDREN FOR MORE THAN
6 THREE HOURS PER DAY PER CHILD IN WHICH CHILD DAY CARE IS PROVIDED BY A
7 CHILD DAY CARE PROVIDER, AS SUCH TERM IS DEFINED IN PARAGRAPH (B) OF
8 SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES
9 LAW, INCLUDING THOSE PROGRAMS OPERATING AS A GROUP FAMILY DAY CARE HOME,
10 AS SUCH TERM IS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
11 THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, A FAMILY DAY CARE HOME,
12 AS SUCH TERM IS DEFINED IN PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION
13 THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW, AND A SCHOOL AGE CHILD
14 CARE PROGRAM, AS SUCH TERM IS DEFINED IN PARAGRAPH (F) OF SUBDIVISION
15 ONE OF SECTION THREE HUNDRED NINETY OF THE SOCIAL SERVICES LAW.
16 S 2. Subdivision 4-a of section 65.10 of the penal law is amended by
17 adding a new paragraph (c) to read as follows:
18 (C) WHEN IMPOSING A SENTENCE OF PROBATION OR CONDITIONAL DISCHARGE
19 UPON A PERSON CONVICTED OF AN OFFENSE FOR WHICH REGISTRATION AS A SEX
20 OFFENDER IS REQUIRED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW,
21 THE COURT SHALL REQUIRE, AS A MANDATORY CONDITION OF SUCH SENTENCE, THAT

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

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1 SUCH SENTENCED OFFENDER SHALL REFRAIN FROM RESIDING WITHIN A CHILD DAY
2 CARE CENTER.

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

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

18 S 4. Section 168-t of the correction law, as amended by chapter 373 of
19 the laws of 2007, is amended to read as follows:

20 S 168-t. Penalty. Any sex offender required to register or to verify
21 pursuant to the provisions of this article who fails to register or
22 verify in the manner and within the time periods provided for in this
23 article, OR WHO VIOLATES THE PROVISIONS OF SECTION ONE HUNDRED
24 SIXTY-EIGHT-W OF THIS ARTICLE shall be guilty of a class E felony upon
25 conviction for the first offense, and upon conviction for a second or
26 subsequent offense shall be guilty of a class D felony. Any sex offender
27 who violates the provisions of section one hundred sixty-eight-v of this
28 article shall be guilty of a class A misdemeanor upon conviction for the
29 first offense, and upon conviction for a second or subsequent offense
30 shall be guilty of a class D felony. Any such failure to register or
31 verify may also be the basis for revocation of parole pursuant to
32 section two hundred fifty-nine-i of the executive law or the basis for
33 revocation of probation pursuant to article four hundred ten of the
34 criminal procedure law.

35 S 5. Section 168-w of the correction law, as relettered by chapter 604
36 of the laws of 2005, is relettered section 168-x and a new section 168-w
37 is added to read as follows:

38 S 168-W. PROHIBITION ON RESIDING WITHIN A CHILD DAY CARE CENTER. NO
39 SEX OFFENDER REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE SHALL RESIDE
40 WITHIN ANY CHILD DAY CARE CENTER.

41 S 6. This act shall take effect on the first of November next succeed-
42 ing the date on which it shall have become a law.