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

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I N A S S E M B L Y

February 8, 2011

Introduced by M. of A. SIMOTAS, P. RIVERA, REILLY, M. MILLER, CASTELLI, MENG, HOOPER -- Multi-Sponsored by -- M. of A. CERETTO, CROUCH, RAIA -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to the registration of sex offenders

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

Section 1. Subdivision 6 of section 168-b of the correction law, as amended by chapter 106 of the laws of 2006, is amended to read as follows:

6. The division shall also establish a [subdirectory] DIRECTORY pursuant to section one hundred sixty-eight-q of this article.

S 2. Paragraphs (a), (b) and (c) of subdivision 6 of section 168-l of the correction law, paragraph (a) as amended by chapter 106 of the laws of 2006, paragraph (b) as amended by chapter 513 of the laws of 2011 and paragraph (c) as separately amended by chapters 318 and 680 of the laws of 2005, are amended to read as follows:

(a) If the risk of repeat offense is low, a level one designation shall be given to such sex offender. In such case the law enforcement agency or agencies having jurisdiction and the law enforcement agency or agencies having had jurisdiction at the time of his or her conviction shall be notified and may disseminate relevant information which may include a photograph and description of the offender and which may include the name of the sex offender, approximate address based on sex offender's zip code, background information including the offender's crime of conviction, modus of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the

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

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description of special conditions imposed on the offender to any entity with vulnerable populations related to the nature of the offense committed by such sex offender. Any entity receiving information on a sex offender may disclose or further disseminate such information at its discretion. IN ADDITION, IN EACH SUCH CASE, THE NAME OF THE SEX OFFENDER, A PHOTOGRAPH OF THE SEX OFFENDER AND APPROXIMATE ADDRESS BASED ON THE SEX OFFENDER'S ZIP CODE SHALL ALSO BE PROVIDED IN THE DIRECTORY ESTABLISHED IN THIS ARTICLE.

(b) If the risk of repeat offense is moderate, a level two designation shall be given to such sex offender. In such case the law enforcement agency or agencies having jurisdiction and the law enforcement agency or agencies having had jurisdiction at the time of his or her conviction shall be notified and may disseminate relevant information which shall include a photograph and description of the offender and which may include the exact name and any aliases used by the sex offender, exact address, background information including the offender's crime of conviction, mode of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to any entity with vulnerable populations related to the nature of the offense committed by such sex offender. Any entity receiving information on a sex offender may disclose or further disseminate such information at its discretion. In addition, in such case, the information described [herein] IN THIS PARAGRAPH shall also be provided in the [subdirectory] DIRECTORY established in this article and notwithstanding any other provision of law, such information shall, upon request, be made available to the public.

Such law enforcement agencies shall compile, maintain and update a listing of vulnerable organizational entities within its jurisdiction. Such listing shall be utilized for notification of such organizations in disseminating such information on level two sex offenders pursuant to this paragraph. Such listing shall include and not be limited to: superintendents of schools or chief school administrators, superintendents of parks, public and private libraries, public and private school bus transportation companies, day care centers, nursery schools, preschools, neighborhood watch groups, community centers, civic associations, nursing homes, victim's advocacy groups and places of worship.

(c) If the risk of repeat offense is high and there exists a threat to the public safety a level three designation shall be given to such sex offender. In such case, the law enforcement agency or agencies having jurisdiction and the law enforcement agency or agencies having had jurisdiction at the time of his or her conviction shall be notified and may disseminate relevant information which shall include a photograph and description of the offender and which may include the sex offender's exact name and any aliases used by the offender, exact address, address of the offender's place of employment, background information including the offender's crime of conviction, mode of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to any entity with vulnerable populations related to the nature of the offense committed by such sex offender. Any entity receiving information on a sex offender may disclose or further disseminate such information at its discretion. In addition, in such case, the information described [herein] IN THIS PARAGRAPH shall also be provided in the [subdirectory] DIRECTORY established in this article and notwithstanding any other

provision of law, such information shall, upon request, be made available to the public.

Such law enforcement agencies shall compile, maintain and update a listing of vulnerable organizational entities within its jurisdiction. Such listing shall be utilized for notification of such organizations in disseminating such information on level three sex offenders pursuant to this paragraph. Such listing shall include and not be limited to: superintendents of schools or chief school administrators, superintendents of parks, public and private libraries, public and private school bus transportation companies, day care centers, nursery schools, preschools, neighborhood watch groups, community centers, civic associations, nursing homes, victim's advocacy groups and places of worship.

S 3. Section 168-q of the correction law, as added by chapter 192 of the laws of 1995, the section heading as amended by chapter 106 of the laws of 2006, subdivision 1 as amended by chapter 532 of the laws of 2011, is amended to read as follows:

S 168-q. [Subdirectory] DIRECTORY; internet posting. 1. The division shall maintain a [subdirectory of level two and three] DIRECTORY OF sex offenders[. The subdirectory] WHICH SHALL BE MADE AVAILABLE AT ALL TIMES ON THE INTERNET VIA THE DIVISION HOMEPAGE FOR PURPOSES OF PUBLIC ACCESS.

(A) IN THE CASE OF A SEX OFFENDER WHO HAS BEEN GIVEN A LEVEL ONE DESIGNATION, THE DIRECTORY SHALL INCLUDE THE NAME OF THE SEX OFFENDER, A PHOTOGRAPH OF THE SEX OFFENDER AND APPROXIMATE ADDRESS BASED ON THE SEX OFFENDER'S ZIP CODE.

(B) IN THE CASE OF A SEX OFFENDER WHO HAS BEEN GIVEN A LEVEL TWO OR THREE DESIGNATION, THE DIRECTORY shall include the exact address, address of the offender's place of employment and photograph of the sex offender along with the following information, if available: name, physical description, age and distinctive markings. Background information including the sex offender's crime of conviction, modus of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and a description of special conditions imposed on the sex offender shall also be included. [The subdirectory shall have sex offender listings categorized by county and zip code. Such subdirectory shall be made available at all times on the internet via the division homepage. Any person may apply to the division to receive automated e-mail notifications whenever a new or updated subdirectory registration occurs in a geographic area specified by such person. The division shall furnish such service at no charge to such person, who shall request e-mail notification by county and/or zip code on forms developed and provided by the division. E-mail notification is limited to three geographic areas per e-mail account.]

(C) THE DIVISION SHALL, ON ITS INTERNET HOMEPAGE, PROVIDE A MEANS FOR ANY PERSON TO REGISTER TO RECEIVE NOTICE AT SUCH PERSON'S ELECTRONIC MAIL ADDRESS OF ALL SEX OFFENDERS WHO RESIDE OR MOVE INTO THE AREA ENCOMPASSED BY SUCH PERSON'S ZIP CODE. THE DIVISION SHALL PROVIDE TIMELY NOTICE BY ELECTRONIC MAIL TO EACH PERSON WHO REGISTERS PURSUANT TO THIS PARAGRAPH OF EVERY SEX OFFENDER RESIDING IN AND OF EVERY SEX OFFENDER WHO MOVES INTO THE PERSON'S ZIP CODE. SUCH NOTICE SHALL INCLUDE ALL INFORMATION AUTHORIZED TO BE DISCLOSED ON EACH SUCH SEX OFFENDER PURSUANT TO PARAGRAPH (A) OR (B) OF THIS SUBDIVISION.

2. Any person who uses information disclosed pursuant to this section in violation of the law shall in addition to any other penalty or fine imposed, be subject to a fine of not less than five hundred dollars and not more than one thousand dollars. [Unauthorized removal or duplication

of the subdirectory from the offices of local, village or city police department shall be punishable by a fine not to exceed one thousand dollars.] In addition, the attorney general, any district attorney, or any person aggrieved is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for such action. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.