

2578

2013-2014 Regular Sessions

I N S E N A T E

January 22, 2013

Introduced by Sen. BALL -- 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 executive law, in relation to prohibiting sex offenders from being upon the premises of any home or facility where child day care is provided

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

1 Section 1. Paragraph (a) of subdivision 4-a of section 65.10 of the  
2 penal law, as amended by chapter 67 of the laws of 2008, is amended to  
3 read as follows:  
4 (a) When imposing a sentence of probation or conditional discharge  
5 upon a person convicted of an offense defined in article one hundred  
6 thirty, two hundred thirty-five or two hundred sixty-three of this chap-  
7 ter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim  
8 of such offense was under the age of eighteen at the time of such  
9 offense or such person has been designated a level three sex offender  
10 pursuant to subdivision six of section 168-1 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 INTO, UPON OR WITHIN ONE THOUSAND  
15 FEET OF any other facility or institution primarily used for the care or  
16 treatment of persons under the age of eighteen, WHICH SHALL INCLUDE BUT  
17 NOT BE LIMITED TO ANY HOME OR FACILITY WHERE CHILD DAY CARE, AS SUCH  
18 TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE  
19 HUNDRED NINETY OF THE SOCIAL SERVICES LAW, IS PROVIDED, while one or  
20 more of such persons under the age of eighteen are present, provided  
21 however, that when such sentenced offender is a registered student or  
22 participant or an employee of such facility or institution or entity  
23 contracting therewith or has a family member enrolled in such facility  
24 or institution, such sentenced offender may, with the written authori-

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

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

8 S 2. Subdivision 14 of section 259-c of the executive law, as amended  
9 by section 38-b of subpart A of part C of chapter 62 of the laws of  
10 2011, is amended to read as follows:

11 14. notwithstanding any other provision of law to the contrary, where  
12 a person serving a sentence for an offense defined in article one  
13 hundred thirty, one hundred thirty-five or two hundred sixty-three of  
14 the penal law or section 255.25, 255.26 or 255.27 of the penal law and  
15 the victim of such offense was under the age of eighteen at the time of  
16 such offense or such person has been designated a level three sex offen-  
17 der pursuant to subdivision six of section one hundred sixty-eight-1 of  
18 the correction law, is released on parole or conditionally released  
19 pursuant to subdivision one or two of this section, the board shall  
20 require, as a mandatory condition of such release, that such sentenced  
21 offender shall refrain from knowingly entering into or upon any school  
22 grounds, as that term is defined in subdivision fourteen of section  
23 220.00 of the penal law, or INTO, UPON OR WITHIN ONE THOUSAND FEET OF  
24 any other facility or institution primarily used for the care or treat-  
25 ment of persons under the age of eighteen, WHICH SHALL INCLUDE BUT NOT  
26 BE LIMITED TO ANY HOME OR FACILITY WHERE CHILD DAY CARE, AS SUCH TERM IS  
27 DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE HUNDRED  
28 NINETY OF THE SOCIAL SERVICES LAW, IS PROVIDED, while one or more of  
29 such persons under the age of eighteen are present, provided however,  
30 that when such sentenced offender is a registered student or participant  
31 or an employee of such facility or institution or entity contracting  
32 therewith or has a family member enrolled in such facility or institu-  
33 tion, such sentenced offender may, with the written authorization of his  
34 or her parole officer and the superintendent or chief administrator of  
35 such facility, institution or grounds, enter such facility, institution  
36 or upon such grounds for the limited purposes authorized by the parole  
37 officer and superintendent or chief officer. Nothing in this subdivi-  
38 sion shall be construed as restricting any lawful condition of super-  
39 vision that may be imposed on such sentenced offender.

40 S 3. This act shall take effect immediately.