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

4866

2013-2014 Regular Sessions

I N A S S E M B L Y

February 11, 2013

Introduced by M. of A. CORWIN -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to the residency and verification requirements and penalties for certain sex offenders

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

Section 1. Section 168-a of the correction law is amended by adding two new subdivisions 19 and 20 to read as follows:

19. "SCHOOL GROUNDS" MEANS ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY LINE OR A LICENSED OR REGISTERED DAY CARE CENTER, PUBLIC OR PRIVATE ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH SCHOOL, OR SIMILAR EDUCATIONAL INSTITUTION WHERE CHILDREN ARE IN REGULAR ATTENDANCE.

20. "RESIDENCE" MEANS ANY PLACE OF ABODE, DOMICILE, OR INHABITANCE WHERE A CONVICTED SEX OFFENDER SPENDS OR INTENDS TO SPEND MORE THAN THREE NIGHTS A WEEK. FOR PURPOSES OF THIS ARTICLE, A PERSON MAY HAVE MORE THAN ONE RESIDENCE.

S 2. The section heading of section 168-e of the correction law, as added by chapter 192 of the laws of 1995, is amended and a new subdivision 3 is added to read as follows:

Discharge, PAROLE, OR RELEASE of sex offender [from correctional facility]; duties of official in charge.

3. NO PERSON REQUIRED TO REGISTER UNDER THE PROVISIONS OF THIS ARTICLE WHO HAS BEEN CONVICTED OF OR CONVICTED FOR AN ATTEMPT TO COMMIT ANY OFFENSE UNDER SECTION 255.25, ARTICLE ONE HUNDRED THIRTY OR ARTICLE TWO HUNDRED SIXTY-THREE OF THE PENAL LAW OR ANY OTHER OFFENSES DEFINED IN SECTION ONE HUNDRED SIXTY-EIGHT-A OF THIS ARTICLE WHERE THE VICTIM OF SUCH OFFENSE WAS A PERSON UNDER THE AGE OF EIGHTEEN AND WHO IS OR HAS BEEN DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPERVISION OR RELEASED FROM A STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR COMMITTED SHALL RESIDE WITHIN ONE THOUSAND FEET OF ANY SCHOOL GROUNDS AS MEASURED IN STRAIGHT LINES FROM

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

LBD08418-02-3

THE CENTER OF THE NEAREST POINT OF INGRESS OR EGRESS OF THE RESIDENCE TO THE NEAREST REAL PROPERTY BOUNDARY LINE OF THE SCHOOL GROUNDS.

S 3. 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. 1. 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 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.

2. 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.

3. ANY SEX OFFENDER WHO VIOLATES THE PROVISIONS OF SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-E 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.

4. Any such failure to register [or], verify, OR ABIDE BY RESIDENCY RESTRICTIONS 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.

5. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY AND IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS SECTION, ANY SEX OFFENDER FOUND GUILTY OF A VIOLATION OF THIS SECTION ON TWO OR MORE OCCASIONS SHALL BE REQUIRED TO WEAR A LOCATION-TRANSMITTING DEVICE AT ALL TIMES FOR THE DURATION OF THE PERIOD OF PROBATION, PAROLE, CONDITIONAL RELEASE OR POST-RELEASE SUPERVISION. THE LOCATION-TRANSMITTING DEVICE SHALL BE ATTACHED TO THE SEX OFFENDER BY THE AGENCY SUPERVISING THE SEX OFFENDER AND SUCH AGENCY SHALL REGULARLY AND FREQUENTLY MONITOR THE INFORMATION TRANSMITTED BY THE DEVICE.

B. THE COST OF INSTALLING AND MAINTAINING THE LOCATION-TRANSMITTING DEVICE SHALL BE BORNE BY THE PERSON SUBJECT TO SUCH CONDITION UNLESS THE COURT DETERMINES SUCH PERSON IS FINANCIALLY UNABLE TO AFFORD SUCH COST WHEREUPON SUCH COST MAY BE IMPOSED PURSUANT TO A PAYMENT PLAN OR WAIVED. SUCH COST SHALL BE CONSIDERED A FINE FOR THE PURPOSES OF SUBDIVISION FIVE OF SECTION 420.10 OF THE CRIMINAL PROCEDURE LAW. SUCH COST SHALL NOT REPLACE, BUT SHALL INSTEAD BE IN ADDITION TO, ANY FINES, SURCHARGES, OR OTHER COSTS IMPOSED PURSUANT TO THIS CHAPTER OR OTHER APPLICABLE LAWS.

C. ANY SEX OFFENDER WHO IS REQUIRED TO WEAR A LOCATION-TRANSMITTING DEVICE PURSUANT TO THIS SUBDIVISION WHO VIOLATES SUCH REQUIREMENT SHALL BE GUILTY OF A CLASS D FELONY AND SUCH VIOLATION MAY 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.

6. ANY SEX OFFENDER REQUIRED TO REGISTER OR TO VERIFY PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHO KNOWINGLY SUBMITS FALSE INFORMATION RESPECTING HIS OR HER IDENTITY OR RESIDENCE IN THE COURSE OF COMPLETING HIS OR HER DUTY TO REGISTER OR TO VERIFY HIS OR HER RESIDENCE PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL BE GUILTY OF A CLASS E FELONY.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.