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

3918

2013-2014 Regular Sessions

I N S E N A T E

February 26, 2013

Introduced by Sens. GRIFFO, MAZIARZ, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to requiring level three sex offenders and sexual predators to have a photograph taken every ninety days during each verification appearance; and to amend the correction law and the executive law, in relation to requiring level three sex offenders and sexual predators to have a photograph taken at law enforcement agencies having jurisdiction when a probation officer or parole officer notices a significant change in the physical appearance of the sex offender

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

Section 1. Paragraph (b) of subdivision 1 of section 168-b of the correction law, as amended by section 1 of part O of chapter 56 of the laws of 2005, is amended to read as follows:

(b) A photograph and set of fingerprints. For a sex offender given a level three OR SEXUAL PREDATOR designation, the division shall, during [the period of registration] EACH PERSONAL VERIFICATION OF HIS OR HER ADDRESS PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-F OF THIS ARTICLE, update such photograph once each [year] NINETY DAYS AND AT ANY TIME THAT SUCH SEX OFFENDER IS DIRECTED, PURSUANT TO SECTION TWO HUNDRED FIFTY-SIX-B OF THE EXECUTIVE LAW, BY HIS OR HER PROBATION OFFICER OR, PURSUANT TO SUBDIVISION THREE-A OF SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW, BY HIS OR HER PAROLE OFFICER TO REPORT TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION FOR THE PURPOSE OF HAVING A PHOTOGRAPH TAKEN. For a sex offender given a level one or level two designation, the division shall, during the period of registration, update such photograph once every three years. The division shall notify the sex offender by mail of the duty to appear and be photographed at the specified law enforcement agency having jurisdic-

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

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tion. Such notification shall be mailed at least thirty days and not more than sixty days before the photograph is required to be taken pursuant to subdivision two of section one hundred sixty-eight-f of this article.

S 2. Paragraph (b-2) of subdivision 2 of section 168-f of the correction law, as added by section 2 of part O of chapter 56 of the laws of 2005, is amended to read as follows:

(b-2) If the sex offender has been given a level three OR SEXUAL PREDATOR designation, he or she shall personally appear at the law enforcement agency having jurisdiction [within twenty days of the first anniversary of the sex offender's initial registration and] every [year thereafter] NINETY DAYS, AS REQUIRED BY SUBDIVISION THREE OF THIS SECTION, during the period of registration, AND ANY TIME HE OR SHE IS SO DIRECTED BY HIS OR HER PROBATION OFFICER, PURSUANT TO SECTION TWO HUNDRED FIFTY-SIX-B OF THE EXECUTIVE LAW, OR HIS OR HER PAROLE OFFICER, PURSUANT TO SUBDIVISION THREE-A OF SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW, for the purpose of providing a current photograph of such offender. The law enforcement agency having jurisdiction shall photograph the sex offender and shall promptly forward a copy of such photograph to the division. For purposes of this paragraph, if such sex offender is confined in a state or local correctional facility, the local law enforcement agency having jurisdiction shall be the warden, superintendent, sheriff or other person in charge of the state or local correctional facility.

S 3. Subdivision 3 of section 168-f of the correction law, as amended by chapter 364 of the laws of 2012, is amended to read as follows:

3. The provisions of subdivision two of this section shall be applied to a sex offender required to register under this article except that such sex offender designated as a sexual predator or having been given a level three designation must personally verify his or her address with the local law enforcement agency AND PROVIDE A CURRENT PHOTOGRAPH every ninety calendar days after the date of release or commencement of parole or post-release supervision, or probation, or release on payment of a fine, conditional discharge or unconditional discharge, AND WHENEVER SO DIRECTED BY HIS OR HER PROBATION OFFICER, PURSUANT TO SECTION TWO HUNDRED FIFTY-SIX-B OF THE EXECUTIVE LAW, OR HIS OR HER PAROLE OFFICER PURSUANT TO SUBDIVISION THREE-A OF SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW. At such time the law enforcement agency having jurisdiction may take a new photograph of such sex offender if it appears that the offender has had a change in appearance since the most recent photograph taken pursuant to paragraph (b-2) of subdivision two of this section. If such photograph is taken, the law enforcement agency shall promptly forward a copy of such photograph to the division. The duty to personally verify AND PROVIDE A CURRENT PHOTOGRAPH shall be temporarily suspended during any period in which the sex offender is confined to any state or local correctional facility, hospital or institution and shall immediately recommence on the date of the sex offender's release.

S 4. The executive law is amended by adding a new section 256-b to read as follows:

S 256-B. SUPERVISION OF LEVEL THREE SEX OFFENDERS AND SEXUAL PREDATORS. IF A PROBATION OFFICER HAVING CHARGE OF A SEX OFFENDER GIVEN A LEVEL THREE OR SEXUAL PREDATOR DESIGNATION PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW, DETERMINES THAT SUCH SEX OFFENDER HAS SIGNIFICANTLY CHANGED HIS OR HER PHYSICAL APPEARANCE SUCH THAT THE MOST RECENT PHOTOGRAPH PROVIDED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW IS NO

LONGER AN ACCURATE REPRESENTATION OF THE PHYSICAL APPEARANCE OF THE SEX OFFENDER, SUCH PROBATION OFFICER SHALL SUBMIT A REPORT OF SUCH FACT TO THE DIVISION OF CRIMINAL JUSTICE SERVICES AND SHALL ORDER THE SEX OFFENDER TO PERSONALLY APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION, PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW, FOR THE PURPOSE OF PROVIDING A CURRENT PHOTOGRAPH.

S 5. Section 259-i of the executive law is amended by adding a new subdivision 3-a to read as follows:

3-A. SUPERVISION OF LEVEL THREE SEX OFFENDERS AND SEXUAL PREDATORS. IF THE PAROLE OFFICER HAVING CHARGE OF A PRESUMPTIVELY RELEASED, PAROLED OR CONDITIONALLY RELEASED SEX OFFENDER GIVEN A LEVEL THREE OR SEXUAL PREDATOR DESIGNATION PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW, OR SUCH A SEX OFFENDER RELEASED TO POST-RELEASE SUPERVISION, OR SUCH A SEX OFFENDER RECEIVED PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-M OF THIS ARTICLE, DETERMINES THAT SUCH SEX OFFENDER HAS SIGNIFICANTLY CHANGED HIS OR HER PHYSICAL APPEARANCE SUCH THAT THE MOST RECENT PHOTOGRAPH PROVIDED PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW IS NO LONGER AN ACCURATE REPRESENTATION OF THE PHYSICAL APPEARANCE OF THE SEX OFFENDER, SUCH PAROLE OFFICER SHALL SUBMIT A REPORT OF SUCH FACT TO THE DIVISION OF CRIMINAL JUSTICE SERVICES AND SHALL ORDER THE SEX OFFENDER TO PERSONALLY APPEAR AT THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION, PURSUANT TO ARTICLE SIX-C OF THE CORRECTION LAW, FOR THE PURPOSE OF PROVIDING A CURRENT PHOTOGRAPH.

S 6. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act are authorized and directed to be completed on or before such date.