

3134

2015-2016 Regular Sessions

I N A S S E M B L Y

January 22, 2015

Introduced by M. of A. CORWIN, CROUCH, RAIA, OAKS, BORELLI, DUPREY, CURRAN -- Multi-Sponsored by -- M. of A. BARCLAY, BLANKENBUSH, CERETTO, FINCH, GARBARINO, GRAF, HAWLEY, KEARNS, LOPEZ, McDONOUGH, McLAUGHLIN, MONTESANO, PALMESANO, SALADINO, STEC, TENNEY -- 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:

1 Section 1. Section 168-a of the correction law is amended by adding
2 two new subdivisions 19 and 20 to read as follows:
3 19. "SCHOOL GROUNDS" MEANS ANY BUILDING, STRUCTURE, ATHLETIC PLAYING
4 FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY
5 LINE OR A LICENSED OR REGISTERED DAY CARE CENTER, PUBLIC OR PRIVATE
6 ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH
7 SCHOOL, OR SIMILAR EDUCATIONAL INSTITUTION WHERE CHILDREN ARE IN REGULAR
8 ATTENDANCE.
9 20. "RESIDENCE" MEANS ANY PLACE OF ABODE, DOMICILE, OR INHABITANCE
10 WHERE A CONVICTED SEX OFFENDER SPENDS OR INTENDS TO SPEND MORE THAN
11 THREE NIGHTS A WEEK. FOR PURPOSES OF THIS ARTICLE, A PERSON MAY HAVE
12 MORE THAN ONE RESIDENCE.
13 S 2. The section heading of section 168-e of the correction law, as
14 added by chapter 192 of the laws of 1995, is amended and a new subdivi-
15 sion 3 is added to read as follows:
16 Discharge, PAROLE, OR RELEASE of sex offender [from correctional
17 facility]; duties of official in charge.
18 3. NO PERSON REQUIRED TO REGISTER UNDER THE PROVISIONS OF THIS ARTICLE
19 WHO HAS BEEN CONVICTED OF OR CONVICTED FOR AN ATTEMPT TO COMMIT ANY
20 OFFENSE UNDER SECTION 255.25, ARTICLE ONE HUNDRED THIRTY OR ARTICLE TWO
21 HUNDRED SIXTY-THREE OF THE PENAL LAW OR ANY OTHER OFFENSES DEFINED IN
22 SECTION ONE HUNDRED SIXTY-EIGHT-A OF THIS ARTICLE WHERE THE VICTIM OF

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

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1 SUCH OFFENSE WAS A PERSON UNDER THE AGE OF EIGHTEEN AND WHO IS OR HAS
2 BEEN DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPERVISION OR
3 RELEASED FROM A STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTI-
4 TUTION WHERE HE OR SHE WAS CONFINED OR COMMITTED SHALL RESIDE WITHIN ONE
5 THOUSAND FEET OF ANY SCHOOL GROUNDS AS MEASURED IN STRAIGHT LINES FROM
6 THE CENTER OF THE NEAREST POINT OF INGRESS OR EGRESS OF THE RESIDENCE TO
7 THE NEAREST REAL PROPERTY BOUNDARY LINE OF THE SCHOOL GROUNDS.

8 S 3. Section 168-t of the correction law, as amended by chapter 373 of
9 the laws of 2007, is amended to read as follows:

10 S 168-t. Penalty. 1. Any sex offender required to register or to veri-
11 fy pursuant to the provisions of this article who fails to register or
12 verify in the manner and within the time periods provided for in this
13 article shall be guilty of a class E felony upon conviction for the
14 first offense, and upon conviction for a second or subsequent offense
15 shall be guilty of a class D felony.

16 2. Any sex offender who violates the provisions of section one hundred
17 sixty-eight-v of this article shall be guilty of a class A misdemeanor
18 upon conviction for the first offense, and upon conviction for a second
19 or subsequent offense shall be guilty of a class D felony.

20 3. ANY SEX OFFENDER WHO VIOLATES THE PROVISIONS OF SUBDIVISION THREE
21 OF SECTION ONE HUNDRED SIXTY-EIGHT-E OF THIS ARTICLE SHALL BE GUILTY OF
22 A CLASS E FELONY UPON CONVICTION FOR THE FIRST OFFENSE, AND UPON
23 CONVICTION FOR A SECOND OR SUBSEQUENT OFFENSE SHALL BE GUILTY OF A CLASS
24 D FELONY.

25 4. Any such failure to register [or], verify, OR ABIDE BY RESIDENCY
26 RESTRICTIONS may also be the basis for revocation of parole pursuant to
27 section two hundred fifty-nine-i of the executive law or the basis for
28 revocation of probation pursuant to article four hundred ten of the
29 criminal procedure law.

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

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

48 C. ANY SEX OFFENDER WHO IS REQUIRED TO WEAR A LOCATION-TRANSMITTING
49 DEVICE PURSUANT TO THIS SUBDIVISION WHO VIOLATES SUCH REQUIREMENT SHALL
50 BE GUILTY OF A CLASS D FELONY AND SUCH VIOLATION MAY BE THE BASIS FOR
51 REVOCATION OF PAROLE PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-I OF THE
52 EXECUTIVE LAW OR THE BASIS FOR REVOCATION OF PROBATION PURSUANT TO ARTI-
53 CLE FOUR HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW.

54 6. ANY SEX OFFENDER REQUIRED TO REGISTER OR TO VERIFY PURSUANT TO THE
55 PROVISIONS OF THIS ARTICLE WHO KNOWINGLY SUBMITS FALSE INFORMATION
56 RESPECTING HIS OR HER IDENTITY OR RESIDENCE IN THE COURSE OF COMPLETING

1 HIS OR HER DUTY TO REGISTER OR TO VERIFY HIS OR HER RESIDENCE PURSUANT
2 TO THE PROVISIONS OF THIS ARTICLE SHALL BE GUILTY OF A CLASS E FELONY.
3 S 4. This act shall take effect on the first of November next succeed-
4 ing the date on which it shall have become a law.