

8503--A

2015-2016 Regular Sessions

I N A S S E M B L Y

October 9, 2015

Introduced by M. of A. MURRAY, RA, CURRAN, ENGLEBRIGHT, TEDISCO, McKEVITT, JAFFEE, HAWLEY, GARBARINO, DUPREY, GRAF, BRABENEC, RAIA, CROUCH, OAKS, GIGLIO, LUPINACCI, McLAUGHLIN, STEC, MALLIOTAKIS, SALADINO, PALMESANO -- Multi-Sponsored by -- M. of A. BARCLAY, KEARNS, THIELE -- 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 sex offender registration and residency restrictions

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

1 Section 1. Section 168-h of the correction law, as amended by chapter
2 11 of the laws of 2002, and subdivisions 1 and 2 as amended by chapter 1
3 of the laws of 2006, is amended to read as follows:
4 S 168-h. Duration of registration and verification. 1. The duration of
5 registration and verification for a sex offender who has not been desig-
6 nated a sexual predator, or a sexually violent offender, or a predicate
7 sex offender, and who is classified as a level one risk, or who has not
8 yet received a risk level classification, shall be annually for a period
9 of twenty years from the initial date of registration.
10 2. NOTWITHSTANDING THE FOREGOING, A SEX OFFENDER WHO IS CLASSIFIED AS
11 A LEVEL ONE RISK AND HAS BEEN CONVICTED OF OR HAS BEEN CONVICTED FOR AN
12 ATTEMPT TO COMMIT:
13 (I) ANY OF THE PROVISIONS OF SECTION 120.70, 130.35, 130.50, 130.53,
14 130.65, 130.65-A, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90,
15 130.91, 130.95, 130.96, 135.05, 135.10, 135.20, 135.25, 230.06, 230.32,
16 250.50, 255.27, 263.10, 263.15 OR 263.30 OF THE PENAL LAW;
17 (II) ANY OF THE PROVISIONS OF SECTION 2251, 2251A, 2252, 2252A, 2260,
18 2422, 2423 OR 2425 OF TITLE 18 OF THE UNITED STATES CODE; OR

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

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(III) HAS BEEN CONVICTED OF ANY OFFENSE IN ANY OTHER JURISDICTION WHICH INCLUDES ALL OF THE ESSENTIAL ELEMENTS OF ANY OF THE FOREGOING CRIMES IN THIS SUBDIVISION, SHALL REGISTER ANNUALLY FOR LIFE.

3. A SEX OFFENDER WHO IS CLASSIFIED AS A LEVEL ONE RISK AND HAS BEEN CONVICTED OF OR HAS BEEN CONVICTED FOR AN ATTEMPT TO COMMIT ANY OF THE PROVISIONS OF SECTION 130.25, 130.30, 130.40, 130.45, 130.55 OR 130.60, OR HAS BEEN CONVICTED OF ANY OFFENSE IN ANY OTHER JURISDICTION WHICH INCLUDES ALL OF THE ESSENTIAL ELEMENTS OF ANY OF THE FOREGOING CRIMES IN THIS SUBDIVISION, SHALL REGISTER ANNUALLY FOR LIFE UNLESS AT THE TIME OF THE ACT, THE DEFENDANT WAS LESS THAN TWENTY-ONE YEARS OLD, IN WHICH CASE REGISTRATION SHALL BE ANNUALLY FOR A PERIOD OF TWENTY YEARS FROM THE INITIAL DATE OF REGISTRATION.

4. The duration of registration and verification for a sex offender who, on or after March eleventh, two thousand two, is designated a sexual predator, or a sexually violent offender, or a predicate sex offender, or who is classified as a level two or level three risk, shall be annually for life. Notwithstanding the foregoing, a sex offender who is classified as a LEVEL ONE OR level two risk and who is not designated a sexual predator, a sexually violent offender or a predicate sex offender, may be relieved of the duty to register and verify AFTER A MINIMUM PERIOD OF THIRTY YEARS OF REGISTRATION as provided by subdivision one of section one hundred sixty-eight-o of this article.

[3.] 5. Any sex offender having been designated a level three risk or a sexual predator shall also personally verify his or her address every ninety calendar days with the local law enforcement agency having jurisdiction where the offender resides.

S 2. Subdivision 1 of section 168-o of the correction law, as amended by chapter 1 of the laws of 2006, is amended to read as follows:

1. Any sex offender who is classified as a [level two] LEVEL ONE risk, and who has not been designated a sexual predator, or a sexually violent offender, or a predicate sex offender, who is required to register or verify pursuant to this article and who has been registered for a minimum period of [thirty] TWENTY years may be relieved of any further duty to register upon the granting of a petition for relief by the sentencing court or by the court which made the determination regarding duration of registration and level of notification. The sex offender shall bear the burden of proving by clear and convincing evidence that his or her risk of repeat offense and threat to public safety is such that registration or verification is no longer necessary. Such petition, if granted, shall not relieve the petitioner of the duty to register pursuant to this article upon conviction of any offense requiring registration in the future. Such a petition shall not be considered more than once every two years. In the event that the sex offender's petition for relief is granted, the district attorney may appeal as of right from the order pursuant to the provisions of articles fifty-five, fifty-six and fifty-seven of the civil practice law and rules. Where counsel has been assigned to represent the sex offender upon the ground that the sex offender is financially unable to retain counsel, that assignment shall be continued throughout the pendency of the appeal, and the person may appeal as a poor person pursuant to article eighteen-B of the county law.

S 3. Section 168-w of the correction law, as relettered by chapter 604 of the laws of 2005, is relettered section 168-x and a new section 168-w is added to read as follows:

S 168-W. CHILD AND VICTIM SAFETY ZONES. COUNTIES SHALL MONITOR AND VERIFY REGISTRATION COMPLIANCE AND MAY ENACT BY LOCAL LAW OR RESOLUTION

1 SEX OFFENDER RESIDENCY RESTRICTIONS FOR SEX OFFENDERS REQUIRED TO REGIS-
2 TER PURSUANT TO THIS ARTICLE, PROVIDED THAT SUCH RESTRICTIONS:

3 1. DO NOT REQUIRE A SEX OFFENDER TO LIVE BEYOND ONE THOUSAND FEET FROM
4 PUBLIC, PRIVATE AND CHARTER SCHOOLS FOR ALL LEVEL THREE REGISTRANTS, FOR
5 REGISTRANTS WHO COMMITTED AN OFFENSE AGAINST A MINOR, AND FOR REGIS-
6 TRANTS WHO HAVE BEEN ASSIGNED A DESIGNATION PURSUANT TO THIS ARTICLE.

7 2. DO NOT REQUIRE A SEX OFFENDER TO LIVE BEYOND A QUARTER MILE FROM
8 THE WORKPLACE AND RESIDENCE OF ANY REGISTRANT'S VICTIM OR VICTIMS.

9 3. DO NOT REQUIRE A SEX OFFENDER TO LIVE BEYOND A QUARTER MILE FROM
10 THE RESIDENCE OF A DECEASED VICTIM, IF THE FAMILY OF THE VICTIM CONTIN-
11 UES TO RESIDE AT THAT RESIDENCE.

12 S 4. This act shall take effect on the sixtieth day after it shall
13 have become a law.