

9532

I N A S S E M B L Y

March 10, 2016

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

AN ACT to amend the correction law, in relation to requiring level one
sex offenders to register for life and providing such sex offenders to
petition for relief after thirty years

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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, subdivisions 1 and 2 as amended by chapter 1 of
3 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
6 designated a sexual predator, or a sexually violent offender, or a pred-
7 icate sex offender, and who is classified as a level one risk, or who]
8 has not yet received a risk level classification, [shall be annually for
9 a period of twenty years from the initial date of registration.
10 2. The duration of registration and verification for a sex offender
11 who, on or after March eleventh, two thousand two, is designated a sexu-
12 al predator, or a sexually violent offender, or a predicate sex offen-
13 der,] or who is classified as a LEVEL ONE, level two or level three
14 risk, shall be annually for life. Notwithstanding the foregoing, a sex
15 offender who is classified as a LEVEL ONE OR level two risk and who is
16 not designated a sexual predator, a sexually violent offender or a pred-
17 icate sex offender, may be relieved of the duty to register and verify
18 as provided by subdivision one of section one hundred sixty-eight-o of
19 this article.
20 [3.] 2. Any sex offender having been designated a level three risk or
21 a sexual predator shall also personally verify his or her address every
22 ninety calendar days with the local law enforcement agency having juris-
23 diction where the offender resides.
24 S 2. Subdivision 8 of section 168-l of the correction law, as amended
25 by chapter 1 of the laws of 2006, is amended to read as follows:
26 8. A failure by a state or local agency or the board to act or by a
27 court to render a determination within the time period specified in this

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

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1 article shall not affect the obligation of the sex offender to register
2 or verify under this article nor shall such failure prevent a court from
3 making a determination regarding the sex offender's level of notifica-
4 tion and whether such offender is required by law to be registered [for
5 a period of twenty years or] for life. Where a court is unable to make a
6 determination prior to the date scheduled for a sex offender's
7 discharge, parole, release to post-release supervision or release, it
8 shall adjourn the hearing until after the offender is discharged,
9 paroled, released to post-release supervision or released, and shall
10 then expeditiously complete the hearing and issue its determination.

11 S 3. Subdivision 1 of section 168-o of the correction law, as amended
12 by chapter 1 of the laws of 2006, is amended to read as follows:

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

36 S 4. This act shall take effect immediately and shall apply to all
37 level one sex offenders registered or required to register immediately
38 prior to the effective date of this act, or who are required to register
39 on or after such date.