

2609

2015-2016 Regular Sessions

I N   S E N A T E

January 26, 2015

---

Introduced by Sens. SEWARD, FUNKE, ORTT, RITCHIE, VENDITTO -- 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 restricting sex  
offenders from residing near the residence of their victim or near any  
school

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

1     Section 1. Section 168-w of the correction law, as relettered by chap-  
2     ter 604 of the laws of 2005, is relettered section 168-x and a new  
3     section 168-w is added to read as follows:  
4     S 168-W. LEVEL TWO AND LEVEL THREE SEX OFFENDER RESIDENCE LIMITATIONS;  
5     PENALTY. 1. (A) IT SHALL BE UNLAWFUL FOR ANY LEVEL TWO OR LEVEL THREE  
6     SEX OFFENDER TO KNOWINGLY RESIDE WITHIN FIFTEEN HUNDRED FEET OF THE  
7     RESIDENCE OF A VICTIM OF HIS OR HER SEX OFFENSE OR SEXUALLY VIOLENT  
8     OFFENSE.  
9     (B) THE RESIDENCE PROHIBITION ESTABLISHED BY PARAGRAPH (A) OF THIS  
10     SUBDIVISION SHALL REMAIN IN EFFECT FOR AS LONG AS THE OFFENDER IS CLAS-  
11     SIFIED AS A LEVEL TWO OR THREE SEX OFFENDER.  
12     (C) IN ANY PROSECUTION PURSUANT TO THIS SUBDIVISION, IT SHALL BE AN  
13     AFFIRMATIVE DEFENSE THAT, AFTER THE SEX OFFENDER'S CONVICTION OF A SEX  
14     OFFENSE OR SEXUALLY VIOLENT OFFENSE, THE VICTIM OF SUCH OFFENSE ESTAB-  
15     LISHED A RESIDENCE WITHIN FIFTEEN HUNDRED FEET OF THE SEX OFFENDER'S  
16     RESIDENCE.  
17     (D) NO PROVISION OF THIS SUBDIVISION SHALL BE DEEMED TO REQUIRE THE  
18     DISCLOSURE OR NOTIFICATION OF THE ADDRESS OF ANY VICTIM TO A SEX OFFEN-  
19     DER.  
20     2. (A) IT SHALL BE UNLAWFUL FOR ANY LEVEL TWO OR THREE SEX OFFENDER TO  
21     KNOWINGLY RESIDE OR ENTER WITHIN ONE THOUSAND FIVE HUNDRED FEET OF ANY  
22     SCHOOL GROUNDS. FOR THE PURPOSES OF THIS SUBDIVISION, "SCHOOL GROUNDS"  
23     MEANS ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR

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

LBD00584-02-5

1 LAND CONTAINED WITHIN THE REAL PROPERTY LINE OF A PUBLIC OR PRIVATE  
2 ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL OR HIGH  
3 SCHOOL.

4 (B) IT SHALL BE UNLAWFUL FOR ANY LEVEL TWO OR THREE SEX OFFENDER TO  
5 KNOWINGLY ATTEND OR PARTICIPATE IN ANY EVENT OR ACTIVITY SPONSORED BY A  
6 PUBLIC OR PRIVATE ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH,  
7 VOCATIONAL OR HIGH SCHOOL, REGARDLESS OF WHETHER SUCH EVENT OR ACTIVITY  
8 IS CONDUCTED UPON SCHOOL GROUNDS.

9 (C) THE PROHIBITIONS IMPOSED BY PARAGRAPHS (A) AND (B) OF THIS SUBDI-  
10 VISION SHALL REMAIN IN EFFECT FOR AS LONG AS THE SEX OFFENDER IS CLASSI-  
11 FIED AS A LEVEL TWO OR THREE SEX OFFENDER.

12 (D) IN ANY PROSECUTION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION,  
13 IT SHALL BE AN AFFIRMATIVE DEFENSE THAT:

14 (I) THE SEX OFFENDER RESIDES WITHIN A FACILITY OPERATED BY AND IS IN  
15 THE CUSTODY OF A LOCAL CORRECTIONS DEPARTMENT, A COUNTY SHERIFF, THE  
16 DEPARTMENT, THE OFFICE OF CHILDREN AND FAMILY SERVICES OR THE OFFICE OF  
17 MENTAL HEALTH;

18 (II) THE SEX OFFENDER ESTABLISHED HIS OR HER RESIDENCE PRIOR TO THE  
19 EFFECTIVE DATE OF THIS SUBDIVISION, OR SCHOOL GROUNDS ARE ESTABLISHED OR  
20 EXTENDED AFTER THE SEX OFFENDER HAS ESTABLISHED HIS OR HER RESIDENCE;

21 (III) THE SEX OFFENDER IS UNDER TWENTY-ONE YEARS OF AGE OR A WARD  
22 UNDER A GUARDIANSHIP; OR

23 (IV) THE SEX OFFENDER'S PLACE OF RESIDENCE HAS BEEN FIXED BY ORDER OF  
24 A COURT OF COMPETENT JURISDICTION, OR BY ANY FEDERAL, STATE, COUNTY OR  
25 CITY AGENCY HAVING JURISDICTION OVER THE SEX OFFENDER.

26 (E) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
27 SION, A LEVEL TWO OR THREE SEX OFFENDER MAY ENTER UPON AND WITHIN ONE  
28 THOUSAND FIVE HUNDRED FEET OF SCHOOL GROUNDS FOR THE LIMITED PURPOSE OF  
29 CASTING HIS OR HER BALLOT AT HIS OR HER POLLING PLACE, WITHIN SUCH ONE  
30 THOUSAND FIVE HUNDRED FEET AREA, IN A SPECIAL, PRIMARY OR GENERAL  
31 ELECTION FOR WHICH THE SEX OFFENDER IS REGISTERED TO VOTE. THE  
32 PROVISIONS OF THIS PARAGRAPH SHALL ONLY APPLY TO A SEX OFFENDER WHO  
33 PROVIDES NOT LESS THAN THIRTY DAYS NOTICE TO THE BUILDING PRINCIPAL OF  
34 THE APPROPRIATE SCHOOL, THAT SUCH SEX OFFENDER WILL BE ENTERING UPON OR  
35 NEAR SCHOOL GROUNDS FOR THE PURPOSE OF VOTING. SUCH NOTICE SHALL ALSO  
36 STATE THE ONE HOUR PERIOD OF TIME DURING WHICH THE SEX OFFENDER WILL  
37 CAST HIS OR HER BALLOT, AND THE EXEMPTION GRANTED BY THIS PARAGRAPH  
38 SHALL ONLY APPLY TO THE SEX OFFENDER DURING SUCH ONE HOUR PERIOD OF  
39 TIME.

40 3. A SEX OFFENDER WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE  
41 GUILTY OF A CLASS E FELONY.

42 S 2. This act shall take effect on the one hundred eightieth day after  
43 it shall have become a law.