STATE OF NEW YORK

10731

IN ASSEMBLY

May 16, 2018

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

AN ACT to amend the executive law and the penal law, in relation to prohibiting certain convicted sex offenders from knowingly being within 1,000 feet of a child care provider, a preschool or any place where pre-kindergarten or kindergarten instruction is provided; and to amend the executive law, in relation to directing the commissioner of corrections and community supervision to apply for quarterly listings of all elementary and secondary schools in the state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 14 of section 259-c of the executive law, as amended by section 38-b of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

14. notwithstanding any other provision of law to the contrary, where a person serving a sentence for an offense defined in article one hundred thirty, one hundred thirty-five or two hundred sixty-three of the penal law or section 255.25, 255.26 or 255.27 of the penal law and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law, is released on parole or conditionally released pursuant to subdivision one or two of this section, the board shall require, as a mandatory condition of such release, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of the penal law, **or within one thousand feet of a child care provider, a preschool, or any facility or institution where pre-kindergarten or kindergarten instruction is provided,** or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family

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

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member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her parole officer and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the parole officer and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.

§ 2. The executive law is amended by adding a new section 259-f to read as follows:

§ 259-f. Quarterly reports of schools. 1. On a quarterly basis the commissioner shall obtain an updated list from the commissioner of education, of every elementary and secondary school in the state, and of every child care provider, preschool and any other facility or institution where pre-kindergarten or kindergarten instruction is provided.

2. The commissioner shall distribute the information received pursuant to subdivision one of this section to the board and to the director of probation and correctional alternatives.

3. On or before February first each year, the commissioner shall notify the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, on the compliance with this section.

§ 3. Paragraph (a) of subdivision 4-a of section 65.10 of the penal law, as amended by chapter 67 of the laws of 2008, is amended to read as follows:

(a) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense defined in article one hundred thirty, two hundred thirty-five or two hundred sixty-three of this chapter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section [~~168-l~~] **one hundred sixty-eight-l** of the correction law, the court shall require, as a mandatory condition of such sentence, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of this chapter, **or within one thousand feet of a child care provider, a preschool, or any facility or institution where pre-kindergarten or kindergarten instruction is provided,** or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her probation officer or the court and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the probation officer or the court and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.

§ 4. This act shall take effect immediately, except that sections one and three of this act shall take effect on the first of July next succeeding the date on which it shall have become a law.