

# STATE OF NEW YORK

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2646

2017-2018 Regular Sessions

## IN SENATE

January 17, 2017

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Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to detained sex offenders requiring civil commitment or supervision

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

1 Section 1. Subdivisions (a) and (g) of section 10.03 of the mental  
2 hygiene law, subdivision (a) as amended by section 118-a of subpart B of  
3 part C of chapter 62 of the laws of 2011 and subdivision (g) as added by  
4 chapter 7 of the laws of 2007, are amended to read as follows:

5 (a) "Agency with jurisdiction" as to a person means that agency which,  
6 during the period in question, would be the agency responsible for  
7 supervising or releasing such person, and can include the department of  
8 corrections and community supervision, the office of mental health,  
9 ~~[and]~~ the office for people with developmental disabilities, a county  
10 sheriff and any probation department in the state.

11 (g) "Detained sex offender" means a person who is in the care, custo-  
12 dy, control, or supervision of an agency with jurisdiction, with respect  
13 to a sex offense ~~[or]~~, designated felony or misdemeanor defined in arti-  
14 cle one hundred thirty of the penal law, in that the person is either:

15 (1) A person who stands convicted of a sex offense as defined in  
16 subdivision (p) of this section, and is currently serving a sentence  
17 for, or subject to supervision by the division of parole, whether on  
18 parole or on post-release supervision, for such offense or for a related  
19 offense;

20 (2) A person charged with a sex offense who has been determined to be  
21 an incapacitated person with respect to that offense and has been  
22 committed pursuant to article seven hundred thirty of the criminal  
23 procedure law, but did engage in the conduct constituting such offense;

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

LBD00582-01-7

1 (3) A person charged with a sex offense who has been found not respon-  
2 sible by reason of mental disease or defect for the commission of that  
3 offense;

4 (4) A person who stands convicted of a designated felony that was  
5 sexually motivated and committed prior to the effective date of this  
6 article;

7 (5) A person convicted of a sex offense who is, or was at any time  
8 after September first, two thousand five, a patient in a hospital oper-  
9 ated by the office of mental health, and who was admitted directly to  
10 such facility pursuant to article nine of this title or section four  
11 hundred two of the correction law upon release or conditional release  
12 from a correctional facility, provided that the provisions of this arti-  
13 cle shall not be deemed to shorten or lengthen the time for which such  
14 person may be held pursuant to such article or section respectively;  
15 [~~ex~~]

16 (6) A person who has been determined to be a sex offender requiring  
17 civil management pursuant to this article[~~+~~]; or

18 (7) A person previously convicted of conduct, which had it occurred in  
19 this state, would have constituted a designated felony.

20 § 2. This act shall take effect immediately.