

# STATE OF NEW YORK

6545

2017-2018 Regular Sessions

## IN ASSEMBLY

March 9, 2017

Introduced by M. of A. BRINDISI, TITONE -- read once and referred to the Committee on 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 Assembly, do enact as follows:

Section 1. 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:

§ 168-w. Level two and level three sex offender residence limitations; penalty. 1. (a) It shall be unlawful for any level two or level three sex offender to knowingly reside within fifteen hundred feet of the residence of a victim of his or her sex offense or sexually violent offense.

(b) The residence prohibition established by paragraph (a) of this subdivision shall remain in effect for as long as the offender is classified as a level two or three sex offender.

(c) In any prosecution pursuant to this subdivision, it shall be an affirmative defense that, after the sex offender's conviction of a sex offense or sexually violent offense, the victim of such offense established a residence within fifteen hundred feet of the sex offender's residence.

(d) No provision of this subdivision shall be deemed to require the disclosure or notification of the address of any victim to a sex offender.

2. (a) It shall be unlawful for any level two or three sex offender to knowingly reside or enter within one thousand five hundred feet of any school grounds. For the purposes of this subdivision, "school grounds" means any building, structure, athletic playing field, playground or land contained within the real property line of a public or private

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

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1 elementary, parochial, intermediate, junior high, vocational or high  
2 school.

3 (b) It shall be unlawful for any level two or three sex offender to  
4 knowingly attend or participate in any event or activity sponsored by a  
5 public or private elementary, parochial, intermediate, junior high,  
6 vocational or high school, regardless of whether such event or activity  
7 is conducted upon school grounds.

8 (c) The prohibitions imposed by paragraphs (a) and (b) of this subdivi-  
9 vision shall remain in effect for as long as the sex offender is classi-  
10 fied as a level two or three sex offender.

11 (d) In any prosecution pursuant to paragraph (a) of this subdivision,  
12 it shall be an affirmative defense that:

13 (i) the sex offender resides within a facility operated by and is in  
14 the custody of a local corrections department, a county sheriff, the  
15 department, the office of children and family services or the office of  
16 mental health;

17 (ii) the sex offender established his or her residence prior to the  
18 effective date of this subdivision, or school grounds are established or  
19 extended after the sex offender has established his or her residence;

20 (iii) the sex offender is under twenty-one years of age or a ward  
21 under a guardianship; or

22 (iv) the sex offender's place of residence has been fixed by order of  
23 a court of competent jurisdiction, or by any federal, state, county or  
24 city agency having jurisdiction over the sex offender.

25 (e) Notwithstanding the provisions of paragraph (a) of this subdivi-  
26 sion, a level two or three sex offender may enter upon and within one  
27 thousand five hundred feet of school grounds for the limited purpose of  
28 casting his or her ballot at his or her polling place, within such one  
29 thousand five hundred feet area, in a special, primary or general  
30 election for which the sex offender is registered to vote. The  
31 provisions of this paragraph shall only apply to a sex offender who  
32 provides not less than thirty days notice to the building principal of  
33 the appropriate school, that such sex offender will be entering upon or  
34 near school grounds for the purpose of voting. Such notice shall also  
35 state the one hour period of time during which the sex offender will  
36 cast his or her ballot, and the exemption granted by this paragraph  
37 shall only apply to the sex offender during such one hour period of  
38 time.

39 3. A sex offender who violates the provisions of this section shall be  
40 guilty of a class E felony.

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