

STATE OF NEW YORK

1769

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sen. GOLDEN -- 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, the executive law, the mental hygiene law, the penal law and the social services law, in relation to the residence of a sex offender

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

1 Section 1. Section 168-c of the correction law is amended by adding a
2 new subdivision 2-a to read as follows:

3 2-a. Upon notification pursuant to subdivisions one or two of this
4 section, it shall be the duty of the division to confirm that a sex
5 offender's proposed residence is not within the area defined as school
6 grounds, as such term is defined in subdivision fourteen of section
7 220.00 of the penal law, or a playground, as such term is defined in
8 subdivision twenty-two of section 10.00 of the penal law, the measure-
9 ments to be taken in straight lines from the center of the nearest
10 entrance of the residence to the nearest real property boundary line
11 comprising such school grounds or playground.

12 § 2. Subdivisions 2 and 3 of section 168-d of the correction law,
13 subdivision 2 as amended by chapter 684 of the laws of 2005, and subdi-
14 vision 3 as amended by chapter 11 of the laws of 2002, are amended to
15 read as follows:

16 2. Any sex offender, who is released on probation or discharged upon
17 payment of a fine, conditional discharge or unconditional discharge
18 shall, prior to such release or discharge, be informed of his or her
19 duty to register under this article by the court in which he or she was
20 convicted. At the time sentence is imposed, such sex offender shall
21 register with the division on a form prepared by the division. The court
22 shall require the sex offender to read and sign such form and to
23 complete the registration portion of such form. The court shall on such

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

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1 form obtain the address where the sex offender expects to reside upon
2 his or her release, and the name and address of any institution of high-
3 er education he or she expects to be employed by, enrolled in, attending
4 or employed, whether for compensation or not, and whether he or she
5 expects to reside in a facility owned or operated by such an institu-
6 tion, and shall report such information to the division. The court shall
7 give one copy of the form to the sex offender and shall send two copies
8 to the division which shall forward the information to the law enforce-
9 ment agencies having jurisdiction. The court shall also notify the
10 district attorney and the sex offender of the date of the determination
11 proceeding to be held pursuant to subdivision three of this section,
12 which shall be held at least forty-five days after such notice is given.
13 This notice shall include the following statement or a substantially
14 similar statement: "This proceeding is being held to determine whether
15 you will be classified as a level 3 offender (risk of repeat offense is
16 high), a level 2 offender (risk of repeat offense is moderate), or a
17 level 1 offender (risk of repeat offense is low), or whether you will be
18 designated as a sexual predator, a sexually violent offender or a predi-
19 cate sex offender, which will determine how long you must register as a
20 sex offender, where you may reside, work or travel, and how much infor-
21 mation can be provided to the public concerning your registration. If
22 you fail to appear at this proceeding, without sufficient excuse, it
23 shall be held in your absence. Failure to appear may result in a longer
24 period of registration or a higher level of community notification
25 because you are not present to offer evidence or contest evidence
26 offered by the district attorney." The court shall also advise the sex
27 offender that he or she has a right to a hearing prior to the court's
28 determination, that he or she has the right to be represented by counsel
29 at the hearing and that counsel will be appointed if he or she is finan-
30 cially unable to retain counsel. If the sex offender applies for assign-
31 ment of counsel to represent him or her at the hearing and counsel was
32 not previously assigned to represent the sex offender in the underlying
33 criminal action, the court shall determine whether the offender is
34 financially unable to retain counsel. If such a finding is made, the
35 court shall assign counsel to represent the sex offender pursuant to
36 article eighteen-B of the county law. Where the court orders a sex
37 offender released on probation, such order must include a provision
38 requiring that he or she comply with the requirements of this article.
39 Where such sex offender violates such provision, probation may be imme-
40 diately revoked in the manner provided by article four hundred ten of
41 the criminal procedure law.

42 3. For sex offenders released on probation or discharged upon payment
43 of a fine, conditional discharge or unconditional discharge, it shall be
44 the duty of the court applying the guidelines established in subdivision
45 five of section one hundred sixty-eight-1 of this article to determine
46 the level of notification pursuant to subdivision six of section one
47 hundred sixty-eight-1 of this article and whether such sex offender
48 shall be designated a sexual predator, sexually violent offender, or
49 predicate sex offender as defined in subdivision seven of section one
50 hundred sixty-eight-a of this article. At least fifteen days prior to
51 the determination proceeding, the district attorney shall provide to the
52 court and the sex offender a written statement setting forth the deter-
53 minations sought by the district attorney together with the reasons for
54 seeking such determinations. The court shall allow the sex offender to
55 appear and be heard. The state shall appear by the district attorney, or
56 his or her designee, who shall bear the burden of proving the facts

1 supporting the determinations sought by clear and convincing evidence.
2 Where there is a dispute between the parties concerning the determi-
3 nations, the court shall adjourn the hearing as necessary to permit the
4 sex offender or the district attorney to obtain materials relevant to
5 the determinations from any state or local facility, hospital, institu-
6 tion, office, agency, department or division. Such materials may be
7 obtained by subpoena if not voluntarily provided to the requesting
8 party. In making the determinations, the court shall review any victim's
9 statement and any relevant materials and evidence submitted by the sex
10 offender and the district attorney and the court may consider reliable
11 hearsay evidence submitted by either party provided that it is relevant
12 to the determinations. Facts previously proven at trial or elicited at
13 the time of entry of a plea of guilty shall be deemed established by
14 clear and convincing evidence and shall not be relitigated. The court
15 shall render an order setting forth its determinations and the findings
16 of fact and conclusions of law on which the determinations are based,
17 such order shall also include any conditions that are required to be
18 imposed pursuant to section 65.10 of the penal law. A copy of the order
19 shall be submitted by the court to the division. Upon application of
20 either party, the court shall seal any portion of the court file or
21 record which contains material that is confidential under any state or
22 federal statute. Either party may appeal as of right from the order
23 pursuant to the provisions of articles fifty-five, fifty-six and fifty-
24 seven of the civil practice law and rules. Where counsel has been
25 assigned to represent the sex offender upon the ground that the sex
26 offender is financially unable to retain counsel, that assignment shall
27 be continued throughout the pendency of the appeal, and the person may
28 appeal as a poor person pursuant to article eighteen-B of the county
29 law.

30 § 3. Section 168-f of the correction law is amended by adding a new
31 subdivision 4-a to read as follows:

32 4-a. A sex offender who has established a residence shall not change
33 said residence so as to reside within the area defined as school
34 grounds, as such term is defined in subdivision fourteen of section
35 220.00 of the penal law, or a playground, as such term is defined in
36 subdivision twenty-two of section 10.00 of the penal law, the measure-
37 ments to be taken in straight lines from the center of the nearest
38 entrance of the residence to the real property boundary line comprising
39 such school grounds or playground.

40 § 4. Subdivision 2 of section 168-k of the correction law, as amended
41 by chapter 684 of the laws of 2005, is amended to read as follows:

42 2. The division shall advise the board that the sex offender has
43 established residence in this state. The board shall determine whether
44 the sex offender is required to register with the division. If it is
45 determined that the sex offender is required to register, the division
46 shall notify the sex offender of his or her duty to register under this
47 article and shall require the sex offender to sign a form as may be
48 required by the division acknowledging that the duty to register and the
49 procedure for registration has been explained to the sex offender. The
50 division shall obtain on such form the address where the sex offender
51 expects to reside within the state and the sex offender shall retain one
52 copy of the form and send two copies to the division which shall provide
53 the information to the law enforcement agency having jurisdiction where
54 the sex offender expects to reside within this state. No later than
55 thirty days prior to the board making a recommendation, the sex offender
56 shall be notified that his or her case is under review and that he or

1 she is permitted to submit to the board any information relevant to the
2 review. After reviewing any information obtained, and applying the
3 guidelines established in subdivision five of section one hundred
4 sixty-eight-1 of this article, the board shall within sixty calendar
5 days make a recommendation regarding the level of notification pursuant
6 to subdivision six of section one hundred sixty-eight-1 of this article
7 and whether such sex offender shall be designated a sexual predator,
8 sexually violent offender, or predicate sex offender as defined in
9 subdivision seven of section one hundred sixty-eight-a of this article.
10 This recommendation shall be confidential and shall not be available for
11 public inspection. It shall be submitted by the board to the county
12 court or supreme court and to the district attorney in the county of
13 residence of the sex offender and to the sex offender. It shall be the
14 duty of the county court or supreme court in the county of residence of
15 the sex offender, applying the guidelines established in subdivision
16 five of section one hundred sixty-eight-1 of this article, to determine
17 the level of notification pursuant to subdivision six of section one
18 hundred sixty-eight-1 of this article and whether such sex offender
19 shall be designated a sexual predator, sexually violent offender, or
20 predicate sex offender as defined in subdivision seven of section one
21 hundred sixty-eight-a of this article. At least thirty days prior to the
22 determination proceeding, such court shall notify the district attorney
23 and the sex offender, in writing, of the date of the determination
24 proceeding and the court shall also provide the district attorney and
25 sex offender with a copy of the recommendation received from the board
26 and any statement of the reasons for the recommendation received from
27 the board. This notice shall include the following statement or a
28 substantially similar statement: "This proceeding is being held to
29 determine whether you will be classified as a level 3 offender (risk of
30 repeat offense is high), a level 2 offender (risk of repeat offense is
31 moderate), or a level 1 offender (risk of repeat offense is low), or
32 whether you will be designated as a sexual predator, a sexually violent
33 offender or a predicate sex offender, which will determine how long you
34 must register as a sex offender, where you may reside, work or travel,
35 and how much information can be provided to the public concerning your
36 registration. If you fail to appear at this proceeding, without suffi-
37 cient excuse, it shall be held in your absence. Failure to appear may
38 result in a longer period of registration or a higher level of community
39 notification because you are not present to offer evidence or contest
40 evidence offered by the district attorney." The court shall also advise
41 the sex offender that he or she has a right to a hearing prior to the
42 court's determination, that he or she has the right to be represented by
43 counsel at the hearing and that counsel will be appointed if he or she
44 is financially unable to retain counsel. A returnable form shall be
45 enclosed in the court's notice to the sex offender on which the sex
46 offender may apply for assignment of counsel. If the sex offender
47 applies for assignment of counsel and the court finds that the offender
48 is financially unable to retain counsel, the court shall assign counsel
49 to represent the sex offender pursuant to article eighteen-B of the
50 county law. If the district attorney seeks a determination that differs
51 from the recommendation submitted by the board, at least ten days prior
52 to the determination proceeding the district attorney shall provide to
53 the court and the sex offender a statement setting forth the determi-
54 nations sought by the district attorney together with the reasons for
55 seeking such determinations. The court shall allow the sex offender to
56 appear and be heard. The state shall appear by the district attorney, or

1 his or her designee, who shall bear the burden of proving the facts
2 supporting the determinations sought by clear and convincing evidence.
3 It shall be the duty of the court applying the guidelines established in
4 subdivision five of section one hundred sixty-eight-1 of this article to
5 determine the level of notification pursuant to subdivision six of
6 section one hundred sixty-eight-1 of this article and whether such sex
7 offender shall be designated a sexual predator, sexually violent offen-
8 der, or predicate sex offender as defined in subdivision seven of
9 section one hundred sixty-eight-a of this article. Where there is a
10 dispute between the parties concerning the determinations, the court
11 shall adjourn the hearing as necessary to permit the sex offender or the
12 district attorney to obtain materials relevant to the determinations
13 from the state board of examiners of sex offenders or any state or local
14 facility, hospital, institution, office, agency, department or division.
15 Such materials may be obtained by subpoena if not voluntarily provided
16 to the requesting party. In making the determinations the court shall
17 review any victim's statement and any relevant materials and evidence
18 submitted by the sex offender and the district attorney and the recom-
19 mendation and any material submitted by the board, and may consider
20 reliable hearsay evidence submitted by either party, provided that it is
21 relevant to the determinations. If available, facts proven at trial or
22 elicited at the time of a plea of guilty shall be deemed established by
23 clear and convincing evidence and shall not be relitigated. The court
24 shall render an order setting forth its determinations and the findings
25 of fact and conclusions of law on which the determinations are based,
26 such order shall also include any conditions that are required to be
27 imposed pursuant to section 65.10 of the penal law. A copy of the order
28 shall be submitted by the court to the division. Upon application of
29 either party, the court shall seal any portion of the court file or
30 record which contains material that is confidential under any state or
31 federal statute. Either party may appeal as of right from the order
32 pursuant to the provisions of articles fifty-five, fifty-six and fifty-
33 seven of the civil practice law and rules. Where counsel has been
34 assigned to represent the sex offender upon the ground that the sex
35 offender is financially unable to retain counsel, that assignment shall
36 be continued throughout the pendency of the appeal, and the person may
37 appeal as a poor person pursuant to article eighteen-B of the county
38 law.

39 § 5. Subdivision 3 of section 168-n of the correction law, as amended
40 by chapter 684 of the laws of 2005, is amended to read as follows:

41 3. No later than thirty days prior to the board's recommendation, the
42 sex offender shall be notified that his or her case is under review and
43 that he or she is permitted to submit to the board any information rele-
44 vant to the review. Upon receipt of the board's recommendation, the
45 sentencing court shall determine whether the sex offender was previously
46 found to be eligible for assigned counsel in the underlying case. Where
47 such a finding was previously made, the court shall assign counsel to
48 represent the offender, pursuant to article eighteen-B of the county
49 law. At least twenty days prior to the determination proceeding, the
50 sentencing court shall notify the district attorney, the sex offender
51 and the sex offender's counsel, in writing, of the date of the determi-
52 nation proceeding and shall also provide the district attorney, the sex
53 offender and the sex offender's counsel with a copy of the recommenda-
54 tion received from the board and any statement of the reasons for the
55 recommendation received from the board. This notice shall include the
56 following statement or a substantially similar statement: "This

1 proceeding is being held to determine whether you will be classified as
2 a level 3 offender (risk of repeat offense is high), a level 2 offender
3 (risk of repeat offense is moderate), or a level 1 offender (risk of
4 repeat offense is low), or whether you will be designated as a sexual
5 predator, a sexually violent offender or a predicate sex offender, which
6 will determine how long you must register as a sex offender, where you
7 may reside, work or travel, and how much information can be provided to
8 the public concerning your registration. If you fail to appear at this
9 proceeding, without sufficient excuse, it shall be held in your absence.
10 Failure to appear may result in a longer period of registration or a
11 higher level of community notification because you are not present to
12 offer evidence or contest evidence offered by the district attorney."
13 The written notice to the sex offender shall also advise the offender
14 that he or she has a right to a hearing prior to the court's determi-
15 nation, and that he or she has the right to be represented by counsel at
16 the hearing. If counsel has been assigned to represent the offender at
17 the determination proceeding, the notice shall also provide the name,
18 address and telephone number of the assigned counsel. Where counsel has
19 not been assigned, the notice shall advise the sex offender that counsel
20 will be appointed if he or she is financially unable to retain counsel,
21 and a returnable form shall be enclosed in the court's notice to the sex
22 offender on which the sex offender may apply for assignment of counsel.
23 If the sex offender applies for assignment of counsel and the court
24 finds that the offender is financially unable to retain counsel, the
25 court shall assign counsel to represent the sex offender pursuant to
26 article eighteen-B of the county law. If the district attorney seeks a
27 determination that differs from the recommendation submitted by the
28 board, at least ten days prior to the determination proceeding the
29 district attorney shall provide to the court and the sex offender a
30 statement setting forth the determinations sought by the district attor-
31 ney together with the reasons for seeking such determinations. The court
32 shall allow the sex offender to appear and be heard. The state shall
33 appear by the district attorney, or his or her designee, who shall bear
34 the burden of proving the facts supporting the determinations sought by
35 clear and convincing evidence. Where there is a dispute between the
36 parties concerning the determinations, the court shall adjourn the hear-
37 ing as necessary to permit the sex offender or the district attorney to
38 obtain materials relevant to the determinations from the state board of
39 examiners of sex offenders or any state or local facility, hospital,
40 institution, office, agency, department or division. Such materials may
41 be obtained by subpoena if not voluntarily provided to the requesting
42 party. In making the determinations the court shall review any victim's
43 statement and any relevant materials and evidence submitted by the sex
44 offender and the district attorney and the recommendation and any mate-
45 rials submitted by the board, and may consider reliable hearsay evidence
46 submitted by either party, provided that it is relevant to the determi-
47 nations. Facts previously proven at trial or elicited at the time of
48 entry of a plea of guilty shall be deemed established by clear and
49 convincing evidence and shall not be relitigated. The court shall render
50 an order setting forth its determinations and the findings of fact and
51 conclusions of law on which the determinations are based, such order
52 shall also include any conditions that are required to be imposed pursu-
53 ant to section 65.10 of the penal law. A copy of the order shall be
54 submitted by the court to the division. Upon application of either
55 party, the court shall seal any portion of the court file or record
56 which contains material that is confidential under any state or federal

1 statute. Either party may appeal as of right from the order pursuant to
2 the provisions of articles fifty-five, fifty-six and fifty-seven of the
3 civil practice law and rules. Where counsel has been assigned to repre-
4 sent the sex offender upon the ground that the sex offender is finan-
5 cially unable to retain counsel, that assignment shall be continued
6 throughout the pendency of the appeal, and the person may appeal as a
7 poor person pursuant to article eighteen-B of the county law.

8 § 6. Subdivision 1 of section 203 of the correction law, as added by
9 section 32 of subpart A of part C of chapter 62 of the laws of 2011, is
10 amended to read as follows:

11 1. The commissioner shall promulgate rules and regulations that shall
12 include guidelines and procedures on the placement of sex offenders
13 designated as level two or level three offenders pursuant to article
14 six-C of this chapter, provided that such guidelines and procedures
15 shall prohibit the placement of such sex offenders within the area
16 defined as school grounds, as such term is defined in subdivision four-
17 teen of section 220.00 of the penal law, or a playground, as such term
18 is defined in subdivision twenty-two of section 10.00 of the penal law.

19 Such regulations shall provide instruction on certain factors to be
20 considered when investigating and approving the residence of level two
21 or level three sex offenders released on presumptive release, parole,
22 conditional release or post-release supervision. Such factors shall
23 include the following:

24 (a) the location of other sex offenders required to register under the
25 sex offender registration act, specifically whether there is a concen-
26 tration of registered sex offenders in a certain residential area or
27 municipality;

28 (b) the number of registered sex offenders residing at a particular
29 property;

30 (c) the proximity of entities with vulnerable populations;

31 (d) accessibility to family members, friends or other supportive
32 services, including, but not limited to, locally available sex offender
33 treatment programs with preference for placement of such individuals
34 into programs that have demonstrated effectiveness in reducing sex
35 offender recidivism and increasing public safety; and

36 (e) the availability of permanent, stable housing in order to reduce
37 the likelihood that such offenders will be transient.

38 § 7. The correction law is amended by adding a new section 209 to read
39 as follows:

40 § 209. Regulations for release of sex offenders designated as level
41 one offenders. The commissioner shall promulgate rules and regulations
42 that shall include guidelines and procedures on the placement of sex
43 offenders designated as level one sexual predators, sexually violent
44 offenders, or predicate sex offenders pursuant to article six-C of this
45 chapter and the victim of the offense for which such designation was
46 received was under the age of eighteen at the time of such offense,
47 provided that such guidelines and procedures shall prohibit the place-
48 ment of such sex offenders within any school grounds, as such term is
49 defined in subdivision fourteen of section 220.00 of the penal law, or a
50 playground, as such term is defined in subdivision twenty-two of section
51 10.00 of the penal law.

52 § 8. Subdivision 14 of section 259-c of the executive law, as amended
53 by section 38-b of subpart A of part C of chapter 62 of the laws of
54 2011, is amended to read as follows:

55 14. notwithstanding any other provision of law to the contrary, where
56 a person serving a sentence for an offense defined in article one

1 hundred thirty, one hundred thirty-five or two hundred sixty-three of
2 the penal law or section 255.25, 255.26 or 255.27 of the penal law and
3 the victim of such offense was under the age of eighteen at the time of
4 such offense or such person has been designated a level two or level
5 three sex offender pursuant to subdivision six of section one hundred
6 sixty-eight-1 of the correction law, is released on parole or condi-
7 tionally released pursuant to subdivision one or two of this section,
8 the board shall require, as a mandatory condition of such release, that
9 such sentenced offender shall refrain from knowingly entering into or
10 upon any school grounds, as that term is defined in subdivision fourteen
11 of section 220.00 of the penal law, [ex] any other facility or institu-
12 tion primarily used for the care or treatment of persons under the age
13 of eighteen while one or more of such persons under the age of eighteen
14 are present, or any playground, as that term is defined in subdivision
15 twenty-two of section 10.00 of the penal law, provided however, that
16 when such sentenced offender is a registered student or participant or
17 an employee of such facility or institution or entity contracting there-
18 with or has a family member enrolled in such facility or institution,
19 such sentenced offender may, with the written authorization of his or
20 her parole officer and the superintendent or chief administrator of such
21 facility, institution or grounds, enter such facility, institution or
22 upon such grounds for the limited purposes authorized by the parole
23 officer and superintendent or chief officer. Nothing in this subdivi-
24 sion shall be construed as restricting any lawful condition of super-
25 vision that may be imposed on such sentenced offender.

26 § 9. Subdivision 4 of section 243 of the executive law, as added by
27 chapter 568 of the laws of 2008 and the opening paragraph as amended by
28 section 17 of part A of chapter 56 of the laws of 2010, is amended to
29 read as follows:

30 4. The office shall recommend to the commissioner rules and regu-
31 lations which shall include guidelines and procedures on the placement
32 of sex offenders designated as level two or level three offenders pursu-
33 ant to article six-C of the correction law, provided that such recom-
34 mended rules and regulations shall prohibit the placement of such sex
35 offenders within the area defined as school grounds, as such term is
36 defined in subdivision fourteen of section 220.00 of the penal law, or a
37 playground, as such term is defined in subdivision twenty-two of section
38 10.00 of the penal law. Such regulations shall instruct local probation
39 departments to consider certain factors when investigating and approving
40 the residence of level two or level three sex offenders sentenced to a
41 period of probation. Such factors shall include the following:

42 (a) the location of other sex offenders required to register under the
43 sex offender registration act, specifically whether there is a concen-
44 tration of registered sex offenders in a certain residential area or
45 municipality;

46 (b) the number of registered sex offenders residing at a particular
47 property;

48 (c) the proximity of entities with vulnerable populations;

49 (d) accessibility to family members, friends or other supportive
50 services, including but not limited to locally available sex offender
51 treatment programs with preference for placement of such individuals
52 into programs that have demonstrated effectiveness in reducing sex
53 offender recidivism and increasing public safety; and

54 (e) the availability of permanent, stable housing in order to reduce
55 the likelihood that such offenders will be transient.

§ 10. Subdivision (a) of section 10.11 of the mental hygiene law, as added by chapter 7 of the laws of 2007, paragraphs 1 and 2 as amended by section 118-e of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(a) (1) Before ordering the release of a person to a regimen of strict and intensive supervision and treatment pursuant to this article, the court shall order that the department of corrections and community supervision recommend supervision requirements to the court. These supervision requirements, which shall be developed in consultation with the commissioner, shall include a prohibition against knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of the penal law, 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, or a playground, as such term is defined in subdivision twenty-two of section 10.00 of the penal law, and may include but need not be limited to, electronic monitoring or global positioning satellite tracking for an appropriate period of time, polygraph monitoring, specification of residence or type or residence, prohibition of contact with identified past or potential victims, strict and intensive supervision by a parole officer, and any other lawful and necessary conditions that may be imposed by a court. In addition, after consultation with the psychiatrist, psychologist or other professional primarily treating the respondent, the commissioner shall recommend a specific course of treatment. A copy of the recommended requirements for supervision and treatment shall be given to the attorney general and the respondent and his or her counsel a reasonable time before the court issues its written order pursuant to this section.

(2) Before issuing its written order, the court shall afford the parties an opportunity to be heard, and shall consider any additional submissions by the respondent and the attorney general concerning the proposed conditions of the regimen of strict and intensive supervision and treatment. The court shall issue an order specifying the conditions of the regimen of strict and intensive supervision and treatment, which shall include a condition that the respondent 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, 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, or a playground, as such term is defined in subdivision twenty-two of section 10.00 of the penal law, specified supervision requirements and compliance with a specified course of treatment. A written statement of the conditions of the regimen of strict and intensive supervision and treatment shall be given to the respondent and to his or her counsel, any designated service providers or treating professionals, the commissioner, the attorney general and the supervising parole officer. The court shall require the department of corrections and community supervision to take appropriate actions to implement the supervision plan and assure compliance with the conditions of the regimen of strict and intensive supervision and treatment and to investigate and approve the location of the respondent's residence. A regimen of strict and intensive supervision does not toll the running of any form of supervision in criminal cases, including but not limited to post-release supervision and parole.

§ 11. Section 10.00 of the penal law is amended by adding a new subdivision 22 to read as follows:

22. "Playground" means (a) in or within any building, structure, playing field, or land contained within the boundary of land owned, leased or maintained by the state or any agency or municipality thereof or by any not-for-profit corporation, corporation or association that is used on a regular basis as a recreation area for children and is so designated, or (b) any area accessible to the public located within one thousand feet of the perimeter of any such playground or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such playground. For the purposes of this section an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, stores and restaurants.

§ 12. 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 two or level three sex offender pursuant to subdivision six of section ~~[168-1]~~ one hundred sixty-eight-1 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]~~ 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, or any playground, as that term is defined in subdivision twenty-two of section 10.00 of this chapter, 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.

§ 13. Subdivision 8 of section 20 of the social services law, as amended by section 150 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

8. (a) The office of temporary and disability assistance shall promulgate rules and regulations for the administration of this subdivision. The rules and regulations shall provide for the conditions under which local social services officials determine the placement of applicants for and recipients of public assistance for whom a notice pursuant to section two hundred three of the correction law~~[7]~~ has been received and who are:

(i) determined to be in immediate need of shelter; and
(ii) designated a level two or level three sex offender pursuant to article six-C of the correction law.

(b) When making determinations in regard to the placement of such individuals in shelter, local social services officials shall not place such individuals within the area defined as school grounds, as such term

1 is defined in subdivision fourteen of section 220.00 of the penal law,
2 or a playground, as such term is defined in subdivision twenty-two of
3 section 10.00 of the penal law, and shall consider the following
4 factors:

5 (i) the location of other sex offenders required to register pursuant
6 to the sex offender registration act, specifically whether there is a
7 concentration of registered sex offenders in a certain residential area
8 or municipality;

9 (ii) the number of registered sex offenders residing at a particular
10 property;

11 (iii) proximity of the entities with vulnerable populations;

12 (iv) accessibility to family members, friends or other supportive
13 services, including but not limited to locally available sex offender
14 treatment programs with preference for placement of such individuals
15 into programs that have demonstrated effectiveness in reducing sex
16 offender recidivism and increasing public safety; and

17 (v) investigation and approval of such placement by the department of
18 corrections and community supervision.

19 § 14. This act shall take effect on the first of November next
20 succeeding the date on which it shall have become a law.