

STATE OF NEW YORK

2652--A

2017-2018 Regular Sessions

IN SENATE

January 17, 2017

Introduced by Sens. KLEIN, SAVINO, AVELLA, CARLUCCI, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the penal law, in relation to prohibiting sex offenders from playing augmented reality games

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

1 Section 1. Subdivision 15 of section 259-c of the executive law, as
2 amended by section 38-b of subpart A of part C of chapter 62 of the laws
3 of 2011, is amended to read as follows:
4 15. Notwithstanding any other provision of law to the contrary, where
5 a person is serving a sentence for an offense for which registration as
6 a sex offender is required pursuant to subdivision two or three of
7 section one hundred sixty-eight-a of the correction law, and the victim
8 of such offense was under the age of eighteen at the time of such
9 offense or such person has been designated a level three sex offender
10 pursuant to subdivision six of section one hundred sixty-eight-1 of the
11 correction law or the internet was used to facilitate the commission of
12 the crime, is released on parole or conditionally released pursuant to
13 subdivision one or two of this section, the board shall require, as
14 mandatory conditions of such release, that such sentenced offender shall
15 be prohibited from using the internet to access pornographic material,
16 access a commercial social networking website~~[7]~~ or augmented reality
17 game, communicate with other individuals or groups for the purpose of
18 promoting sexual relations with persons under the age of eighteen, and
19 communicate with a person under the age of eighteen when such offender
20 is over the age of eighteen, provided that the board may permit an
21 offender to use the internet to communicate with a person under the age
22 of eighteen when such offender is the parent of a minor child and is not
23 otherwise prohibited from communicating with such child. Nothing in this

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

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1 subdivision shall be construed as restricting any other lawful condition
2 of supervision that may be imposed on such sentenced offender. As used
3 in this subdivision, a "commercial social networking website" shall mean
4 any business, organization or other entity operating a website that
5 permits persons under eighteen years of age to be registered users for
6 the purpose of establishing personal relationships with other users,
7 where such persons under eighteen years of age may: (i) create web pages
8 or profiles that provide information about themselves where such web
9 pages or profiles are available to the public or to other users; (ii)
10 engage in direct or real time communication with other users, such as a
11 chat room or instant messenger; and (iii) communicate with persons over
12 eighteen years of age; provided, however, that, for purposes of this
13 subdivision, a commercial social networking website shall not include a
14 website that permits users to engage in such other activities as are not
15 enumerated herein. As used in this subdivision, "augmented reality
16 game" means a digital application or game, typically accessed on mobile
17 devices, including but not limited to: smartphones; tablets; or
18 augmented reality glasses; which causes users to physically move to
19 and/or personally interact with locations outside the user's place of
20 residence for the purpose of achieving goals or moving from place to
21 place within the game.

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

25 (b) When imposing a sentence of probation or conditional discharge
26 upon a person convicted of an offense for which registration as a sex
27 offender is required pursuant to subdivision two or three of section one
28 hundred sixty-eight-a of the correction law, and the victim of such
29 offense was under the age of eighteen at the time of such offense or
30 such person has been designated a level three sex offender pursuant to
31 subdivision six of section one hundred sixty-eight-1 of the correction
32 law or the internet was used to facilitate the commission of the crime,
33 the court shall require, as mandatory conditions of such sentence, that
34 such sentenced offender be prohibited from using the internet to access
35 pornographic material, access a commercial social networking website[7]
36 or augmented reality game, communicate with other individuals or groups
37 for the purpose of promoting sexual relations with persons under the age
38 of eighteen, and communicate with a person under the age of eighteen
39 when such offender is over the age of eighteen, provided that the court
40 may permit an offender to use the internet to communicate with a person
41 under the age of eighteen when such offender is the parent of a minor
42 child and is not otherwise prohibited from communicating with such
43 child. Nothing in this subdivision shall be construed as restricting any
44 other lawful condition of supervision that may be imposed on such
45 sentenced offender. As used in this subdivision, a "commercial social
46 networking website" shall mean any business, organization or other enti-
47 ty operating a website that permits persons under eighteen years of age
48 to be registered users for the purpose of establishing personal
49 relationships with other users, where such persons under eighteen years
50 of age may: (i) create web pages or profiles that provide information
51 about themselves where such web pages or profiles are available to the
52 public or to other users; (ii) engage in direct or real time communi-
53 cation with other users, such as a chat room or instant messenger; and
54 (iii) communicate with persons over eighteen years of age; provided,
55 however, that, for purposes of this subdivision, a commercial social
56 networking website shall not include a website that permits users to

1 engage in such other activities as are not enumerated herein. As used
2 in this subdivision, "augmented reality game" means a digital applica-
3 tion or game, typically accessed on mobile devices, including but not
4 limited to: smartphones; tablets; or augmented reality glasses; which
5 causes users to physically move to and/or personally interact with
6 locations outside the user's place of residence for the purpose of
7 achieving goals or moving from place to place within the game.

8 § 3. This act shall take effect on the sixtieth day after it shall
9 have become a law.