

# STATE OF NEW YORK

3808

2019-2020 Regular Sessions

## IN ASSEMBLY

January 31, 2019

Introduced by M. of A. McDONOUGH, RAIA, HAWLEY, JOHNS, RA, CROUCH, MORI-NELLO, BRABENEC -- Multi-Sponsored by -- M. of A. M. L. MILLER -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to requiring the electronic monitoring of certain sex offenders

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

1 Section 1. Section 168-w of the correction law, as relettered by chap-  
2 ter 604 of the laws of 2005, is relettered section 168-x and a new  
3 section 168-w is added to read as follows:

4 § 168-w. Electronic monitoring of certain sex offenders. 1. Any sex  
5 offender having been assigned a level three risk or designated a sexual  
6 predator, a sexually violent offender or a predicate sex offender, whose  
7 crime was committed prior to, on or after the effective date of this  
8 section shall be placed on electronic monitoring.

9 2. The division shall establish a system of active electronic monitor-  
10 ing that identifies the location of a sex offender required to be moni-  
11 tored pursuant to subdivision one of this section and that can produce,  
12 upon request, reports or records of the sex offender's presence near or  
13 within a crime scene or prohibited area or the sex offender's departure  
14 from specified geographic limitations.

15 3. The division shall also promulgate regulations implementing the  
16 imposition and collection of fees related to electronic monitoring  
17 pursuant to this section. Such regulations shall utilize a means test  
18 based on two hundred percent of the federal poverty guidelines promul-  
19 gated annually by the federal department of health and human services  
20 and if the sex offender falls below such percentage then no fee shall be  
21 charged, and earnings above such percentage shall be considered on a  
22 sliding scale. Such regulations shall also provide that the division of  
23 parole or the division of probation and correctional alternatives, as  
24 applicable, consider any additional test or indicia that demonstrates

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

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1 the inability of the sex offender to pay such fees. Employees of the  
2 division of parole or the division of probation and correctional alter-  
3 natives shall be prohibited from collecting electronic monitoring  
4 related fees.

5 4. Any sex offender required to be electronically monitored pursuant  
6 to the provisions of this section who violates such requirement shall be  
7 guilty of a class E felony upon conviction for the first offense, and  
8 upon conviction for a second or subsequent offense shall be guilty of a  
9 class D felony. Any such violation may also be the basis for revocation  
10 of parole pursuant to section two hundred fifty-nine-i of the executive  
11 law or the basis for revocation of probation pursuant to article four  
12 hundred ten of the criminal procedure law.

13 § 2. Severability. If any clause, sentence, paragraph, section or part  
14 of this act shall be adjudged by any court of competent jurisdiction to  
15 be invalid, such judgment shall not affect, impair or invalidate the  
16 remainder thereof, but shall be confined in its operation to the clause,  
17 sentence, paragraph, section or part thereof directly involved in the  
18 controversy in which such judgment shall have been rendered.

19 § 3. This act shall take effect on the one hundred twentieth day after  
20 it shall have become a law. Provided that any rules and regulations  
21 necessary to implement the provisions of this act on its effective date  
22 are authorized and directed to be promulgated on or before such effec-  
23 tive date.