# STATE OF NEW YORK

5071

2019-2020 Regular Sessions

# IN ASSEMBLY

February 7, 2019

Introduced by M. of A. JEAN-PIERRE -- read once and referred to the Committee on 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:**

Section 1. Subdivision 4 of section 168-f of the correction law, as amended by chapter 67 of the laws of 2008, is amended and two new subdivisions 4-a and 4-b are added to read as follows:

4. Any sex offender shall register with the division no later than ten calendar days after any change of address, internet accounts with internet access providers belonging to such offender, internet identifiers that such offender uses, or his or her status of enrollment, attendance, employment or residence at any institution of higher education. A fee of ten dollars, as authorized by subdivision eight of section one hundred sixty-eight-b of this article, shall be submitted by the sex offender each time such offender registers any change of address or any change of his or her status of enrollment, attendance, employment or residence at any institution of higher education. Any failure or omission to submit the required fee shall not affect the acceptance by the division of the change of address or change of status. **Any failure or omission to register any change of address or any change of his or her status of enrollment, attendance, employment or residence at any institution of higher education shall result in sentence of imprisonment for up to one year, a fine of up to one thousand dollars, or both.**

**4-a. A sex offender required to register under this article who has been given the level three designation, where the victim of a registering offense was under the age of eighteen at the time of such offense, who has established a residence shall not change said residence so as to reside within the area defined as school grounds, as such term is**

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

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defined in subdivision fourteen of section 220.00 of the penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds.

4-b. A sex offender required to register under this article shall not reside within a quarter mile from the workplace and residence of a victim of such sex offender and, if such sex offender caused the death of a victim, the sex offender shall not reside within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence.

§ 2. Section 203 of the correction law is amended by adding a new subdivision 3 to read as follows:

3. Such guidelines and procedures promulgated by the commissioner in accordance with subdivision one of this section shall prohibit the placement of sex offenders designated level three, where the victim of their offense was under the age of eighteen at the time of such offense, from residing within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds.

Such guidelines and procedures shall also prohibit the placement of sex offenders designated as level two or level three from residing within a quarter mile from the workplace and residence of a victim of such offender and, if such offender caused the death of a victim, the offender shall not be placed within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence.

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

4. The office shall recommend to the commissioner rules and regulations which shall include guidelines and procedures on the placement of sex offenders designated as level two or level three offenders pursuant to article six-C of the correction law, provided that such recommended rules and regulations shall prohibit the placement of a sex offender designated as a level three offender within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds.

Such recommended rules and regulations shall also prohibit the placement of a sex offender designated as a level two or three from residing within a quarter mile from the workplace and residence of a victim of such offender and, if such offender caused the death of a victim, the offender shall not be placed within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence. Such regulations shall instruct local probation departments to consider certain factors when investigating and approving the residence of level two or level three sex offenders sentenced to a period of probation. Such factors shall include the following:

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

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

(c) the proximity of entities with vulnerable populations;

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

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

§ 4. 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 a sex offender designated as a level three offender residing within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds, and shall include a prohibition against a sex offender from residing within a quarter mile from the workplace and residence of a victim of such sex offender and, if such sex offender caused the death of a victim, the sex offender shall not reside within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence 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 prohibition against a sex offender designated as a level three offender residing within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the**

penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds, a prohibition against a sex offender from residing within a quarter mile from the workplace and residence of a victim of such sex offender and, if such sex offender caused the death of a victim, the sex offender shall not reside within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence, 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 and place of employment. 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.

§ 5. 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 and two new paragraphs (a-1) and (a-2) are added 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 three sex offender pursuant to subdivision six of section [~~168-l~~] one hundred sixty-eight-l 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, 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.

(a-1) When imposing a sentence of probation or conditional discharge upon a person designated a level three sex offender, where the victim of their offense was under the age of eighteen at the time of such offense, the court shall require, as a mandatory condition of such sentence, that such sentenced offender shall not reside within the area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of this chapter, the measurements to be taken in straight

lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds.

(a-2) When imposing a sentence of probation or conditional discharge upon a person convicted of a sex offense under article one hundred thirty of this chapter, the court shall require, as mandatory conditions of such sentence, that such sentenced offender be prohibited from residing within a quarter mile from the workplace and residence of a victim or victims of such sentenced offender and, if such sentenced offender caused the death of a victim the sentenced offender shall not reside within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence.

§ 6. 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, 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 a level three offender within an area defined as school grounds, as such term is defined in subdivision fourteen of section 220.00 of the penal law, the measurements to be taken in straight lines from the center of the nearest entrance of the residence to the real property boundary line comprising such school grounds, and shall not place any offender within a quarter mile from the workplace and residence of a victim or victims of such offender and, if such offender caused the death of a victim the offender shall not be placed within a quarter mile from the prior residence of the deceased victim, if the spouse, child, step child, sibling, parent, grandparent or grandchild of the victim continues to reside at such residence and shall consider the following factors:

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

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

(iii) proximity of the entities with vulnerable populations;

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

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

§ 7. Local and/or state law enforcement agencies or their designee may monitor and verify sex offender registration compliance, and counties may enact, by local law or resolution, requirements for sex offenders to provide information to law enforcement agencies or their desig-

nee, to verify their home and employment addresses which have been registered pursuant to the provisions of the sex offender registration act.

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