

# 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 Assem-  
bly, do enact as follows:

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

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

20 4-a. A sex offender required to register under this article who has  
21 been given the level three designation, where the victim of a register-  
22 ing offense was under the age of eighteen at the time of such offense,  
23 who has established a residence shall not change said residence so as to  
24 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.

LBD09042-01-9

1 defined in subdivision fourteen of section 220.00 of the penal law, the  
2 measurements to be taken in straight lines from the center of the near-  
3 est entrance of the residence to the real property boundary line  
4 comprising such school grounds.

5 4-b. A sex offender required to register under this article shall not  
6 reside within a quarter mile from the workplace and residence of a  
7 victim of such sex offender and, if such sex offender caused the death  
8 of a victim, the sex offender shall not reside within a quarter mile  
9 from the prior residence of the deceased victim, if the spouse, child,  
10 step child, sibling, parent, grandparent or grandchild of the victim  
11 continues to reside at such residence.

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

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

23 Such guidelines and procedures shall also prohibit the placement of  
24 sex offenders designated as level two or level three from residing with-  
25 in a quarter mile from the workplace and residence of a victim of such  
26 offender and, if such offender caused the death of a victim, the offen-  
27 der shall not be placed within a quarter mile from the prior residence  
28 of the deceased victim, if the spouse, child, step child, sibling,  
29 parent, grandparent or grandchild of the victim continues to reside at  
30 such residence.

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

35 4. The office shall recommend to the commissioner rules and regu-  
36 lations which shall include guidelines and procedures on the placement  
37 of sex offenders designated as level two or level three offenders pursu-  
38 ant to article six-C of the correction law, provided that such recom-  
39 ended rules and regulations shall prohibit the placement of a sex  
40 offender designated as a level three offender within the area defined as  
41 school grounds, as such term is defined in subdivision fourteen of  
42 section 220.00 of the penal law, the measurements to be taken in  
43 straight lines from the center of the nearest entrance of the residence  
44 to the real property boundary line comprising such school grounds.

45 Such recommended rules and regulations shall also prohibit the place-  
46 ment of a sex offender designated as a level two or three from residing  
47 within a quarter mile from the workplace and residence of a victim of  
48 such offender and, if such offender caused the death of a victim, the  
49 offender shall not be placed within a quarter mile from the prior resi-  
50 dence of the deceased victim, if the spouse, child, step child, sibling,  
51 parent, grandparent or grandchild of the victim continues to reside at  
52 such residence. Such regulations shall instruct local probation depart-  
53 ments to consider certain factors when investigating and approving the  
54 residence of level two or level three sex offenders sentenced to a peri-  
55 od of probation. Such factors shall include the following:

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

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

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

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

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

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

19 (a) (1) Before ordering the release of a person to a regimen of strict  
20 and intensive supervision and treatment pursuant to this article, the  
21 court shall order that the department of corrections and community  
22 supervision recommend supervision requirements to the court. These  
23 supervision requirements, which shall be developed in consultation with  
24 the commissioner, shall include a prohibition against a sex offender  
25 designated as a level three offender residing within the area defined as  
26 school grounds, as such term is defined in subdivision fourteen of  
27 section 220.00 of the penal law, the measurements to be taken in  
28 straight lines from the center of the nearest entrance of the residence  
29 to the real property boundary line comprising such school grounds, and  
30 shall include a prohibition against a sex offender from residing within  
31 a quarter mile from the workplace and residence of a victim of such sex  
32 offender and, if such sex offender caused the death of a victim, the sex  
33 offender shall not reside within a quarter mile from the prior residence  
34 of the deceased victim, if the spouse, child, step child, sibling,  
35 parent, grandparent or grandchild of the victim continues to reside at  
36 such residence and may include but need not be limited to, electronic  
37 monitoring or global positioning satellite tracking for an appropriate  
38 period of time, polygraph monitoring, specification of residence or type  
39 or residence, prohibition of contact with identified past or potential  
40 victims, strict and intensive supervision by a parole officer, and any  
41 other lawful and necessary conditions that may be imposed by a court. In  
42 addition, after consultation with the psychiatrist, psychologist or  
43 other professional primarily treating the respondent, the commissioner  
44 shall recommend a specific course of treatment. A copy of the recom-  
45 mended requirements for supervision and treatment shall be given to the  
46 attorney general and the respondent and his or her counsel a reasonable  
47 time before the court issues its written order pursuant to this section.

48 (2) Before issuing its written order, the court shall afford the  
49 parties an opportunity to be heard, and shall consider any additional  
50 submissions by the respondent and the attorney general concerning the  
51 proposed conditions of the regimen of strict and intensive supervision  
52 and treatment. The court shall issue an order specifying the conditions  
53 of the regimen of strict and intensive supervision and treatment, which  
54 shall include a prohibition against a sex offender designated as a level  
55 three offender residing within the area defined as school grounds, as  
56 such term is defined in subdivision fourteen of section 220.00 of the

1 penal law, the measurements to be taken in straight lines from the  
2 center of the nearest entrance of the residence to the real property  
3 boundary line comprising such school grounds, a prohibition against a  
4 sex offender from residing within a quarter mile from the workplace and  
5 residence of a victim of such sex offender and, if such sex offender  
6 caused the death of a victim, the sex offender shall not reside within a  
7 quarter mile from the prior residence of the deceased victim, if the  
8 spouse, child, step child, sibling, parent, grandparent or grandchild of  
9 the victim continues to reside at such residence, specified supervision

10 requirements and compliance with a specified course of treatment. A  
11 written statement of the conditions of the regimen of strict and inten-  
12 sive supervision and treatment shall be given to the respondent and to  
13 his or her counsel, any designated service providers or treating profes-  
14 sionals, the commissioner, the attorney general and the supervising  
15 parole officer. The court shall require the department of corrections  
16 and community supervision to take appropriate actions to implement the  
17 supervision plan and assure compliance with the conditions of the regi-  
18 men of strict and intensive supervision and treatment and to investigate  
19 and approve the location of the respondent's residence and place of  
20 employment. A regimen of strict and intensive supervision does not toll  
21 the running of any form of supervision in criminal cases, including but  
22 not limited to post-release supervision and parole.

23 § 5. Paragraph (a) of subdivision 4-a of section 65.10 of the penal  
24 law, as amended by chapter 67 of the laws of 2008, is amended and two  
25 new paragraphs (a-1) and (a-2) are added to read as follows:

26 (a) When imposing a sentence of probation or conditional discharge  
27 upon a person convicted of an offense defined in article one hundred  
28 thirty, two hundred thirty-five or two hundred sixty-three of this chap-  
29 ter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim  
30 of such offense was under the age of eighteen at the time of such  
31 offense or such person has been designated a level three sex offender  
32 pursuant to subdivision six of section [~~169-1~~] one hundred sixty-eight-1  
33 of the correction law, the court shall require, as a mandatory condition  
34 of such sentence, that such sentenced offender shall refrain from know-  
35 ingly entering into or upon any school grounds, as that term is defined  
36 in subdivision fourteen of section 220.00 of this chapter, or any other  
37 facility or institution primarily used for the care or treatment of  
38 persons under the age of eighteen while one or more of such persons  
39 under the age of eighteen are present, provided however, that when such  
40 sentenced offender is a registered student or participant or an employee  
41 of such facility or institution or entity contracting therewith or has a  
42 family member enrolled in such facility or institution, such sentenced  
43 offender may, with the written authorization of his or her probation  
44 officer or the court and the superintendent or chief administrator of  
45 such facility, institution or grounds, enter such facility, institution  
46 or upon such grounds for the limited purposes authorized by the  
47 probation officer or the court and superintendent or chief officer.  
48 Nothing in this subdivision shall be construed as restricting any lawful  
49 condition of supervision that may be imposed on such sentenced offender.

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

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

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

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

16 8. (a) The office of temporary and disability assistance shall promul-  
17 gate rules and regulations for the administration of this subdivision.  
18 The rules and regulations shall provide for the conditions under which  
19 local social services officials determine the placement of applicants  
20 for and recipients of public assistance for whom a notice pursuant to  
21 section two hundred three of the correction law, has been received and  
22 who are:

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

26 (b) When making determinations in regard to the placement of such  
27 individuals in shelter, local social services officials shall not place  
28 a level three offender within an area defined as school grounds, as such  
29 term is defined in subdivision fourteen of section 220.00 of the penal  
30 law, the measurements to be taken in straight lines from the center of  
31 the nearest entrance of the residence to the real property boundary line  
32 comprising such school grounds, and shall not place any offender within  
33 a quarter mile from the workplace and residence of a victim or victims  
34 of such offender and, if such offender caused the death of a victim the  
35 offender shall not be placed within a quarter mile from the prior resi-  
36 dence of the deceased victim, if the spouse, child, step child, sibling,  
37 parent, grandparent or grandchild of the victim continues to reside at  
38 such residence and shall consider the following factors:

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

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

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

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

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

53 § 7. Local and/or state law enforcement agencies or their designee  
54 may monitor and verify sex offender registration compliance, and coun-  
55 ties may enact, by local law or resolution, requirements for sex offen-  
56 ders to provide information to law enforcement agencies or their desig-

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

4 § 8. This act shall take effect on the first of November next succeed-  
5 ing the date on which it shall have become a law.