

STATE OF NEW YORK

8458

2019-2020 Regular Sessions

IN ASSEMBLY

July 8, 2019

Introduced by M. of A. STERN, LiPETRI, THIELE, PALUMBO, DeSTEFANO, ENGLEBRIGHT, SMITH, RAMOS, GARBARINO, FITZPATRICK, RAIA, RA, BRABENEC, GIGLIO, MANKTELOW, McDONOUGH, MIKULIN, RAYNOR, REILLY, SCHMITT, SALKA, SMULLEN, BYRNES, LAVINE, NORRIS, SAYEGH, B. MILLER, MORINELLO, BLANK-ENBUSH, ASHBY, FINCH, LAWRENCE, GRIFFIN, D'URSO -- Multi-Sponsored by -- M. of A. BARCLAY, HAWLEY -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to sex offender registration and residency restrictions

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

Section 1. Section 168-h of the correction law, as amended by chapter 11 of the laws of 2002, and subdivisions 1 and 2 as amended by chapter 1 of the laws of 2006, is amended to read as follows:

§ 168-h. Duration of registration and verification. 1. The duration of registration and verification for a sex offender who has not been designated a sexual predator, or a sexually violent offender, or a predicate sex offender, and who is classified as a level one risk, or who has not yet received a risk level classification, shall be annually for a period of twenty years from the initial date of registration.

2. Notwithstanding the foregoing, a sex offender who is classified as a level one risk and has been designated as a sexual predator, sexually violent offender, or predicate sex offender or has been convicted of or has been convicted for an attempt to commit:

(i) any of the provisions of section 120.70, 130.35, 130.50, 130.53, 130.65, 130.65-a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.91, 130.95, 130.96, 135.05, 135.10, 135.20, 135.25, 230.06, 230.32, 250.50, 255.27, 263.10, 263.15 or 263.30 of the penal law;

(ii) any of the provisions of section 2251, 2251A, 2252, 2252A, 2260, 2422, 2423 or 2425 of title 18 of the United States code; or

(iii) has been convicted of any offense in any other jurisdiction which includes all of the essential elements of any of the foregoing crimes in this subdivision, shall register annually for life.

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

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1 3. A sex offender who is classified as a level one risk and has been
2 convicted of or has been convicted for an attempt to commit any of the
3 provisions of section 130.20, 130.25, 130.30, 130.40, 130.45, 130.52,
4 130.55 or 130.60 of the penal law, or has been convicted of any offense
5 in any other jurisdiction which includes all of the essential elements
6 of any of the foregoing crimes in this subdivision, shall register annu-
7 ally for life unless at the time of the act, the defendant was less than
8 twenty-one years old, in which case registration shall be annually for a
9 period of twenty years from the initial date of registration unless the
10 sex offender has been designated a sexual predator, sexually violent
11 offender or predicate sex offender and is required to register for life.

12 4. The duration of registration and verification for a sex offender
13 who, on or after March eleventh, two thousand two, is designated a sexu-
14 al predator, or a sexually violent offender, or a predicate sex offen-
15 der, or who is classified as a level two or level three risk, shall be
16 annually for life. Notwithstanding the foregoing, a sex offender who is
17 classified as a level one or level two risk and who is not designated a
18 sexual predator, a sexually violent offender or a predicate sex offen-
19 der, may be relieved of the duty to register and verify after a minimum
20 period of thirty years of registration as provided by subdivision one of
21 section one hundred sixty-eight-o of this article.

22 ~~[3-]~~ 5. Any sex offender having been designated a level three risk or
23 a sexual predator shall also personally verify his or her address every
24 ninety calendar days with the local law enforcement agency having juris-
25 diction where the offender resides.

26 § 2. Subdivision 1 of section 168-n of the correction law, as amended
27 by chapter 11 of the laws of 2002, is amended to read as follows:

28 1. A determination that an offender is a sexual predator, sexually
29 violent offender, or predicate sex offender as defined in subdivision
30 seven of section one hundred sixty-eight-a of this article shall be made
31 prior to the discharge, parole, release to post-release supervision or
32 release of such offender by the sentencing court applying the guidelines
33 established in subdivision five of section one hundred sixty-eight-1 of
34 this article after receiving a recommendation from the board pursuant to
35 section one hundred sixty-eight-1 of this article. The court shall
36 assign a sexual predator designation to a sex offender determined to be
37 a sexual predator as defined in subdivision seven of section one hundred
38 sixty-eight-a of this article. The court shall assign a sexually violent
39 offender designation to an offender convicted of a sexually violent
40 offense as defined in subdivision three of section one hundred sixty-
41 eight-a of this article. The court shall assign a predicate sex offender
42 designation to a sex offender who is a predicate sex offender pursuant
43 to subdivision seven of section one hundred sixty-eight-a of this arti-
44 cle.

45 § 3. Subdivision 1 of section 168-o of the correction law, as amended
46 by chapter 1 of the laws of 2006, is amended to read as follows:

47 1. Any sex offender who is classified as a level one or level two
48 risk, and who has not been designated a sexual predator, or a sexually
49 violent offender, or a predicate sex offender, who is required to regis-
50 ter or verify pursuant to this article and who has been registered for a
51 minimum period of thirty years may be relieved of any further duty to
52 register upon the granting of a petition for relief by the sentencing
53 court or by the court which made the determination regarding duration of
54 registration and level of notification. The sex offender shall bear the
55 burden of proving by clear and convincing evidence that his or her risk
56 of repeat offense and threat to public safety is such that registration

1 or verification is no longer necessary. Such petition, if granted, shall
2 not relieve the petitioner of the duty to register pursuant to this
3 article upon conviction of any offense requiring registration in the
4 future. Such a petition shall not be considered more than once every two
5 years. In the event that the sex offender's petition for relief is
6 granted, the district attorney may appeal as of right from the order
7 pursuant to the provisions of articles fifty-five, fifty-six and fifty-
8 seven of the civil practice law and rules. Where counsel has been
9 assigned to represent the sex offender upon the ground that the sex
10 offender is financially unable to retain counsel, that assignment shall
11 be continued throughout the pendency of the appeal, and the person may
12 appeal as a poor person pursuant to article eighteen-B of the county
13 law.

14 § 4. Section 168-w of the correction law, as renumbered by chapter 604
15 of the laws of 2005, is renumbered section 168-x and a new section 168-w
16 is added to read as follows:

17 § 168-w. Child and victim safety zones. Local or state law enforcement
18 agencies, or their designees may monitor and verify registration compli-
19 ance and counties, may enact by local law or resolution requirements
20 for: 1. sex offenders to provide information to law enforcement or their
21 designee to verify home and employment address which have been regis-
22 tered pursuant to the provisions of this article; 2. sex offenders
23 registered as homeless to provide a description of their location every
24 twenty-four hours to law enforcement or its designee in that jurisdic-
25 tion; and/or 3. sex offender residency restrictions for sex offenders
26 required to register pursuant to this article who are classified as a
27 level three risk and/or, who committed an offense against a minor and/or
28 who have been assigned a designation pursuant to this article, provided
29 that such restrictions:

30 (a) do not require a sex offender to live beyond one thousand feet
31 from public, private and charter schools for all level three regis-
32 trants, for registrants who committed an offense against a minor, and
33 for registrants who have been assigned a designation pursuant to this
34 article;

35 (b) do not require a sex offender to live beyond a quarter mile from
36 the workplace and residence of any registrant's victim or victims; and

37 (c) do not require a sex offender who caused the death of his or her
38 victim to live beyond a quarter mile from the prior residence of the
39 deceased victim, if the spouse, child, step child, sibling, parent,
40 grandparent or grandchild of the victim continues to reside at that
41 residence.

42 § 5. Severability clause. If any clause, sentence, paragraph, subdivi-
43 sion, section or part of this act shall be adjudged by any court of
44 competent jurisdiction to be invalid, such judgment shall not affect,
45 impair, or invalidate the remainder thereof, but shall be confined in
46 its operation to the clause, sentence, paragraph, subdivision, section
47 or part thereof directly involved in the controversy in which such judg-
48 ment shall have been rendered. It is hereby declared to be the intent of
49 the legislature that this act would have been enacted even if such
50 invalid provisions had not been included herein.

51 § 6. This act shall take effect on the sixtieth day after it shall
52 have become a law and shall apply to all sex offenders registered or
53 required to register immediately prior to the effective date of this
54 act, or who are required to register on or after such date.