

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:

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 subdivi-
3 sions 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.

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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 ~~[168-1]~~ 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.