STATE OF NEW YORK

5894

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. ENGLEBRIGHT, BARNWELL -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to requiring level one sex offenders to register for life and providing that such sex offenders may petition for relief after thirty years

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, 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. The duration of registration and verification for a sex offender who, on or after March eleventh, two thousand two, is designated a sexual predator, or a sexually violent offender, or a predicate sex offender,~~] or who is classified as a **level one,** level two or level three risk, shall be annually for life. Notwithstanding the foregoing, a sex offender who is classified as a **level one or** level two risk and who is not designated a sexual predator, a sexually violent offender or a predicate sex offender, may be relieved of the duty to register and verify as provided by subdivision one of section one hundred sixty-eight-o of this article.

[~~3.~~] **2.** Any sex offender having been designated a level three risk or a sexual predator shall also personally verify his or her address every ninety calendar days with the local law enforcement agency having jurisdiction where the offender resides.

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

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§ 2. Subdivision 8 of section 168-l of the correction law, as amended by chapter 1 of the laws of 2006, is amended to read as follows:

8. A failure by a state or local agency or the board to act or by a court to render a determination within the time period specified in this article shall not affect the obligation of the sex offender to register or verify under this article nor shall such failure prevent a court from making a determination regarding the sex offender's level of notification and whether such offender is required by law to be registered [~~for a period of twenty years or~~] for life. Where a court is unable to make a determination prior to the date scheduled for a sex offender's discharge, parole, release to post-release supervision or release, it shall adjourn the hearing until after the offender is discharged, paroled, released to post-release supervision or released, and shall then expeditiously complete the hearing and issue its determination.

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

1. Any sex offender who is classified as a **level one or** level two risk, and who has not been designated a sexual predator, or a sexually violent offender, or a predicate sex offender, who is required to register or verify pursuant to this article and who has been registered for a minimum period of thirty years may be relieved of any further duty to register upon the granting of a petition for relief by the sentencing court or by the court which made the determination regarding duration of registration and level of notification. The sex offender shall bear the burden of proving by clear and convincing evidence that his or her risk of repeat offense and threat to public safety is such that registration or verification is no longer necessary. Such petition, if granted, shall not relieve the petitioner of the duty to register pursuant to this article upon conviction of any offense requiring registration in the future. Such a petition shall not be considered more than once every two years. In the event that the sex offender's petition for relief is granted, the district attorney may appeal as of right from the order pursuant to the provisions of articles fifty-five, fifty-six and fifty-seven of the civil practice law and rules. Where counsel has been assigned to represent the sex offender upon the ground that the sex offender is financially unable to retain counsel, that assignment shall be continued throughout the pendency of the appeal, and the person may appeal as a poor person pursuant to article eighteen-B of the county law.

§ 4. This act shall take effect immediately and shall apply to all level one sex offenders registered or required to register immediately prior to the effective date of this act, or who are required to register on or after such date.