

STATE OF NEW YORK

7206

2021-2022 Regular Sessions

IN ASSEMBLY

April 29, 2021

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

AN ACT to amend the correction law, in relation to employment of sex offenders in a position involving substantial contact with children while dressed as a children's character

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

1 Section 1. Section 168-w of the correction law, as relettered by chapter 604 of the laws of 2005, is renumbered 168-x and a new section 168-w is added to read as follows:

2 § 168-w. Employment in a position involving substantial contact with
3 children dressed as a children's character. 1. No sex offender shall
4 apply for or accept a position which involves substantial contact with
5 children while said person is dressed as a children's character. Such
6 position shall include any job, task or occupation, which by its nature,
7 requires a person to be dressed as a children's character and in
8 substantial contact with children in the regular performance of his or
9 her duties or dealings in such position. This section shall also apply
10 to any person seeking a permit or permission to execute any activity or
11 performance while dressed as a children's character that would present a
12 direct contact with children.

13 2. As used in this section, the following terms shall have the following
14 meanings:

15 a. "Position" shall apply to any person seeking employment either paid
16 or unpaid, any person seeking to volunteer, or any person seeking a
17 permit or permission that would present a substantial contact with chil-
18 children while dressed as a children's character.

19 b. "Children's character" shall mean any costume worn by a person to
20 depict a specific character to children and shall include but not be
21 limited to:

22 i. legendary figures such as Santa Claus or the Easter bunny;
23

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

LBD06032-01-1

1 ii. mythical characters; and
2 iii. any such similar children's character that a person may dress as
3 for a position which involves substantial contact with children.

4 c. "Substantial contact with children" shall mean allowing children to
5 sit on such person dressed as a character's lap, having photos taken
6 with children while such person is dressed as a children's character or
7 any other activity that involves physical contact with children while
8 such person is dressed as a children's character.

9 3. Examples of such employment shall include, but shall not be limited
10 to, being dressed as a children's character at:

11 a. Any shopping mall or shopping center event specifically targeted
12 toward children interacting with such a character, such as but not
13 limited to photos with Santa;

14 b. Any store event that is specifically targeted toward children
15 interacting with such a character;

16 c. Any such similar event that promotes activities targeted toward
17 children interacting with such a character.

18 4. Employers, organizations and government entities shall have access
19 to the statewide central registry of child abuse and maltreatment, the
20 New York state sex offender registry, the criminal history repository
21 with the division of criminal justice services, the national criminal
22 repository with the federal bureau of investigation and the national sex
23 offender registry using the national crime and information center,
24 established under the Adam Walsh child protection and safety act of 2006
25 (42 U.S.C. 16901 et seq) for the purpose of performing a background
26 check for any convictions of sexual abuse of a child. Every employer,
27 organization and government entity shall check any potential employees
28 seeking to assume a position that will be in substantial contact with
29 children dressed as a children's character against the statewide central
30 registry of child abuse and maltreatment, the New York state sex offen-
31 der registry, the criminal history repository with the division of crim-
32 inal justice services, the national criminal repository with the federal
33 bureau of investigation and the national sex offender registry using the
34 national crime and information center, established under the Adam Walsh
35 child protection and safety act of 2006 (42 U.S.C. 16901 et seq) to
36 ascertain if said person has a conviction for sexual abuse of a child.

37 5. a. Any sex offender who applies for or accepts employment in
38 violation of this section shall be guilty of a class A misdemeanor upon
39 the first conviction thereof, and upon a second or subsequent conviction
40 thereof shall be guilty of a class D felony.

41 b. Any employer who knowingly employs a sex offender in violation of
42 this section shall, upon conviction, be guilty of a class A misdemeanor.

43 § 2. This act shall take effect on the first of November next succeed-
44 ing the date on which it shall have become a law.