STATE OF NEW YORK

2758

2023-2024 Regular Sessions

IN SENATE

January 24, 2023

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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:

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

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

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

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

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

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

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i. legendary figures such as Santa Claus or the Easter bunny;
ii. mythical characters; and
iii. any such similar children's character that a person may dress as for a position which involves substantial contact with children.
c. "Substantial contact with children" shall mean allowing children to sit on such person dressed as a character's lap, having photos taken with children while such person is dressed as a children's character or any other activity that involves physical contact with children while such person is dressed as a children's character.
3. Examples of such employment shall include, but shall not be limited to, being dressed as a children's character at:
a. Any shopping mall or shopping center event specifically targeted toward children interacting with such a character, such as but not limited to photos with Santa;
b. Any store event that is specifically targeted toward children interacting with such a character;
c. Any such similar event that promotes activities targeted toward children interacting with such a character.
4. Employers, organizations and government entities shall have access to the statewide central registry of child abuse and maltreatment, the New York state sex offender registry, the criminal history repository with the division of criminal justice services, the national criminal repository with the federal bureau of investigation and the national sex offender registry using the national crime and information center, established under the Adam Walsh child protection and safety act of 2006 (42 U.S.C. 16901 et seq) for the purpose of performing a background check for any convictions of sexual abuse of a child. Every employer, organization and government entity shall check any potential employees seeking to assume a position that will be in substantial contact with children dressed as a children's character against the statewide central registry of child abuse and maltreatment, the New York state sex offender registry, the criminal history repository with the division of criminal justice services, the national criminal repository with the federal bureau of investigation and the national sex offender registry using the national crime and information center, established under the Adam Walsh child protection and safety act of 2006 (42 U.S.C. 16901 et seq) to ascertain if said person has a conviction for sexual abuse of a child.
5. a. Any sex offender who applies for or accepts employment in violation of this section shall be guilty of a class A misdemeanor upon the first conviction thereof, and upon a second or subsequent conviction thereof shall be guilty of a class D felony.
b. Any employer who knowingly employs a sex offender in violation of this section shall, upon conviction, be guilty of a class A misdemeanor.

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.