

STATE OF NEW YORK

1638

2023-2024 Regular Sessions

IN SENATE

January 13, 2023

Introduced by Sen. OBERACKER -- 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 restricting sex offenders from residing near the residence of their victim or near any school

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 renumbered by chap-
2 ter 604 of the laws of 2005, is renumbered section 168-x and a new
3 section 168-w is added to read as follows:

4 § 168-w. Level two and level three sex offender residence limitations;
5 penalty. 1. (a) It shall be unlawful for any level two or level three
6 sex offender to knowingly reside within fifteen hundred feet of the
7 residence of a victim of his or her sex offense or sexually violent
8 offense.

9 (b) The residence prohibition established by paragraph (a) of this
10 subdivision shall remain in effect for as long as the offender is clas-
11 sified as a level two or three sex offender.

12 (c) In any prosecution pursuant to this subdivision, it shall be an
13 affirmative defense that, after the sex offender's conviction of a sex
14 offense or sexually violent offense, the victim of such offense estab-
15 lished a residence within fifteen hundred feet of the sex offender's
16 residence.

17 (d) No provision of this subdivision shall be deemed to require the
18 disclosure or notification of the address of any victim to a sex offen-
19 der.

20 2. (a) It shall be unlawful for any level two or three sex offender to
21 knowingly reside or enter within one thousand five hundred feet of any
22 school grounds. For the purposes of this subdivision, "school grounds"
23 means any building, structure, athletic playing field, playground or

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

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1 land contained within the real property line of a public or private
2 elementary, parochial, intermediate, junior high, vocational or high
3 school.

4 (b) It shall be unlawful for any level two or three sex offender to
5 knowingly attend or participate in any event or activity sponsored by a
6 public or private elementary, parochial, intermediate, junior high,
7 vocational or high school, regardless of whether such event or activity
8 is conducted upon school grounds.

9 (c) The prohibitions imposed by paragraphs (a) and (b) of this subdivi-
10 vision shall remain in effect for as long as the sex offender is classi-
11 fied as a level two or three sex offender.

12 (d) In any prosecution pursuant to paragraph (a) of this subdivision,
13 it shall be an affirmative defense that:

14 (i) the sex offender resides within a facility operated by and is in
15 the custody of a local corrections department, a county sheriff, the
16 department, the office of children and family services or the office of
17 mental health;

18 (ii) the sex offender established his or her residence prior to the
19 effective date of this subdivision, or school grounds are established or
20 extended after the sex offender has established his or her residence;

21 (iii) the sex offender is under twenty-one years of age or a ward
22 under a guardianship; or

23 (iv) the sex offender's place of residence has been fixed by order of
24 a court of competent jurisdiction, or by any federal, state, county or
25 city agency having jurisdiction over the sex offender.

26 (e) Notwithstanding the provisions of paragraph (a) of this subdivi-
27 sion, a level two or three sex offender may enter upon and within one
28 thousand five hundred feet of school grounds for the limited purpose of
29 casting his or her ballot at his or her polling place, within such one
30 thousand five hundred feet area, in a special, primary or general
31 election for which the sex offender is registered to vote. The
32 provisions of this paragraph shall only apply to a sex offender who
33 provides not less than thirty days notice to the building principal of
34 the appropriate school, that such sex offender will be entering upon or
35 near school grounds for the purpose of voting. Such notice shall also
36 state the one hour period of time during which the sex offender will
37 cast his or her ballot, and the exemption granted by this paragraph
38 shall only apply to the sex offender during such one hour period of
39 time.

40 3. A sex offender who violates the provisions of this section shall be
41 guilty of a class E felony.

42 § 2. This act shall take effect on the one hundred eightieth day after
43 it shall have become a law.