

# STATE OF NEW YORK

9167

2025-2026 Regular Sessions

## IN ASSEMBLY

October 17, 2025

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

AN ACT to amend the correction law, in relation to allowing discretion in requiring sex offender registration for persons convicted of certain sex offenses in other states and to amend the definition of a sexually violent offense

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

1 Section 1. Subparagraph (iii) of paragraph (d) of subdivision 2 of  
2 section 168-a of the correction law, as amended by chapter 232 of the  
3 laws of 2008, is amended to read as follows:

4 (iii) any of the provisions of 18 U.S.C. 2251, 18 U.S.C. 2251A, 18  
5 U.S.C. 2252, 18 U.S.C. 2252A, 18 U.S.C. 2260, 18 U.S.C. 2422(b), 18  
6 U.S.C. 2423, or 18 U.S.C. 2425, provided that the elements of such crime  
7 of conviction are substantially the same as those which are a part of  
8 such offense as of the date on which this subparagraph takes effect, or  
9 (iv) notwithstanding any other law, a person convicted in another juris-  
10 isdiction of an offense similar to section twenty-three hundred seven of  
11 the public health law or any offense based on exposure to a transmissi-  
12 ble disease or virus, or former section 130.38 of the penal law relating  
13 to consensual sodomy, or section 230.00 of the penal law, or former  
14 section 240.37 of the penal law relating to loitering for the purposes  
15 of engaging in a prostitution offense who is required to register in the  
16 jurisdiction of conviction shall not be required to register in New York  
17 unless the out-of-state offense, based on the elements of the conviction  
18 offense or proven or stipulated facts in the record of conviction,  
19 contains all of the elements of a registerable New York offense  
20 described in paragraph (a), (b) or (c) of this subdivision.

21 § 2. Paragraph (b) of subdivision 3 of section 168-a of the correction  
22 law, as amended by chapter 11 of the laws of 2002, is amended to read as  
23 follows:

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

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1 (b) a conviction of an offense in any other jurisdiction which  
2 includes all of the essential elements of any such felony provided for  
3 in paragraph (a) of this subdivision [~~or conviction of a felony in any~~  
4 ~~other jurisdiction for which the offender is required to register as a~~  
5 ~~sex offender in the jurisdiction in which the conviction occurred~~].

6 § 3. Paragraph (a) of subdivision 1 of section 168-d of the correction  
7 law, as amended by chapter 69 of the laws of 2003, is amended to read as  
8 follows:

9 (a) Except as provided in paragraphs (b) and (c) of this subdivision,  
10 upon conviction of any of the offenses set forth in subdivision two or  
11 three of section one hundred sixty-eight-a of this article the court  
12 shall certify that the person is a sex offender and shall include the  
13 certification in the order of commitment, if any, and judgment of  
14 conviction, except as provided in subparagraph (iv) of paragraph (d) of  
15 subdivision two of section one hundred sixty-eight-a of this article or  
16 paragraph (e) of subdivision two of section one hundred sixty-eight-a of  
17 this article. The court shall also advise the sex offender of [~~his or~~  
18 ~~her~~] their duties under this article. Failure to include the certifi-  
19 cation in the order of commitment or the judgment of conviction shall  
20 not relieve a sex offender of the obligations imposed by this article.

21 § 4. Subdivision 4 of section 168-o of the correction law is renum-  
22 bered subdivision 5 and a new subdivision 4 is added to read as follows:

23 4. Any sex offender required to register pursuant to subparagraph (ii)  
24 of paragraph (d) of subdivision two of section one hundred sixty-eight-a  
25 of this article prior to the effective date of this subdivision may  
26 petition the court which made the determination regarding registration  
27 or the level of notification for an order removing the requirement to  
28 register if such registration was based on an offense described in  
29 subparagraph (iv) of paragraph (d) of subdivision two of section one  
30 hundred sixty-eight-a of this article. The petition shall set forth the  
31 reasons for seeking such determination. The sex offender shall bear the  
32 burden of proving the facts supporting the requested lifting of the  
33 requirement by clear and convincing evidence. Such a petition shall not  
34 be considered more than annually. In the event that the sex offender's  
35 petition to lift the registration requirement is granted, the district  
36 attorney may appeal as of right from the order pursuant to the  
37 provisions of articles fifty-five, fifty-six and fifty-seven of the  
38 civil practice law and rules. Where counsel has been assigned to repre-  
39 sent the sex offender upon the ground that the sex offender is finan-  
40 cially unable to retain counsel, such assignment shall be continued  
41 throughout the pendency of the appeal, and the person may appeal as a  
42 poor person pursuant to article eighteen-B of the county law.

43 § 5. Subdivision 5 of section 168-o of the correction law, as added by  
44 chapter 453 of the laws of 1999 and as renumbered by section four of  
45 this act, is amended to read as follows:

46 5. Upon receipt of a petition submitted pursuant to subdivision one,  
47 two [~~or~~], three, or four of this section, the court shall forward a copy  
48 of the petition to the board and request an updated recommendation  
49 pertaining to the sex offender and shall provide a copy of the petition  
50 to the other party. The court shall also advise the sex offender that  
51 [~~he or she has~~] they have the right to be represented by counsel at the  
52 hearing and counsel will be appointed if [~~he or she is~~] they are finan-  
53 cially unable to retain counsel. A returnable form shall be enclosed in  
54 the court's notice to the sex offender on which the sex offender may  
55 apply for assignment of counsel. If the sex offender applies for  
56 assignment of counsel and the court finds that the offender is finan-

1 cially unable to retain counsel, the court shall assign counsel to  
2 represent the offender, pursuant to article eighteen-B of the county  
3 law. Where the petition was filed by a district attorney, at least thir-  
4 ty days prior to making an updated recommendation the board shall notify  
5 the sex offender and [~~his or her~~] their counsel that the offender's case  
6 is under review and [~~he or she is~~] they are permitted to submit to the  
7 board any information relevant to the review. The board's updated  
8 recommendation on the sex offender shall be confidential and shall not  
9 be available for public inspection. After receiving an updated recommen-  
10 dation from the board concerning a sex offender, the court shall, at  
11 least thirty days prior to ruling upon the petition, provide a copy of  
12 the updated recommendation to the sex offender, the sex offender's coun-  
13 sel and the district attorney and notify them, in writing, of the date  
14 set by the court for a hearing on the petition. After reviewing the  
15 recommendation received from the board and any relevant materials and  
16 evidence submitted by the sex offender and the district attorney, the  
17 court may grant or deny the petition. The court may also consult with  
18 the victim prior to making a determination on the petition. The court  
19 shall render an order setting forth its determination, and the findings  
20 of fact and conclusions of law on which the determination is based. If  
21 the petition is granted, it shall be the obligation of the court to  
22 submit a copy of its order to the division. Upon application of either  
23 party, the court shall seal any portion of the court file or record  
24 which contains material that is confidential under any state or federal  
25 statute.

26 § 6. Subdivision 5 of section 168-n of the correction law, as amended  
27 by chapter 453 of the laws of 1999, is amended to read as follows:

28 5. Upon the reversal of a conviction of a sexual offense defined in  
29 paragraphs (a) and (b) of subdivision two or three of section one  
30 hundred sixty-eight-a of this article, or a determination to lift the  
31 registration requirement made pursuant to subdivision four of section  
32 one hundred sixty-eight-o of this article, the appellate court shall  
33 remand the case to the lower court for entry of an order directing the  
34 expungement of any records required to be kept herein.

35 § 7. This act shall take effect immediately.