

# STATE OF NEW YORK

S. 6409

A. 9472

## SENATE - ASSEMBLY

January 17, 2006

IN SENATE -- Introduced by Sens. SKELOS, NOZZOLIO, SPANO, FLANAGAN, BRUNO, ALESI, BALBONI, BONACIC, DeFRANCISCO, FARLEY, FUSCHILLO, GOLD-EN, HANNON, JOHNSON, LARKIN, LAVALLE, LEIBELL, LIBOUS, LITTLE, MALTESE, MARCELLINO, MARCHI, MAZIARZ, MEIER, MORAHAN, PADAVAN, RATH, ROBACH, SALAND, SEWARD, TRUNZO, VOLKER, WINNER, WRIGHT, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. AUBRY, LENTOL, SILVER, WEINSTEIN, KOON, WEISENBERG -- Multi-Sponsored by -- M. of A. ALESSI, ARROYO, AUBERTINE, BENEDETTO, BRODSKY, CAMARA, CANESTRARI, CHRISTENSEN, A. COHEN, COLTON, CUSICK, CYMBROWITZ, DeMONTE, DESTITO, EDDINGTON, ENGLEBRIGHT, FIELDS, GALEF, GORDON, GREENE, GUNTHER, HEVESI, LAFAY-ETTE, LATIMER, LAVINE, LUPARDO, MAGEE, MAGNARELLI, MARKEY, NOLAN, ORTIZ, PHEFFER, PRETLOW, RAMOS, REILLY, SCHROEDER, SEMINERIO, SWEENEY, TOKASZ, TONKO, ZEBROWSKI -- 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 20 years and level two sex offenders to register for life, eliminating the petition for relief for level three sex offenders, sexual predators, sexually violent offenders and predicate sex offenders

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

1 Section 1. Legislative intent. The legislature hereby finds and  
2 declares that the length of required registration terms under the Sex  
3 Offender Registration Act should be increased to enhance public safety  
4 and provide better tracking and monitoring of sex offenders.

5 The legislature hereby finds and declares that Congress is considering  
6 legislation that would impose national standards for state sex offender  
7 registries. The legislature recognizes that, in the event such federal  
8 legislation is enacted, further legislative action in New York may be  
9 necessary to conform New York's law to the revised federal standards.

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

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1 § 2. Section 168-b of the correction law is amended by adding a new  
2 subdivision 10 to read as follows:

3 10. The division shall promptly notify each sex offender whose term of  
4 registration and verification would otherwise have expired prior to  
5 March thirty-first, two thousand seven of the continuing duty to regis-  
6 ter and verify under this article.

7 § 3. Subdivisions 1 and 2 of section 168-h of the correction law,  
8 subdivision 1 as amended and subdivision 2 as added by chapter 11 of the  
9 laws of 2002, are amended to read as follows:

10 1. The duration of registration and verification for a sex offender  
11 who has not been designated a sexual predator, or a sexually violent  
12 offender, or a predicate sex offender, ~~[or] and~~ who ~~[, as of March elev-~~  
13 ~~enth, two thousand two, was] is~~ classified as a level one ~~[or level two]~~  
14 risk, or who has not yet received a risk level classification, shall be  
15 annually for a period of ~~[ten]~~ twenty years from the initial date of  
16 registration.

17 2. The duration of registration and verification for a sex offender  
18 who, on or after March eleventh, two thousand two, is designated a sexu-  
19 al predator, or a sexually violent offender, or a predicate sex offen-  
20 der, or who is ~~[, as of March eleventh, two thousand two,]~~ classified as  
21 a level two or level three risk, shall be annually for life. Notwith-  
22 standing the foregoing, a sex offender who ~~[, as of March eleventh, two~~  
23 ~~thousand two, was] is~~ classified as a level ~~[three]~~ two risk and who is  
24 not designated a sexual predator, a sexually violent offender or a pred-  
25 icate sex offender, may be relieved of the duty to register and verify  
26 as provided by subdivision one of section one hundred sixty-eight-o of  
27 this article.

28 § 4. Subdivision 8 of section 168-l of the correction law, as amended  
29 by chapter 11 of the laws of 2002, is amended to read as follows:

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

42 § 5. Subdivision 1 of section 168-o of the correction law, as amended  
43 by chapter 11 of the laws of 2002, is amended to read as follows:

44 1. Any sex offender who ~~[, as of March eleventh, two thousand two, was]~~  
45 is classified as a level ~~[three]~~ two risk, and who has not been desig-  
46 ated a sexual predator, or a sexually violent offender, or a predicate  
47 sex offender, who is required to register or verify pursuant to this  
48 article and who has been registered for a minimum period of ~~[thirteen]~~  
49 thirty years may be relieved of any further duty to register upon the  
50 granting of a petition for relief by the sentencing court or by the  
51 court which made the determination regarding duration of registration  
52 and level of notification. The sex offender shall bear the burden of  
53 proving by clear and convincing evidence that his or her risk of repeat  
54 offense and threat to public safety is such that registration or verifi-  
55 cation is no longer necessary. Such petition, if granted, shall not  
56 relieve the petitioner of the duty to register pursuant to this article

1 upon conviction of any offense requiring registration in the future.  
2 Such a petition shall not be considered more than [~~annually~~] once every  
3 two years. In the event that the sex offender's petition for relief is  
4 granted, the district attorney may appeal as of right from the order  
5 pursuant to the provisions of articles fifty-five, fifty-six and fifty-  
6 seven of the civil practice law and rules. Where counsel has been  
7 assigned to represent the sex offender upon the ground that the sex  
8 offender is financially unable to retain counsel, that assignment shall  
9 be continued throughout the pendency of the appeal, and the person may  
10 appeal as a poor person pursuant to article eighteen-B of the county  
11 law.

12 § 6. This act shall take effect immediately and shall apply to all sex  
13 offenders registered or required to register immediately prior to the  
14 effective date of this act, or who are required to register on or after  
15 such date.

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**NEW YORK STATE SENATE**  
**INTRODUCER'S MEMORANDUM IN SUPPORT**  
**submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S6409

**SPONSOR:** SKELOS

**TITLE OF BILL:**

An act to amend the correction law, in relation to requiring level one sex offenders to register for 20 years and level two sex offenders to register for life, eliminating the petition for relief for level three sex offenders, sexual predators, sexually violent offenders and predicate sex offenders

**PURPOSE:**

This legislation requires most level one sex offenders to register with the Division of Criminal Justice Services for twenty years, level two and three offenders for life with the ability for certain level two offenders to petition for relief of duty to register after a minimum of thirty years.

**SUMMARY OF PROVISIONS:**

Section One - Legislative intent. Section Two - Section 168-b of the Correction Law is amended by adding a new subdivision 10 to require that the Division of Criminal Justice Services promptly notify each sex offender whose term of registration would have otherwise expired prior to March 31, 2007 of their continued duty to register. Section Three - Subdivisions one and two of section 168-h of the Correction Law, subdivision 1 as amended and subdivision 2 as added by chapter 11 of the laws of 2002, are amended to establish new duration of registration requirements for sex offenders. Section Four - Subdivision 8 of section 168-1 of the Correction Law, as amended by Chapter 11 of the laws of 2002, is amended to provide that the minimum period of registration for a sex offender is twenty years. Section Five - Subdivision 1 of section 168-0 of the Correction Law, as amended by Chapter 11 of the laws of 2002, is

amended to permit certain level two offenders to petition for relief of duty to register after a minimum of thirty years. Section Six - Sets forth the effective date.

**JUSTIFICATION:**

The year 2005 marked the tenth anniversary of Megan's Law and the establishment of New York State's sex offender registry. While this important law has dramatically enhanced public access to information concerning the whereabouts of convicted sexual predators, still more improvements can be made to provide greater protection for New Yorkers, particularly our children.

Upon the ten year anniversary of the effective date of New York State's sex offender registry, January 21, 2006, hundreds of registered sex offenders will no longer be required to register by the end of that month. Hundreds more drop off the sex offender registry every month thereafter. As these individuals have committed serious acts against society and may continue to threaten the safety of our communities, it is in the State's best interest to not allow these offenders to blend back into the public without question after ten years. Communities have the right to know about these individuals and that right should not be taken away over time. This is especially true of those offenders who are classified as levels two and three and those designated as a sexual predator, sexually violent offender or predicate sex offender. Such offenders have been deemed to have a much higher risk of reoffense by the court and therefore should be registered for life for the protection of the public. Certain level two offenders will have the ability to petition for relief of duty to register after a minimum of thirty years. In addition, recognizing that certain level one offenders have a greater chance of rehabilitation and a lower risk of recidivism, a new provision will allow for such offenders to be removed from the registry after twenty years.

The goal of this legislation is to prevent any level three or designated sex offender from coming off the registry during their lifetime and for any level two to only be able to be removed with approval by the sentencing court. With the January 21, 2006 deadline approaching it is of the utmost importance that this legislation be enacted before that date.

**LEGISLATIVE HISTORY:**

New bill.

**FISCAL IMPLICATIONS:**

To be determined.

**EFFECTIVE DATE:**

This act shall take effect immediately and shall apply to all 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.

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