



**NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY  
ASSISTANCE  
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GOVERNOR**

**Administrative Directive**

**Section 1**

<b>Transmittal:</b>	10-ADM-07
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office :</b>	Center for Employment and Economic Supports
<b>Date:</b>	December 3, 2010
<b>Subject:</b>	Provision of Temporary Housing Assistance (THA) to Sex Offenders – Chapter 568 of the Laws of 2008
<b>Suggested Distribution:</b>	Temporary Assistance Staff Staff Development Staff Emergency/Temporary Housing Coordinators Sex Offender Liaisons
<b>Contact Person(s):</b>	Temporary Assistance Bureau – 1-800-343-8859, extension 4-9344
<b>Attachments:</b>	<a href="#">Attachment 1 – 259-c Referral Form from DOP to DSS</a> <a href="#">Attachment 2 – 259-c Referral Form from DOCS to DSS</a> <a href="#">Attachment 3 – DSS to DOP Request for Investigation</a> <a href="#">Attachment 4 – DOP Facility Parole Office Liaisons (Excel Format)</a> <a href="#">Attachment 5 – DOP Area Office Liaisons (Excel Format)</a> <a href="#">Attachment 6 – Access to Sex Offender Housing Map (CIRIS)</a> <a href="#">Attachment 7 – NYS CIRIS Access Request Form</a>
<b>Attachment Available On – Line:</b>	Yes

## Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
06 ADM-7 02 ADM 2 96 ADM-20 05 INF-26(Revised) 04 INF-18 00 INF-19		352.36	Chapter 568 of the Laws of 2008 SSL§ 20 and 131 Executive Law §243 and §259-a and c Penal Law §65.10 and §220.00(14)		GIS 08TA/DC0033

## Section 2

### I. Summary

This release provides information about the reasons for the development and passage of Chapter 568 of the Laws of 2008 and directions for the implementation of the law at the Social Services District (SSD) level.

- (a) Statement of purpose
  - (1) Chapter 568 of the Laws of 2008 requires the Division of Parole (DOP), the Office of Probation and Correctional Alternatives (OPCA), and the Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to provide guidance concerning the placement and/or approval of housing for certain sex offenders who are under parole or probation supervision or who have applied for, or are receiving, emergency shelter.
  - (2) The State has previously enacted laws concerning sex offenders, including the Sex Offender Registration Act, the Sex Offender Management and Treatment Act, the Electronic Security and Targeting of On-Line Predators Act (e-STOP) and laws restricting certain sex offenders who are under probation or parole supervision from entering school grounds. Chapter 568 of the laws of 2008 continues the State's efforts in the area of sex offender management and specifically in the area of the placement and housing of sex offenders. Sex offender management, and the placement and housing of sex offenders, are areas that have been, and will continue to be, matters addressed by the State. These regulations further the State's coordinated and comprehensive policies in these areas, and are intended to provide further guidance to relevant state and local agencies in applying the State's approach.
  - (3) Public safety is a primary concern and these regulations are intended to better protect children, vulnerable populations and the general public from sex offenders. The State's coordinated and comprehensive approach also recognizes the necessity to provide emergency shelter to individuals in need, including those who are sex offenders, and the importance of stable housing and support in allowing offenders to live in and re-enter the

community and become law-abiding and productive citizens. These regulations are based upon, and are intended to further best practices and effective strategies to achieve these goals.

- (4) In implementing this statute and the State's comprehensive approach, DOP, OPCA, OTDA and the Division of Criminal Justice Services' Office of Sex Offender Management (DCJS/OSOM) recognize that:
  - (i) Not all sex offenders are equally dangerous. Some sex offenders may pose a high risk of committing a new sexual crime; others may pose only a low risk.
  - (ii) All reasonable efforts should be made in to avoid an ill-advised concentration of sex offenders in certain neighborhoods and localities. What constitutes such a concentration will depend on many factors, and may vary depending on housing availability and the locality and community. In addition, it is sometimes safer to house sex offenders together. Law enforcement, probation, and parole officers may more effectively monitor offenders, and service providers may more easily offer transitional services to offenders in these congregate settings. Further, some social service officials and departments rely on congregate housing for sex offenders who seek emergency shelter because of the limited, or lack of other housing options available for this population. All public officials who are responsible for finding or approving housing for sex offenders should recognize that an over-concentration of sex offenders may create risks and burdens on the surrounding community, and that their responsibility is to make judgments that are reasonable under the circumstances.
  - (iii) All social service districts are required by statute, regulation and directive to arrange temporary housing assistance for eligible homeless individuals, including those who are sex offenders.
  - (iv) To reduce recidivism it is important that offenders be able to re-enter society and become productive and law-abiding citizens whenever possible. A stable living situation and access to employment and support services are important factors that can help offenders to successfully re-enter society.
  - (v) Maintaining and/or finding suitable housing for sex offenders is an enormous challenge that impacts all areas of the State. Offenders reside in all regions of the state and may have long-established residences in their respective communities. Even offenders who do not have such long-established relationships are often discharged from prison to the community where they previously lived. As a result, it is not appropriate for any one community or county to bear an inappropriate burden in housing sex offenders because another community has attempted to shift its responsibility for those offenders onto other areas of the State. The proliferation of local ordinances imposing residency restrictions upon sex offenders, while well-intentioned, have made it more challenging for the State and local authorities to address the difficulties in finding secure and appropriate housing for sex offenders.
  - (vi) Decisions as to the housing and supervision of sex offenders should take into account all relevant factors and no one factor will necessarily be dispositive. These factors should include, but not be limited to, the factors enumerated in the statute, the risk posed by the offender, the nature of the underlying offense, whether housing

offenders together or apart is safer and more feasible, the most effective method to supervise and provide services to offenders, and the availability of appropriate housing, employment, treatment and support.

## **II. Purpose**

The purpose of this release is to provide information and direction about the amendment to 18 NYCRR 352.36 to support the requirements of Chapter 568 of the Laws of 2008. This Chapter amends Executive Law (§243, §259 and §259-a) and Social Services Law §20 and requires collaboration among DOP, OPCA and OTDA regarding the location of appropriate housing for Level 2 and Level 3 sex offenders being released from State prison. DOP and OPCA must follow the guidelines for all Level 2 and Level 3 sex offenders being released. Under the OTDA regulations, a local social services district must follow certain procedures when a Level 2 or Level 3 sex offender will, despite the efforts of DOP, be released without housing *and* DOP notifies the district in writing that the individual is likely to seek Temporary Housing Assistance (THA) in order to have shelter on release from prison.

## **III. Background**

The Sex Offender Registration Act (SORA) requires anyone on parole or probation or imprisoned for a sex offense on or after January 21, 1996, to register and provide certain information including their location to the state Division of Criminal Justice Services (DCJS).

Sections 65.10 and 220.00(14) of the Penal Law prohibits access to areas within 1,000 feet of school grounds for any person who is released on parole, conditionally released, on probation or conditionally discharged and has committed a sex offense against a person under age 18, or has been designated a Level 3 sex offender.

Section 259-c(17) of the Executive Law requires DOP prior to release, discharge, parole or release to post-release supervision of an inmate designated as a Level 2 or Level 3 sex offender, to notify the social services district in the county in which the inmate expects to reside when information is available that indicates that the inmate is likely to seek homeless services upon release from state prison. Social services districts were informed about this notice process, and provided with copies of the notice forms from the Department of Correctional Services (DOCS) and DOP in 05 INF-26 (Revised December 29, 2005) "Notification of Local District Concerning Release of Sex Offenders."

Sections 243, 259 and 259-a of the Executive Law and section 20 of the SSL provide for factors that must be considered when making determinations about the appropriate location of housing by DOP, and of temporary housing when a written notice has been received by the local district from DOP pursuant to §259-c(17) of the Executive Law for Level 2 and 3 sex offenders.

Social Services Law §131 provides that it shall be the duty of social services officials to provide adequately for those unable to maintain themselves, in accordance with other provisions of SSL and regulations. This duty of the social services official extends to sex offenders who are in need of Temporary Assistance (TA) and/or THA and who are eligible for such help. A sex offender cannot be denied emergency or ongoing TA due only to his or her status as a sex offender.

#### **IV. Program Implications**

If notification is required pursuant to §259-c(17) of Executive Law, DOP will provide that advance written notification to the local district to which the inmate will be released. This notification will generally be sent to the local district in the county at least seven calendar days prior to the inmate's release when DOP's attempts to locate appropriate housing have been unsuccessful up to that time. If the inmate has served his or her maximum sentence and is being released with no parole supervision, the referral will come from DOCS and the investigation and approval of the temporary housing placement will be done by DOP pursuant to a Memorandum of Understanding between DOCS and DOP.

Districts have been receiving these referrals since 2005. Under the recent law and regulation changes, the districts must now consider certain factors when determining an appropriate placement. The factors to consider when determining the placement to which the registered sex offender will be assigned are listed in "Section V. Required Action" below. Although districts may have been considering most or all of these factors already, consideration of each factor is now required by law and regulation.

One of those factors to be considered is the investigation and approval of the placement by the state DOP. The local district must locate appropriate temporary housing and inform the individual's parole officer. Unless the housing option is known to the parole officer, it may require an investigation. The result of the investigation may be that the placement is not appropriate, or the placement may be found to be appropriate but is no longer available.

When timing constraints make it impossible for DOP to inspect and approve a placement in time to meet the individual's immediate need, the district must still make the most appropriate placement possible within the Office's timeframes for meeting an immediate need.

Districts must consider all factors listed below under "Section V. Required Action" when making a placement but no one factor will necessarily rule out a temporary housing placement as an appropriate placement. Rather, districts must consider all relevant factors in determining a placement and must determine a shelter placement based on a totality of the circumstances.

#### **V. Required Action**

When a social services district has received advance notice from DOP or DOCS, pursuant to Section 259-c(17) of the Executive Law, that an inmate who is designated a Level 2 or Level 3 sex offender pursuant to the Sex Offender Registration Act, or whose sex offender level status designation is pending, is likely to seek access to local social services for homeless persons, and such individual is determined by the social services district to be in immediate need of shelter, the local social services officials must consider certain factors when making a determination in regard to the appropriate placement of such individual in shelter.

##### **A. Notice Pursuant to Section 259-c(17) of the Executive Law**

The advance written notice from DOP or DOCS will be provided to the social services district at least seven calendar days before the inmate's release. For both DOCS and DOP, there can be "emergency releases", though such late referrals should be very few. In these

cases, the referral may be made earlier than seven days before release and could even be the same day.

What would be reasons for an “emergency release”? Reasons include: (1) court suits that challenge the length of the sentence being decided in the inmate’s favor and resulting in a new maximum sentence that has already been served; (2) inmates being sent to State prison with a sentence that, considering time served in local correctional facilities, is completed almost as soon as the individual arrives at the State prison; and (3) after administrative hearing restoration of “good time” that reduces the time that an inmate must serve.

The notice will expire on the eighth day following receipt since the individual who is in need of immediate housing should apply for the immediate need by at least the day after release. If the eighth day falls on a weekend or holiday, the notice will expire at close of business the next business day.

#### B. Factors to be Considered When Determining an Appropriate Placement

When the social services district is determining an appropriate temporary housing placement, the district must consider the following factors provided the individual is otherwise eligible for THA:

1. The location of other sex offenders required to register pursuant to the Sex Offender Registration Act, and, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;
2. The number of registered sex offenders residing at a particular property;
3. Proximity to entities with vulnerable populations;
4. Accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs; and
5. Investigation and approval of such placement by the State DOP.

When one or more of these factors is not relevant or not practicable, the local social services officials shall make a determination based on a totality of the circumstances and place the individual in the most appropriate available shelter.

In regard to particular terms used in the list of factors:

”Consideration” means that the local social services must determine an appropriate placement for a Level 2 or Level 3 sex offender who is determined to be in immediate need of shelter and for whom advance notice pursuant to §259-c(17) has been received using the factors above and any other relevant factors. The local district ***must*** meet the immediate need of such an individual unless the individual is ineligible for THA for a reason unrelated to his or her sex offender status, such as the individual does not have a satisfactory immigration status.

“Concentration” means the number of registered sex offenders residing in a certain residential area or municipality relative to the number of registered sex offenders residing in another residential area or municipality. A lesser concentration is not necessarily better or worse than a greater concentration. It is sometimes safer to house such offenders together. Law enforcement can more effectively monitor those offenders and service providers can more easily offer critical transitional services to offenders in these settings. In addition, for some districts, there may be no other available housing options.

Note: In districts outside New York City (NYC), one social services district will include many municipalities; different villages, towns and cities. However, NYC is one social services district and one municipality. Therefore, concentration is considered based on the subdivisions within NYC such as the boroughs and areas within boroughs.

Consideration of “the number of registered sex offenders residing at a particular property may, like other factors delineated herein, lead to a different conclusion depending on the individual or situation. If the location is a facility for housing and providing services to sex offenders, the conclusion after considering this factor may be that the placement is the most appropriate one even if it means that there will be several sex offenders at the address. This will be the conclusion if DOP has already determined that a particular facility, motel, rooming house, etc., will always receive its approval as a placement for Level 2 or 3 sex offenders.

The term “entities with vulnerable populations” mean includes but is not limited to: nurseries, pre-schools, day care centers, elementary, middle and high schools. This may refer to different entities depending on the individual. For example, an individual may have committed crimes against the elderly. In such a case, the entities with vulnerable populations will include senior citizen centers and nursing homes. DOP will provide the specific vulnerable population on the §259-c(17) referral (Attachment 1). DOCS will do the same. (Attachment 2)

The reference to “accessibility to family members, friends or other supportive services, including but not limited to locally available sex offender treatment programs” is intended to give weight to the views of experts with experience with sex offenders that offenders are less likely to recidivate when they are provided with suitable housing, employment and supports. Therefore, this means that to the extent possible, consideration must be given to providing housing in the kinds of setting that provide family, community and/or treatment supports. It does **not** mean that the district must place the individual in question into a sex offender treatment program.

The requirement that consideration be given to “investigation and approval of such placement by the State DOP” may be difficult in terms of timing. Unless the placement that the district is considering for the individual is known to DOP, DOP may not have the time necessary to conduct an investigation and provide approval in time to meet the individual’s immediate need. If the individual presents at the local district needing a temporary housing placement and is eligible for such immediate need placement, the local district must consider all factors above and make the most appropriate placement in their judgment. Any DOP prohibition known at the time that the determination is being made must not only be considered but must be viewed as a disapproval of any placement that would violate that prohibition.

Because of the difficulty experienced by all districts in finding appropriate temporary housing for sex offenders, each district must place the releasee/parolee for whom a §259-c(17) notice is received in district. An out-of-district temporary housing placement may be made as a last resort, and then only after consultation and agreement with DOP.

The local district must provide information to DOP regarding the placement of the individual for DOP's investigation and approval. Attachment 3, "DSS to DOP Request for Investigation" was developed for this purpose. The "DSS to DOP Request for Investigation" referral must be sent to DOP no later than the next business day following the determination of an appropriate placement by DSS.

DOP will conduct the investigation, pre or post-placement depending on the timing of release, and will inform DSS if the placement is approved. In the event that DOP disapproves a placement, the local district must consider if a different, available placement is more appropriate. If so, the referral exchange process may then be done again for approval of the new placement. If no other, more appropriate placement is available, then DSS must continue to house the individual in the current placement.

To summarize, the local district must consider all five of the factors, and after consideration must still meet its' responsibilities under SSL §131 to provide adequately for those unable to maintain themselves. No one factor will rule out a temporary housing placement as inappropriate for the individual for whom notice pursuant to Section 259-c(17) of the Executive Law has been received. Rather, the local district must consider the totality of circumstances when deciding on the temporary housing placement.

## **VI. Systems Implications**

The Office of Cyber Security and Critical Infrastructure Coordination (CSCIC) has developed an application that selected local district staff will access in order to have the information necessary to consider:

- The location of other sex offenders required to register pursuant to the Sex Offender Registration Act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;
- The number of registered sex offenders residing at a particular property; and
- Proximity of the entities with vulnerable populations.

The application is CIRIS, which stands for Critical Infrastructure Response Information System. The system was first developed for the emergency management community but has recently been extended to offer the law enforcement/criminal justice community the ability to map and analyze the domicile locations of offenders, including registered sex offenders. This new functionality is an excellent match for some of the new tasks required under the Sex Offender Registration Act.

CIRIS will have the information needed by the local district worker to allow for an informed judgment about whether or not a placement is appropriate. Workers who will need access to



CIRIS are those local district workers who address applicant/recipient temporary housing needs, and/or any alternate agency or not-for-profit workers who are responsible for placement of homeless individuals on behalf of the local district.

Such individuals will need to access the secure CIRIS web application via either Centraport, or for those alternative agencies or not-for-profits without access to Centraport, via the internet. The local district person identified by the local Commissioner as the person who will administer the entitlements for access to the CIRIS site will arrange for the necessary access for each individual needing access in order to do their job. Special instructions related to establishing accounts, security protocols and confidentiality agreements are provided in Attachment 6 and Attachment 7. Training on use of the application will be announced via STARS.

## **VII. Additional Information (Optional)**

- A. Attachment 4 is the DOP Facility Parole Office Liaison list. SSDs will use the FACILITY contact list if the DSS has a question on a pre-release matter.

Attachment 5 is the DOP Area Office Liaison List. SSDs will use the FIELD contact list for information on who to contact in a county to request an investigation or to discuss a post-release matter.

- B. DOCS and DOP Referrals with “True Name”: DOCS will provide each inmate released with a DOCS “Release Identification” containing the picture, name, SSN, DOB, description and “true name”. It will also indicate the releasing facility and statement that the “card is issued for identification purposes only.” DOCS attempts to secure a birth certificate and social security card for each inmate being released but cannot guarantee that a released inmate will have these.

- C. DSS Parole Liaison, Local DOP and DOCS Cooperation:

The social services Parole Liaison must work with the Local DOP and DOCS to decide on a process for the exchange and control of referrals between DSS, and if the DSS has an alternate agency acting on DSS’s behalf to place homeless persons, how the referrals between DSS and that agency will be managed.

For example, District X contracts with “Help for the Homeless”, the not-for-profit that provides homeless placements on behalf of District X.

- How will the District X Parole liaison manage the §259-c(17) referrals received from DOP or DOCS?
- Will the social services Parole liaison send the referrals to a designated person or unit at Help for the Homeless?
- Who is responsible for the referral to DOP to request an investigation and approval of a placement?
- Who will control the referral process to insure that the person/unit responsible for sending the “DSS to DOP Request for Investigation is following the established process correctly and timely?
- What is the agreed upon method (fax, email, other) for the exchange of necessary referrals and what is the timeframe?

- If modifications are needed for any reason (a person retires, a function shifts to another unit or agency, etc), how will all necessary parties be informed of the changes needed?
- If the local district has a problem with a particular referral or Parole Officer, who should the district contact at DOP for a resolution of the matter?
- If DOP has a problem with a particular referral or a district/alternate agency worker, who should DOP contact at the local district to resolve the matter?

Local districts will also receive §259-c(17) referrals from the DOCS. These referrals will come from DOCS when an individual has completed his or her full prison sentence, has been designated as a Level 2 or Level 3 sex offender, or whose designation is pending, and is likely to need THA on release from prison. Even though these individuals will not be under parole supervision, the district must send the request for an investigation and approval of the temporary housing placement in accordance with the same procedures set for those who are under parole supervision.

### **VIII. Effective Date**

Immediately

**Issued By**

**Name:** Russell Sykes  
**Title:** Deputy Commissioner  
**Division/Office:** Center for Employment and Economic Supports