

HOUSE No. 1529

The Commonwealth of Massachusetts

PRESENTED BY:

Shaunna O'Connell and James J. Dwyer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to updating Massachusetts sex offender laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Laurie Myers</i>	<i>Community VOICES (president)</i> <input type="checkbox"/> <i>7 Pinehill Avenue</i> <input type="checkbox"/> <i>Chelmsford, MA 01824</i> <input type="checkbox"/>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>

<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>Joseph DiPietro, Protect Mass Children</i>	<i>1150 Walnut Street</i> <input type="checkbox"/> <i>Newton, MA 02461</i> <input type="checkbox"/>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>

HOUSE No. 1529

By Representatives O'Connell of Taunton and Dwyer of Woburn, a petition (accompanied by bill, House, No. 1529) of Shaunna O'Connell, James J. Dwyer and others relative to the sex offender laws. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to updating Massachusetts sex offender laws.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out sections
2 178C to 178Q, inclusive, as appearing in the 2010 Official Edition, and inserting in place thereof
3 the following sections:-

4 Section 178C. Definitions

5 As used in sections 178C to 178Q, inclusive, the following words shall have the
6 following meanings:

7 "Agency", the department of correction, any county correctional facility, any federal
8 correction facility, the department of youth services, the department of children and families, the
9 parole board, the office of the commissioner of probation, the department of mental health, the
10 department of developmental services and the trial court including any program providing
11 administrative, security, treatment or rehabilitation services to sex offenders of any agency,
12 whether the program is conducted under a contract with a private entity or otherwise.
13 Notwithstanding any general or special law to the contrary, each agency shall be authorized to
14 receive criminal offender record information and juvenile record information maintained by the
15 department of criminal justice information services for the purpose of identifying sex offenders
16 or concerning sex offenders in the care and custody of an agency.

17 "Board", shall mean the sex offender registry board.

18 "Conviction" or "Convicted", shall mean any judgment of conviction on a criminal
19 charge in which a sentence is imposed whether by: (a) a finding of guilt; (b) an adjudication as a

20 delinquent juvenile or a youthful offender; (c) a guilty finding or adjudication as a delinquent
21 juvenile or a youthful offender that is placed on file; (d) a finding of not guilty by reason of
22 insanity; (e) a similar disposition of another jurisdiction, United States or military, territorial or
23 Indian tribal authority; or (f) a similar disposition of the nations of Canada, United Kingdom,
24 Australia, New Zealand, or any other country the United States State Department, in its Country
25 Reports on Human Rights Practices, has concluded had an independent judiciary that generally
26 enforced the right to a fair trial during the year in which the convictions occurred. The
27 aforementioned judicial dispositions shall constitute convictions whether they were sealed,
28 expunged, or subject to similar relief under statute or any other rule of law unless relief was
29 granted as part of vacating the conviction.

30 “Criminal History”, includes the date of all arrests and convictions, status of parole,
31 probation or supervised release, sex offender registration, and outstanding arrest warrants for the
32 sex offender.

33 “Custody”, shall include (a) confinement in any secure building, enclosure, space or
34 structure for the jailing, incarceration, control, and rehabilitation of committed or convicted sex
35 offenders operated by the department of correction, any county correctional facility or any
36 federal correctional facility at which the sex offender so confined has no ability to live, work, or
37 attend school in the community or (b) confinement or commitment in accordance to law to a
38 secure building, enclosure, space or structure at which the sex offender so committed has no
39 ability to live, work, or attend school in the community and which is operated by the department
40 of youth services, department of mental health or the department of developmental services.

41 “Employment” or “Work”, includes work that is full-time or part-time for a (a) period of
42 time exceeding 3 consecutive days excluding legal holidays, Saturdays and Sundays or (b) for an
43 aggregate period of time exceeding 14 days during any calendar year, whether compensated or
44 uncompensated, self-employed or working for an entity. To “work” shall mean to perform
45 employment or work as defined herein.

46 “Internet identifiers and addresses”, includes any names, aliases, pseudonyms,
47 designations or monikers that the sex offender uses for purposes of routing or self-identification
48 on the internet, including personal web site addresses, e-mail addresses, computer instant
49 messaging screen names, and internet protocol addresses.

50 “Jurisdiction”, a state, the District of Columbia, the commonwealth of Puerto Rico,
51 Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, or a
52 federally recognized Indian tribe.

53 “Habitually lives”, includes any location in which a person has a residence or, if a person
54 has no fixed residence, lives or stays with some regularity, including but not limited to homeless
55 shelters, secondary addresses, or descriptive geographical locations within a town or city.

56 “Homeless”, describes persons who do not have a fixed residence or who identify a
57 homeless shelter as their residence.

58 “Minor”, shall mean any person under 18 years of age.

59 “Register as a sex offender”, the act of a sex offender appearing in person before the
60 agency which has custody of the sex offender or the appropriate local police department in order
61 for:

62 (a) the sex offender to provide the following registration information:

63 (1) the names, aliases, primary or given names, nicknames, pseudonyms, internet
64 identifiers, and ethnic or tribal names by which the sex offender is commonly known;

65 (2) the sex offender’s telephone numbers, including fixed location and mobile phones;

66 (3) the sex offender’s social security number;

67 (4) the sex offender’s residential address or intended residential address, any secondary
68 addresses or intended secondary addresses, temporary lodging information, and if the sex
69 offender is homeless or anticipates being homeless, the homeless shelters and the geographical
70 locations, including districts, neighborhoods, sections and villages within cities and towns, in
71 which the sex offender habitually lives or anticipates living;

72 (5) the sex offender’s employment status, and if employed, the employer’s name and
73 address or intended employer’s name and address and, if the sex offender’s employment is such
74 that his work is migratory, itinerant, or transient, the cities or towns where the sex offender
75 habitually works;

76 (6) the names and addresses of any schools at which the sex offender is enrolled as a
77 student or intends to enroll as a student;

78 (7) the sex offender’s vehicle information;

79 (8) a copy of the sex offender’s professional licensing information;

80 (9) a copy of the sex offender’s passport, visa, and any travel documents,, and if the
81 offender is an alien, any documents establishing the immigration status of the offender;

82 (b) the agency which has custody of the sex offender or the local police department to:

83 (1) obtain the sex offender’s: date of birth, sex, race, height, weight, eye color, hair color,
84 scars, marks, tattoos, photograph, fingerprints and palm prints;

85 (2) confirm that a copy of the sex offender’s driver’s license or identification card is
86 included in the sex offender registry;

87 (3) confirm that the sex offender's DNA sample has been collected for analysis in the
88 Combined DNA Index System as required under chapter 22E; and

89 (4) confirm that all registration information has been entered accurately and completely
90 into the sex offender registry.

91 "Registration information",

92 (a) the names, aliases, primary or given names, nicknames, pseudonyms, internet
93 identifiers, and ethnic or tribal names by which the sex offender is commonly known;

94 (b) the sex offender's telephone numbers, including fixed location and mobile phones;

95 (c) the sex offender's social security number;

96 (d) the sex offender's residential address or intended residential address, any secondary
97 addresses or intended secondary addresses, temporary lodging information, and if the sex
98 offender is homeless, the homeless shelters and the geographical locations, including districts,
99 neighborhoods, sections and villages within cities and towns, in which the sex offender
100 habitually lives;

101 (e) the sex offender's employment status, and if employed, the employer's name and
102 address or intended employer's name and address and, if the sex offender's employment is such
103 that his work is migratory, itinerant, or transient, the cities or towns where the sex offender
104 works;

105 (f) the names and addresses of any schools at which the sex offender is enrolled as a
106 student;

107 (g) the sex offender's vehicle information;

108 (h) a copy of the sex offender's professional licensing information;

109 (i) a copy of the sex offender's passport, visa, and any other travel and immigration
110 documents;

111 (j) a copy of the sex offender's driver's license or identification card;

112 (k) the sex offender's date of birth, sex, race, height, weight, eye, hair color, scars, marks,
113 and tattoos;

114 (l) a current photograph of a sex offender;

115 (m) the statutory citation and text of the sex offense which gives rise to the sex offender's
116 obligation to register, the sentence imposed, the city or town where the offense occurred, the date

117 of conviction, and the ages of the victim and the sex offender at the time of the sex offense, as
118 provided by the board;

119 (n) the sex offender's criminal history, as provided by the board;

120 (o) the sex offender's fingerprints and palm prints; and

121 (p) a DNA profile of the sex offender.

122 "Residence", the location where a person lives or will live, regardless of the number of
123 days or nights spent there, and includes, but is not limited to: houses, apartment buildings, hotels,
124 motels, boarding houses, homeless shelters, and recreational and other vehicles. To "reside" shall
125 mean to have a residence as defined herein.

126 "School", any public or private educational institution including any secondary, trade,
127 vocational or professional institution, or any institution of higher learning.

128 "Second and subsequent conviction", the later of 2 or more separate convictions. Multiple
129 convictions resulting from a single act shall be treated as a single conviction, but arraignments
130 occurring on the same date and resulting in multiple convictions shall be presumed to be the
131 result of separate acts.

132 "Secondary addresses" or "Temporary Lodging Information", the addresses of all places
133 where a sex offender lives, abides, lodges, or stays for a period of 7 or more days in the
134 aggregate during any calendar year and which is not a sex offender's primary address; or a place
135 where a sex offender routinely lives, abides, lodges, or resides for a period of 4 or more
136 consecutive or nonconsecutive days in any month and which is not a sex offender's permanent
137 address, including any out-of-state addresses and identifying the place and the period of time the
138 sex offender is staying there.

139 "Sex offender", any person who resides, has secondary address(es), works or is enrolled
140 in school in the commonwealth and who at any time:

141 (a) was convicted of a sex offense or has been adjudicated a youthful offender or as a
142 delinquent juvenile by reason of a sex offense;

143 (b) was adjudicated a sexually dangerous person under chapter 123A or was released
144 from civil commitment under chapter 123A; or

145 (c) had an obligation to register as a sex offender under the laws of any other jurisdiction,
146 United States or military, territorial or Indian tribal authority.

147 "Sex offender registry", the collected registration information and data that is received by
148 the sex offender registry board under sections 178C to 178Q, inclusive, as the registration

149 information and data is modified or amended by the sex offender registry board, authorized
150 agency or a court of competent jurisdiction under sections 178C to 178Q, inclusive.

151 “Sex offense”, an indecent assault and battery on a child under the age of 14 under
152 section 13B of chapter 265; aggravated indecent assault and battery on a child under the age of
153 14 under section 13B1/2 of chapter 265; a repeat offense under section 13B3/4 of chapter 265;
154 indecent assault and battery on a person with an intellectual disability under section 13F of
155 chapter 265; indecent assault and battery on a person age 14 or over under section 13H of
156 chapter 265; rape under section 22 of chapter 265; rape of a child under the age of 16 with force
157 under section 22A of chapter 265; aggravated rape of a child under the age of 16 with force
158 under section 22B of chapter 265; a repeat offense under section 22C of chapter 265; rape and
159 abuse of a child under section 23 of chapter 265; aggravated rape and abuse of a child under
160 section 23A of chapter 265; a repeat offense under section 23B of chapter 265; assault with
161 intent to commit rape under section 24 of chapter 265; assault of a child with intent to commit
162 rape under section 24B of chapter 265; kidnapping of a child under the age of 16 under section
163 26 of chapter 265; enticing a child under the age of 16 for the purposes of committing a crime
164 under section 26C of chapter 265; enticing away a person for prostitution or sexual intercourse
165 under section 2 of chapter 272; drugging persons for sexual intercourse under section 3 of
166 chapter 272; inducing a minor into prostitution under section 4A of chapter 272; living off or
167 sharing earnings of a minor prostitute under section 4B of chapter 272; inducing person under
168 the age of 18 to have sexual intercourse under section 4 of chapter 272; second and subsequent
169 adjudication or conviction for open and gross lewdness and lascivious behavior under section 16
170 of chapter 272, but excluding a first or single adjudication as a delinquent juvenile before August
171 1, 1992; incestuous marriage or intercourse under section 17 of chapter 272; disseminating to a
172 minor matter harmful to a minor under section 28 of chapter 272; posing or exhibiting a child in
173 a state of nudity under section 29A of chapter 272; dissemination of visual material of a child in
174 a state of nudity or sexual conduct under section 29B of chapter 272; possession of child
175 pornography under section 29C of chapter 272; unnatural and lascivious acts with a child under
176 the age of 16 under section 35A of chapter 272; electronically surveilling partially nude or nude
177 person under section 105 of chapter 272; engaging in sexual conduct for a fee with child under
178 the age of 14 under section 53A of chapter 272; aggravated rape under section 39 of chapter 277;
179 any attempt to commit a violation of any of the aforementioned sections under section 6 of
180 chapter 274; any conspiracy to commit a violation of any of the aforementioned sections under
181 section 7 of chapter 274; accessory to any of the aforementioned sections; or a like violation of
182 the laws of another jurisdiction, the United States or a military, territorial or Indian tribal
183 authority, the nations of Canada, United Kingdom, Australia, New Zealand, or any other country
184 the United States State Department, in its Country Reports on Human Rights Practices, has
185 concluded had an independent judiciary that generally enforced the right to a fair trial during the
186 year in which the convictions occurred.

187 “Sex offense involving a child”, an indecent assault and battery on a child under the age
188 of 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under
189 the age of 14 under section 13B1/2 of chapter 265; a repeat offense under section 13B3/4 of
190 chapter 265; rape of a child under the age of 16 with force under section 22A of chapter 265;
191 aggravated rape of a child under the age of 16 with force under section 22B of chapter 265; a
192 repeat offense under section 22C of chapter 265; rape and abuse of a child under section 23 of
193 chapter 265; aggravated rape and abuse of a child under section 23A of chapter 265; a repeat
194 offense under section 23B of chapter 265; assault of a child with intent to commit rape under
195 section 24B of chapter 265; enticing a child under the age of 16 for the purposes of committing a
196 crime under section 26C of chapter 265; inducing person under the age of 18 to have sexual
197 intercourse under section 4 of chapter 272; inducing a minor into prostitution under section 4A
198 of chapter 272; living off or sharing earnings of a minor prostitute under section 4B of chapter
199 272; disseminating to a minor matter harmful to a minor under section 28 of chapter 272; posing
200 or exhibiting a child in a state of nudity under section 29A of chapter 272; dissemination of
201 visual material of a child in a state of nudity or sexual conduct under section 29B of chapter 272;
202 possession of child pornography under section 29C of chapter 272; unnatural and lascivious acts
203 with a child under the age of 16 under section 35A of chapter 272; engaging in sexual conduct
204 with child under the age of 14 for a fee under section 53A of chapter 272; aggravated rape under
205 section 39 of chapter 277; any enumerated sex offense where the victim is a minor; any attempt
206 to commit a violation of any of the aforementioned sections under section 6 of chapter 274; any
207 conspiracy to commit a violation of any of the aforementioned sections under section 7 of
208 chapter 274; accessory to any of the aforementioned sections;; or a like violation of the laws of
209 another state, the United States or a military, territorial or Indian tribal authority.

210 “Sexually violent offense”, indecent assault and battery on a child under 14 under section
211 13B of chapter 265; aggravated indecent assault and battery on a child under the age of 14 under
212 section 13B1/2 of chapter 265; a repeat offense under section 13B3/4 of chapter 265; indecent
213 assault and battery on a person with an intellectual disability under section 13F of chapter 265;
214 rape under section 22 of chapter 265; rape and abuse of a child under section 23 of chapter 265;
215 rape of a child under 16 with force under section 22A of chapter 265; aggravated rape of a child
216 under 16 with force under section 22B of chapter 265; a repeat offense under section 22C of
217 chapter 265; aggravated rape and abuse of a child under section 23A of chapter 265; a repeat
218 offense under section 23B of chapter 265; assault with intent to commit rape under section 24 of
219 chapter 265; assault of a child with intent to commit rape under section 24B of chapter 265;
220 kidnapping of a child under the age of 16 under section 26 of chapter 265; drugging persons for
221 sexual intercourse under section 3 of chapter 272; unnatural and lascivious acts with a child
222 under 16 under section 35A of chapter 272; aggravated rape under section 39 of chapter 277; any
223 attempt to commit a violation of any of the aforementioned sections under section 6 of chapter
224 274; any conspiracy to commit a violation of any of the aforementioned sections under section 7
225 of chapter 274; accessory to any of the aforementioned sections; or a like violation of the law of

226 another state, the United States or a military, territorial or Indian tribal authority, or any other
227 offense that the sex offender registry board determines to be a sexually violent offense.

228 “Sexually violent predator”, a person who has been convicted of a sexually violent
229 offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason
230 of a sexually violent offense, or a person released from incarceration, parole, probation
231 supervision or commitment under chapter 123A or custody with the department of youth services
232 for a conviction or adjudication, and who suffers from a mental abnormality or personality
233 disorder that makes the person likely to engage in sexually violent offenses.

234 “Supervision”, includes the exercise of oversight, control or management over a sex
235 offender living in, working, or attending school in the community, by the department of
236 correction, any county correctional facility, any federal correctional facility, the department of
237 youth services, the parole board, the office of the commissioner of probation, the department of
238 mental health or the department of developmental services.

239 “Student”, any person who enrolls, on a full-time or part-time basis, in any public or
240 private educational institution including a secondary school, trade, vocational or professional
241 institution, or a post-secondary institution of higher learning.

242 “Updating registration information”, as required by section 178E, the act of a sex
243 offender (a) appearing in person at the appropriate local police department to update or report a
244 change in the sex offender’s names, aliases, primary or given names, nicknames, pseudonyms,
245 internet identifiers, and ethnic or tribal names by which the sex offender is commonly known,
246 home address, secondary addresses, employment status, employer’s names and addresses, school
247 status, school name and address, and the police department updating the sex offender’s
248 photograph and (b) submitting in writing to the police department or the sex offender registry
249 board any updates or changes to the sex offender’s remaining registration information, as defined
250 in this section.

251 “Vehicle information”, data that identifies all the vehicles the sex offender owns or
252 routinely operates for personal use or in the course of his employment including: the license
253 plate numbers or other numbers or identifiers affixed to the vehicles; the type, year, make, and
254 model of the vehicles; and the locations where the vehicles are garaged, docked, or otherwise
255 kept. “Vehicle” includes any device propelled or drawn by mechanical power upon or by which
256 any person or property is or may be transported or drawn upon a highway, waterway, or airway.

257 “Verifying registration information”, as required by section 178E, the act of a sex
258 offender appearing in person at the specified period of time at the appropriate police department
259 in the city or town where the sex offender resides, or if the sex offender does not reside in the
260 commonwealth, in the city or town where the sex offender has a secondary address, works or is
261 enrolled in school to confirm that his registration information remains true and accurate and the
262 police department updates the sex offender’s photograph.

263 Section 178D. Sex offender registry

264 The sex offender registry board, known as the board, in cooperation with the department
265 of criminal justice information services, shall establish and maintain a central computerized
266 registry of all sex offenders required to register under sections 178C to 178Q, inclusive, known
267 as the sex offender registry. The sex offender registry shall be updated based on information
268 made available to the board, including information acquired under the registration provisions of
269 sections 178C to 178Q, inclusive. The file on each sex offender required to register under
270 sections 178C to 178Q, inclusive, shall include the sex offender's registration information and:

271 (a) whether the sex offender is in compliance with the registration obligations of sections
272 178C to 178Q, inclusive;

273 (b) any other information which may be useful to the board in assessing the risk of the
274 sex offender to reoffend;

275 (c) any other information which may be useful to the board in identifying the sex
276 offender; and

277 (d) the sex offender's level of risk of reoffense and degree of dangerousness, as
278 established under sections 178K and 178L.

279 The public shall not have access to any registration information except in accordance
280 with sections 178I and 178J.

281 The board shall develop standardized notification, registration and verification forms,
282 which shall request registration information as required under sections 178C to 178Q. The board
283 shall make blank copies of the forms available to all agencies having custody of sex offenders,
284 supervising sex offenders, all city and town police departments, and state police.

285 The information contained in the registry shall be obtained from offenders when they
286 register as sex offenders and when they verify and update their registration information; from
287 agencies having custody or supervision of sex offenders; and city and town police departments
288 responsible for registering sex offenders and verifying and updating sex offenders' registration
289 information. The sex offender registry board shall maintain all registration information in a
290 digitized form that is compatible with the registry management and web site software developed
291 by the United States Department of Justice under 42 U.S.C. § 16923. The board may maintain
292 registration information in a digitized form by having links or identification numbers that
293 provide access to registration information contained in other computerized databases maintained
294 by the state police for palm print, fingerprint, and DNA information; the registry of motor
295 vehicles for license and vehicle information; the department of criminal justice information
296 services for criminal history information; the division of professional licensure for professional

297 license information; and any other agency which is responsible for compiling and maintaining
298 information required of sex offenders under sections 178C to 178Q.

299 The board shall promulgate regulations further defining, in a manner consistent with
300 maintaining or establishing eligibility for federal funding under the Sex Offender Registration
301 and Notification Act, Title 1 of the Adam Walsh Child Protection and Safety Act of 2006, and
302 the implementation of the sections 178C to 178Q.

303 Section 178E. Registration, verification, and updating registration information

304 (a) In General. A sex offender shall register and keep the registration information current
305 with respect to each city and town where the sex offender resides, has a secondary address,
306 works, and is a student.

307 (b) Initial registration. Within 3 business days of sentencing of any sex offender required
308 to register under sections 178C to 178Q, inclusive, the agency receiving custody or supervision
309 of the sex offender shall transmit to the board the sex offender's registration information, the
310 mittimus, and the projected maximum release date and the earliest possible release date for the
311 sex offender. All custodial and supervisory agencies shall inform the board immediately of any
312 transfers of sex offenders so that the board knows at all times where the sex offender is located
313 prior to his release from custody or supervision.

314 (1) Sex offenders in custody. If a sex offender is to be released from the custody of any
315 county, state or federal correctional facility, department of youth services, department of mental
316 health or department of development services, the agency that has custody of the sex offender
317 shall, or in the case of federal correctional facility may, provide written notice to the sex offender
318 and the sex offender shall acknowledge in writing, his duty to register in the commonwealth and
319 in any other jurisdiction where he resides, has a secondary address, is employed or enrolled in
320 school; his duty to verify and update his registration information and the penalties for failing to
321 do so and for giving false registration information; and of his right to submit to the board
322 documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to
323 the public in accordance with section 178L. If the sex offender is a minor or has been deemed by
324 a court to be incompetent at the time of notification, the notification shall also be mailed to the
325 sex offender's legal guardian or agency having custody of the person in the absence of a legal
326 guardian and his most recent attorney of record. The agency shall transmit the sex offender's
327 written acknowledgment to the board within 10 days of receipt of the acknowledgment. No later
328 than 30 days prior to the sex offender's release from custody, the agency that has custody of the
329 offender shall obtain the sex offender's registration information and shall verify that it is true and
330 accurate. Upon verifying the sex offender's registration information and at least 10 days before
331 the sex offender is released from custody, the agency that has custody of the offender shall
332 register the sex offender by entering the registration information into the sex offender registry
333 and shall electronically transmit the sex offender's registration information to the board. No sex

334 offender shall be released from custody unless registration has been completed. Within 3 days
335 after the sex offender's release from custody, the sex offender shall appear in person at the police
336 department of the city or town in which the sex offender resides, or if the offender does not
337 reside in the commonwealth, in the city or town in which he has a secondary address, works or is
338 enrolled in school in the commonwealth, to verify that the registration information remains true
339 and accurate, or to change the registration information provided prior to release from custody.

340 (2) Sex offender not in custody; subject to community supervision. If the court does not
341 sentence the sex offender to confinement to a county, state or federal correctional facility, or
342 does not order custody by the department of youth services, department of mental health or
343 department of developmental services, the agency that has supervision of the sex offender shall,
344 upon assuming supervision of the sex offender, immediately provide written notice to the sex
345 offender, and the sex offender shall acknowledge in writing, his duty to register in the
346 commonwealth and in any other jurisdiction where he resides, has a secondary address, is
347 employed or enrolled in school; his duty to verify and update his registration information and the
348 penalties for failure to do so and for giving false registration information; and of his right to
349 submit to the board documentary evidence relative to his risk of reoffense and the degree of
350 dangerousness posed to the public in accordance with section 178L. If the sex offender is a
351 minor or has been deemed by a court to be incompetent at the time of notification, the
352 notification shall also be mailed to such sex offender's legal guardian or agency having custody
353 of the person in the absence of a legal guardian and his most recent attorney of record. The
354 agency shall transmit the sex offender's written acknowledgment to the board within 2 days of
355 receipt of the acknowledgment. Within 3 days of sentencing, the sex offender shall appear in
356 person and register as a sex offender at the police department in the city or town where the sex
357 offender resides, or if the sex offender does not reside in the commonwealth, in the city or town
358 where the sex offender has a secondary address, works, or is enrolled in school. The police
359 department shall enter the registration information into the sex offender registry and
360 electronically transmit the sex offender's registration information to the board.

361 (3) Sex offender not in custody or being supervised. Any court which enters a conviction
362 for a sex offense, but does not impose a sentence of confinement or supervision, or order of
363 custody, or otherwise orders the immediate discharge of a sex offender from the custody of any
364 of the county, state or federal correctional facilities, department of youth services, department of
365 mental health or the department of developmental services shall, or in the case of federal court
366 may, provide written notice to the sex offender, and the sex offender shall acknowledge in
367 writing, his duty to register in the commonwealth and in any other jurisdiction where he resides,
368 has a secondary address, works or is enrolled in school; his duty to verify and update his
369 registration information and the penalties for failure to do so and for giving false registration
370 information; and of his right to submit to the board documentary evidence relative to his risk of
371 reoffense and the degree of dangerousness posed to the public in accordance with section 178L.
372 Within 2 business days of sentencing, the clerk of the court shall transmit the sex offender's

373 written acknowledgment to the board along with the sex offender's registration information.
374 Within 3 days of receiving notice or of release from confinement or custody from the court,
375 whichever is later, the offender shall appear in person to register as a sex offender at the police
376 department in the city or town where the sex offender resides, or if the sex offender does not
377 reside in the commonwealth, in the city or town where the sex offender has a secondary address,
378 works, or is enrolled in school. The police department shall enter the registration information
379 into the sex offender registry and electronically transmit the sex offender's registration
380 information to the board.

381 (4) Sex offender from another jurisdiction or country.

382 (i) A sex offender from another jurisdiction or country who enters the commonwealth to
383 reside, establish a secondary address, work, or enroll in school shall, within 3 days of entering
384 the commonwealth, appear in person to register as a sex offender at the police department in the
385 city or town where the sex offender resides, or if the sex offender does not reside in the
386 commonwealth, in the city or town where the sex offender has a secondary address, works or is
387 enrolled in school. The police department shall provide written notice to the sex offender, and
388 the sex offender shall acknowledge in writing, his duty to register in the commonwealth and in
389 any other jurisdiction where he resides, has a secondary address, works or is enrolled in school;
390 his duty to verify and update his registration information and the penalties for failure to do so
391 and for giving false registration information; and of his right to submit to the board documentary
392 evidence relative to his risk of reoffense and the degree of dangerousness posed to the public in
393 accordance with section 178L. The police department shall enter the registration information into
394 the sex offender registry and electronically transmit the sex offender's registration information to
395 the board.

396 (ii) If the board is notified by another jurisdiction that a sex offender is expected to
397 commence residence, establish a secondary address, employment, or school attendance in the
398 commonwealth, but the sex offender fails to appear to register as required in subsection (i), the
399 board shall notify that jurisdiction that the sex offender failed to appear in the commonwealth.

400 (5) Retroactive Application.

401 (i) Any sex offender who was required to register under sections 178C to 178Q in effect
402 prior to July 27, 2011 and was relieved of that obligation to register by the court or the board or
403 had his obligation to register terminated under section 178G prior to July 27, 2011, is not
404 required to register except that if the sex offender is convicted of a felony or a sex offense, the
405 sex offender will be required to register under this section.

406 (ii) Any sex offender who was required to register under sections 178C to 178Q in effect
407 before July 27, 2011 because he was adjudicated a youthful offender or delinquent juvenile for a
408 sex offense and was relieved of his obligation to register by the court or the board under section
409 178E or whose obligation to register was terminated under section 178G before July 27, 2011 is

410 not required to register, except that if the sex offender is convicted of a felony or a sex offense,
411 the sex offender will be required to register under this section.

412 (c) Verification of Registration Information.

413 (1) Act of verifying registration information. Any sex offender required to register as a
414 sex offender under this section shall verify his registration information in person with the police
415 department in the city or town where the sex offender resides, or if the sex offender does not
416 reside in the commonwealth, in the city or town where the sex offender has a secondary address,
417 works or is enrolled in school. The sex offender shall review his registration information,
418 confirm that it is true and accurate and provide any changes and updates to his registration
419 information since his initial registration or since he last verified his registration information. The
420 police department shall enter the verified registration information into the sex offender registry
421 and electronically transmit the sex offender's registration information to the board. The police
422 department shall provide written notice to the sex offender, and the sex offender shall
423 acknowledge in writing, his duty to register in the commonwealth and in any jurisdiction where
424 he resides, works or is enrolled in school; to verify registration information; to update
425 registration information within the commonwealth and in any other jurisdiction; the penalties for
426 failure to do so and for giving false registration information; and the next date the sex offender is
427 required to appear in person to verify his registration information.

428 (2) Frequency of verifying registration information. Sex offenders finally classified as
429 level 1 under sections 178K and 178L shall verify their registration information in person once
430 each year in the month of their birth, with the exception of finally classified level 1 sex offenders
431 who are under the age of 18 at the time of registration. These offenders shall verify their
432 registration information by mail once each year in the month of their birth until the age of 18.
433 Sex offenders finally classified as level 2 under sections 178K and 178L shall verify their
434 registration information in person twice each year, in 6 month intervals commencing on the
435 month of their birth. Sex offenders finally classified as level 3 under sections 178K and 178L
436 and sexually violent predators shall verify their registration information in person 4 times each
437 year, in 3 month intervals including their month of birth. All homeless sex offenders, regardless
438 of their final classification levels, must verify their registration information in person every 30
439 days. Sex offenders who have not been finally classified by the board under 178K and 178L shall
440 verify their registration information in writing every 12 months from the date that they initially
441 registered until they become finally classified, at which time the sex offender shall be required to
442 register, verify and update his registration information in person under the requirements of this
443 section. The board shall develop regulations to determine the dates on which sex offenders must
444 register and additional procedures for registration.

445 (3) Notice. In each year during the month of the sex offender's birth, the board shall mail
446 a nonforwardable verification form to the last registered address of the sex offender notifying the
447 sex offender of the date or dates during the next 12 months on which he must verify his

448 registration information. If the sex offender is a minor or has been deemed by a court to be
449 incompetent at the time of notification, the notification shall also be mailed to the sex offender's
450 legal guardian or agency having custody of the person in the absence of a legal guardian and his
451 most recent attorney of record.

452 (d) Updating Registration Information. In addition to verifying registration information
453 under section (c), the sex offender shall be obligated to report any changes in his registration
454 information.

455 (1) Change of address within the commonwealth. No later than 3 days after a change of
456 address, the registered sex offender shall appear in person at the police department in the city or
457 town where the sex offender resides or if the sex offender does not reside in the commonwealth,
458 in the city or town in which the sex offender has a secondary address, works, or is enrolled in
459 school to update his address registration information. For purposes of this section, a "change of
460 address" includes any change to the sex offender's residence, address, secondary addresses or
461 temporary lodging, or if homeless, any change to the sex offender's homeless shelter or changes
462 in the city or town in which he habitually lives as a homeless person. The police department shall
463 enter the updated registration information into the sex offender registry and electronically
464 transmit the sex offender's registration information to the board. If the sex offender resides in the
465 commonwealth but works or is enrolled in school in another jurisdiction, the board shall
466 electronically transmit the sex offender's updated registration information to each jurisdiction
467 where the sex offender works or is enrolled in school.

468 (2) Change of employment information. No later than 3 days after any change to a
469 registered sex offender's employment information, the sex offender shall appear in person at the
470 police department in the city or town where the sex offender resides or if the sex offender does
471 not reside in the commonwealth, in the city or town in which the sex offender has a secondary
472 address, works, or is enrolled in school to update his employment registration information. For
473 purposes of this section, a "change of employment information" includes change in employers,
474 obtaining additional employment, becoming unemployed, becoming employed and changes to
475 the name or address of the sex offender's employers. If the sex offender's work is migratory,
476 itinerant or transient and there are changes to the locations where the sex offender performs his
477 work, including locations in other jurisdictions or countries, the sex offender shall, no later than
478 3 business days after the change occurs, appear in person at the police department in the city or
479 town where the sex offender resides or if the sex offender does not reside in the commonwealth,
480 in the city or town in which the sex offender has a secondary address, works, or is enrolled in
481 school to update the sex offender's registration information. The police department shall enter
482 the updated registration information into the sex offender registry and electronically transmit the
483 sex offender's registration information to the board. If the sex offender will begin employment in
484 another jurisdiction, the board shall electronically transmit the sex offender's registration
485 information to that jurisdiction's office, agency, or entity responsible for administering the
486 jurisdiction's sex offender registry.

487 (3) Change in school information. No later than 3 days after any change to a
488 offender's school information, the registered sex offender shall appear in person at the police
489 department in the city or town where the sex offender resides or if the sex offender does not
490 reside in the commonwealth, in the city or town in which the sex offender has a secondary
491 address, works, or is enrolled in school to update his school registration information. For
492 purposes of this section, a "change in school information" includes enrolling in school,
493 transferring enrollment to a different school or different location of the same school, termination
494 of enrollment or if any change to the name or address of the school at which the sex offender is
495 enrolled. The police department shall enter the updated registration information into the sex
496 offender registry and electronically transmit the sex offender's registration information to the
497 board. If the sex offender will be enrolling in school in another jurisdiction, the board shall
498 electronically transmit the sex offender's registration information to that jurisdiction's office,
499 agency, or entity responsible for administering the jurisdiction's sex offender registry.

500 (4) Change of name. If a registered sex offender changes the name, aliases, primary or
501 given names, nicknames, pseudonyms, ethnic or tribal name by which the sex offender is
502 commonly known, the sex offender shall, no later than 3 days after the change occurs, appear in
503 person at the police department in the city or town where the sex offender resides or if the sex
504 offender does not reside in the commonwealth, in the city or town in which the sex offender has
505 a secondary address, works, or is enrolled in school to update the registration information
506 relating to the sex offender's name. The police department shall enter the updated registration
507 information into the sex offender registry and electronically transmit the sex offender's
508 registration information to the board. The board shall electronically transmit the sex offender's
509 updated registration information to all other jurisdictions where the sex offender is required to
510 register.

511 (5) Change in address outside of the commonwealth. If a registered sex offender with a
512 home address or a secondary address in the commonwealth intends to move his home address or
513 establish a secondary address outside of the commonwealth, the sex offender shall, no less than
514 10 days before the change occurs, appear in person at the police department in the city or town
515 where the sex offender resides in the commonwealth or if the sex offender does not reside in the
516 commonwealth, in the city or town in the commonwealth where the sex offender has a secondary
517 address to update the address registration information. If the sex offender is homeless and
518 intends to obtain housing outside of the commonwealth's jurisdiction, the sex offender shall, no
519 less than 10 days before the change occurs, appear in person at the police department in the city
520 or town where the sex offender resides to update the sex offender's registration information. The
521 police department shall enter the updated registration information into the sex offender registry
522 and electronically transmit the sex offender's registration information to the board. The board
523 shall electronically transmit the sex offender's registration information to the jurisdiction's
524 office, agency, or entity responsible for administering the jurisdiction's sex offender registry that
525 the sex offender intends to begin residing or establish a secondary address.

526 (6) Travel outside of the United States. If a registered sex offender intends to move or
527 travel outside of the United States, the sex offender shall, no less than 21 days before the travel
528 occurs, appear in person at the police department in the city or town where the sex offender
529 resides in the commonwealth or if the sex offender does not reside in the commonwealth, in the
530 city or town in the commonwealth where the sex offender has a secondary address to report his
531 intention to leave the United States. The police department shall enter the updated registration
532 information into the sex offender registry and electronically transmit the sex offender's
533 registration information to the board. Within 3 days, the board shall electronically transmit the
534 sex offender's registration information to the Federal Bureau of Investigation and United States
535 Marshals Service and to all other jurisdictions where the sex offender is required to register.

536 (7) Changes to Other Registration Information. Whenever there is a change to a
537 registered sex offender's internet identifiers, telephone numbers, temporary lodging information
538 in the commonwealth or vehicle information, the sex offender shall immediately notify the board
539 in writing of the changes to the sex offender's registration information. The board shall enter the
540 updated registration information into the sex offender registry. Within 3 days, the board shall
541 electronically transmit the sex offender's updated registration information to all other
542 jurisdictions where the sex offender is required to register.

543 (8) Notice to the sex offender. Upon updating a sex offender's registration information,
544 the police department shall provide written notice to the sex offender, and the sex offender shall
545 acknowledge in writing, his duty to register in the commonwealth and in any jurisdiction where
546 he resides, works or is enrolled in school, to verify registration information, to update his
547 registration information within the commonwealth or in any other jurisdiction and the penalties
548 for failure to do so and for giving false registration information.

549 (e) Notification by the board to law enforcement and federal entities. Within 3 days of
550 any change to a sex offender's registration information, the board shall electronically transmit
551 the sex offender's updated registration information to the Federal Bureau of Investigation and
552 United States Marshals Service and to all law enforcement agencies and entities with access to
553 the sex offender registry as set forth in section 178F.

554 (f) Relief from registration for certain minor sex offenders. In the case of a minor sex
555 offender who (a) was under the age of 14 at the time the sex offense was committed or (b) was
556 14 years of age or older at the time of his sex offense and was not convicted of sexually violent
557 offense as defined in section 178C, or 2 or more sex offenses involving a child as defined in
558 section 178C, the court shall, within 14 days of sentencing, determine whether the circumstances
559 of the offense in conjunction with the sex offender's criminal history indicate that the sex
560 offender does not pose a risk of reoffense or a danger to the public. If the court so determines,
561 the court shall relieve the sex offender of the obligation to register under sections 178C to 178Q,
562 inclusive, and the clerk of the court shall immediately notify the sex offender registry board in
563 writing that the court has relieved the sex offender of the registration obligation.

564 (g) Accepting pleas. Any court which accepts a plea for a sex offense shall inform the sex
565 offender prior to acceptance of the plea and require the sex offender to acknowledge in writing
566 that the plea may subject the sex offender to the provisions of sections 178C to 178Q, inclusive.
567 Failure to inform the sex offender shall not be grounds to vacate or invalidate the plea.

568 (h) Independent verification of addresses. Upon registering, verifying registration
569 information or updating registration information, a sex offender shall provide independent
570 written verification of the addresses at which he resides or has secondary addresses.

571 (i) Board's access to agencies' records. When the board has reason to believe that a sex
572 offender has failed to register in accordance with this chapter, or when the board is required to
573 verify the address or employers of a sex offender and is unable to verify the information through
574 other means, the board shall examine, through electronic transfer of information, the tax returns,
575 wage reports, child support enforcement records, papers or other documents on file with the
576 commissioner of revenue, registry of motor vehicles, department of transitional assistance,
577 department of children and families or records of any other entity within the executive branch;
578 provided, however, that nothing herein shall be construed to authorize the disclosure, directly or
579 indirectly, of any information other than the address of the sex offender, except as otherwise
580 provided by sections 178C to 178Q, inclusive.

581 (j) Registry of motor vehicles notifying sex offenders. The registrar of motor vehicles
582 shall inform a person applying for, or renewing a license to operate a motor vehicle that he has a
583 duty to register as a sex offender if the person is a sex offender as defined by section 178C.

584 (k) Homeless shelters. A homeless shelter receiving state funding shall cooperate in
585 providing information to the board, supervising agency or police department when the homeless
586 shelter is in the possession of the information being requested; provided, however, the request for
587 information shall be limited to that which is necessary to verify an offender's registration
588 information or a sex offender's whereabouts. A homeless shelter that violates the provisions of
589 this paragraph shall be punished by a fine of \$100 a day for each day that the shelter continues to
590 violate the provisions of this paragraph.

591 (l) Board's access to sealed convictions. If a sex offender's criminal record indicates that
592 he has any sealed or expunged convictions, the sex offender registry board may inquire of the
593 office of the commissioner of probation whether the sealed or expunged conviction was for a sex
594 offense and, if it was a sex offense, the commissioner shall so inform the board and provide the
595 board with the specific sex offense of which the offender was convicted, the date of the
596 conviction, the court that convicted the sex offender, and the docket number of the conviction.
597 The board shall then request a copy of the conviction from the court and the court shall provide
598 the board with a copy of the sealed or expunged conviction.

599 Section 178F. Authorized access to the sex offender registry

600 (a) Ability to enter, verify and update registration information. The sex offender registry
601 board shall grant access to any state and local police department and any other agency in the
602 commonwealth that is responsible for registering sex offenders, verifying registration
603 information and updating registration information, under section 178E, to the computerized sex
604 offender registry to examine and search registration information and enter, verify, and update sex
605 offender registration information to the extent necessary to perform their functions under section
606 178E. The agencies shall only disseminate registration information to the public to the extent
607 permitted by sections 178I and 178J.

608 (b) Ability to examine the sex offender registry. The sex offender registry board shall
609 grant the following entities access to electronically examine and search registration information
610 in the computerized sex offender registry: district attorneys' offices in the commonwealth, the
611 United States Marshal Service, the Federal Bureau of Investigations, and any other jurisdiction's
612 (i) office, agency, or entity responsible for administering the jurisdiction's sex offender registry;
613 (ii) law enforcement agencies, such as state and local police departments, sheriffs' offices, and
614 prosecutors' offices; and (iii) parole, probation, or other offices responsible for supervising sex
615 offenders. The sex offender registry board shall notify these agencies that use of the registration
616 information is limited to the extent necessary for the performance of their duties, and that the
617 public may only access the registration information provided to the extent permitted under
618 sections 178I and 178J.

619 (c) National Child Protection Act agencies. The sex offender registry board shall grant
620 access to any agency responsible for conducting employment-related background checks, under
621 section 3 of the National Child Protection Act of 1993, 42 U.S.C. section 5119a, to electronically
622 examine registration information contained in the sex offender registry. The board shall notify
623 these agencies that they may only use registration information to the extent necessary for the
624 actual performance of their duties, and that the public may only access registration information
625 to the extent permitted under sections 178I and 178J. The sex offender registry board shall
626 promulgate regulations regarding the process through which a National Child Protection Act
627 agency may apply to obtain access to the sex offender registry, and the process and criteria the
628 sex offender registry board shall follow in reviewing and approving such applications.

629 (d) National Sex Offender Registry. The sex offender registry board shall authorize the
630 Federal Bureau of Investigations to access the registration information contained in the sex
631 offender registry in order for the bureau to include all the registration information in a national
632 sex offender registry and make the registration information available to criminal justice agencies
633 on a nationwide basis.

634 (e) Dru Sjodin National Sex Offender Public Website. The sex offender registry board
635 shall authorize the United States Department of Justice access to the public sex offender internet
636 database, as mandated under section 178I, in order for the justice department to include the sex

637 offender internet database in the Dru Sjodin National Sex Offender Public Website established
638 under 42 U.S.C. section 16920, which the public may access and search.

639 (f) Absconded sex offenders. If the board receives notification that sex offenders cannot
640 be located at the addresses identified in their registration information or have failed to register or
641 verify their registration information at the prescribed periods of time, as required under section
642 178E, the board shall indicate in the sex offender registry that the offender has absconded and
643 immediately make this and the offender's last known registration information electronically
644 available for examination by any agency and federal entity permitted to review registration
645 information under this section. The board shall also notify the Federal Bureau of Investigations
646 and the United States Marshals Service and update the National Sex Offender Registry to reflect
647 the sex offender's status as an absconder and enter the sex offender into the National Crime
648 Information Center Wanted Person File.

649 (g) Limitation on public access to registration information. Registration information
650 received by the board shall not be disseminated to the public except in accordance with sections
651 178F, 178I and 178J.

652 Section 178G. Duration of registration obligation

653 (a) Duration of registration obligation. The sex offender's required registration period
654 does not include the time the sex offender is in custody or civilly committed and begins to run on
655 the date the sex offender is released from incarceration for the registration offense or on the date
656 of sentencing for a sex offender who receives a non-incarceration sentence for the sex offense.

657 (1) A sex offender whose sex offense conviction is not a sex offense involving a child or
658 a sexually violent offense, as defined in section 178C, must register for 15 years. These sex
659 offenders may be eligible to have their registration obligation reduced by 5 years in accordance
660 with subsection (b) of this section if they can demonstrate a clean record for 10 years. If these
661 sex offenders are convicted of a second and subsequent sex offense that is also not a sex offense
662 involving a child or a sexually violent offense, they must register for 25 years.

663 (2) A sex offender convicted of 1 sex offense involving a child as defined in section 178C
664 must register for 25 years.

665 (3) A sex offender convicted of 2 or more sex offenses involving a child as defined in
666 section 178C must register for life.

667 (4) A sex offender convicted of 1 or more sexually violent offenses as defined in section
668 178C must register for life.

669 (5) Sex offenders who were adjudicated delinquent and were under 14 years old when
670 they committed the sex offense may be eligible to have their registration obligation reduced in
671 time or terminated at the discretion of the board. The board shall promulgate regulations

672 governing the process and criteria for reduction and termination from registration obligation for
673 these sex offenders.

674 (6) Sex offenders who were adjudicated delinquent or found to be a youthful offenders
675 and were 14 years or older when they committed the sex offense and are required to register for
676 life under subsection (a)(3) or (a)(4) of this section may be eligible to have their registration
677 obligation terminated if they can demonstrate a clean record for 25 years. The board shall
678 promulgate regulations governing the process for reducing the duration of registration obligation
679 for these sex offenders.

680 (b) Reduction in duration of registration obligation. The board may, upon specific written
681 findings, reduce the duration of a sex offender's registration obligation as required in subsection
682 (a)(1), (a)(5) and (a)(6) of this section. In making this determination, the board shall consider
683 factors, including but not limited to: the circumstances of the sex offense, the sex offender's
684 criminal history, the sex offender's current living environment, whether the sex offender
685 attended sex offender treatment, the duration of time since the conviction for the sex offense and
686 whether the sex offender has demonstrated a clean record as required in subsection (c). The
687 burden of proof shall be on the sex offenders to prove that they come within the provisions of
688 this section. Unless otherwise specified, sex offenders convicted of a sexually violent offense or
689 2 or more sex offenses involving children, as defined in 178C, are not eligible for a reduction in
690 time of their duty to register as a sex offender and must register for life. The board shall
691 promulgate regulations governing the process for reducing a sex offender's registration
692 obligation.

693 (c) Demonstration of a clean record. In order for sex offenders to be eligible for a
694 reduction of their registration obligation or to be relieved of their duty to register as a sex
695 offender, the sex offender must demonstrate to the sex offender registry board that the sex
696 offender has (i) not been convicted of an offense for which imprisonment in a facility operated
697 by the department of correction, a county correctional facility or federal correctional facility for
698 more than 1 year may be imposed; (ii) has not been convicted of new sex offenses; (iii) has
699 successfully completed periods of supervised probation or parole imposed by completing these
700 periods without revocation; and (iv) has successfully completed an appropriate sex offender
701 treatment program approved by the board. The board shall promulgate regulations governing the
702 process to be followed by offenders who apply for a reduction of their registration obligation or
703 to be relieved of their obligation to register; to establish the criteria for designating and
704 qualifying approved sex offender treatment programs; and to establish criteria to be applied in
705 determining whether a sex offender has successfully completed a treatment program.

706 (d) Not entitled to seal convictions. For so long as a sex offender is under a duty to
707 register in the commonwealth or in any other jurisdiction or country where the sex offender
708 resides, has a secondary address, works or is enrolled in school or would be under such a duty if
709 residing, having a secondary address, working or enrolled in a school in the commonwealth, the

710 sex offender shall not be entitled to have his convictions sealed or expunged as otherwise
711 permitted by statute or other rule of law.

712 Section 178H. Failure to register, failure to verify or update registration information;
713 providing false information; penalties

714 (a) Sex offenders required to register under this chapter who knowingly: (i) fail to
715 register; (ii) fail to verify registration information as required by section 178E; (iii) fail to update
716 their registration information as required by section 178E; or (iv) provide false registration
717 information shall be punished in accordance with this section.

718 (1) A first conviction under this subsection shall be punished by imprisonment for not
719 less than 6 months and not more than 2½ years in a house of correction, not more than 5 years in
720 a state prison or by a fine of not more than \$1,000 or by both such fine and imprisonment.

721 (i) A person convicted under this subsection and who has been convicted of any of the
722 offenses set forth in sections 13B, 13B½, 13B¾, 13F, 22A, 22B, 22C, 23, 23A, 24B and 26 of
723 chapter 265, any attempt to commit any of these offenses, or for conspiracy to commit any of
724 these offenses, or an accessory thereto, or a like violation of the laws of another jurisdiction, the
725 United States or a military, territorial or Indian tribal authority shall, in addition to the term of
726 imprisonment authorized by this section, be punished by a term of community parole supervision
727 for life, to be served under the jurisdiction of the parole board, as set forth in section 133D of
728 chapter 127. The sentence of community parole supervision for life shall commence upon the
729 expiration of the term of imprisonment imposed upon the sex offender by the court or upon the
730 sex offender's release from probation or parole supervision or upon discharge from commitment
731 to the treatment center under section 9 of chapter 123A, whichever first occurs.

732 (ii) Any person convicted under this subsection who is a finally classified level 2 or level
733 3 sex offender shall, in addition to the term of imprisonment authorized by this subsection, be
734 subject to community parole supervision for life, to be served under the jurisdiction of the parole
735 board, as set forth in section 133D of chapter 127. The sentence of community parole
736 supervision for life shall commence immediately upon the expiration of the term of
737 imprisonment imposed upon the person by the court or upon the person's release from any post-
738 release supervision or upon discharge from commitment to the treatment center under section 9
739 of chapter 123, whichever first occurs.

740 (2) A second and subsequent conviction under this subsection shall be punished by
741 imprisonment in the state prison for not less than 5 years.

742 Any person convicted under this paragraph who is a level 2 or level 3 offender shall, in
743 addition to the term of imprisonment authorized by this paragraph, be punished by a term of
744 community parole supervision for life, to be served under the jurisdiction of the parole board, as
745 set forth in section 133D of chapter 127. The sentence of community parole supervision for life

746 shall commence immediately upon the expiration of the term of imprisonment imposed upon the
747 person by the court or upon the person's release from probation or parole supervision or upon
748 discharge from commitment to the treatment center under section 9 of chapter 123A, whichever
749 first occurs.

750 (b) Violations of this section may be prosecuted and punished in any county where the
751 sex offender knowingly: (i) fails to register; (ii) fails to verify registration information as
752 required by section 178E; (iii) fails to update registration information as required by section
753 178E; (iv) provides false information; or (v) in any county where the sex offender is located,
754 found or apprehended.

755 (c) Copies of records created by the board that are certified and attested to by the
756 chairperson of the board or the chairperson's designee shall be admissible as self-authenticating
757 evidence in any court of the commonwealth to prove facts contained in the records.

758 (d) A prosecution commenced under this section shall not be placed on file or continued
759 without a finding.

760 Section 178I. Sex offender registry board's dissemination of registration information to
761 the public

762 (a) Public sex offender internet database. Within 3 business days of the date a sex
763 offender is required to register as a sex offender, the board shall make the sex offender's
764 registration information, delineated below in subparagraphs (1) to (10), and the final
765 classification level available for inspection by the general public in the form of a comprehensive
766 database published on the internet, known as the "public sex offender internet database":

767 (1) the names, aliases, primary or given names, nicknames, pseudonyms, ethnic or tribal
768 names by which the sex offender is commonly known;

769 (2) a physical description of the sex offender including age, sex, race, height, weight, eye
770 and hair color;

771 (3) current photograph of the sex offender;

772 (4) the sex offender's residential address, secondary addresses, temporary lodging
773 information, and if the sex offender is homeless, the homeless shelters, cities and towns, or the
774 districts, neighborhoods, sections and villages within those cities and towns in which the sex
775 offender habitually lives;

776 (5) the name and address of the persons and entities that employ the sex offender, and if
777 the sex offenders' employment is such that their work is migratory, itinerant, or transient, the
778 cities or towns where the sex offenders routinely work;

779 (6) the name and address of any schools the sex offender is enrolled in;

780 (7) the sex offender's vehicle information;

781 (8) the sex offenses for which the sex offender was convicted and the dates of
782 convictions;

783 (9) whether the offender is in compliance with the registration obligations of sections
784 178C to 178Q, inclusive; and

785 (10) the sex offender's level of risk of reoffense and degree of dangerousness, under
786 section 178K to 178L.

787 If the sex offender's address information described above in subparagraph (4) is not
788 available because the sex offender is in violation of the requirement to register, verify or update
789 registration information, as required by section 178E, or the sex offender cannot be located, this
790 status will be indicated on the internet database.

791 The public sex offender internet database shall be open to searches by the public at any
792 time without charge or subscription. The public shall be permitted to search the internet database
793 for sex offenders by inputting a person's name, city or town, county, zip code or a user specified
794 geographic radii within a specified address. The internet database shall include a function which
795 permits members of the public and organizations to request e-mail notification when sex
796 offenders establish or change their residence, secondary addresses, employment, or school
797 enrollment within specified cities, towns, zip code, counties or geographic radii areas within the
798 commonwealth as specified by the inquirer.

799 The board shall promulgate rules and regulations to implement, update and maintain the
800 public sex offender internet database to ensure the accuracy, integrity and security of information
801 contained therein, including the prompt and complete removal of registration information for
802 persons whose duty to register has been terminated under section 178G, and to protect against
803 the inaccurate, improper or inadvertent publication of registration information on the public
804 internet database. The internet database shall include instructions on how an individual may
805 report suspected erroneous registration information to the board.

806 The public sex offender internet database shall include a warning regarding the criminal
807 penalties for use of sex offender registry information to commit a crime or to engage in illegal
808 discrimination or harassment of an offender and the punishment for threatening to commit a
809 crime under section 4 of chapter 275. The public internet database shall include internet links to
810 sex offender safety and education resources.

811 The public sex offender internet database shall only include registration information as
812 delineated above in subparagraphs (1) to (10), except for sex offenders whose only sex offense or
813 offenses were committed when the sex offender was under the age of 14. The board shall not
814 release any other registration information to the general public except as permitted in subsection

815 (b). The board shall keep confidential and shall not publish in the public sex offender internet
816 database any information relating to requests for registration data under sections 178I and 178J,
817 nor shall it release any information identifying a victim by name, address or relation to the
818 offender.

819 (b) Public Requests for Sex Offender Registry Information.

820 (1) Requesting Information: Persons who request sex offender registry information from
821 the board shall:

822 (i) be 18 years of age or older;

823 (ii) require sex offender registry information for their own protection or for the protection
824 of a child under the age of 18 or another person for whom the inquirer has responsibility, care or
825 custody, and so state; and

826 (iii) complete and sign a record of inquiry form, developed by the board, which shall
827 include the following information: the name and address of the person making the inquiry, the
828 person's name, address or geographic location which is the subject of the inquiry, the reason for
829 the inquiry and the date of the inquiry.

830 The record of inquiry form shall include a warning regarding the criminal penalties for
831 the misuse of sex offender registration information to commit a crime or to engage in illegal
832 discrimination or harassment of an offender and the punishment for threatening to commit a
833 crime under the provisions of section 4 of chapter 275. Inquirers must acknowledge on the form
834 that the sex offender registration information disclosed to them is intended for their own
835 protection or for the protection of a child under the age of 18 or another individual for whom
836 they have responsibility, care or custody.

837 Records of inquiry shall be kept confidential, except that the records may be disseminated
838 to assist or defend in a criminal prosecution.

839 (2) Release of Information: If the search of the sex offender registry results in the
840 identification of any finally classified sex offender, the board shall release the sex offender's
841 registration information, as identified above in subsection (a)(1)-(10), and the sex offender's
842 final classification level to the inquirer at no cost to the inquirer; provided, however, that no
843 information will be released to the public concerning sex offenders whose only sex offense or
844 offenses were committed when the sex offender was under the age of 14.

845 All responses from the board to a person making inquiries shall include a warning
846 regarding the criminal penalties for misuse of sex offender registry information to commit a
847 crime or to engage in illegal discrimination or harassment of an offender and the punishment for
848 threatening to commit a crime under section 4 of chapter 275. All responses from the board shall

849 include instructions on how an individual may report suspected erroneous registration
850 information to the board.

851 The board shall not release information identifying the victim by name, address or
852 relation to the offender.

853 (c) Victim Requests for Sex Offender Registration Information. Upon the request of the
854 victim and in conformance with section 178A of chapter 6, the board may, regardless of the
855 conviction or classification, inform the victim of the status of an offender's classification and
856 registration, and an offender's final registration and classification determination in addition to all
857 of the information that the public is entitled to under section 178C through 178Q.

858 Section 178J. Police department's dissemination of registration information to the public

859 (a) Persons who may request information. Persons who request sex offender registry
860 information from the police department shall:

861 (1) be 18 years of age or older;

862 (2) appear in person at a city or town police station and present proper identification;

863 (3) require sex offender registry information for their own protection or for the protection
864 of a child under the age of 18 or another person for whom the inquirer has responsibility, care or
865 custody, and so state; and

866 (4) complete and sign a record of inquiry form, developed by the board, which shall
867 include the following information: the name and address of the person making the inquiry, the
868 person's name, address or geographic location which is the subject of the inquiry, the reason for
869 the inquiry and the date of the inquiry.

870 The record of inquiry form shall include a warning regarding the criminal penalties for
871 the misuse of sex offender registration information to commit a crime or to engage in illegal
872 discrimination or harassment of an offender and the punishment for threatening to commit a
873 crime under the provisions of section 4 of chapter 275. Inquirers must acknowledge on the form
874 that the sex offender registration information disclosed to them is intended for their own
875 protection or for the protection of a child under the age of 18 or another individual for whom
876 they have responsibility, care or custody.

877 (b) Manner of requesting information. The person making the inquiry may:

878 (1) identify a specific person by name or by personal identifying information sufficient to
879 allow the police to identify the subject of the inquiry; or

880 (2) inquire whether any sex offenders reside, have a secondary address, work or are
881 enrolled in any school within the same city or town in which a specific address is located

882 including, but not limited to, the address of a residence, workplace, school, after school program,
883 day care center, playground, recreational area or other identified address and inquire in another
884 city or town whether any sex offenders live, work or are enrolled a school within that city or
885 town, upon a reasonable showing that the sex offender registry information is requested for the
886 requestor's own protection or for the protection of a child under the age of 18 or another person
887 for whom the inquirer has responsibility, care or custody; or

888 (3) inquire whether any sex offenders reside, have a secondary address, work or are
889 enrolled in a school on a specific street within the city or town in which the inquiry is made.

890 (c) Release of Information. If the search of the sex offender registry results in the
891 identification of any finally classified sex offender the police shall release the sex offender's
892 registration information, as identified above in section 178I(a)(1)-(10), and the sex offender's
893 classification level to the inquirer at no cost to the inquirer; provided, however, that no
894 information will be released to the public concerning sex offenders whose only sex offense or
895 offenses were committed when the sex offender was under the age of 14.

896 The police shall not release information identifying the victim by name, address or
897 relation to the offender.

898 (d) Community notification plans. Local police departments shall implement community
899 notification plans that require the police department to notify organizations in the community
900 and individual members of the public who are likely to encounter finally classified level 2 or
901 level 3 sex offenders.

902 Within 3 business days of receipt of registration information that a sex offender resides,
903 has a secondary address, is employed, or attends a school within a police department's
904 jurisdiction, the police shall notify organizations in the community and individual members of
905 the public who are likely to encounter the sex offender. Neighboring police districts shall share
906 the sex offender registration information of all sex offenders and may inform the residents of
907 their municipality of a sex offender they are likely to encounter who resides in an adjacent city or
908 town. The police shall actively disseminate in a time and manner as the police department deems
909 reasonably necessary the registration information as identified at section 178I(a)(1) to (10).

910 Community notification may include publication of the registration information on the
911 internet by the police department in a time and manner as the police deem reasonably necessary;
912 and provided further, that the police or the board shall not release information identifying the
913 victim by name, address or relation to the sex offender. All notices to the community shall
914 include a warning regarding the criminal penalties for misuse of sex offender registry
915 information to commit a crime or to engage in illegal discrimination or harassment of an
916 offender and the punishment for threatening to commit a crime under section 4 of chapter 275.

917 Section 178K. Sex offender registry board; guidelines to assess risk of reoffense and
918 degree of dangerousness posed to public; classification; evidentiary hearing

919 (a) Sex offender registry board. There shall be, within the department of criminal justice
920 information services, but not subject to its jurisdiction, a sex offender registry board, which shall
921 consist of at least 7 members who shall be appointed by the governor for terms of 6 years, with
922 the exception of the chairman, and who shall devote their full time during business hours to their
923 official duties. The board shall include 1 person with experience and knowledge in the field of
924 criminal justice who shall act as chairman; at least 2 licensed mental health professionals with
925 special expertise in the assessment and evaluation of sex offenders and who have knowledge of
926 the forensic mental health system; at least 1 licensed mental health professional with special
927 expertise in the assessment and evaluation of sex offenders, including juvenile sex offenders and
928 who has knowledge of the forensic mental health system; at least 2 persons who have at least 5
929 years of training and experience in probation, parole or corrections; and at least 1 person who has
930 expertise or experience with victims of sexual abuse. Members shall be compensated at a
931 reasonable rate subject to approval of the secretary of administration and finance.

932 The chairman shall be appointed by and serve at the pleasure of the governor and shall be
933 the executive and administrative head of the sex offender registry board, shall have the authority
934 and responsibility for directing assignments of members of the board and shall be the appointing
935 and removing authority for members of the board's staff. In the case of the absence or disability
936 of the chairman, the governor may designate 1 of the members to act as chairman during that
937 absence or disability. The chairman shall, subject to appropriation, establish staff positions and
938 employ such administrative, research, technical, legal, clerical and other personnel and
939 consultants as may be necessary to perform the duties of the board. These staff positions shall
940 not be subject to section 9A of chapter 30 or chapter 31.

941 The governor shall fill a vacancy for the unexpired term. As long as there are 4 sitting
942 members, a vacancy shall not impair the right of the remaining members to exercise the powers
943 of the board.

944 (b) Guidelines to assess risk of reoffense and degree of dangerousness posed to public.
945 The sex offender registry board shall promulgate guidelines for determining the final
946 classification level of risk of reoffense and the degree of dangerousness posed to the public, the
947 reclassification of an offender, or an offender's request for reduction in his obligation to register;
948 apply the guidelines to assess the risk level of particular offenders; develop guidelines for use by
949 city and town police departments in disseminating sex offender registry information; devise a
950 plan, in cooperation with state and local law enforcement authorities and other appropriate
951 agencies, to locate and verify the current addresses of sex offenders including, subject to
952 appropriation, entering into contracts or interagency agreements for such purposes; and conduct
953 hearings as provided in section 178L. Factors relevant to the risk of reoffense shall include, but
954 not be limited to, the following:

955 (1) criminal history factors indicative of a high risk of reoffense and degree of
956 dangerousness posed to the public, including:

957 (i) whether the sex offender has a mental abnormality;

958 (ii) whether the sex offender's conduct is characterized by repetitive and compulsive
959 behavior;

960 (iii) whether the sex offender was an adult who committed a sex offense on a child;

961 (iv) the age of the sex offender at the time of the commission of the first sex offense;

962 (iv) whether the sex offender has been adjudicated to be a sexually dangerous person
963 under chapter 123A or is a person released from civil commitment under section 9 of chapter
964 123A; and

965 (vi) whether the sex offender served the maximum term of incarceration.

966 (2) other criminal history factors to be considered in determining risk and degree of
967 dangerousness, including:

968 (i) the relationship between the sex offender and the victim;

969 (ii) whether the offense involved the use of a weapon, violence or infliction of bodily
970 injury; and

971 (iii) the number, date and nature of prior offenses;

972 (3) conditions of release that minimize risk of reoffense and degree of dangerousness
973 posed to the public, including whether the sex offender is under probation or parole supervision,
974 whether the sex offender is receiving counseling, therapy or treatment and whether the sex
975 offender is residing in a home situation that provides guidance and supervision, including sex
976 offender specific treatment in a community based residential program;

977 (4) physical conditions that minimize risk of reoffense including, but not limited to,
978 debilitating illness;

979 (5) whether the sex offender was a juvenile when he committed the offense, his response
980 to treatment and subsequent criminal history;

981 (6) whether psychological or psychiatric profiles indicate a risk of recidivism;

982 (7) the sex offender's history of alcohol or substance abuse;

983 (8) the sex offenders' participation in sex offender treatment and counseling while
984 incarcerated or while on probation or parole and their response to treatment or counseling;

985 (9) recent behavior, including behavior while incarcerated or while supervised on
986 probation or parole;

987 (10) recent threats against persons or expressions of intent to commit additional offenses;

988 (11) review of any victim impact statement;

989 (12) review of any materials submitted by sex offenders, their attorneys or others on
990 behalf of the offenders; and

991 (13) age of the offender at the time of the classification hearing.

992 (c) Classification levels. The guidelines shall provide for 3 levels of classification
993 depending on the degree of risk of reoffense and the degree of dangerousness posed to the public
994 by the sex offender or for relief from the obligation to register:

995 (1) Where the board determines that the risk of reoffense is low and the degree of
996 dangerousness posed to the public is low, it shall give a final level 1 classification to the sex
997 offender.

998 (2) Where the board determines that the risk of reoffense is moderate and the degree of
999 dangerousness posed to the public is moderate, it shall give a final level 2 classification to the
1000 sex offender.

1001 (3) Where the board determines that the risk of reoffense is high and the degree of
1002 dangerousness posed to the public is high, it shall give a final level 3 classification to the sex
1003 offender.

1004 (d) Notification by the board. Within 2 days of the board's determination of the sex
1005 offender's final classification level, the board shall electronically transmit the sex offender's
1006 final classification level and registration information to the police departments in the
1007 municipalities where the sex offender lives, works and is enrolled in a school or, if in custody,
1008 intends to live, work and enroll in school upon release; where the offense was committed; and to
1009 the Federal Bureau of Investigation and United States Marshals Service.

1010 (e) Level 3 sex offenders prohibited from living in nursing home; penalties. No sex
1011 offender finally classified as a level 3 offender shall knowingly and willingly establish living
1012 conditions within, move to, be placed in, or be transferred to any convalescent or nursing home,
1013 infirmary maintained in a town, rest home, charitable home for the aged or intermediate care
1014 facility for persons with an intellectual disability, which meets the requirements of the
1015 department of public health under section 71 of chapter 111. Any sex offender who violates this
1016 paragraph shall, for a first conviction, be punished by imprisonment for not more than 30 days in
1017 a jail or house of correction; for a second conviction, be punished by imprisonment for not more
1018 than 2 ½ years in a jail or house of correction, nor more than 5 years in a state prison, or by a fine

1019 of not more than \$1,000, or by both such fine and imprisonment; and for a third and subsequent
1020 conviction, be punished by imprisonment in a state prison for not less than 5 years; provided,
1021 however, that the sentence imposed for a third or subsequent conviction shall not be reduced to
1022 less than 5 years, nor suspended, nor shall any person sentenced herein be eligible for probation,
1023 parole, work release or furlough, or receive any deduction from his sentence for good conduct
1024 until he shall have served 5 years. Prosecutions commenced hereunder shall neither be continued
1025 without a finding nor placed on file.

1026 (f) Classification priorities; agency cooperation. The sex offender registry board shall
1027 make a determination regarding the level of risk of reoffense and the degree of dangerousness
1028 posed to the public by each sex offender listed in the sex offender registry and shall give
1029 immediate priority to those offenders who have been convicted of a sex offense involving a child
1030 or convicted or adjudicated as a delinquent juvenile or as a youthful offender by reason of a
1031 sexually violent offense and who have not been sentenced to incarceration for at least 90 days,
1032 followed, in order of priority, by those sex offenders who (1) have been released from
1033 incarceration within the past 12 months, (2) are currently on parole or probation supervision, and
1034 (3) are scheduled to be released from incarceration within 6 months. All agencies shall cooperate
1035 in providing files to the sex offender registry board and any information the sex offender registry
1036 board deems useful in providing notice under sections 178C to 178Q, inclusive, and in assessing
1037 the risk of reoffense and the degree of dangerousness posed to the public by the sex offender. All
1038 agencies from which information, including information within the control of providers under
1039 contract to these agencies, is requested by the sex offender registry board shall make such
1040 information available to the board immediately upon request. Failure to comply in good faith
1041 with such a request within 30 days shall be punishable by a fine of not more than \$1,000 per day.

1042 Section 178L. Classification; notification; evidentiary hearings; right to counsel

1043 (a) Recommended Classification. Upon review of any information useful in assessing the
1044 risk of reoffense and the degree of dangerousness posed to the public by the sex offender,
1045 including materials described in the board guidelines and any materials submitted by the sex
1046 offender, the board shall prepare a recommended classification level for each offender. The
1047 recommendation may be made by board staff members upon written approval by 1 board
1048 member; provided, however, that if the sex offender was a minor at the time of the offense,
1049 written approval must be given by a board member who is a licensed psychologist or psychiatrist
1050 with special expertise in the assessment and evaluation of juvenile sex offenders.

1051 (1) Sex offender in custody. Not less than 6 months prior to their release or parole from
1052 custody or incarceration, the board shall notify the sex offenders of their right to submit to the
1053 board documentary evidence relative to their risk of reoffense and the degree of dangerousness
1054 posed to the public. If the sex offender is a minor or has been deemed by a court to be
1055 incompetent at the time of the notification, notification shall also be mailed to the sex offender's
1056 legal guardian or agency having custody of the person in the absence of a legal guardian and his

1057 most recent attorney of record. The sex offender may submit evidence to the board within 30
1058 days of receiving the notice from the board. Upon reviewing the evidence, the board shall
1059 promptly notify the sex offenders of the board's recommended classification level, their duty to
1060 register and their right to petition the board to request an evidentiary hearing to challenge the
1061 recommended classification level, their right to retain counsel to represent them at a hearing and
1062 their right to retain an expert witness in a case where the board, in its classification proceeding,
1063 intends to rely on the testimony or report of an expert witness prepared specifically for the
1064 purposes of the classification proceeding. The sex offender shall petition the board for an
1065 evidentiary hearing within 20 days of receiving notice. The board shall conduct a de novo
1066 evidentiary hearing in a reasonable time according to the provisions of subsection (b) and shall
1067 determine the sex offender's final classification level not less than 10 days prior to the offender's
1068 release from incarceration. The failure to timely petition the board for a hearing shall result in a
1069 waiver of the right to a hearing, and the board's recommended classification level shall become
1070 the sex offender's final classification level and shall not be subject to judicial review. All
1071 agencies having custody of a confined sex offender shall cooperate with the board in providing
1072 notices to the offender and proper space to conduct hearings.

1073 (2) Requests for expedited classification. The district attorney for the county where the
1074 sex offender was prosecuted may, within 10 days of a conviction or adjudication of a sexually
1075 violent offense, file a motion with the board to make an expedited recommended classification
1076 upon a showing that the sex offender poses a grave risk of imminent reoffense. If the petition is
1077 granted, the board shall make the recommendation classification within 10 days of the expiration
1078 of the time to submit documentary evidence. If the petition is not granted, the board shall make
1079 the recommended classification as otherwise provided in this section.

1080 (3) Sex offender not in custody. In the case of any sex offender (i) who, as of the
1081 effective date of this section, is not in custody and whom the board never issued a final
1082 classification level under the version of sections 178K and 178L in effect prior July 27, 2011, (ii)
1083 who receives a sentence of confinement or order of custody of less than 6 months; (iii) who does
1084 not receive a sentence of incarceration or order of custody; or (iv) is ordered by the court to be
1085 immediately discharged from any form of custody, the board shall, upon receiving registration
1086 information from the agency that has custody of the sex offender; the police department at which
1087 the sex offender registered; or any other source, promptly notify the sex offenders of their right
1088 to submit to the board documentary evidence relative to their risk of reoffense and the degree of
1089 dangerousness posed to the public. If the sex offender is a minor or has been deemed by a court
1090 to be incompetent at the time of the notification, notification shall also be mailed to the sex
1091 offender's legal guardian or agency having custody of the person in the absence of a legal
1092 guardian and his most recent attorney of record. The sex offender may submit evidence to the
1093 board within 30 days of receiving such notice from the board. Upon reviewing the evidence, the
1094 board shall promptly notify the sex offenders of the board's recommended classification level,
1095 their duty to register and their right to petition the board to request an evidentiary hearing to

1096 challenge the recommended classification level, their right to retain counsel to represent him at
1097 the hearing and their right to retain an expert witness in any case where the board, in its
1098 classification proceeding, intends to rely on the testimony or report of an expert witness prepared
1099 specifically for the purposes of the classification proceeding. The sex offender shall petition the
1100 board for an evidentiary hearing within 20 days of receiving notice. The board shall conduct a de
1101 novo evidentiary hearing in a reasonable time according to the provisions of subsection (b). The
1102 failure to timely petition the board for a hearing shall result in a waiver of the right to a hearing,
1103 and the board's recommended classification level shall become the sex offender's final
1104 classification level and shall not be subject to judicial review.

1105 (b) Hearings to Determine Final Classification Level. If any sex offender requests a
1106 hearing in accordance with subsection (a) to challenge his recommended classification, the chair
1107 may appoint a member, a panel of 3 board members or a hearing officer to conduct the hearing,
1108 according to the standard rules of adjudicatory procedure or other rules which the board may
1109 promulgate, and to determine by a preponderance of evidence the sex offender's duty to register
1110 and final classification level. The board shall inform sex offenders requesting a hearing under the
1111 provisions of subsection (a) of their right to have counsel appointed if a sex offender is deemed
1112 to be indigent as determined by the board using the standards under chapter 211D. If the sex
1113 offender does not request a hearing, the board's recommended classification level shall become
1114 the final classification level and shall not be subject to judicial review. If the sex offender fails to
1115 appear at his scheduled hearing, the board's recommended classification level shall become the
1116 sex offender's final classification level and shall not be subject to judicial review. All offenders
1117 who are juveniles at the time of notification shall be represented by counsel at the hearing.

1118 (c) Previously finally classified sex offenders. The provisions of this section apply to all
1119 sex offenders, as defined in section 178C. The final classification level any sex offender received
1120 under the prior version of this section and section 178K remains in effect. Nothing in this section
1121 shall exempt a sex offender from complying with the registration requirements set forth in
1122 section 178E.

1123 Section 178M. Judicial review of board's final classification

1124 An offender may seek judicial review, in accordance with section 14 of chapter 30A, of
1125 the board's final classification decision and registration requirements. An attorney employed or
1126 retained by the board may make an appearance, subject to section 3 of chapter 12, to defend the
1127 board's final classification decision. The court shall reach its final decision within 60 days of the
1128 sex offender's petition for review. The court shall keep proceedings conducted under this
1129 paragraph and records from these proceedings confidential, and these proceedings and records
1130 shall be impounded, but the filing of an action under this section shall not stay the effect of the
1131 board's final classification.

1132 Section 178N. Misuse of information; penalties

1133 Information contained in the sex offender registry shall not be used to commit a crime
1134 against a sex offender or to engage in illegal discrimination or harassment of an offender. A
1135 person who uses information disclosed under the provisions of sections 178C to 178Q, inclusive,
1136 for such purpose shall be punished by not more than 2½ years in a house of correction or by a
1137 fine of not more than \$1,000 or by both such fine and imprisonment.

1138 Section 178O. Liability of public officials and employees for sex offender registry
1139 information

1140 Police officials and other public employees acting in good faith shall not be liable in a
1141 civil or criminal proceeding for the dissemination of sex offender registry information or other
1142 act or omission under the provisions of sections 178C to 178Q, inclusive.

1143 Section 178P. Failure to comply with registration requirements; warrantless arrests

1144 When a police officer has probable cause to believe that a sex offender has failed to
1145 comply with the registration requirements of sections 178C to 178Q, inclusive, the officer shall
1146 have the right to arrest the sex offender without a warrant and to keep the sex offender in
1147 custody.

1148 Section 178Q. Sex offender registry fee

1149 The board shall assess upon every sex offender a fee of \$75, hereinafter referred to as
1150 "sex offender registry fee." Sex offenders shall pay the sex offender registry fee upon their initial
1151 registration as a sex offender and annually thereafter in the month of their birth provided,
1152 however, no fee shall be assessed or collected until offenders have either (1) waived their right to
1153 petition for an evidentiary hearing to challenge their duty to register as a sex offender as set forth
1154 in section 178L or (2) have completely exhausted the legal remedies made available to them to
1155 challenge their duty to register under sections 178L and 178M and have not prevailed in their
1156 attempt to eliminate their duty, nor shall a fee be assessed upon a sex offender until the offender
1157 reaches 18 years of age. A sex offender's duty to pay the fee established by this section shall
1158 only terminate upon the termination of the sex offender's duty to register as a sex offender as set
1159 forth in section 178G.

1160 The sex offender registry board may waive payment of the sex offender registry fee if it
1161 determines that the payment would constitute an undue hardship on the sex offender or the sex
1162 offender's family due to limited income, employment status, or any other relevant factor. Any
1163 waiver so granted shall be in effect only during the period of time that the sex offender is
1164 determined to be unable to pay the sex offender registry fee. The board shall establish procedures
1165 relative to the collection and waiver of the fee by regulation. The sex offender registry fee shall
1166 be collected and retained by the sex offender registry board. The board shall account for all fees
1167 received and report fees annually to the secretary of administration and finance and the house
1168 and senate committees on ways and means.

1169 SECTION 2. Chapter 22E, as so appearing, is hereby amended by striking out section 3
1170 and inserting in place thereof the following section:-

1171 Section 3. A person who is convicted of an offense that is punishable by imprisonment in
1172 the state prison, who is adjudicated a youthful offender by reason of an offense that would be
1173 punishable by imprisonment in the state prison if committed by an adult, who is required to
1174 register as a sex offender under section 178E of chapter 6 or who enters the commonwealth
1175 under the interstate compact for adult offender supervision and committed a crime in the sending
1176 state that would be punishable by imprisonment in state prison if committed in Massachusetts
1177 shall submit a DNA sample to the department within 6 months of the conviction or adjudication
1178 or, if incarcerated, before release from custody, or when they register as a sex offender,
1179 whichever occurs first. The sample shall be collected by a person authorized under section 4, in
1180 accordance with regulations or procedures established by the director. The results of the sample
1181 shall become part of the state DNA database. The submission of the DNA sample shall not be
1182 stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post
1183 conviction motion or petition.

1184 SECTION 3. Retroactive Application to Finally Classified Registered Sex Offenders.

1185 Any sex offender finally classified by the board and required to register under sections
1186 178C to 178Q, in effect prior to the effective date of this act, must continue to register under this
1187 act.

1188 The board shall send to all sex offenders finally classified by the board under sections
1189 178C to 178Q, in effect prior to the effective date and who must continue to register, written
1190 notification, and the sex offenders shall acknowledge in writing, of their duty to register in the
1191 commonwealth and in any other jurisdiction where they reside, have a secondary address, work
1192 or are enrolled in school, notification of their duty to verify and update their registration
1193 information, and the penalties for failure to do so and for giving false registration information. If
1194 the sex offender is a minor or has been deemed by a court to be incompetent at the time of
1195 notification, the notification shall also be mailed to the sex offender's legal guardian or agency
1196 having custody of the person in the absence of a legal guardian and his most recent attorney of
1197 record.

1198 This notification shall inform the sex offenders of the date they must verify their
1199 registration information under 178E(c) of this act and the date or dates during the next 12 months
1200 that they must verify their registration information. Level 1 sex offenders must verify their
1201 registration information in person within 12 months of the effective date of this section; level 2
1202 sex offenders must verify their registration information in person within 6 months of the
1203 effective date of this section; level 3 sex offenders, including sexually violent predators, must
1204 verify their registration information in person within 3 months of the effective date of this
1205 section; and homeless sex offenders must verify their registration information within 30 days of

1206 the effective date of this section. Sex offender shall appear in person to verify and update their
1207 registration information at the police department in the city or town where the sex offender
1208 resides, or if the sex offender does not reside in the commonwealth, in the city or town where the
1209 sex offender has a secondary address, works or is enrolled in school. The police department shall
1210 enter the registration information into the sex offender registry and electronically transmit the
1211 sex offender's registration information to the board. The sex offender's final classification by the
1212 board as a level 1, level 2, or level 3 under sections 178C to 178Q, in effect prior to the effective
1213 date, will remain the same.

1214 If the sex offender no longer has an obligation to register under this act, the board shall so
1215 notify the sex offender.

1216 SECTION 4. Retroactive Application to Unclassified Registered Sex Offenders.

1217 Any sex offender not finally classified by the board who was required to register under
1218 sections 178C to 178Q, in effect prior to the effective date of this act, must continue to register
1219 under this act.

1220 The board shall send to all unclassified sex offenders who must continue to register,
1221 written notification, and the sex offenders shall acknowledge in writing, of their duty to register
1222 in the commonwealth and in any other jurisdiction where they reside, have a secondary address,
1223 work or are enrolled in school, notification of their duty to verify and update their registration
1224 information, and the penalties for failure to do so and for giving false registration information. If
1225 the sex offender is a minor or has been deemed by a court to be incompetent at the time of
1226 notification, the notification shall also be mailed to the sex offender's legal guardian or agency
1227 having custody of the person in the absence of a legal guardian and his most recent attorney of
1228 record.

1229 This notification shall inform sex offenders of the date they must verify their registration
1230 information under 178E(c) of this act and the date or dates during the next 12 months that they
1231 must verify their registration information.

1232 SECTION 5. A person required to register as a sex offender who has not previously
1233 submitted a DNA sample to the department of state police under chapter 22E shall submit a
1234 DNA sample to the department within 6 months of the effective date of this act.