

HOUSE No. 03157

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Vallee

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 sex offenders.

PETITION OF:

NAME:

James E. Vallee

DISTRICT/ADDRESS:

10th Norfolk

HOUSE No. 03157

By Mr. Vallee of Franklin, a petition (accompanied by bill, House, No. 3157) of Vallee for legislation to further regulate the registration of sex offenders Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 1768 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to sex offenders.

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. Clause twenty-six of section 7 of chapter 4 of the General Laws, as
2 appearing in the 2008 Official Edition, is hereby amended adding the following subclause: -
3 (m) the contents of the child sex abuse civil judgment and settlement database maintained by the
4 attorney general pursuant to section 11M of chapter 12.

5 SECTION 2. Section 171 of Chapter 6 of the Massachusetts General Laws as appearing in the
6 2008 Official Edition is hereby amended by adding at the end thereof, the following:-
7 The board shall promulgate regulations requiring sexual offender registry information to be
8 included on the criminal offender record information.

9 SECTION 3. Section 178C of chapter 6 of the General Laws, as amended by chapter 77 of the
10 acts of 2003, is hereby amended by striking out after the word “part-time” the following words:-
11 “for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days
12 during any calendar year”

13 SECTION 4. Section 178C of chapter 6 of the General Laws, as most recently amended by
14 chapter 77 of the acts of 2003, is hereby further amended by inserting after the definition of
15 "Predatory" the following 2 definitions:-

16 "Primary address", the one legal address of the place where a sex offender lives, abides, lodges
17 or resides for 14 or more consecutive days in the commonwealth including the address a sex
18 offender provides to the Registry of Motor Vehicles, the Department of Revenue, the
19 Department of Transitional Assistance, or any other state agency a sex offender must legally
20 provide an address to receive services, permits, licenses, or benefits.

21 "Secondary addresses", all the addresses of the places where a sex offender lives, abides, lodges,
22 or resides for a period of 14 or more days in the aggregate during any calendar year and which is
23 not a sex offender’s primary address; or a place where a sex offender routinely lives, abides,
24 lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and
25 which is not a sex offender’s permanent address, including any out-of-state address.

26 SECTION 5. Said section 178C of chapter 6, is hereby further amended by striking the
27 following words "a person who resides" from the definition of "sex offender" and inserting in
28 place thereof the following:- a person who has a primary address or secondary addresses.

29 SECTION 6. Section 178D of chapter 6, as most recently amended by section 5 of chapter 140
30 of the acts of 2003, is hereby further amended by striking out in clause (a) of the first paragraph

31 the words "home address" and inserting in place thereof the following:– primary address,
32 secondary addresses.

33 SECTION 7. Said section 178D of chapter 6 is further amended by striking out in clause (ii) of
34 the second paragraph the words "home address" and inserting in place thereof the following:–
35 primary address and secondary addresses.

36 SECTION 8. Section 178D of chapter 6, as appearing in the 2008 Official Edition, is hereby
37 amended by striking out in lines 30-31 the words “or level 2”.

38 SECTION 9. Said section 178D of chapter 6, as appearing in the 2008 Official Edition, is
39 hereby amended by deleting the language after the word “offender” in line 43.

40 SECTION 10. Section 178D of chapter 6, as appearing in the 2008 Official Edition, is hereby
41 amended by striking out the following phrase:– “, to ensure the prompt and, complete removal of
42 registration data for persons whose duty to register has terminated or expired under sections
43 178G, 178L or 178M or any other law”

44 SECTION 11. Section 178D of chapter 6 of the General Laws, as appearing in the 2008 Official
45 Edition, is amended by striking out the following phrase:– “, the eligibility of sex offenders to be
46 relieved of the obligation to register, including but not limited to, regulations limiting motions
47 under subsection (e) of section 178E, section 178G and relief from registration pursuant to
48 paragraph (d) of subsection (2) of section 178K”

49 SECTION 12. Section 178E of said chapter 6, as most recently amended by chapter 140 of the
50 acts of 2003, is hereby further amended by striking out in paragraphs (a), (b), (c), (g), (h), (l), and
51 (o) the words "home address or intended home address" each time they appear and inserting in

52 place thereof the following:— primary address and secondary addresses or intended primary
53 address and intended secondary addresses.

54 SECTION 13. Said section 178E subsection (a), as amended by Chapter 77 of the Acts of 2003
55 and as further amended by Chapter 140 of the Acts of 2003, is hereby further amended by
56 striking out said subsection and inserting in place thereof the following text:

57 “(a) Within five days of receiving upon sentence any sex offender required to register pursuant
58 to sections 178C to 17Q, inclusive, who shall serve an actual sentence of more than one year of
59 incarceration, the agency which has custody of the sex offender, including the department of
60 correction, the department of youth services and each of the houses of correction, shall transmit
61 to the board said sex offender's registration data, which for purposes of this paragraph shall
62 include identifying factors, anticipated future residence, offense history, documentation of any
63 treatment received for a mental abnormality, the official version of any sex offenses, the
64 mittimus, and any prior incarceration history. The custodial agency shall also provide to the
65 board within five days of assuming custody the projected maximum release date and the earliest
66 possible release date for the sex offender. All custodial agencies shall comply with the
67 transmission of said data identified in this section within five days of receiving custody of the
68 sex offender. All custodial agencies shall inform the board immediately of any transfers of sex
69 offenders so that there may be contact with the offender throughout the classification process.
70 The board shall promptly transmit the registration data to the police departments in the
71 municipalities where the sex offender intends to live and work and where the offense was
72 committed and to the Federal Bureau of Investigation. The sex offender shall be informed by,
73 and shall acknowledge in writing to, the agency which has custody of the sex offender of the
74 duty to register in the commonwealth and in any state where he resides, is employed, carries on a

75 vocation or is a student, to verify registration information, to give notice of change of address or
76 intended change of address within the commonwealth or in another state and the penalties for
77 failure to do so and for giving false registration information, and of his right to submit to the
78 board, according to section 178L, documentary evidence relative to his risk of reoffense, the
79 degree of dangerousness posed to the public and of his duty to register under this section. If such
80 sex offender is a juvenile at the time of such notification, notification shall also be mailed to such
81 sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal
82 guardian and his most recent attorney of record. The agency shall transmit such acknowledgment
83 to the board within ten days of receipt of such acknowledgment. Not later than ten days before
84 his release from custody, a sex offender shall register by mailing to the board on a form approved
85 by the board and signed under the pains and penalties of perjury, the sex offender's name, date of
86 birth, home address or intended home address, work address or intended work address and, if the
87 sex offender is or intends to become a part-time or full-time employee of an institution of higher
88 learning, the name and address of the institution, and, if the sex offender is or intends to become
89 a part-time or full-time student of an institution of higher learning, the name and address of the
90 institution. No sex offender shall be released from custody unless such registration has been
91 filled out, signed and mailed to the board.”

92 SECTION 14. Section 178E, as appearing in the 2008 Official Edition, is amended by striking
93 out subsections (e) and (f).

94 SECTION 15. Said section 178E of chapter 6 is further amended by striking out in paragraph (h)
95 the words "who intends to move to a different city or town within the commonwealth" and
96 inserting in place thereof the following:– who intends to change his primary address or change or
97 establish a secondary address in a different city or town within the commonwealth.

98 SECTION 16. Said section 178E of chapter 6 is further amended by striking out in paragraph (h)
99 the words "his address within a city or town shall notify the board in writing not later than ten
100 days prior to establishing such new residence" and inserting in place thereof the following:– his
101 primary address and/or secondary addresses within a city or town shall notify the board in
102 writing not later than ten days prior to establishing such new primary address and/or secondary
103 addresses.

104 SECTION 17. Said section 178E of chapter 6 is further amended by striking out in paragraph
105 (q) the words "home address" and inserting in place thereof the following:– primary address and
106 secondary addresses.

107 SECTION 18. Section 178F of said chapter 6, as most recently amended by chapter 77 of the
108 acts of 2003, is hereby further amended by striking out in the first paragraph the words "home
109 address or intended home address" and inserting in place thereof the following:– primary address
110 and secondary addresses or intended primary address and intended secondary addresses.

111 SECTION 19. Said section 178F of chapter 6 is further amended by striking out the second
112 sentence in the first paragraph and inserting in place thereof the following:– A sex offender who
113 lists homeless shelters as his primary address or secondary addresses shall verify registration
114 data every 90 days with the board by mailing to the board on a form approved by the board and
115 signed under the pains and penalties of perjury the sex offender's name, date of birth, primary
116 address, secondary addresses and work address.

117 SECTION 20. Said section 178F of chapter 6 is further amended by striking out the following
118 words in the first paragraph "the board shall mail a nonforwardable verification form to the last
119 reported address of such sex offender" and inserting in place thereof the following:– the board

120 shall mail a nonforwardable verification form to the last reported primary address of such sex
121 offender.

122 SECTION 21. Section 178F½ of said chapter 6, as most recently amended by chapter 140 of the
123 acts of 2003, is hereby further amended by striking out the first sentence of the first paragraph
124 and inserting in place thereof the following:– "A sex offender finally classified by the board as a
125 level 2 or a level 3 sex offender who is required to register pursuant to sections 178C to 178P,
126 inclusive, shall appear in person annually at the local police department in the city or town in
127 which such sex offender has his primary address, or if such sex offender does not have a primary
128 address in the commonwealth, in the city or town in which such sex offender has a secondary
129 address, works, or attends an institution of higher learning to verify that the registration data on
130 file remains true and accurate."

131 SECTION 22. Said section 178F½ of chapter 6 is further amended by striking out the fourth
132 sentence in the first paragraph and inserting in place thereof the following:– Such sex offender
133 who lists a homeless shelter as his primary address shall appear in person at such local police
134 department every 90 days to verify that the registration data on file remains true and accurate.

135 SECTION 23. Said section 178F½ of chapter 6 is further amended by striking out the following
136 words in the first paragraph "the board shall mail a nonforwardable verification form to the last
137 reported address of such sex offender" and inserting in place thereof the following:– the board
138 shall mail a nonforwardable verification form to the last reported primary address of such sex
139 offender.

140 SECTION 24. Said section 178F½ of chapter 6 is further amended by striking out the ninth
141 sentence of the first paragraph and inserting in place thereof the following:– Such sex offender

142 shall, within five days of receipt, sign the verification form under the penalties of perjury and
143 register in person at the police department in the municipality in which such sex offender has his
144 primary address, or if such sex offender does not have a primary address in the commonwealth,
145 in the city or town in which such sex offender has a secondary address, works or attends an
146 institution of higher learning.

147 SECTION 25. Said section 178F¹/₂ of chapter 6 is further amended by striking out the last
148 sentence of the first paragraph and inserting in place thereof the following:— A sex offender
149 finally classified as a level 2 or level 3 offender shall also comply with the provisions of
150 paragraphs (g) to (j) and (o) to (q), inclusive, of section 178E, but the offender shall give the
151 required notice in person at the police department in the city or town where such sex offender
152 has his primary address, or if such sex offender does not have a primary address in the
153 commonwealth, in the city or town in which such sex offender has a secondary address, works or
154 attends an institution of higher learning.

155 SECTION 26. Section 178G of chapter 6 of the General Laws, as appearing in the 2008 official
156 edition, is hereby amended by striking out all from the word “The” in line 1 through the word
157 “others.” in line 19, inclusive.

158 SECTION 27. Section 178H of said chapter 6, as so appearing, is hereby amended by inserting a
159 the end of paragraph (a) the following sentence:— “This includes any previous convictions by a
160 court of the commonwealth or any other jurisdiction because of a like violation.”

161 SECTION 28. Section 178H of said chapter 6, as so appearing, is hereby amended by striking
162 out, in line 7, the words “six months” and inserting in place thereof the following words:— one
163 year.

164 SECTION 29. Section 178H of chapter 6 of the General Laws, as appearing in the 2002 Official
165 Edition, is hereby amended by inserting after paragraph 2 the following paragraph:-

166 (3) A sex offender required to register pursuant to this chapter who has been convicted for a
167 violation under this section and has been classified as a level 3 sex offender by the sex offender
168 registry board pursuant to sections 178C to 178P, inclusive, of chapter 6, shall, in addition to the
169 term of imprisonment authorized by this section, be punished by a term of community parole
170 supervision for life to be served under the jurisdiction of the parole board, as set forth in section
171 133C of chapter 127. The sentence of community parole supervision for life shall commence
172 immediately upon the expiration of the term of imprisonment imposed upon such person by the
173 court or upon such person's release from probation supervision or upon discharge from
174 commitment to the treatment center pursuant to section 9 of chapter 123A, whichever first
175 occurs.

176 SECTION 30. Section 178J of chapter 6, as most recently amended by chapter 77 of the acts of
177 2003, is hereby further amended by striking out the clause (2) of subsection (c) and inserting in
178 place thereof the following:- (2) the primary address and/or secondary addresses if located in the
179 areas described in clause (2) or (3) of subsection (b).

180 SECTION 31. Section 178K(1) of chapter 6 of the Massachusetts General Laws, as appearing
181 in the 2008 Official Edition, is hereby amended by striking out in line 35 the phrase "or for relief
182 from the obligation to register".

183 SECTION 32. Section 178(K)(2) of chapter 6 of the Massachusetts General Laws, as appearing
184 in the 2002 official edition, is hereby amended by striking out in lines 96-97 the phrase: "or for
185 relief from the obligation to register"

186 SECTION 33. Paragraph (b) of subsection (2) of section 178K of chapter 6 of the General Laws,
187 as most recently amended by section 20 of chapter 77 of the acts of 2003, is hereby further
188 amended by inserting after the first sentence the following 2 sentences:-- If an offender
189 designated as a level 2 offender was convicted of a sex offense involving a child, such offender
190 shall be given a level 2(a) designation and shall be subject to the level 3 community notification
191 plan. If an offender designated as a level 2 offender committed any offense other than a sex
192 offense involving a child, such offender shall be given a level 2(b) designation and shall be
193 subject to the requirements of a level 2 offender.

194 SECTION 34. Section 178K of chapter 6, as appearing in the 2008 Official Edition, is hereby
195 amended by inserting after the word “of” the first time it appears in line 143 the following:-
196 “level 2 and”.

197 SECTION 35. Section 178K of chapter 6, as most recently amended by section 13 of chapter
198 149 of the acts of 2004, is hereby further amended by striking out the paragraph (ii) of clause (c)
199 of subsection (2) and inserting in place thereof the following:– (ii) the offender's primary address
200 and secondary addresses.

201 SECTION 36. Section 178K of chapter 6, as appearing in the 2008 Official Edition, is hereby
202 amended by inserting after the word “a” in line 168 the words “level 2 and”.

203 SECTION 37. Section 178(K)(2) of chapter 6 of the Massachusetts General Laws, as appearing
204 in the 2002 official edition, is hereby amended by striking out subsection (d) in its entirety.

205 SECTION 38. Section 178L(1)(a) of chapter 6 of the Massachusetts General Laws, as appearing
206 in the 2002 official edition, is hereby amended by striking subsection (a) and inserting in place
207 thereof the following text:

208 “(a) Within ten days of receipt from the department of correction, the department of youth
209 services and each of the houses of correction all of the information obtained pursuant to section
210 178E(a) that pertains to an individual who shall serve an actual sentence of more than one year
211 of incarceration, the board shall notify the sex offender of his right to submit to the board
212 documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to
213 the public and his duty to register according to the provisions of section 178E. If the sex offender
214 is a juvenile at the time of such notification, notification shall also be mailed to the sex offender's
215 legal guardian or agency having custody of the juvenile in the absence of a legal guardian and his
216 most recent attorney of record. Such sex offender may submit such evidence to the board within
217 30 days of receiving such notice from the board. Upon a reasonable showing, the board may
218 extend the time in which such sex offender may submit such documentary evidence. Upon
219 reviewing such evidence, the board shall promptly notify the sex offender of the board's
220 recommended sex offender classification, his duty to register, if any, his right to petition the
221 board to request an evidentiary hearing to challenge such classification and duty, his right to
222 retain counsel to represent him at such hearing and his right to have counsel appointed for him if
223 he is found to be indigent as determined by the board using the standards under chapter 211D;
224 provided, however, that such indigent offender may also apply for and the board may grant
225 payment of fees for an expert witness in any case where the board in its classification proceeding
226 intends to rely on the testimony or report of an expert witness prepared specifically for the
227 purposes of the classification proceeding. Such sex offender shall petition the board for such
228 hearing within 20 days of receiving such notice. The board shall conduct such hearing in a
229 reasonable time according to the provisions of subsection (2). A secured hearing facility shall be
230 provided by the custodial agency. The board shall issue its final classification decision prior to

231 the offender's release from custody. The failure timely to petition the board for such hearing
232 shall result in a waiver of such right and the registration requirements, if any, and the board's
233 recommended classification shall become final.”

234 SECTION 39. . Chapter 6, Section 178(L)(1) of the Massachusetts General Laws, as appearing
235 in the 2008 official edition, is hereby amended in subsection (c) by striking out in lines 54 and
236 55 the phrase:– “and his duty to register, if any, according to section 178E”

237 SECTION 40. Section 178(L) of chapter 6 of the Massachusetts General Laws, as appearing in
238 the 2008 Official Edition, is hereby amended by adding the following section after section 2:

239 “(3) Sex Offenders recommended to be a level 1 pursuant to section 178L(1) shall be exempt
240 from the opportunity to request a hearing, as this is the minimum classification permissible by
241 operation of law. Level 1 recommendations shall be final classification determinations, and not
242 subject to judicial review pursuant to section 178M.”

243 SECTION 41. Section 178Q of chapter 6, as established by Chapter 26 of the Acts of 2003, is
244 hereby amended by striking the following sentence:–

245 “A sex offender's duty to pay the fee established by this section shall only terminate upon the
246 termination of said offender's duty to register as a sex offender as set forth in section 178G.”

247 SECTION 42. Said chapter 6 is hereby amended by adding the following section:-

248 Section 178R. (a) No sex offender designated as a level 2(a) or level 3 offender convicted of a
249 sex offense involving a child shall knowingly establish a home address or intended home address
250 or any other living accommodation within 1000 feet of the property on which any public or
251 private school, licensed day care center, or any other child care facility is located. Nor shall any

252 level 2(a) or level 3 sex offender knowingly establish a home address or intended home address
253 or any other living accommodation within 1000 feet of the property on which the offender's
254 former victim or victims, or said victim's immediate family members reside, nor shall such
255 offender knowingly and willfully come within 100 feet of any of the offender's former victims.
256 Violations of this paragraph shall be punished in accordance with a violation of the conditions of
257 probation or parole.

258 (b) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex offense
259 involving a child shall knowingly accept employment within 1000 feet of the property on which
260 any public or private school, licensed day care center or any other child care facility is located.
261 No sex offender designated as a level 2(a) or level 3 sex offender shall knowingly accept
262 employment within 1000 feet of the property on which the offender's former victim or victims,
263 or the victim's immediate family members reside. Violations of the provisions of this paragraph
264 shall be punished in accordance with a violation of the conditions of probation or parole.

265 (c) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex offense
266 involving a child shall establish living conditions within, be placed in, or be transferred to any
267 state-owned, operated or funded housing or any facility contracted with the state within 1 ½
268 miles of the property on which any public or private school, licensed day care center, or any
269 other child care facility is located, or any residence occupied by at least one minor.

270 SECTION 43 Section 7 of Chapter 188 of the Acts of 1992 is hereby amended by adding at the
271 end of the second sentence, the following words:- "And sex offender criminal offender record
272 information pursuant to Chapter 6 of the General Laws."

273 SECTION 44. The Sex Offender Registry Board shall establish an annual public service
274 campaign, subject to appropriation, to raise awareness about the sex offender registry and to
275 encourage citizens to utilize the state's internet based information services and to visit their local
276 police departments to identify sex offenders in their cities or towns.

277 SECTION 45. Chapter 12 of the General Laws is hereby amended by inserting after section
278 11L, as appearing in the 2000 Official Edition, the following section:-

279 Section 11M. The attorney general shall maintain a computer database of all civil judgments
280 and settlements of cases involving allegations of sexual abuse of a person aged 17 or under,
281 which judgments and settlements have been forwarded to him by the chief justice for
282 administration and management of the trial court department pursuant to clause (xxxx) of section
283 9 of chapter 211B. Contents of the database shall not be subject to subpoena and shall not be
284 considered public records pursuant to clause twenty-sixth of section 7 of chapter 4. If the
285 database identifies 2 or more settlements or judgments against a defendant or a combination of 2
286 or more thereof involving the same defendant, the attorney general shall conduct a criminal
287 investigation of such defendant. As a result of the investigation, the attorney general may initiate
288 criminal proceedings against the defendant or refer the matter to the appropriate district attorney
289 or district attorneys for prosecution.

290 SECTION 46. Chapter 27 of the Massachusetts General Laws as appearing in the 2008 Official
291 Edition is hereby amended by adding the following new section 4A after section 4:—

292 Section 4A. The Parole Board shall establish in each region an intensive parole sex offenders
293 program. Such programs shall be established subject to appropriation, and shall be modeled upon
294 the current program operated by the parole board in Middlesex County, and shall include

295 unannounced visits, counseling, electronic monitoring, random drug testing, polygraph testing
296 and other aspects of intensive supervision.

297 SECTION 47. The third paragraph of section 9 of chapter 211B of the General Laws, as so
298 appearing, is hereby amended by adding the following clause:-

299 (xxxx) the responsibility to report to the attorney general any civil judgment against a defendant
300 or any civil settlement of cases involving allegations of sexual abuse of a person aged 17 or
301 under, which abuse would constitute a violation of section 13B, 22A, 23, 24B of chapter 265 or
302 section 4A, 4B, 28, 29A, 29B, 35A of chapter 272 or any attempt to commit a violation of any
303 of the aforementioned sections or a like violation of the laws of another state, the United States
304 or a military, territorial or Indian tribal authority. The report shall contain only identifying data
305 of the defendant, including name, address, date of birth and social security number, the date or
306 dates of incidents giving rise to the action and the date of judgment or settlement.

307 SECTION 48. Section 4 of chapter 211D of the General Laws, as appearing in the 2008 Official
308 Edition, is hereby amended by striking out the first sentence.

309 SECTION 49. Section 5 of said chapter 211D, as so appearing, is hereby amended by striking
310 the first sentence and inserting in place thereof the foregoing sentence:— Said committee shall
311 establish, supervise and maintain a system for the appointment or assignment of counsel at any
312 stage of a proceeding, criminal in nature, provided, however, that the laws of the commonwealth
313 or the rules of the supreme judicial court require that a person in such proceeding be represented
314 by counsel; and, provided further, that such person is unable to obtain counsel by reason of his
315 indigency.

316 SECTION 50. Section 6 of said chapter 211D, as so appearing, is hereby amended by inserting
317 after the word “necessary”, in line 58, the following words:— as long as it does not conflict with
318 the law.

319 SECTION 51. Section 9 of said chapter 211D, as so appearing, is hereby amended by striking
320 out, in line 5, the words “whenever possible”.

321 SECTION 52. Said section 9 of said chapter 211D, as so appearing, is hereby amended by
322 striking out clause (d).

323 SECTION 53. Section 13 of said chapter 211D, as so appearing, is hereby amended by inserting
324 after the word “committee” in line 4, the following words:— ; provided, however, that the duties
325 do not conflict with the law.

326 SECTION 54. Section 14 of said chapter 211D, as so appearing, is hereby amended by striking
327 out the first sentence and inserting in place thereof the following sentence:— The public counsel
328 division, except in cases of conflict of interest, shall represent indigent defendants.

329 SECTION 55. Section 16 of said chapter 211D, as so appearing, is hereby amended by adding
330 the following two sentences:— Counsel shall not participate in any other proceeding, unless said
331 proceeding originates from the indigent defendant’s case. Counsel shall not solicit plaintiffs, in
332 particular in actions where the commonwealth is a defendant.

333 SECTION 56. Section 1 of chapter 258B of the General Laws, as appearing in the 2008 Official
334 Edition, is hereby amended by inserting, after the word “delinquency”, in line 10, the following
335 words:- or conviction as a youthful offender

336 SECTION 57. Said section 1 of said chapter 258B, as so appearing, is hereby further amended
337 by striking, in lines 12-14, the words “or found delinquent or against whom a finding of
338 sufficient facts for conviction or finding of delinquency is made” and inserting, in place thereof,
339 the following words:- adjudicated as a delinquent or convicted as a youthful offender, or against
340 whom a finding of sufficient facts is made

341 SECTION 58. Said section 1 of said chapter 258B, as so appearing, is hereby further amended
342 by inserting, after the word “prosecution”, in line 41, the following words:- or family member or
343 guardian if such person is a minor, incompetent or deceased,

344 SECTION 59. Section 3 of said chapter 258B, as appearing in the 2002 Official Edition, is
345 hereby amended by inserting, after the word “resources”, in line 5, the following words:- except
346 in regard to subsection (i) of this section as it applies to newly constructed or substantially
347 renovated courthouses

348 SECTION 60. Subsection (b) of said section 3 of said chapter 258B, as so appearing, is hereby
349 amended by inserting, in line 16, after the word “all”, the following words:- adult and juvenile

350 SECTION 61. Subsection (d) of said section 3 of said chapter 258B, as so appearing, is hereby
351 amended by striking, in lines 31-34, the words “protection from local law enforcement agencies
352 from harm and threats of harm arising out of their cooperation with law enforcement and
353 prosecution efforts” and inserting, in place thereof, the following words:- assistance in
354 developing safety plans and appropriate referrals

355 SECTION 62. Said section 3 of said chapter 258B, as so appearing, is hereby amended by
356 striking out subsection (i) in its entirety and replacing it with the following new subsection:-

357 (i) for victims, family members, and witnesses, to be provided, by the prosecutor, in any
358 courthouse that is either newly constructed or substantially renovated, if the construction or
359 renovation was performed under a building permit issued six months after passage of this act,
360 with a secure waiting area or room which is separate from the waiting area of the defendant or
361 the defendant's family, friends, attorneys or witnesses, and separate from any district attorney's
362 office, during court proceedings. The court shall designate a waiting area at each courthouse and
363 develop any reasonable safeguards to minimize contact between victims and the defendant, or
364 the defendant's family, friends, attorneys or witnesses.

365 SECTION 63. Subsection (m) of said section 3 of said chapter 258B, as so appearing, is hereby
366 amended by inserting, at the end thereof, the following:- ; provided further, defense counsel may
367 not seek to interview a victim or witness under the age of majority without the permission of an
368 adult family member, parent or guardian other than the defendant

369 SECTION 64. Subsection (p) of said section 3 of said chapter 258B, as so appearing, is hereby
370 amended by striking, in line 111, the word "at" and inserting, in place thereof, the following
371 words:- before sentence or disposition is imposed

372 SECTION 65. Said subsection (p) of said section 3 of said chapter 258B, as so appearing, is
373 hereby further amended by inserting after the word "defendant", in line 112, the following
374 words:- , even if there is admission to sufficient facts, the sentence is mandatory, or there is an
375 agreed upon plea,

376 SECTION 66. Said subsection (p) of said chapter 3 of said chapter 258B, as so appearing, is
377 hereby further amended by inserting, at the end thereof, the following:- ; provided further, upon
378 showing by the prosecutor that a personal appearance by the victim will cause an unreasonable

379 hardship on the victim, the court shall permit the victim to exercise the right to be heard by
380 submitting a statement through audio tape or videotape to be heard or viewed before sentence or
381 disposition is imposed

382 SECTION 67. Said section 3 of said chapter 258B, as so appearing, is hereby amended by
383 striking out subsection (t) in its entirety and replacing it with the following new subsection:-

384 (t) for victims and witnesses, to be informed by the prosecutor about notification rights
385 and the certification process required to access the criminal offender record information files
386 pursuant to sections 172(c) and 178A of chapter 6. Individuals certified by the criminal history
387 systems board, or, in the case of a juvenile defendant, certified by the department of youth
388 services, will be informed by the appropriate custodial authority if the offender escapes from
389 custody, receive advance notification when the offender receives a temporary, provisional or
390 final release from custody or is transferred from a secure facility to a less-secure facility.
391 Certified individuals shall provide the criminal history systems board, or the department of youth
392 services in the case of a juvenile defendant, with current contact information;

393 SECTION 68. Said section 3 of said chapter 258B, as so appearing, is hereby further amended
394 by inserting, at the end thereof, the following new subsections:-

395 (w) for child victims and witnesses, notwithstanding any law to the contrary, to have
396 parents, a counselor, friend or other person having a supportive relationship with the child, in
397 addition to the victim witness advocate, remain in the courtroom during the child's testimony
398 unless, in written findings made and entered, the court finds that the defendant's constitutional
399 right to a fair trial will be prejudiced;

400 (x) for child victims and witnesses, for prosecutors to familiarize the victim and witness
401 with the courtroom setting, court personnel, and rules of the court, to the extent practicable under
402 the circumstances. This right may be applied to victims and witnesses with physical, mental,
403 developmental or other disabilities;

404 (y) for victims and witnesses, to have a summary of the rights afforded under this section
405 conspicuously posted in any courthouse and in any police station. The victim and witness
406 assistance board, pursuant to section 4 of this chapter, shall devise and provide posters to satisfy
407 this requirement to any court and any police station, and, upon request and at the discretion of
408 the office and board, to any other institution or organization. The board shall develop the posters
409 in a variety of languages as determined by the Massachusetts office for victim assistance. Upon
410 request, the board will respond, to the extent possible, to any requests for additional language
411 translations of the posters;

412 (z) for victims, to confer with the prosecution prior to the acceptance of a plea of guilty or
413 admission to sufficient facts. Before the judge accepts a plea of guilty, an admission to sufficient
414 facts, a disposition, or an agreed-upon sentence recommendation, the judge shall ask the
415 prosecutor if the victim has been consulted regarding plea discussions, whether or not the victim
416 agrees or disagrees with the plea discussions and agreement, if the victim was notified of the
417 court date and is present, and if the victim would like to assert their right to offer a victim impact
418 statement;

419 (aa) for victims, to be notified by the prosecutor that they have the right to provide the
420 sex offender registry board with a written impact statement for inclusion in the convicted sex
421 offender's classification determination pursuant to section 178K(1)(k) of chapter 6. Upon the

422 specific request of the victim to the sex offender registry board, the board shall inform the victim
423 of the sex offender's (i) registration and classification status and (ii) the addresses of where the
424 sex offender lives, works, and attends an institution of higher learning regardless of the
425 classification level and registration status of the offender;

426 (bb) for victims and witnesses, to be informed by the court at the daily commencement of
427 the regular criminal docket at which accused persons are arraigned, that a summary of their
428 rights is posted within the courthouse;

429 SECTION 69. Section 8 of said chapter 258B, as so appearing, is hereby amended by striking
430 out, in lines 4 and 5, the words, “. The court shall impose an assessment of \$50” and inserting,
431 in place thereof, the following word:- , and

432 SECTION 70. Said section 8 of said chapter 258B, as so appearing, is hereby further amended
433 by striking out, in lines 21-31, the words “In the discretion of the court or the clerk magistrate in
434 the case of a civil motor vehicle infraction that has not been heard by or brought before a justice,
435 a civil motor vehicle assessment imposed pursuant to this section which would cause the person
436 against whom the assessment is imposed severe financial hardship, may be reduced or waived.
437 An assessment other than for a civil motor vehicle infraction imposed pursuant to this section
438 may be reduced or waived only upon a written finding of fact that such payment would cause the
439 person against whom the assessment is imposed severe financial hardship. Such a finding shall
440 be made independently of a finding of indigency for purposes of appointing counsel” and
441 inserting, in place thereof, the following sentence:- Any assessment made pursuant to this section
442 shall not be subject to waiver by any court for any reason

443 SECTION 71. Chapter 260 of the General Laws is hereby amended by striking out section 4C,
444 as appearing in the 2002 Official Edition.

445 SECTION 72. Section 26C of chapter 265 of the General Laws, as appearing in the 2002
446 Official Edition, is hereby amended in subdivision (a) by striking in line two the word “lure” and
447 inserting in place thereof the following:- groom, lure,

448 SECTION 73. Section 26C of chapter 265 of the General Laws, as appearing in the 2002
449 Official Edition, is hereby amended by inserting after subdivision (b) the following subdivision:-

450 (c) Any one who entices a child under 16, or a person believed to be under 16,
451 electronically via telephone, cell phone, electronic mail, internet chat room or “instant
452 messenger” with any comment, solicitation, request, suggestion, proposal, image, or other
453 communication verbal or otherwise which is obscene, lewd, lascivious, filthy, or indecent, where
454 sexual grooming, sexual abuse or sexual exploitation was intended, shall be punished by
455 imprisonment in the state prison for not more than 5 years, or in the house of correction for not
456 more than 2 1/2 years, or by a fine of not more than \$5,000, or by both imprisonment and fine.

457 SECTION 74. Chapter 272 of the General Laws is hereby amended by striking out Section 53A,
458 as appearing in the 2002 Official Edition, and inserting in place thereof the following section:—

459 Section 53A. (a) Whoever engages, agrees to engage, or offers to engage in sexual conduct with
460 another person in return for a fee paid or to be paid by another or to a third person, or whoever
461 pays, agrees to pay, or offers to pay any person to engage in sexual conduct with that person or
462 with another, shall be punished by imprisonment in jail for not more than one year or by a fine of
463 not more than 500 dollars or by both such imprisonment and fine, whether such sexual conduct
464 occurs or not.

465 (b) Whoever pays, agrees to pay, or offers to pay any person with the intent to engage in sexual
466 conduct with a child under the age of eighteen, or whoever is paid, agrees to pay, or agrees that a
467 third person be paid in return for aiding a person who intends to engage in sexual conduct with a
468 child under the age of eighteen, shall be punished by imprisonment in the state prison for not
469 more than ten years or in jail for not more than two and one half years, whether such sexual
470 conduct occurs or not.

471 SECTION 75. Section 100A of chapter 276 of the General Laws, as so appearing, is hereby
472 amended by inserting after the word “court,” in line 69, the following words:- a victim seeking
473 information on a sex offense, as defined in section 178C of chapter 6, committed against the
474 victim when the victim was a minor and the offender an adult.

475 SECTION 76. Section 63 of chapter 277 of the General Laws, as so appearing, is hereby
476 amended by inserting after the word “five”, in line 5, the following words:- may be found at any
477 time.

478 SECTION 77. Said section 63 of said chapter 277, as so appearing, is hereby further amended
479 by striking out, in lines 19 and 20, the words “, twenty-two, twenty-two A, twenty-three, twenty-
480 four B”.

481 SECTION 78. Notwithstanding any special or general law to the contrary, nursing home and
482 assisted living facilities administrators shall conduct background checks of all potential residents
483 to promote a safe living environment and for the protection of all current residents.

484 SECTION 79. Be it resolved that all staff who work with individuals served by the Department
485 of Developmental Services are required to have national criminal background checks. Criminal
486 background verification will be determined by cross-referencing fingerprints with the National

487 Instant Criminal Background Check System (NICS). The Department of Developmental
488 Services will work cooperatively with the Disabled Persons Protection Commission (DPPC) and
489 The Massachusetts State Police to implement national background checks.

490 Staff will be subject to said criminal background checks when seeking employment with
491 those agencies that provide services such as, but not limited to the following: residential, day and
492 transportation. It shall be the responsibility of the Commonwealth to ensure that said criminal
493 background checks are processed for review prior to such a time that an individual begins
494 unsupervised work with any person served by the Department of Developmental Services

495 Any employer who recklessly hires, retains or supervises an employee whom the
496 employer knows or should know will interact with individuals served by the Department of
497 Developmental Services and poses a probable risk of harm to an adult with mental retardation
498 and by such hiring, retention or supervision permits the employee to criminally harm an adult
499 with mental retardation. These incidents of harm include but are not limited to the following
500 criminal acts: sexually exploit, commit sexual assault, kidnap, stalk, or commit an assault and
501 battery on an adult with mental retardation that causes bodily injury. Knowingly hiring
502 dangerous individuals shall be punishable by a fine of not less than \$1000 nor more than \$10,000
503 or by imprisonment for not less than one year nor more than ten years.

504 SECTION 80. Notwithstanding any special or general law to the contrary, a notification advisory
505 council shall be established. Said council shall consist of 13 persons who, by experience or
506 training, have a personal interest or professional expertise in law enforcement, crime prevention,
507 victim advocacy, criminology, psychology, parole, education or community relations. The
508 members of said council shall be appointed in the following manner: 3 shall be appointed by the

509 Governor, of whom no more than two shall be of the same political party; 3 shall be appointed
510 by the Senate President, of whom no more than 2 shall be of the same political party; and 4 shall
511 be appointed by the Speaker of the House of Representatives, of whom no more than 3 shall be
512 of the same political party. The remaining 3 spots shall consist of 2 victim's advocates and 1
513 member of the Sex Offender Registry Board. Any vacancies occurring in the membership shall
514 be filled in the same manner as the original appointments.

515 One year after the effective date of this act, the Attorney General and the council shall
516 conduct a comprehensive review of the guidelines to determine whether any changes or revisions
517 should be promulgated. Upon completion of that review and the submission of any
518 recommendations thereon, that council shall expire.