

HOUSE No. 03471

(House – [Enter text], 05/27/2011)



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND ELEVEN

[Enter main body text]

HOUSE No. 03471

The Commonwealth of Massachusetts

PRESENTED BY:

Deval Patrick

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 to bring the Massachusetts Sex Offender Registry into compliance with the requirements of the federal Sex Offender Registration and Notification Act.

PETITION OF:

NAME:

| DISTRICT/ADDRESS:

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to bring the Massachusetts Sex Offender Registry into compliance with the requirements of the federal Sex Offender Registration and Notification Act.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to

The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the public from sexual offenders, therefore it is hereby declared to be an emergency law,

necessary for the immediate preservation of the public safety and convenience, therefore, it is

hereby declared to be an emergency law, necessary for the immediate preservation of the public

[Emergency Preamble Context].

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

1 May 26, 2011

2 To the Honorable Senate and House of Representatives:

3

4 I respectfully submit for your consideration “An Act to Bring the Massachusetts Sex Offender
5 Registry into Compliance with the Requirements of the Federal Sex Offender Registration and
6 Notification Act.”

7 Title I of the federal Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender
8 Registration and Notification Act, or “SORNA,” seeks to establish a uniform national sex
9 offender database by setting forth numerous requirements that all state sex offender registries
10 must meet. The SORNA requirements will strengthen the Commonwealth’s sex offender
11 registry statute and, in turn, better protect the public by more quickly identifying changes in sex
12 offender registration information and communicating that information to law enforcement and
13 the public. In addition, failure to substantially implement SORNA by July 27, 2011, will subject
14 the Commonwealth to forfeiture of 10% of its federal Byrne/Justice Assistance Grant funds.

15 The Massachusetts Executive Office of Public Safety and Security and the Sex Offender
16 Registry Board, in consultation with the Massachusetts Attorney General’s office, have been
17 working closely with the federal Sex Offender Sentencing, Monitoring, Apprehending,
18 Registering and Tracking (SMART) office within the U.S. Department of Justice for the last year
19 to develop legislation that would bring Massachusetts into compliance with SORNA. Under a
20 provision of SORNA that honors state constitutional decisions, the SMART office has excused
21 Massachusetts from implementing a number of SORNA requirements that run afoul of the
22 Massachusetts Declaration of Rights, as construed by decisions of the Supreme Judicial Court.
23 The bill I am submitting includes the content that the SMART office would require in order to
24 find that Massachusetts has substantially implemented SORNA’s requirements.

25 To improve public safety and prevent the federal financial penalties for failure to comply with
26 SORNA, I urge your prompt action on this bill.

27 Sincerely,

28 DEVAL PATRICK

29 SECTION 1. The general court hereby finds that: (1) the danger of recidivism posed by sex
30 offenders to be grave and that the protection of the public from sex offenders is of paramount
31 interest to the government; (2) given the use of the internet and high-speed travel, sex offenders
32 can quickly and easily victimize the public from great distances or enter and leave the
33 commonwealth in a matter of hours to victimize the public; (3) because of their mobility, sex
34 offenders can avoid sex offender registration by constantly moving to different cities and towns
35 within the commonwealth and to and from other jurisdictions; (4) to best protect the public from
36 sex offenders, jurisdictions across the nation should freely share their information about their
37 registered sex offenders so that all jurisdictions can quickly identify sex offenders and notify the
38 public about their presence in communities in the commonwealth and across the nation; (5) to
39 protect the citizens of the commonwealth from sex offenders from other jurisdictions, law
40 enforcement agencies and the public need the ability to quickly and easily obtain information
41 identifying sex offenders from other jurisdictions; (6) because there is great diversity among the
42 systems in each jurisdiction regarding registering sex offenders, what information is maintained
43 about each sex offender, and what information is disseminated to law enforcement agencies and
44 the public, Congress enacted the Sex Offender Registration and Notification Act, 42 U.S.C. §§
45 16911 – 16929, to create a national system that would establish uniformity in the registration of
46 sex offenders, the maintenance of information about sex offenders, and law enforcement and the

47 public's access to sex offenders' information so that the commonwealth and other jurisdictions
48 can effectively and efficiently obtain and share information about all sex offenders throughout
49 the nation; (7) the commonwealth's failure to comply with the federal Sex Offender Registration
50 and Notification Act will result in a 10 percent reduction of funds allocated to the
51 commonwealth from the federal Edward Byrne memorial state and local law enforcement
52 assistance program, 42 U.S.C. § 3750; (8) to protect the health and safety of the citizens of the
53 commonwealth and the nation, and to provide law enforcement agencies with greater access to
54 information about convicted sex offenders to allow them to solve crimes and protect the public,
55 the commonwealth should bring its sex offender registration statute into compliance with the
56 requirements of the federal Sex Offender Registration and Notification Act and participate in the
57 national system created by this act.

58 SECTION 2. Chapter 6 of the General Laws is hereby amended by striking out sections 178C to
59 178Q, inclusive, as appearing in the 2010 Official Edition, and inserting in place thereof the
60 following 15 sections:-

61 Section 178C. Definitions

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

64 "Agency", the department of correction, any county correctional facility, any federal correction
65 facility, the department of youth services, the department of children and families, the parole
66 board, the office of the commissioner of probation, the department of mental health, the
67 department of developmental services and the trial court including any program providing
68 administrative, security, treatment or rehabilitation services to sex offenders of any agency,

69 whether the program is conducted under a contract with a private entity or otherwise.

70 Notwithstanding any general or special law to the contrary, each agency shall be authorized to
71 receive criminal offender record information and juvenile record information maintained by the
72 department of criminal justice information services for the purpose of identifying sex offenders
73 or concerning sex offenders in the care and custody of an agency.

74 “Board”, shall mean the sex offender registry board.

75 “Conviction” or “Convicted”, shall mean any judgment of conviction on a criminal charge in
76 which a sentence is imposed whether by: (a) a finding of guilt; (b) an adjudication as a
77 delinquent juvenile or a youthful offender; (c) a guilty finding or adjudication as a delinquent
78 juvenile or a youthful offender that is placed on file; (d) a finding of not guilty by reason of
79 insanity; (e) a similar disposition of another jurisdiction, United States or military, territorial or
80 Indian tribal authority; or (f) a similar disposition of the nations of Canada, United Kingdom,
81 Australia, New Zealand, or any other country the United States State Department, in its Country
82 Reports on Human Rights Practices, has concluded had an independent judiciary that generally
83 enforced the right to a fair trial during the year in which the convictions occurred. The
84 aforementioned judicial dispositions shall constitute convictions whether they were sealed,
85 expunged, or subject to similar relief under statute or any other rule of law unless relief was
86 granted as part of vacating the conviction.

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

89 “Custody”, shall include (a) confinement in any secure building, enclosure, space or structure for
90 the jailing, incarceration, control, and rehabilitation of committed or convicted sex offenders

91 operated by the department of correction, any county correctional facility or any federal
92 correctional facility at which the sex offender so confined has no ability to live, work, or attend
93 school in the community or (b) confinement or commitment in accordance to law to a secure
94 building, enclosure, space or structure at which the sex offender so committed has no ability to
95 live, work, or attend school in the community and which is operated by the department of youth
96 services, department of mental health or the department of developmental services.

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

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

106

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

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

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

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

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

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

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

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

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

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

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

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

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

135 (8) a copy of the sex offender's professional licensing information;

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

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

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

141 (2) confirm that a copy of the sex offender's driver's license or identification card is included in
142 the sex offender registry;

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

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

147 "Registration information",

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

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

- 151 (c) the sex offender's social security number;
- 152 (d) the sex offender's residential address or intended residential address, any secondary
153 addresses or intended secondary addresses, temporary lodging information, and if the sex
154 offender is homeless, the homeless shelters and the geographical locations, including districts,
155 neighborhoods, sections and villages within cities and towns, in which the sex offender
156 habitually lives;
- 157 (e) the sex offender's employment status, and if employed, the employer's name and address or
158 intended employer's name and address and, if the sex offender's employment is such that his
159 work is migratory, itinerant, or transient, the cities or towns where the sex offender works;
- 160 (f) the names and addresses of any schools at which the sex offender is enrolled as a student;
- 161 (g) the sex offender's vehicle information;
- 162 (h) a copy of the sex offender's professional licensing information;
- 163 (i) a copy of the sex offender's passport, visa, and any other travel and immigration documents;
- 164 (j) a copy of the sex offender's driver's license or identification card;
- 165 (k) the sex offender's date of birth, sex, race, height, weight, eye, hair color, scars, marks, and
166 tattoos;
- 167 (l) a current photograph of a sex offender;
- 168 (m) the statutory citation and text of the sex offense which gives rise to the sex offender's
169 obligation to register, the sentence imposed, the city or town where the offense occurred, the date

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

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

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

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

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

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

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

185 "Secondary addresses" or "Temporary Lodging Information", the addresses of all places where a
186 sex offender lives, abides, lodges, or stays for a period of 7 or more days in the aggregate during
187 any calendar year and which is not a sex offender's primary address; or a place where a sex
188 offender routinely lives, abides, lodges, or resides for a period of 4 or more consecutive or
189 nonconsecutive days in any month and which is not a sex offender's permanent address,

190 including any out-of-state addresses and identifying the place and the period of time the sex
191 offender is staying there.

192 “Sex offender”, any person who resides, has secondary address(es), works or is enrolled in
193 school in the commonwealth and who at any time:

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

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

198

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

201 “Sex offender registry”, the collected registration information and data that is received by the sex
202 offender registry board under sections 178C to 178Q, inclusive, as the registration information
203 and data is modified or amended by the sex offender registry board, authorized agency or a court
204 of competent jurisdiction under sections 178C to 178Q, inclusive.

205 “Sex offense”, an indecent assault and battery on a child under the age of 14 under section 13B
206 of chapter 265; aggravated indecent assault and battery on a child under the age of 14 under
207 section 13B1/2 of chapter 265; a repeat offense under section 13B3/4 of chapter 265; indecent
208 assault and battery on a person with an intellectual disability under section 13F of chapter 265;
209 indecent assault and battery on a person age 14 or over under section 13H of chapter 265; rape
210 under section 22 of chapter 265; rape of a child under the age of 16 with force under section 22A

211 of chapter 265; aggravated rape of a child under the age of 16 with force under section 22B of
212 chapter 265; a repeat offense under section 22C of chapter 265; rape and abuse of a child under
213 section 23 of chapter 265; aggravated rape and abuse of a child under section 23A of chapter
214 265; a repeat offense under section 23B of chapter 265; assault with intent to commit rape under
215 section 24 of chapter 265; assault of a child with intent to commit rape under section 24B of
216 chapter 265; kidnapping of a child under the age of 16 under section 26 of chapter 265; enticing
217 a child under the age of 16 for the purposes of committing a crime under section 26C of chapter
218 265; enticing away a person for prostitution or sexual intercourse under section 2 of chapter 272;
219 drugging persons for sexual intercourse under section 3 of chapter 272; inducing a minor into
220 prostitution under section 4A of chapter 272; living off or sharing earnings of a minor prostitute
221 under section 4B of chapter 272; inducing person under the age of 18 to have sexual intercourse
222 under section 4 of chapter 272; second and subsequent adjudication or conviction for open and
223 gross lewdness and lascivious behavior under section 16 of chapter 272, but excluding a first or
224 single adjudication as a delinquent juvenile before August 1, 1992; incestuous marriage or
225 intercourse under section 17 of chapter 272; disseminating to a minor matter harmful to a minor
226 under section 28 of chapter 272; posing or exhibiting a child in a state of nudity under section
227 29A of chapter 272; dissemination of visual material of a child in a state of nudity or sexual
228 conduct under section 29B of chapter 272; possession of child pornography under section 29C of
229 chapter 272; unnatural and lascivious acts with a child under the age of 16 under section 35A of
230 chapter 272; electronically surveilling partially nude or nude person under section 105 of chapter
231 272; engaging in sexual conduct for a fee with child under the age of 14 under section 53A of
232 chapter 272; aggravated rape under section 39 of chapter 277; any attempt to commit a violation
233 of any of the aforementioned sections under section 6 of chapter 274; any conspiracy to commit

234 a violation of any of the aforementioned sections under section 7 of chapter 274; accessory to
235 any of the aforementioned sections; or a like violation of the laws of another jurisdiction, the
236 United States or a military, territorial or Indian tribal authority, the nations of Canada, United
237 Kingdom, Australia, New Zealand, or any other country the United States State Department, in
238 its Country Reports on Human Rights Practices, has concluded had an independent judiciary that
239 generally enforced the right to a fair trial during the year in which the convictions occurred.

240 “Sex offense involving a child”, an indecent assault and battery on a child under the age of 14
241 under section 13B of chapter 265; aggravated indecent assault and battery on a child under the
242 age of 14 under section 13B1/2 of chapter 265; a repeat offense under section 13B3/4 of chapter
243 265; rape of a child under the age of 16 with force under section 22A of chapter 265; aggravated
244 rape of a child under the age of 16 with force under section 22B of chapter 265; a repeat offense
245 under section 22C of chapter 265; rape and abuse of a child under section 23 of chapter 265;
246 aggravated rape and abuse of a child under section 23A of chapter 265; a repeat offense under
247 section 23B of chapter 265; assault of a child with intent to commit rape under section 24B of
248 chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under
249 section 26C of chapter 265; inducing person under the age of 18 to have sexual intercourse under
250 section 4 of chapter 272; inducing a minor into prostitution under section 4A of chapter 272;
251 living off or sharing earnings of a minor prostitute under section 4B of chapter 272;
252 disseminating to a minor matter harmful to a minor under section 28 of chapter 272; posing or
253 exhibiting a child in a state of nudity under section 29A of chapter 272; dissemination of visual
254 material of a child in a state of nudity or sexual conduct under section 29B of chapter 272;
255 possession of child pornography under section 29C of chapter 272; unnatural and lascivious acts
256 with a child under the age of 16 under section 35A of chapter 272; engaging in sexual conduct

257 with child under the age of 14 for a fee under section 53A of chapter 272; aggravated rape under
258 section 39 of chapter 277; any enumerated sex offense where the victim is a minor; any attempt
259 to commit a violation of any of the aforementioned sections under section 6 of chapter 274; any
260 conspiracy to commit a violation of any of the aforementioned sections under section 7 of
261 chapter 274; accessory to any of the aforementioned sections;; or a like violation of the laws of
262 another state, the United States or a military, territorial or Indian tribal authority.

263 “Sexually violent offense”, indecent assault and battery on a child under 14 under section 13B of
264 chapter 265; aggravated indecent assault and battery on a child under the age of 14 under section
265 13B1/2 of chapter 265; a repeat offense under section 13B3/4 of chapter 265; indecent assault
266 and battery on a person with an intellectual disability under section 13F of chapter 265; rape
267 under section 22 of chapter 265; rape and abuse of a child under section 23 of chapter 265; rape
268 of a child under 16 with force under section 22A of chapter 265; aggravated rape of a child under
269 16 with force under section 22B of chapter 265; a repeat offense under section 22C of chapter
270 265; aggravated rape and abuse of a child under section 23A of chapter 265; a repeat offense
271 under section 23B of chapter 265; assault with intent to commit rape under section 24 of chapter
272 265; assault of a child with intent to commit rape under section 24B of chapter 265; kidnapping
273 of a child under the age of 16 under section 26 of chapter 265; drugging persons for sexual
274 intercourse under section 3 of chapter 272; unnatural and lascivious acts with a child under 16
275 under section 35A of chapter 272; aggravated rape under section 39 of chapter 277; any attempt
276 to commit a violation of any of the aforementioned sections under section 6 of chapter 274; any
277 conspiracy to commit a violation of any of the aforementioned sections under section 7 of
278 chapter 274; accessory to any of the aforementioned sections; or a like violation of the law of

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

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

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

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

295 “Updating registration information”, as required by section 178E, the act of a sex offender (a)
296 appearing in person at the appropriate local police department to update or report a change in the
297 sex offender’s names, aliases, primary or given names, nicknames, pseudonyms, internet
298 identifiers, and ethnic or tribal names by which the sex offender is commonly known, home
299 address, secondary addresses, employment status, employer’s names and addresses, school
300 status, school name and address, and the police department updating the sex offender’s

301 photograph and (b) submitting in writing to the police department or the sex offender registry
302 board any updates or changes to the sex offender's remaining registration information, as defined
303 in this section.

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

310 "Verifying registration information", as required by section 178E, the act of a sex offender
311 appearing in person at the specified period of time at the appropriate police department in the
312 city or town where the sex offender resides, or if the sex offender does not reside in the
313 commonwealth, in the city or town where the sex offender has a secondary address, works or is
314 enrolled in school to confirm that his registration information remains true and accurate and the
315 police department updates the sex offender's photograph.

316 Section 178D. Sex offender registry

317 The sex offender registry board, known as the board, in cooperation with the department of
318 criminal justice information services, shall establish and maintain a central computerized registry
319 of all sex offenders required to register under sections 178C to 178Q, inclusive, known as the sex
320 offender registry. The sex offender registry shall be updated based on information made
321 available to the board, including information acquired under the registration provisions of

322 sections 178C to 178Q, inclusive. The file on each sex offender required to register under
323 sections 178C to 178Q, inclusive, shall include the sex offender's registration information and:

324 (a) whether the sex offender is in compliance with the registration obligations of sections
325 178C to 178Q, inclusive;

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

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

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

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

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

338 The information contained in the registry shall be obtained from offenders when they register as
339 sex offenders and when they verify and update their registration information; from agencies
340 having custody or supervision of sex offenders; and city and town police departments
341 responsible for registering sex offenders and verifying and updating sex offenders' registration
342 information. The sex offender registry board shall maintain all registration information in a

343 digitized form that is compatible with the registry management and web site software developed
344 by the United States Department of Justice under 42 U.S.C. § 16923. The board may maintain
345 registration information in a digitized form by having links or identification numbers that
346 provide access to registration information contained in other computerized databases maintained
347 by the state police for palm print, fingerprint, and DNA information; the registry of motor
348 vehicles for license and vehicle information; the department of criminal justice information
349 services for criminal history information; the division of professional licensure for professional
350 license information; and any other agency which is responsible for compiling and maintaining
351 information required of sex offenders under sections 178C to 178Q.

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

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

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

360

361 (b) Initial registration. Within 3 business days of sentencing of any sex offender required to
362 register under sections 178C to 178Q, inclusive, the agency receiving custody or supervision of
363 the sex offender shall transmit to the board the sex offender's registration information, the
364 mittimus, and the projected maximum release date and the earliest possible release date for the

365 sex offender. All custodial and supervisory agencies shall inform the board immediately of any
366 transfers of sex offenders so that the board knows at all times where the sex offender is located
367 prior to his release from custody or supervision.

368

369 (1) Sex offenders in custody. If a sex offender is to be released from the
370 custody of any county, state or federal correctional facility, department of youth services,
371 department of mental health or department of development services, the agency that has custody
372 of the sex offender shall, or in the case of federal correctional facility may, provide written notice
373 to the sex offender and the sex offender shall acknowledge in writing, his duty to register in the
374 commonwealth and in any other jurisdiction where he resides, has a secondary address, is
375 employed or enrolled in school; his duty to verify and update his registration information and the
376 penalties for failing to do so and for giving false registration information; and of his right to
377 submit to the board documentary evidence relative to his risk of reoffense and the degree of
378 dangerousness posed to the public in accordance with section 178L. If the sex offender is a
379 minor or has been deemed by a court to be incompetent at the time of notification, the
380 notification shall also be mailed to the sex offender's legal guardian or agency having custody of
381 the person in the absence of a legal guardian and his most recent attorney of record. The agency
382 shall transmit the sex offender's written acknowledgment to the board within 10 days of receipt
383 of the acknowledgment. No later than 30 days prior to the sex offender's release from custody,
384 the agency that has custody of the offender shall obtain the sex offender's registration
385 information and shall verify that it is true and accurate. Upon verifying the sex offender's
386 registration information and at least 10 days before the sex offender is released from custody, the
387 agency that has custody of the offender shall register the sex offender by entering the registration

388 information into the sex offender registry and shall electronically transmit the sex offender's
389 registration information to the board. No sex offender shall be released from custody unless
390 registration has been completed. Within 3 days after the sex offender's release from custody, the
391 sex offender shall appear in person at the police department of the city or town in which the sex
392 offender resides, or if the offender does not reside in the commonwealth, in the city or town in
393 which he has a secondary address, works or is enrolled in school in the commonwealth, to verify
394 that the registration information remains true and accurate, or to change the registration
395 information provided prior to release from custody.

396

397 (2) Sex offender not in custody; subject to community supervision. If the court does
398 not sentence the sex offender to confinement to a county, state or federal correctional facility, or
399 does not order custody by the department of youth services, department of mental health or
400 department of developmental services, the agency that has supervision of the sex offender shall,
401 upon assuming supervision of the sex offender, immediately provide written notice to the sex
402 offender, and the sex offender shall acknowledge in writing, his duty to register in the
403 commonwealth and in any other jurisdiction where he resides, has a secondary address, is
404 employed or enrolled in school; his duty to verify and update his registration information and the
405 penalties for failure to do so and for giving false registration information; and of his right to
406 submit to the board documentary evidence relative to his risk of reoffense and the degree of
407 dangerousness posed to the public in accordance with section 178L. If the sex offender is a
408 minor or has been deemed by a court to be incompetent at the time of notification, the
409 notification shall also be mailed to such sex offender's legal guardian or agency having custody
410 of the person in the absence of a legal guardian and his most recent attorney of record. The

411 agency shall transmit the sex offender's written acknowledgment to the board within 2 days of
412 receipt of the acknowledgment. Within 3 days of sentencing, the sex offender shall appear in
413 person and register as a sex offender at the police department in the city or town where the sex
414 offender resides, or if the sex offender does not reside in the commonwealth, in the city or town
415 where the sex offender has a secondary address, works, or is enrolled in school. The police
416 department shall enter the registration information into the sex offender registry and
417 electronically transmit the sex offender's registration information to the board.

418 (3) Sex offender not in custody or being supervised. Any court which enters a
419 conviction for a sex offense, but does not impose a sentence of confinement or supervision, or
420 order of custody, or otherwise orders the immediate discharge of a sex offender from the custody
421 of any of the county, state or federal correctional facilities, department of youth services,
422 department of mental health or the department of developmental services shall, or in the case of
423 federal court may, provide written notice to the sex offender, and the sex offender shall
424 acknowledge in writing, his duty to register in the commonwealth and in any other jurisdiction
425 where he resides, has a secondary address, works or is enrolled in school; his duty to verify and
426 update his registration information and the penalties for failure to do so and for giving false
427 registration information; and of his right to submit to the board documentary evidence relative to
428 his risk of reoffense and the degree of dangerousness posed to the public in accordance with
429 section 178L. Within 2 business days of sentencing, the clerk of the court shall transmit the sex
430 offender's written acknowledgment to the board along with the sex offender's registration
431 information. Within 3 days of receiving notice or of release from confinement or custody from
432 the court, whichever is later, the offender shall appear in person to register as a sex offender at
433 the police department in the city or town where the sex offender resides, or if the sex offender

434 does not reside in the commonwealth, in the city or town where the sex offender has a secondary
435 address, works, or is enrolled in school. The police department shall enter the registration
436 information into the sex offender registry and electronically transmit the sex offender's
437 registration information to the board.

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

439

440 (i) A sex offender from another jurisdiction or country who enters the
441 commonwealth to reside, establish a secondary address, work, or enroll in school shall, within 3
442 days of entering the commonwealth, appear in person to register as a sex offender at the police
443 department in the city or town where the sex offender resides, or if the sex offender does not
444 reside in the commonwealth, in the city or town where the sex offender has a secondary address,
445 works or is enrolled in school. The police department shall provide written notice to the sex
446 offender, and the sex offender shall acknowledge in writing, his duty to register in the
447 commonwealth and in any other jurisdiction where he resides, has a secondary address, works or
448 is enrolled in school; his duty to verify and update his registration information and the penalties
449 for failure to do so and for giving false registration information; and of his right to submit to the
450 board documentary evidence relative to his risk of reoffense and the degree of dangerousness
451 posed to the public in accordance with section 178L. The police department shall enter the
452 registration information into the sex offender registry and electronically transmit the sex
453 offender's registration information to the board.

454 (ii) If the board is notified by another jurisdiction that a sex offender is
455 expected to commence residence, establish a secondary address, employment, or school

456 attendance in the commonwealth, but the sex offender fails to appear to register as required in
457 subsection (i), the board shall notify that jurisdiction that the sex offender failed to appear in the
458 commonwealth.

459 (5) Retroactive Application.

460 (i) Any sex offender who was required to register under sections 178C to
461 178Q in effect prior to July 27, 2011 and was relieved of that obligation to register by the court
462 or the board or had his obligation to register terminated under section 178G prior to July 27,
463 2011, is not required to register except that if the sex offender is convicted of a felony or a sex
464 offense, the sex offender will be required to register under this section.

465 (ii) Any sex offender who was required to register under sections 178C to
466 178Q in effect before July 27, 2011 because he was adjudicated a youthful offender or
467 delinquent juvenile for a sex offense and was relieved of his obligation to register by the court or
468 the board under section 178E or whose obligation to register was terminated under section 178G
469 before July 27, 2011 is not required to register, except that if the sex offender is convicted of a
470 felony or a sex offense, the sex offender will be required to register under this section.

471 (c) Verification of Registration Information.

472 (1) Act of verifying registration information. Any sex offender required to
473 register as a sex offender under this section shall verify his registration information in person
474 with the police department in the city or town where the sex offender resides, or if the sex
475 offender does not reside in the commonwealth, in the city or town where the sex offender has a
476 secondary address, works or is enrolled in school. The sex offender shall review his registration
477 information, confirm that it is true and accurate and provide any changes and updates to his

478 registration information since his initial registration or since he last verified his registration
479 information. The police department shall enter the verified registration information into the sex
480 offender registry and electronically transmit the sex offender's registration information to the
481 board. The police department shall provide written notice to the sex offender, and the sex
482 offender shall acknowledge in writing, his duty to register in the commonwealth and in any
483 jurisdiction where he resides, works or is enrolled in school; to verify registration information; to
484 update registration information within the commonwealth and in any other jurisdiction; the
485 penalties for failure to do so and for giving false registration information; and the next date the
486 sex offender is required to appear in person to verify his registration information.

487 (2) Frequency of verifying registration information. Sex offenders finally classified
488 as level 1 under sections 178K and 178L shall verify their registration information in person
489 once each year in the month of their birth, with the exception of finally classified level 1 sex
490 offenders who are under the age of 18 at the time of registration. These offenders shall verify
491 their registration information by mail once each year in the month of their birth until the age of
492 18. Sex offenders finally classified as level 2 under sections 178K and 178L shall verify their
493 registration information in person twice each year, in 6 month intervals commencing on the
494 month of their birth. Sex offenders finally classified as level 3 under sections 178K and 178L
495 and sexually violent predators shall verify their registration information in person 4 times each
496 year, in 3 month intervals including their month of birth. All homeless sex offenders, regardless
497 of their final classification levels, must verify their registration information in person every 30
498 days. Sex offenders who have not been finally classified by the board under 178K and 178L shall
499 verify their registration information in writing every 12 months from the date that they initially
500 registered until they become finally classified, at which time the sex offender shall be required to

501 register, verify and update his registration information in person under the requirements of this
502 section. The board shall develop regulations to determine the dates on which sex offenders must
503 register and additional procedures for registration.

504

505 (3) Notice. In each year during the month of the sex offender's birth, the
506 board shall mail a nonforwardable verification form to the last registered address of the sex
507 offender notifying the sex offender of the date or dates during the next 12 months on which he
508 must verify his registration information. If the sex offender is a minor or has been deemed by a
509 court to be incompetent at the time of notification, the notification shall also be mailed to the sex
510 offender's legal guardian or agency having custody of the person in the absence of a legal
511 guardian and his most recent attorney of record.

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

515 (1) Change of address within the commonwealth. No later than 3 days after a change
516 of address, the registered sex offender shall appear in person at the police department in the city
517 or town where the sex offender resides or if the sex offender does not reside in the
518 commonwealth, in the city or town in which the sex offender has a secondary address, works, or
519 is enrolled in school to update his address registration information. For purposes of this section,
520 a "change of address" includes any change to the sex offender's residence, address, secondary
521 addresses or temporary lodging, or if homeless, any change to the sex offender's homeless
522 shelter or changes in the city or town in which he habitually lives as a homeless person. The

523 police department shall enter the updated registration information into the sex offender registry
524 and electronically transmit the sex offender's registration information to the board. If the sex
525 offender resides in the commonwealth but works or is enrolled in school in another jurisdiction,
526 the board shall electronically transmit the sex offender's updated registration information to each
527 jurisdiction where the sex offender works or is enrolled in school.

528 (2) Change of employment information. No later than 3 days after any change to a
529 registered sex offender's employment information, the sex offender shall appear in person at the
530 police department in the city or town where the sex offender resides or if the sex offender does
531 not reside in the commonwealth, in the city or town in which the sex offender has a secondary
532 address, works, or is enrolled in school to update his employment registration information. For
533 purposes of this section, a "change of employment information" includes change in employers,
534 obtaining additional employment, becoming unemployed, becoming employed and changes to
535 the name or address of the sex offender's employers. If the sex offender's work is migratory,
536 itinerant or transient and there are changes to the locations where the sex offender performs his
537 work, including locations in other jurisdictions or countries, the sex offender shall, no later than
538 3 business days after the change occurs, appear in person at the police department in the city or
539 town where the sex offender resides or if the sex offender does not reside in the commonwealth,
540 in the city or town in which the sex offender has a secondary address, works, or is enrolled in
541 school to update the sex offender's registration information. The police department shall enter
542 the updated registration information into the sex offender registry and electronically transmit the
543 sex offender's registration information to the board. If the sex offender will begin employment
544 in another jurisdiction, the board shall electronically transmit the sex offender's registration

545 information to that jurisdiction's office, agency, or entity responsible for administering the
546 jurisdiction's sex offender registry.

547 (3) Change in school information. No later than 3 days after any change to a sex
548 offender's school information, the registered sex offender shall appear in person at the police
549 department in the city or town where the sex offender resides or if the sex offender does not
550 reside in the commonwealth, in the city or town in which the sex offender has a secondary
551 address, works, or is enrolled in school to update his school registration information. For
552 purposes of this section, a "change in school information" includes enrolling in school,
553 transferring enrollment to a different school or different location of the same school, termination
554 of enrollment or if any change to the name or address of the school at which the sex offender is
555 enrolled. The police department shall enter the updated registration information into the sex
556 offender registry and electronically transmit the sex offender's registration information to the
557 board. If the sex offender will be enrolling in school in another jurisdiction, the board shall
558 electronically transmit the sex offender's registration information to that jurisdiction's office,
559 agency, or entity responsible for administering the jurisdiction's sex offender registry.

560

561 (4) Change of name. If a registered sex offender changes the name, aliases,
562 primary or given names, nicknames, pseudonyms, ethnic or tribal name by which the sex
563 offender is commonly known, the sex offender shall, no later than 3 days after the change occurs,
564 appear in person at the police department in the city or town where the sex offender resides or if
565 the sex offender does not reside in the commonwealth, in the city or town in which the sex
566 offender has a secondary address, works, or is enrolled in school to update the registration

567 information relating to the sex offender's name. The police department shall enter the updated
568 registration information into the sex offender registry and electronically transmit the sex
569 offender's registration information to the board. The board shall electronically transmit the sex
570 offender's updated registration information to all other jurisdictions where the sex offender is
571 required to register.

572 (5) Change in address outside of the commonwealth. If a registered sex
573 offender with a home address or a secondary address in the commonwealth intends to move his
574 home address or establish a secondary address outside of the commonwealth, the sex offender
575 shall, no less than 10 days before the change occurs, appear in person at the police department in
576 the city or town where the sex offender resides in the commonwealth or if the sex offender does
577 not reside in the commonwealth, in the city or town in the commonwealth where the sex offender
578 has a secondary address to update the address registration information. If the sex offender is
579 homeless and intends to obtain housing outside of the commonwealth's jurisdiction, the sex
580 offender shall, no less than 10 days before the change occurs, appear in person at the police
581 department in the city or town where the sex offender resides to update the sex offender's
582 registration information. The police department shall enter the updated registration information
583 into the sex offender registry and electronically transmit the sex offender's registration
584 information to the board. The board shall electronically transmit the sex offender's registration
585 information to the jurisdiction's office, agency, or entity responsible for administering the
586 jurisdiction's sex offender registry that the sex offender intends to begin residing or establish a
587 secondary address.

588 (6) Travel outside of the United States. If a registered sex offender intends to move
589 or travel outside of the United States, the sex offender shall, no less than 21 days before the

590 travel occurs, appear in person at the police department in the city or town where the sex
591 offender resides in the commonwealth or if the sex offender does not reside in the
592 commonwealth, in the city or town in the commonwealth where the sex offender has a secondary
593 address to report his intention to leave the United States. The police department shall enter the
594 updated registration information into the sex offender registry and electronically transmit the sex
595 offender's registration information to the board. Within 3 days, the board shall electronically
596 transmit the sex offender's registration information to the Federal Bureau of Investigation and
597 United States Marshals Service and to all other jurisdictions where the sex offender is required to
598 register.

599

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

607 (8) Notice to the sex offender. Upon updating a sex offender's registration
608 information, the police department shall provide written notice to the sex offender, and the sex
609 offender shall acknowledge in writing, his duty to register in the commonwealth and in any
610 jurisdiction where he resides, works or is enrolled in school, to verify registration information, to

611 update his registration information within the commonwealth or in any other jurisdiction and the
612 penalties for failure to do so and for giving false registration information.

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

618 (f) Relief from registration for certain minor sex offenders. In the case of a minor
619 sex offender who (a) was under the age of 14 at the time the sex offense was committed or (b)
620 was 14 years of age or older at the time of his sex offense and was not convicted of sexually
621 violent offense as defined in section 178C, or 2 or more sex offenses involving a child as defined
622 in section 178C, the court shall, within 14 days of sentencing, determine whether the
623 circumstances of the offense in conjunction with the sex offender's criminal history indicate that
624 the sex offender does not pose a risk of reoffense or a danger to the public. If the court so
625 determines, the court shall relieve the sex offender of the obligation to register under sections
626 178C to 178Q, inclusive, and the clerk of the court shall immediately notify the sex offender
627 registry board in writing that the court has relieved the sex offender of the registration obligation.

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

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

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

645

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

649

650 (k) Homeless shelters. A homeless shelter receiving state funding shall cooperate in
651 providing information to the board, supervising agency or police department when the homeless
652 shelter is in the possession of the information being requested; provided, however, the request for
653 information shall be limited to that which is necessary to verify an offender's registration

654 information or a sex offender's whereabouts. A homeless shelter that violates the provisions of
655 this paragraph shall be punished by a fine of \$100 a day for each day that the shelter continues to
656 violate the provisions of this paragraph.

657

658 (l) Board's access to sealed convictions. If a sex offender's criminal record indicates that he
659 has any sealed or expunged convictions, the sex offender registry board may inquire of the office
660 of the commissioner of probation whether the sealed or expunged conviction was for a sex
661 offense and, if it was a sex offense, the commissioner shall so inform the board and provide the
662 board with the specific sex offense of which the offender was convicted, the date of the
663 conviction, the court that convicted the sex offender, and the docket number of the conviction.
664 The board shall then request a copy of the conviction from the court and the court shall provide
665 the board with a copy of the sealed or expunged conviction.

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

667 (a) Ability to enter, verify and update registration information. The sex offender
668 registry board shall grant access to any state and local police department and any other agency in
669 the commonwealth that is responsible for registering sex offenders, verifying registration
670 information and updating registration information, under section 178E, to the computerized sex
671 offender registry to examine and search registration information and enter, verify, and update sex
672 offender registration information to the extent necessary to perform their functions under section
673 178E. The agencies shall only disseminate registration information to the public to the extent
674 permitted by sections 178I and 178J.

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

686 (c) National Child Protection Act agencies. The sex offender registry board shall
687 grant access to any agency responsible for conducting employment-related background checks,
688 under section 3 of the National Child Protection Act of 1993, 42 U.S.C. section 5119a, to
689 electronically examine registration information contained in the sex offender registry. The board
690 shall notify these agencies that they may only use registration information to the extent necessary
691 for the actual performance of their duties, and that the public may only access registration
692 information to the extent permitted under sections 178I and 178J. The sex offender registry
693 board shall promulgate regulations regarding the process through which a National Child
694 Protection Act agency may apply to obtain access to the sex offender registry, and the process
695 and criteria the sex offender registry board shall follow in reviewing and approving such
696 applications.

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

702 (e) Dru Sjodin National Sex Offender Public Website. The sex offender registry
703 board shall authorize the United States Department of Justice access to the public sex offender
704 internet database, as mandated under section 178I, in order for the justice department to include
705 the sex offender internet database in the Dru Sjodin National Sex Offender Public Website
706 established under 42 U.S.C. section 16920, which the public may access and search.

707 (f) Absconded sex offenders. If the board receives notification that sex offenders cannot be
708 located at the addresses identified in their registration information or have failed to register or
709 verify their registration information at the prescribed periods of time, as required under section
710 178E, the board shall indicate in the sex offender registry that the offender has absconded and
711 immediately make this and the offender's last known registration information electronically
712 available for examination by any agency and federal entity permitted to review registration
713 information under this section. The board shall also notify the Federal Bureau of Investigations
714 and the United States Marshals Service and update the National Sex Offender Registry to reflect
715 the sex offender's status as an absconder and enter the sex offender into the National Crime
716 Information Center Wanted Person File.

717 (g) Limitation on public access to registration information. Registration information
718 received by the board shall not be disseminated to the public except in accordance with sections
719 178F, 178I and 178J.

720 Section 178G. Duration of registration obligation

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

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

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

734

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

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

739 (5) Sex offenders who were adjudicated delinquent and were under 14 years old
740 when they committed the sex offense may be eligible to have their registration obligation
741 reduced in time or terminated at the discretion of the board. The board shall promulgate
742 regulations governing the process and criteria for reduction and termination from registration
743 obligation for these sex offenders.

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

750 (b) Reduction in duration of registration obligation. The board may, upon specific
751 written findings, reduce the duration of a sex offender's registration obligation as required in
752 subsection (a)(1), (a)(5) and (a)(6) of this section. In making this determination, the board shall
753 consider factors, including but not limited to: the circumstances of the sex offense, the sex
754 offender's criminal history, the sex offender's current living environment, whether the sex
755 offender attended sex offender treatment, the duration of time since the conviction for the sex
756 offense and whether the sex offender has demonstrated a clean record as required in subsection
757 (c). The burden of proof shall be on the sex offenders to prove that they come within the
758 provisions of this section. Unless otherwise specified, sex offenders convicted of a sexually

759 violent offense or 2 or more sex offenses involving children, as defined in 178C, are not eligible
760 for a reduction in time of their duty to register as a sex offender and must register for life. The
761 board shall promulgate regulations governing the process for reducing a sex offender's
762 registration obligation.

763

764 (c) Demonstration of a clean record. In order for sex offenders to be eligible for a
765 reduction of their registration obligation or to be relieved of their duty to register as a sex
766 offender, the sex offender must demonstrate to the sex offender registry board that the sex
767 offender has (i) not been convicted of an offense for which imprisonment in a facility operated
768 by the department of correction, a county correctional facility or federal correctional facility for
769 more than 1 year may be imposed; (ii) has not been convicted of new sex offenses; (iii) has
770 successfully completed periods of supervised probation or parole imposed by completing these
771 periods without revocation; and (iv) has successfully completed an appropriate sex offender
772 treatment program approved by the board. The board shall promulgate regulations governing the
773 process to be followed by offenders who apply for a reduction of their registration obligation or
774 to be relieved of their obligation to register; to establish the criteria for designating and
775 qualifying approved sex offender treatment programs; and to establish criteria to be applied in
776 determining whether a sex offender has successfully completed a treatment program.

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

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

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

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

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

793 (i) A person convicted under this subsection and who has been convicted
794 of any of the offenses set forth in sections 13B, 13B½, 13B¾, 13F, 22A, 22B, 22C, 23, 23A,
795 24B and 26 of chapter 265, any attempt to commit any of these offenses, or for conspiracy to
796 commit any of these offenses, or an accessory thereto, or a like violation of the laws of another
797 jurisdiction, the United States or a military, territorial or Indian tribal authority shall, in addition
798 to the term of imprisonment authorized by this section, be punished by a term of community
799 parole supervision for life, to be served under the jurisdiction of the parole board, as set forth in
800 section 133D of chapter 127. The sentence of community parole supervision for life shall
801 commence upon the expiration of the term of imprisonment imposed upon the sex offender by
802 the court or upon the sex offender's release from probation or parole supervision or upon

803 discharge from commitment to the treatment center under section 9 of chapter 123A, whichever
804 first occurs.

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

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

815 Any person convicted under this paragraph who is a level 2 or level 3 offender shall, in addition
816 to the term of imprisonment authorized by this paragraph, be punished by a term of community
817 parole supervision for life, to be served under the jurisdiction of the parole board, as set forth in
818 section 133D of chapter 127. The sentence of community parole supervision for life shall
819 commence immediately upon the expiration of the term of imprisonment imposed upon the
820 person by the court or upon the person's release from probation or parole supervision or upon
821 discharge from commitment to the treatment center under section 9 of chapter 123A, whichever
822 first occurs.

823 (b) Violations of this section may be prosecuted and punished in any county where the
824 sex offender knowingly: (i) fails to register; (ii) fails to verify registration information as

825 required by section 178E; (iii) fails to update registration information as required by section
826 178E; (iv) provides false information; or (v) in any county where the sex offender is located,
827 found or apprehended.

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

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

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

835 (a) Public sex offender internet database. Within 3 business days of the date a sex
836 offender is required to register as a finally classified level 2 or level 3 sex offender, the board
837 shall make the sex offender's registration information, delineated below in subparagraphs (1) to
838 (10), and the final classification level available for inspection by the general public in the form of
839 a comprehensive database published on the internet, known as the "public sex offender internet
840 database":

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

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

845 (3) current photograph of the sex offender;

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

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

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

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

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

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

858 (10) the sex offender's level of risk of reoffense and degree of dangerousness, under section
859 178K to 178L.

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

864 The public sex offender internet database shall be open to searches by the public at any time
865 without charge or subscription. The public shall be permitted to search the internet database for
866 sex offenders by inputting a person's name, city or town, county, zip code or a user specified

867 geographic radii within a specified address. The internet database shall include a function which
868 permits members of the public and organizations to request e-mail notification when sex
869 offenders establish or change their residence, secondary addresses, employment, or school
870 enrollment within specified cities, towns, zip code, counties or geographic radii areas within the
871 commonwealth as specified by the inquirer.

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

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

884 The public sex offender internet database shall only include registration information as
885 delineated above in subparagraphs (1) to (10) of sex offenders finally classified as level 2 or
886 level 3 under section 178K and 178L, except for sex offenders whose only sex offense or
887 offenses were committed when the sex offender was under the age of 14. The board shall not
888 release any other registration information to the general public except as permitted in subsection

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

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

894

895 (1) Requesting Information: Persons who request sex offender registry

896 information from the board shall:

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

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

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

905 The record of inquiry form shall include a warning regarding the criminal penalties for the
906 misuse of sex offender registration information to commit a crime or to engage in illegal
907 discrimination or harassment of an offender and the punishment for threatening to commit a
908 crime under the provisions of section 4 of chapter 275. Inquirers must acknowledge on the form
909 that the sex offender registration information disclosed to them is intended for their own

910 protection or for the protection of a child under the age of 18 or another individual for whom
911 they have responsibility, care or custody.

912

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

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

921 All responses from the board to a person making inquiries shall include a warning regarding the
922 criminal penalties for misuse of sex offender registry information to commit a crime or to engage
923 in illegal discrimination or harassment of an offender and the punishment for threatening to
924 commit a crime under section 4 of chapter 275. All responses from the board shall include
925 instructions on how an individual may report suspected erroneous registration information to the
926 board.

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

929

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

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

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

938

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

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

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

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

948 The record of inquiry form shall include a warning regarding the criminal penalties for the
949 misuse of sex offender registration information to commit a crime or to engage in illegal
950 discrimination or harassment of an offender and the punishment for threatening to commit a

951 crime under the provisions of section 4 of chapter 275. Inquirers must acknowledge on the form
952 that the sex offender registration information disclosed to them is intended for their own
953 protection or for the protection of a child under the age of 18 or another individual for whom
954 they have responsibility, care or custody.

955

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

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

959 (2) inquire whether any sex offenders reside, have a secondary address, work or are enrolled
960 in any school within the same city or town in which a specific address is located including, but
961 not limited to, the address of a residence, workplace, school, after school program, day care
962 center, playground, recreational area or other identified address and inquire in another city or
963 town whether any sex offenders live, work or are enrolled a school within that city or town, upon
964 a reasonable showing that the sex offender registry information is requested for the requestor's
965 own protection or for the protection of a child under the age of 18 or another person for whom
966 the inquirer has responsibility, care or custody; or

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

969 (c) Release of Information. If the search of the sex offender registry results in the
970 identification of any finally classified sex offender the police shall release the sex offender's
971 registration information, as identified above in section 178I(a)(1)-(10), and the sex offender's

972 classification level to the inquirer at no cost to the inquirer; provided, however, that no
973 information will be released to the public concerning sex offenders whose only sex offense or
974 offenses were committed when the sex offender was under the age of 14.

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

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

981

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

990 Community notification may include publication of the registration information on the internet
991 by the police department in a time and manner as the police deem reasonably necessary; and
992 provided further, that the police or the board shall not release information identifying the victim
993 by name, address or relation to the sex offender. All notices to the community shall include a

994 warning regarding the criminal penalties for misuse of sex offender registry information to
995 commit a crime or to engage in illegal discrimination or harassment of an offender and the
996 punishment for threatening to commit a crime under section 4 of chapter 275.

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

999 (a) Sex offender registry board. There shall be, within the department of criminal
1000 justice information services, but not subject to its jurisdiction, a sex offender registry board,
1001 which shall consist of at least 7 members who shall be appointed by the governor for terms of 6
1002 years, with the exception of the chairman, and who shall devote their full time during business
1003 hours to their official duties. The board shall include 1 person with experience and knowledge in
1004 the field of criminal justice who shall act as chairman; at least 2 licensed mental health
1005 professionals with special expertise in the assessment and evaluation of sex offenders and who
1006 have knowledge of the forensic mental health system; at least 1 licensed mental health
1007 professional with special expertise in the assessment and evaluation of sex offenders, including
1008 juvenile sex offenders and who has knowledge of the forensic mental health system; at least 2
1009 persons who have at least 5 years of training and experience in probation, parole or corrections;
1010 and at least 1 person who has expertise or experience with victims of sexual abuse. Members
1011 shall be compensated at a reasonable rate subject to approval of the secretary of administration
1012 and finance.

1013 The chairman shall be appointed by and serve at the pleasure of the governor and shall be the
1014 executive and administrative head of the sex offender registry board, shall have the authority and
1015 responsibility for directing assignments of members of the board and shall be the appointing and

1016 removing authority for members of the board's staff. In the case of the absence or disability of
1017 the chairman, the governor may designate 1 of the members to act as chairman during that
1018 absence or disability. The chairman shall, subject to appropriation, establish staff positions and
1019 employ such administrative, research, technical, legal, clerical and other personnel and
1020 consultants as may be necessary to perform the duties of the board. These staff positions shall
1021 not be subject to section 9A of chapter 30 or chapter 31.

1022 The governor shall fill a vacancy for the unexpired term. As long as there are 4 sitting members,
1023 a vacancy shall not impair the right of the remaining members to exercise the powers of the
1024 board.

1025 (b) Guidelines to assess risk of reoffense and degree of dangerousness posed to public.
1026 The sex offender registry board shall promulgate guidelines for determining the final
1027 classification level of risk of reoffense and the degree of dangerousness posed to the public, the
1028 reclassification of an offender, or an offender's request for reduction in his obligation to register;
1029 apply the guidelines to assess the risk level of particular offenders; develop guidelines for use by
1030 city and town police departments in disseminating sex offender registry information; devise a
1031 plan, in cooperation with state and local law enforcement authorities and other appropriate
1032 agencies, to locate and verify the current addresses of sex offenders including, subject to
1033 appropriation, entering into contracts or interagency agreements for such purposes; and conduct
1034 hearings as provided in section 178L. Factors relevant to the risk of reoffense shall include, but
1035 not be limited to, the following:

1036 (1) criminal history factors indicative of a high risk of reoffense and degree of
1037 dangerousness posed to the public, including:

1038 (i) whether the sex offender has a mental abnormality;

1039

1040 (ii) whether the sex offender's conduct is characterized by repetitive and compulsive

1041 behavior;

1042 (iii) whether the sex offender was an adult who committed a sex offense on a child;

1043 (iv) the age of the sex offender at the time of the commission of the first sex offense;

1044 (iv) whether the sex offender has been adjudicated to be a sexually dangerous person under

1045 chapter 123A or is a person released from civil commitment under section 9 of chapter 123A;

1046 and

1047 (vi) whether the sex offender served the maximum term of incarceration.

1048 (2) other criminal history factors to be considered in determining risk and

1049 degree of dangerousness, including:

1050 (i) the relationship between the sex offender and the victim;

1051 (ii) whether the offense involved the use of a weapon, violence or infliction of bodily injury;

1052 and

1053 (iii) the number, date and nature of prior offenses;

1054 (3) conditions of release that minimize risk of reoffense and degree of

1055 dangerousness posed to the public, including whether the sex offender is under probation or

1056 parole supervision, whether the sex offender is receiving counseling, therapy or treatment and

1057 whether the sex offender is residing in a home situation that provides guidance and supervision,
1058 including sex offender specific treatment in a community based residential program;

1059 (4) physical conditions that minimize risk of reoffense including, but
1060 not limited to, debilitating illness;

1061 (5) whether the sex offender was a juvenile when he committed the
1062 offense, his response to treatment and subsequent criminal history;

1063

1064 (6) whether psychological or psychiatric profiles indicate a risk of recidivism;

1065 (7) the sex offender's history of alcohol or substance abuse;

1066 (8) the sex offenders' participation in sex offender treatment and counseling while
1067 incarcerated or while on probation or parole and their response to treatment or counseling;

1068 (9) recent behavior, including behavior while incarcerated or while supervised
1069 on probation or parole;

1070 (10) recent threats against persons or expressions of intent to commit additional
1071 offenses;

1072 (11) review of any victim impact statement;

1073 (12) review of any materials submitted by sex offenders, their attorneys or
1074 others on behalf of the offenders; and

1075 (13) age of the offender at the time of the classification hearing.

1076 (c) Classification levels. The guidelines shall provide for 3 levels of classification
1077 depending on the degree of risk of reoffense and the degree of dangerousness posed to the public
1078 by the sex offender or for relief from the obligation to register:

1079 (1) Where the board determines that the risk of reoffense is low and the degree of
1080 dangerousness posed to the public is low, it shall give a final level 1 classification to the sex
1081 offender.

1082 (2) Where the board determines that the risk of reoffense is moderate and the
1083 degree of dangerousness posed to the public is moderate, it shall give a final level 2 classification
1084 to the sex offender.

1085 (3) Where the board determines that the risk of reoffense is high and the
1086 degree of dangerousness posed to the public is high, it shall give a final level 3 classification to
1087 the sex offender.

1088 (d) Notification by the board. Within 2 days of the board's determination of the sex
1089 offender's final classification level, the board shall electronically transmit the sex offender's
1090 final classification level and registration information to the police departments in the
1091 municipalities where the sex offender lives, works and is enrolled in a school or, if in custody,
1092 intends to live, work and enroll in school upon release; where the offense was committed; and to
1093 the Federal Bureau of Investigation and United States Marshals Service.

1094 (e) Level 3 sex offenders prohibited from living in nursing home; penalties. No sex
1095 offender finally classified as a level 3 offender shall knowingly and willingly establish living
1096 conditions within, move to, be placed in, or be transferred to any convalescent or nursing home,
1097 infirmary maintained in a town, rest home, charitable home for the aged or intermediate care

1098 facility for persons with an intellectual disability, which meets the requirements of the
1099 department of public health under section 71 of chapter 111. Any sex offender who violates this
1100 paragraph shall, for a first conviction, be punished by imprisonment for not more than 30 days in
1101 a jail or house of correction; for a second conviction, be punished by imprisonment for not more
1102 than 2 ½ years in a jail or house of correction, nor more than 5 years in a state prison, or by a fine
1103 of not more than \$1,000, or by both such fine and imprisonment; and for a third and subsequent
1104 conviction, be punished by imprisonment in a state prison for not less than 5 years; provided,
1105 however, that the sentence imposed for a third or subsequent conviction shall not be reduced to
1106 less than 5 years, nor suspended, nor shall any person sentenced herein be eligible for probation,
1107 parole, work release or furlough, or receive any deduction from his sentence for good conduct
1108 until he shall have served 5 years. Prosecutions commenced hereunder shall neither be continued
1109 without a finding nor placed on file.

1110

1111 (f) Classification priorities; agency cooperation. The sex offender registry board shall
1112 make a determination regarding the level of risk of reoffense and the degree of dangerousness
1113 posed to the public by each sex offender listed in the sex offender registry and shall give
1114 immediate priority to those offenders who have been convicted of a sex offense involving a child
1115 or convicted or adjudicated as a delinquent juvenile or as a youthful offender by reason of a
1116 sexually violent offense and who have not been sentenced to incarceration for at least 90 days,
1117 followed, in order of priority, by those sex offenders who (1) have been released from
1118 incarceration within the past 12 months, (2) are currently on parole or probation supervision, and
1119 (3) are scheduled to be released from incarceration within 6 months. All agencies shall cooperate
1120 in providing files to the sex offender registry board and any information the sex offender registry

1121 board deems useful in providing notice under sections 178C to 178Q, inclusive, and in assessing
1122 the risk of reoffense and the degree of dangerousness posed to the public by the sex offender. All
1123 agencies from which information, including information within the control of providers under
1124 contract to these agencies, is requested by the sex offender registry board shall make such
1125 information available to the board immediately upon request. Failure to comply in good faith
1126 with such a request within 30 days shall be punishable by a fine of not more than \$1,000 per day.

1127 Section 178L. Classification; notification; evidentiary hearings; right to counsel

1128 (a) Recommended Classification. Upon review of any information useful in assessing
1129 the risk of reoffense and the degree of dangerousness posed to the public by the sex offender,
1130 including materials described in the board guidelines and any materials submitted by the sex
1131 offender, the board shall prepare a recommended classification level for each offender. The
1132 recommendation may be made by board staff members upon written approval by 1 board
1133 member; provided, however, that if the sex offender was a minor at the time of the offense,
1134 written approval must be given by a board member who is a licensed psychologist or psychiatrist
1135 with special expertise in the assessment and evaluation of juvenile sex offenders.

1136 (1) Sex offender in custody. Not less than 6 months prior to their release or
1137 parole from custody or incarceration, the board shall notify the sex offenders of their right to
1138 submit to the board documentary evidence relative to their risk of reoffense and the degree of
1139 dangerousness posed to the public. If the sex offender is a minor or has been deemed by a court
1140 to be incompetent at the time of the notification, notification shall also be mailed to the sex
1141 offender's legal guardian or agency having custody of the person in the absence of a legal
1142 guardian and his most recent attorney of record. The sex offender may submit evidence to the

1143 board within 30 days of receiving the notice from the board. Upon a reasonable showing, the
1144 board may extend the time in which a sex offender may submit documentary evidence. Upon
1145 reviewing the evidence, the board shall promptly notify the sex offenders of the board's
1146 recommended classification level, their duty to register and their right to petition the board to
1147 request an evidentiary hearing to challenge the recommended classification level, their right to
1148 retain counsel to represent them at a hearing and their right to have counsel appointed for them if
1149 they are found to be indigent as determined by the board using the standards under chapter 211D;
1150 provided, however, that the indigent offender may also apply for and the board may grant
1151 payment of fees for an expert witness in a case where the board, in its classification proceeding,
1152 intends to rely on the testimony or report of an expert witness prepared specifically for the
1153 purposes of the classification proceeding. The sex offender shall petition the board for an
1154 evidentiary hearing within 20 days of receiving notice. The board shall conduct a de novo
1155 evidentiary hearing in a reasonable time according to the provisions of subsection (b) and shall
1156 determine the sex offender's final classification level prior to the offender's release from
1157 incarceration, if practicable. The failure to timely petition the board for a hearing shall result in a
1158 waiver of the right to a hearing, and the board's recommended classification level shall become
1159 the sex offender's final classification level and shall not be subject to judicial review. All
1160 agencies having custody of a confined sex offender shall cooperate with the board in providing
1161 notices to the offender and proper space to conduct hearings.

1162

1163 (2) Requests for expedited classification. The district attorney for the county
1164 where the sex offender was prosecuted may, within 10 days of a conviction or adjudication of a
1165 sexually violent offense, file a motion with the board to make an expedited recommended

1166 classification upon a showing that the sex offender poses a grave risk of imminent reoffense. If
1167 the petition is granted, the board shall make the recommendation classification within 10 days of
1168 the expiration of the time to submit documentary evidence. If the petition is not granted, the
1169 board shall make the recommended classification as otherwise provided in this section.

1170 (3) Sex offender not in custody. In the case of any sex offender (i) who, as of
1171 the effective date of this section, is not in custody and whom the board never issued a final
1172 classification level under the version of sections 178K and 178L in effect prior July 27, 2011, (ii)
1173 who receives a sentence of confinement or order of custody of less than 6 months; (iii) who does
1174 not receive a sentence of incarceration or order of custody; or (iv) is ordered by the court to be
1175 immediately discharged from any form of custody, the board shall, upon receiving registration
1176 information from the agency that has custody of the sex offender; the police department at which
1177 the sex offender registered; or any other source, promptly notify the sex offenders of their right
1178 to submit to the board documentary evidence relative to their risk of reoffense and the degree of
1179 dangerousness posed to the public. If the sex offender is a minor or has been deemed by a court
1180 to be incompetent at the time of the notification, notification shall also be mailed to the sex
1181 offender's legal guardian or agency having custody of the person in the absence of a legal
1182 guardian and his most recent attorney of record. The sex offender may submit evidence to the
1183 board within 30 days of receiving such notice from the board. Upon a reasonable showing, the
1184 board may extend the time in which a sex offender may submit documentary evidence. Upon
1185 reviewing the evidence, the board shall promptly notify the sex offenders of the board's
1186 recommended classification level, their duty to register and their right to petition the board to
1187 request an evidentiary hearing to challenge the recommended classification level, their right to
1188 retain counsel to represent him at the hearing and their right to have counsel appointed for them

1189 if they are found to be indigent as determined by the board using the standards under chapter
1190 211D; provided, however, that the indigent offender may also apply for and the board may grant
1191 payment of fees for an expert witness in any case where the board, in its classification
1192 proceeding, intends to rely on the testimony or report of an expert witness prepared specifically
1193 for the purposes of the classification proceeding. The sex offender shall petition the board for an
1194 evidentiary hearing within 20 days of receiving notice. The board shall conduct a de novo
1195 evidentiary hearing in a reasonable time according to the provisions of subsection (b). The
1196 failure to timely petition the board for a hearing shall result in a waiver of the right to a hearing,
1197 and the board's recommended classification level shall become the sex offender's final
1198 classification level and shall not be subject to judicial review.

1199 (b) Hearings to Determine Final Classification Level. If any sex offender requests a
1200 hearing in accordance with subsection (a) to challenge his recommended classification, the chair
1201 may appoint a member, a panel of 3 board members or a hearing officer to conduct the hearing,
1202 according to the standard rules of adjudicatory procedure or other rules which the board may
1203 promulgate, and to determine by a preponderance of evidence the sex offender's duty to register
1204 and final classification level. The board shall inform sex offenders requesting a hearing under
1205 the provisions of subsection (a) of their right to have counsel appointed if a sex offender is
1206 deemed to be indigent as determined by the board using the standards under chapter 211D. If the
1207 sex offender does not request a hearing, the board's recommended classification level shall
1208 become the final classification level and shall not be subject to judicial review. If the sex
1209 offender fails to appear at his scheduled hearing, the board's recommended classification level
1210 shall become the sex offender's final classification level and shall not be subject to judicial

1211 review. All offenders who are juveniles at the time of notification shall be represented by counsel
1212 at the hearing.

1213 (c) Previously finally classified sex offenders. The provisions of this section apply to
1214 all sex offenders, as defined in section 178C. The final classification level any sex offender
1215 received under the prior version of this section and section 178K remains in effect. Nothing in
1216 this section shall exempt a sex offender from complying with the registration requirements set
1217 forth in section 178E.

1218 Section 178M. Judicial review of board's final classification

1219 An offender may seek judicial review, in accordance with section 14 of chapter 30A, of the
1220 board's final classification decision and registration requirements. The court shall, if requested,
1221 appoint counsel to represent the sex offender in the proceedings if the sex offender is deemed
1222 indigent in accordance with section 2 of chapter 211D. An attorney employed or retained by the
1223 board may make an appearance, subject to section 3 of chapter 12, to defend the board's final
1224 classification decision. The court shall reach its final decision within 60 days of the sex
1225 offender's petition for review. The court shall keep proceedings conducted under this paragraph
1226 and records from these proceedings confidential, and these proceedings and records shall be
1227 impounded, but the filing of an action under this section shall not stay the effect of the board's
1228 final classification.

1229 Section 178N. Misuse of information; penalties

1230 Information contained in the sex offender registry shall not be used to commit a crime against a
1231 sex offender or to engage in illegal discrimination or harassment of an offender. A person who
1232 uses information disclosed under the provisions of sections 178C to 178Q, inclusive, for such

1233 purpose shall be punished by not more than 2½ years in a house of correction or by a fine of not
1234 more than \$1,000 or by both such fine and imprisonment.

1235 Section 178O. Liability of public officials and employees for sex offender registry information
1236 Police officials and other public employees acting in good faith shall not be liable in a civil or
1237 criminal proceeding for the dissemination of sex offender registry information or other act or
1238 omission under the provisions of sections 178C to 178Q, inclusive.

1239 Section 178P. Failure to comply with registration requirements; warrantless arrests

1240 When a police officer has probable cause to believe that a sex offender has failed to comply with
1241 the registration requirements of sections 178C to 178Q, inclusive, the officer shall have the right
1242 to arrest the sex offender without a warrant and to keep the sex offender in custody.

1243 Section 178Q. Sex offender registry fee

1244 The board shall assess upon every sex offender a fee of \$75, hereinafter referred to as “sex
1245 offender registry fee.” Sex offenders shall pay the sex offender registry fee upon their initial
1246 registration as a sex offender and annually thereafter in the month of their birth provided,
1247 however, no fee shall be assessed or collected until offenders have either (1) waived their right to
1248 petition for an evidentiary hearing to challenge their duty to register as a sex offender as set forth
1249 in section 178L or (2) have completely exhausted the legal remedies made available to them to
1250 challenge their duty to register under sections 178L and 178M and have not prevailed in their
1251 attempt to eliminate their duty, nor shall a fee be assessed upon a sex offender until the offender
1252 reaches 18 years of age. A sex offender’s duty to pay the fee established by this section shall

1253 only terminate upon the termination of the sex offender's duty to register as a sex offender as set
1254 forth in section 178G.

1255 The sex offender registry board may waive payment of the sex offender registry fee if it
1256 determines that the payment would constitute an undue hardship on the sex offender or the sex
1257 offender's family due to limited income, employment status, or any other relevant factor. Any
1258 waiver so granted shall be in effect only during the period of time that the sex offender is
1259 determined to be unable to pay the sex offender registry fee. The board shall establish procedures
1260 relative to the collection and waiver of the fee by regulation. The sex offender registry fee shall
1261 be collected and retained by the sex offender registry board. The board shall account for all fees
1262 received and report fees annually to the secretary of administration and finance and the house
1263 and senate committees on ways and means.

1264 SECTION 3. Chapter 22E, as so appearing, is hereby amended by striking out section 3 and
1265 inserting in place thereof the following section:-

1266 Section 3. A person who is convicted of an offense that is punishable by imprisonment in the
1267 state prison, who is adjudicated a youthful offender by reason of an offense that would be
1268 punishable by imprisonment in the state prison if committed by an adult, who is required to
1269 register as a sex offender under section 178E of chapter 6 or who enters the commonwealth
1270 under the interstate compact for adult offender supervision and committed a crime in the sending
1271 state that would be punishable by imprisonment in state prison if committed in Massachusetts
1272 shall submit a DNA sample to the department within 6 months of the conviction or adjudication
1273 or, if incarcerated, before release from custody, or when they register as a sex offender,
1274 whichever occurs first. The sample shall be collected by a person authorized under section 4, in

1275 accordance with regulations or procedures established by the director. The results of the sample
1276 shall become part of the state DNA database. The submission of the DNA sample shall not be
1277 stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post
1278 conviction motion or petition.

1279 SECTION 4. Retroactive Application to Finally Classified Registered Sex Offenders.

1280

1281 Any sex offender finally classified by the board and required to register under sections 178C to
1282 178Q, in effect prior to the effective date of this act, must continue to register under this act.

1283 The board shall send to all sex offenders finally classified by the board under sections 178C to
1284 178Q, in effect prior to the effective date and who must continue to register, written notification,
1285 and the sex offenders shall acknowledge in writing, of their duty to register in the commonwealth
1286 and in any other jurisdiction where they reside, have a secondary address, work or are enrolled in
1287 school, notification of their duty to verify and update their registration information, and the
1288 penalties for failure to do so and for giving false registration information. If the sex offender is a
1289 minor or has been deemed by a court to be incompetent at the time of notification, the
1290 notification shall also be mailed to the sex offender's legal guardian or agency having custody of
1291 the person in the absence of a legal guardian and his most recent attorney of record.

1292 This notification shall inform the sex offenders of the date they must verify their registration
1293 information under 178E(c) of this act and the date or dates during the next 12 months that they
1294 must verify their registration information. Level 1 sex offenders must verify their registration
1295 information in person within 12 months of the effective date of this section; level 2 sex offenders
1296 must verify their registration information in person within 6 months of the effective date of this

1297 section; level 3 sex offenders, including sexually violent predators, must verify their registration
1298 information in person within 3 months of the effective date of this section; and homeless sex
1299 offenders must verify their registration information within 30 days of the effective date of this
1300 section. Sex offender shall appear in person to verify and update their registration information at
1301 the police department in the city or town where the sex offender resides, or if the sex offender
1302 does not reside in the commonwealth, in the city or town where the sex offender has a secondary
1303 address, works or is enrolled in school. The police department shall enter the registration
1304 information into the sex offender registry and electronically transmit the sex offender's
1305 registration information to the board. The sex offender's final classification by the board as a
1306 level 1, level 2, or level 3 under sections 178C to 178Q, in effect prior to the effective date, will
1307 remain the same.

1308 If the sex offender no longer has an obligation to register under this act, the board shall so notify
1309 the sex offender.

1310 SECTION 5. Retroactive Application to Unclassified Registered Sex Offenders.

1311 Any sex offender not finally classified by the board who was required to register under sections
1312 178C to 178Q, in effect prior to the effective date of this act, must continue to register under this
1313 act.

1314 The board shall send to all unclassified sex offenders who must continue to register, written
1315 notification, and the sex offenders shall acknowledge in writing, of their duty to register in the
1316 commonwealth and in any other jurisdiction where they reside, have a secondary address, work
1317 or are enrolled in school, notification of their duty to verify and update their registration
1318 information, and the penalties for failure to do so and for giving false registration information. If

1319 the sex offender is a minor or has been deemed by a court to be incompetent at the time of
1320 notification, the notification shall also be mailed to the sex offender's legal guardian or agency
1321 having custody of the person in the absence of a legal guardian and his most recent attorney of
1322 record.

1323 This notification shall inform sex offenders of the date they must verify their registration
1324 information under 178E(c) of this act and the date or dates during the next 12 months that they
1325 must verify their registration information.

1326 SECTION 6. A person required to register as a sex offender who has not previously submitted a
1327 DNA sample to the department of state police under chapter 22E shall submit a DNA sample to
1328 the department within 6 months of the effective date of this act.