

HOUSE No. 00400

The Commonwealth of Massachusetts

PRESENTED BY:

Demetrius J. Atsalis

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 create a narcotics offender registry

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Demetrius J. Atsalis</i>	<i>2nd Barnstable</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

HOUSE No. 00400

By Mr. Demetrius J. Atsalis of Barnstable, petition (accompanied by bill, House, No. 00400) of Thomas A. Golden and others for legislation to create a narcotics offender registry. Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 4372 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to create a narcotics offender registry

□.

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

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting, after section 178,
2 the following sections:

3 Section 178 ½(A). A narcotics offender shall be any person who has been convicted of any of
4 the following crimes contained in chapter 94C:

5 - Possession with intent to distribute any drug which falls into Class A, Class B, Class C,
6 Class D or Class E.

7 - Distribution of any drug which falls into Class A, Class B, Class C, Class D, or Class E.

8 - Trafficking any drug which falls into Class A, Class B, Class C, Class D, or Class E.

9 - Creation or distribution of counterfeit substances.

10 - Inducing a minor to distribute drugs

11 - Any attempt to commit a violation of any of the aforementioned sections, or a like

12 violation of the laws of another state, the United States, or a military, territorial or Indian tribal

13 authority.

14 Section 178 ½ (B). There shall be a narcotics offenders' registry which shall contain the

15 collected information and data that is received by the criminal history systems board.

16 Section 178 ½ (C). There shall be a narcotics offender registry board, known as "the board", in

17 cooperation with the criminal history systems board, which shall establish and maintain a central

18 computerized registry of all narcotics offenders required to register , known as the narcotics

19 offender registry. The narcotics offender registry shall be updated based on information made

20 available to the board, including information acquired pursuant to registration provisions. The

21 file on each narcotics offender required to register shall include the following information,

22 hereinafter referred to as registration data:

23 (a) the narcotics offender's name, aliases used, date and place of birth, sex, race, height, weight,

24 eye and hair color, social security number, home address, any secondary addresses and work

25 address and, if the narcotics offender works at or attends an institution of higher learning, the

26 name and address of the institution;

27 (b) a photograph of the offender and a set of fingerprints;

28 (c) a description of the offense for which the narcotics offender was convicted or adjudicated, the
29 city or town where the offense occurred, the date of conviction or adjudication and the sentence
30 imposed;

31 (d) any other information which may be useful in assessing the risk of the narcotics offender to
32 reoffend; and

33 (e) any other information which may be useful in identifying the narcotics offender.

34 Notwithstanding any general or special law to the contrary and in addition to any responsibility
35 otherwise imposed upon the board, the board shall make the narcotics offender information
36 contained in the narcotics offender registry, delineated below in subsections (i) to (viii),
37 inclusive, available for inspection by the general public in the form of a comprehensive database
38 published on the internet, known as the “Narcotics Offender Internet Database”; provided,
39 however, that no registration data relating to a narcotics offender given a Level 1 or Level 2
40 designation by the board under section E shall be published in the narcotics offender internet
41 database but may be disseminated by the board as otherwise permitted by said section E; and
42 provided further, that the board shall keep confidential and shall not publish in the narcotics
43 offender internet database any information relating to requests for registration data .

44 (i) the name of the narcotic offender and/or any aliases;

45 (ii) the offender’s home address and any secondary addresses;

46 (iii) the offender’s work address;

47 (iv) the offense for which the offender was convicted or adjudicated and the date of the
48 conviction or adjudication;

49 (v) the narcotics offender's age, sex, race, height, weight, eye and hair color;

50 (vi) a photograph of the narcotics offender, if available;

51 (vii) whether the offender is in compliance with the registration obligations.

52 All information provided to the general public through the narcotics offender internet database
53 shall include a warning regarding the criminal penalties for use of narcotics offender registry
54 information to commit a crime or to engage in illegal discrimination or harassment of an
55 offender and the punishment for threatening to commit a crime under section 4 of chapter 275 of
56 the Massachusetts General Laws. The narcotics offender internet database shall be updated
57 regularly based on information available to the board and shall be open to searches by the public
58 at any time without charge or subscription. The board shall promulgate rules and regulations to
59 implement, update and maintain such a narcotics offender internet database, to ensure the
60 accuracy, integrity and security of information contained therein, to ensure the prompt and
61 complete removal of registration data for persons whose duty to register has terminated or
62 expired and to protect against the inaccurate, improper or inadvertent publication of registration
63 data on the internet.

64 The board shall develop standardized registration and verification forms, which shall include
65 registration data as required. The board shall make blank copies of such forms available to all
66 city and town police departments; provided, however, that the board shall determine the format
67 for the collection and dissemination of registration data, which may include the electronic
68 transmission of data. Records maintained in the narcotics offender registry shall be open to any
69 law enforcement agency in the commonwealth, the United States or any other state. The board
70 shall promulgate rules and regulations to implement the provisions of this chapter. Such rules

71 and regulations shall include provisions which may permit police departments located in a city or
72 town that is divided into more than one zip code to disseminate information pursuant to
73 categorized by zip code and to disseminate such information limited to one or more zip codes if
74 the request for such dissemination is so qualified; provided, however, that for the city of Boston
75 dissemination of information may be limited to one or more police districts.

76 Section 178 ½(D). The following persons are required to register as narcotics offenders if they
77 live or work in the commonwealth and were:

78 - Convicted on or after August 1, 2009.

79 - Adjudicated a delinquent juvenile on or after August 1, 2009

80 - Adjudicated a youthful offender on or after August 1, 2009

81 - Released from incarceration on or after August 1, 2009

82 - Released from parole or probation supervision on or after August 1, 2009

83 - Released from civil commitment on or after August 1, 2009.

84 Section 178 1/2(E). The following guidelines shall be used by the narcotics offender registry;

85 (i) Level I shall be low risk of re-offense and level 1 offender information shall not be made
86 available to the public. This information, as well as the information contained in the narcotics
87 offender registry data base, shall be available to police departments solely for law enforcement
88 purposes.

89 (ii) Level 2 shall be moderate risk of re-offending individuals and information about these
90 offenders will be available only to members of the public who request it. There is to be no
91 community notification.

92 (iii) Level 3 shall be composed of high risk of re-offense. In each police department the Chief
93 of Police or designee in the records division shall disseminate posters of level 3 offenders to
94 organizations in the town that are likely to encounter these offenders, and who wish to receive
95 this information, in accordance the board's guidelines.

96 For a level 3 offender community notification must include, but not be limited to, publication of
97 the information in local newspapers and public announcements via local cable television.

98 Community notification fliers must be posted in town hall, libraries and similar publicly
99 accessible areas. Notification must be made to all schools in the town. Information about the
100 offender must be available to members of the public who request it. Police departments shall post
101 all level 3 offenders on their websites. If that offender does not re-offend within five years that
102 person will automatically moved to the next classification Level.

103 Section 178 ½(F) The narcotics offenders registry board shall consist of 5 members, who shall
104 be appointed by the governor for terms of 6 years, with the exception of the chairman, whose
105 term shall be coterminous with the governor, and who shall devote their full time during business
106 hours to their official duties. The board shall include one person with experience and knowledge
107 in the field of criminal justice, who shall act as chair; one psychologist, one person from the
108 office of public safety; one law enforcement officer with experience in the activities of narcotics
109 users and suppliers; and one former drug user or distributor who has demonstrated rehabilitation
110 and presently works in the area of drug abuse and prevention. The board shall be responsible for

111 the classification of offenders in section (E) and establish rules and regulations for the
112 implementation of this section.

113 Section 178 ½(G). A narcotics offender, as defined in section (A), who has been convicted or
114 adjudicated for a narcotics offense, shall register in person at the police department in the
115 community in which he resides. If a narcotics offender resides in another state but works in the
116 commonwealth, he is required to register in the town in which he works. Certain governmental
117 agencies including the board, the department of corrections, parole boards and probation
118 departments shall notify the offender in writing of his obligation to register with his local police
119 department. An offender must register annually in the month of his birth. A processing fee to be
120 determined by the legislature shall be charged annually.

121 Failure to register or verify information shall be grounds for revocation of probation or parole.
122 Failure to register or verify information will also be grounds for revocation of a Massachusetts
123 driver's license. A narcotics offender may be prosecuted for violating this chapter if he
124 knowingly fails to register, fails to verify registration notice, fails to provide notice of change of
125 address or place of employment or provides false information. Such a violation may result in a
126 fine not to exceed \$5000 and imprisonment in the house of correction for a period not to exceed
127 2 and ½ years

128 Level 1, 2 and 3 offenders living in a town or city must register with the board immediately upon
129 establishing residence within the town or city. All offenders must report changes of address in
130 either home or work via US mail to the board 10 days prior to a move. Upon verifying
131 registration data or giving notice of a change of address or intended change of address, the

132 narcotics offender shall provide independent written verification of the address at which he is
133 registered or, if changing an address, will be registered.

134 Section 178 ½(H) Whenever a police officer has probable cause to believe that a narcotics
135 offender has failed to comply with the registration requirements of section G, such officer shall
136 have the right to arrest such narcotics offender without a warrant and to keep such narcotics
137 offender in custody for the next sitting of court. Such circumstances include a narcotics offender
138 who knowingly (i) Fails to register (ii) fails to verify registration information (iii) fails to provide
139 notice of a change of address or (iv) provides false information.