

3645--D

2011-2012 Regular Sessions

I N S E N A T E

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Introduced by Sens. GRIFFO, NOZZOLIO, DeFRANCISCO, GALLIVAN, GOLDEN, KENNEDY, LARKIN, LITTLE, MARTINS, MAZIARZ, RANZENHOFER, RITCHIE, ROBACH, SEWARD, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report, and to be reprinted as amended, retaining its place in the order of second report -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to enacting "Brittany's Law"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as "Brittany's
2 Law".

3 S 2. The correction law is amended by adding a new article 6-B to read
4 as follows:

5 ARTICLE 6-B

6 VIOLENT FELONY OFFENDER REGISTRATION

7 SECTION 162. DEFINITIONS.

8 163. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.

9 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION.

10 165. DUTIES OF THE COURT.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD07018-15-2

- 1 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL
2 FACILITY; DUTIES OF OFFICIAL IN CHARGE.
3 167. DUTY TO REGISTER.
4 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER.
5 167-B. DURATION OF REGISTRATION.
6 167-C. REGISTRATION REQUIREMENTS.
7 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE
8 OF ADDRESS.
9 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.
10 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS.
11 167-G. REVIEW.
12 167-H. JUDICIAL DETERMINATION.
13 167-I. PETITION FOR RELIEF.
14 167-J. SPECIAL "900" TELEPHONE NUMBER.
15 167-K. VIOLENT PREDATOR SUBDIRECTORY.
16 167-L. IMMUNITY FROM LIABILITY.
17 167-M. ANNUAL REPORT.
18 167-N. FAILURE TO REGISTER; PENALTY.
19 167-O. UNAUTHORIZED RELEASE OF INFORMATION.
20 167-P. SEVERABILITY.
21 167-Q. SUBDIRECTORY; INTERNET POSTING.

22 S 162. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING DEFINITIONS
23 APPLY:

24 1. "VIOLENT FELONY OFFENDER" INCLUDES ANY PERSON WHO IS CONVICTED OF A
25 VIOLENT FELONY OFFENSE AS DEFINED UNDER SECTION 70.02 OF THE PENAL LAW.
26 CONVICTIONS THAT RESULT FROM OR ARE CONNECTED WITH THE SAME ACT, OR
27 RESULT FROM OFFENSES COMMITTED AT THE SAME TIME, SHALL BE COUNTED FOR
28 THE PURPOSE OF THIS ARTICLE AS ONE CONVICTION. ANY CONVICTION SET ASIDE
29 PURSUANT TO LAW IS NOT A CONVICTION FOR PURPOSES OF THIS ARTICLE.

30 2. "VIOLENT FELONY OFFENSE" MEANS A CONVICTION FOR AN OFFENSE AS
31 DEFINED UNDER SECTION 70.02 OF THE PENAL LAW OR A CLASS A FELONY OFFENSE
32 DEFINED IN THE PENAL LAW OTHER THAN A CLASS A OFFENSE DEFINED IN ARTICLE
33 TWO HUNDRED TWENTY OF THE PENAL LAW.

34 3. "LAW ENFORCEMENT AGENCY HAVING JURISDICTION" MEANS THE CHIEF LAW
35 ENFORCEMENT OFFICER IN THE VILLAGE, TOWN OR CITY IN WHICH THE VIOLENT
36 FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PROBATION,
37 PAROLE OR UPON ANY FORM OF STATE OR LOCAL CONDITIONAL RELEASE.

38 4. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES ESTAB-
39 LISHED UNDER ARTICLE THIRTY-FIVE OF THE EXECUTIVE LAW.

40 5. "HOSPITAL" MEANS A HOSPITAL AS DEFINED IN SUBDIVISION TWO OF
41 SECTION FOUR HUNDRED OF THIS CHAPTER AND APPLIES TO PERSONS COMMITTED TO
42 SUCH HOSPITAL BY ORDER OF COMMITMENT MADE PURSUANT TO ARTICLE SIXTEEN OF
43 THIS CHAPTER.

44 6. "VIOLENT PREDATOR" MEANS A PERSON WHO HAS BEEN CONVICTED OF A
45 VIOLENT FELONY OFFENSE AS DEFINED IN THIS ARTICLE, OR A VIOLENT FELONY
46 OFFENDER AS DEFINED IN THIS ARTICLE WHO SUFFERS FROM A MENTAL ABNOR-
47 MALITY THAT MAKES SUCH PERSON LIKELY TO ENGAGE IN VIOLENT CONDUCT.

48 7. "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION OF A
49 PERSON THAT AFFECTS THE EMOTIONAL OR VOLITIONAL CAPACITY OF THE PERSON
50 IN A MANNER THAT PREDISPOSES THAT PERSON TO THE COMMISSION OF CRIMINAL
51 VIOLENT ACTS TO A DEGREE THAT MAKES THE PERSON A MENACE TO THE HEALTH
52 AND SAFETY OF OTHER PERSONS.

53 8. "BOARD" MEANS THE BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS
54 ESTABLISHED PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTI-
55 CLE.

1 9. "LOCAL CORRECTIONAL FACILITY" MEANS A LOCAL CORRECTIONAL FACILITY
2 AS THAT TERM IS DEFINED IN SUBDIVISION SIXTEEN OF SECTION TWO OF THIS
3 CHAPTER.

4 S 163. DUTIES OF THE DIVISION; REGISTRATION INFORMATION. 1. THE DIVI-
5 SION SHALL ESTABLISH AND MAINTAIN A FILE OF INDIVIDUALS REQUIRED TO
6 REGISTER PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHICH SHALL INCLUDE
7 THE FOLLOWING INFORMATION OF EACH REGISTRANT:

8 (A) THE VIOLENT FELONY OFFENDER'S NAME, ALL ALIASES USED, DATE OF
9 BIRTH, SEX, RACE, HEIGHT, WEIGHT, EYE COLOR, DRIVER'S LICENSE NUMBER,
10 HOME ADDRESS AND/OR EXPECTED PLACE OF DOMICILE.

11 (B) A PHOTOGRAPH AND SET OF FINGERPRINTS.

12 (C) A DESCRIPTION OF THE OFFENSE FOR WHICH THE VIOLENT FELONY OFFENDER
13 WAS CONVICTED, THE DATE OF CONVICTION AND THE SENTENCE IMPOSED.

14 (D) ANY OTHER INFORMATION DEEMED PERTINENT BY THE DIVISION.

15 2. THE DIVISION IS AUTHORIZED TO MAKE THE REGISTRY AVAILABLE TO ANY
16 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS FOR THE
17 PURPOSE OF SHARING INFORMATION. THE DIVISION SHALL ACCEPT FILES FROM ANY
18 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS AND SHALL MAKE
19 SUCH FILES AVAILABLE WHEN REQUESTED PURSUANT TO THE PROVISIONS OF THIS
20 ARTICLE. THE DIVISION SHALL REQUIRE THAT NO INFORMATION INCLUDED IN THE
21 REGISTRY SHALL BE MADE AVAILABLE EXCEPT IN THE FURTHERANCE OF THE
22 PROVISIONS OF THIS ARTICLE.

23 3. THE DIVISION SHALL DEVELOP A STANDARDIZED REGISTRATION FORM TO BE
24 MADE AVAILABLE TO THE APPROPRIATE AUTHORITIES AND PROMULGATE RULES AND
25 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

26 4. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE
27 LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIRE-
28 MENTS.

29 5. THE DIVISION SHALL ALSO ESTABLISH AND OPERATE A 900 NUMBER AS
30 PROVIDED FOR IN SECTION ONE HUNDRED SIXTY-SEVEN-J OF THIS ARTICLE.

31 6. THE DIVISION SHALL ALSO ESTABLISH A VIOLENT PREDATOR SUBDIRECTORY
32 PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-K OF THIS ARTICLE.

33 7. THE DIVISION SHALL ALSO ESTABLISH A PUBLIC AWARENESS CAMPAIGN TO
34 ADVISE THE PUBLIC OF THE PROVISIONS OF THIS ARTICLE.

35 S 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION. 1. IN THE
36 CASE OF ANY VIOLENT FELONY OFFENDER, IT SHALL BE THE DUTY OF THE DEPART-
37 MENT, HOSPITAL OR LOCAL CORRECTIONAL FACILITY AT LEAST TEN CALENDAR DAYS
38 PRIOR TO THE RELEASE OR DISCHARGE OF ANY VIOLENT FELONY OFFENDER FROM A
39 CORRECTIONAL FACILITY, HOSPITAL OR LOCAL CORRECTIONAL FACILITY TO NOTIFY
40 THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE APPROPRIATE, AND
41 LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER
42 CONVICTION, OF THE CONTEMPLATED RELEASE OR DISCHARGE OF SUCH VIOLENT
43 FELONY OFFENDER, INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND
44 ALIASES OF THE VIOLENT FELONY OFFENDER, THE ADDRESS AT WHICH HE OR SHE
45 PROPOSES TO RESIDE, THE ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME
46 OF HIS OR HER CONVICTION, THE AMOUNT OF TIME REMAINING TO BE SERVED, IF
47 ANY, ON THE FULL TERM FOR WHICH HE OR SHE WAS SENTENCED, AND THE NATURE
48 OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME
49 TIME A COPY OF SUCH VIOLENT FELONY OFFENDER'S FINGERPRINTS AND PHOTO-
50 GRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH VIOLENT FELO-
51 NY OFFENDER CHANGES HIS OR HER PLACE OF RESIDENCE WHILE ON PAROLE, SUCH
52 NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT BY THE VIOLENT
53 FELONY OFFENDER'S PAROLE OFFICER WITHIN FORTY-EIGHT HOURS TO THE LAW
54 ENFORCEMENT AGENCY IN WHICH THE NEW PLACE OF RESIDENCE IS LOCATED.

55 2. IN THE CASE OF ANY VIOLENT FELONY OFFENDER CONVICTED AND SENTENCED
56 TO PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, IT SHALL

1 BE THE DUTY OF THE COURT WITHIN TWENTY-FOUR HOURS AFTER SUCH SENTENCE TO
2 NOTIFY THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION, WHERE APPROPRI-
3 ATE, AND OF THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE
4 TIME OF HIS OR HER CONVICTION, IF DIFFERENT FROM WHERE HE OR SHE
5 CURRENTLY RESIDES, AND/OR WHERE HE OR SHE CURRENTLY RESIDES, OF THE
6 SENTENCE OF PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE,
7 INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND ALIASES OF THE
8 PERSON, THE ADDRESS AT WHICH HE OR SHE PROPOSES TO RESIDE, RESIDED AT
9 AND/OR AT WHICH HE OR SHE CURRENTLY RESIDES, THE AMOUNT OF TIME TO BE
10 SERVED ON PROBATION, AND THE NATURE OF THE CRIME FOR WHICH HE OR SHE WAS
11 SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH VIOLENT FELONY
12 OFFENDER'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIM-
13 INAL RECORD. IF SUCH PERSON CHANGES HIS OR HER PLACE OF RESIDENCE WHILE
14 ON PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT
15 BY THE VIOLENT FELONY OFFENDER'S PROBATION OFFICER WITHIN FORTY-EIGHT
16 HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH THE NEW
17 PLACE OF RESIDENCE IS LOCATED.

18 3. IN THE CASE OF ANY VIOLENT FELONY OFFENDER, WHO ON THE EFFECTIVE
19 DATE OF THIS SUBDIVISION IS ON PAROLE OR PROBATION, IT SHALL BE THE DUTY
20 OF SUCH VIOLENT FELONY OFFENDER'S PAROLE OR PROBATION OFFICER WITHIN
21 FORTY-FIVE CALENDAR DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION TO
22 NOTIFY THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION IN WHICH SUCH
23 PERSON RESIDED AT THE TIME OF HIS OR HER CONVICTION, IF DIFFERENT FROM
24 WHERE HE OR SHE CURRENTLY RESIDES AND/OR WHERE HE OR SHE CURRENTLY
25 RESIDES, OF THE NAME AND ALIASES OF SUCH VIOLENT FELONY OFFENDER, THE
26 ADDRESS AT WHICH HE OR SHE RESIDED AND/OR AT WHICH HE OR SHE CURRENTLY
27 RESIDES, THE AMOUNT OF TIME TO BE SERVED ON PAROLE OR PROBATION, THE
28 NATURE OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT
29 THE SAME TIME A COPY OF SUCH VIOLENT FELONY OFFENDER'S FINGERPRINTS AND
30 PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH VIOLENT
31 FELONY OFFENDER CHANGES HIS OR HER PLACE OF RESIDENCE WHILE ON PAROLE OR
32 PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT BY
33 THE VIOLENT FELONY OFFENDER'S PAROLE OR PROBATION OFFICER WITHIN FORTY-
34 EIGHT HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH
35 THE NEW PLACE OF RESIDENCE IS LOCATED.

36 4. IN THE CASE IN WHICH ANY VIOLENT FELONY OFFENDER ESCAPES FROM A
37 STATE OR LOCAL CORRECTIONAL FACILITY OR HOSPITAL, THE DESIGNATED OFFI-
38 CIAL OF THE FACILITY OR HOSPITAL WHERE THE PERSON WAS CONFINED SHALL
39 NOTIFY WITHIN TWENTY-FOUR HOURS THE LAW ENFORCEMENT AGENCY HAVING HAD
40 JURISDICTION AT THE TIME OF HIS OR HER CONVICTION, INFORMING SUCH LAW
41 ENFORCEMENT AGENCY OF THE NAME AND ALIASES OF THE PERSON, AND THE
42 ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME OF HIS OR HER CONVICTION,
43 THE AMOUNT OF TIME REMAINING TO BE SERVED IF ANY, ON THE FULL TERM FOR
44 WHICH HE OR SHE WAS SENTENCED, AND THE NATURE OF THE CRIME FOR WHICH HE
45 OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH
46 VIOLENT FELONY OFFENDER'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF
47 HIS OR HER CRIMINAL RECORD.

48 S 165. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY
49 THAT THE PERSON IS A VIOLENT FELONY OFFENDER AND SHALL INCLUDE THE
50 CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE
51 THE VIOLENT FELONY OFFENDER OF THE DUTIES OF THIS ARTICLE.

52 2. ANY VIOLENT FELONY OFFENDER, WHO IS RELEASED ON PROBATION OR
53 DISCHARGED UPON PAYMENT OF A FINE SHALL, PRIOR TO SUCH RELEASE OR
54 DISCHARGE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE
55 BY THE COURT IN WHICH HE OR SHE WAS CONVICTED. WHERE THE COURT ORDERS A
56 VIOLENT FELONY OFFENDER RELEASED ON PROBATION, SUCH ORDER MUST INCLUDE A

1 PROVISION REQUIRING THAT HE OR SHE COMPLY WITH THE REQUIREMENTS OF THIS
2 ARTICLE. WHERE SUCH VIOLENT FELONY OFFENDER VIOLATES SUCH PROVISION,
3 PROBATION MAY BE IMMEDIATELY REVOKED IN THE MANNER PROVIDED BY ARTICLE
4 FOUR HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW. THE COURT SHALL REQUIRE
5 THE VIOLENT FELONY OFFENDER TO READ AND SIGN SUCH FORM AS MAY BE
6 REQUIRED BY THE DIVISION STATING THE DUTY TO REGISTER AND THE PROCEDURE
7 FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER. THE COURT SHALL ON
8 SUCH FORM OBTAIN THE ADDRESS WHERE THE VIOLENT FELONY OFFENDER EXPECTS
9 TO RESIDE UPON HIS OR HER RELEASE, AND SHALL REPORT THE ADDRESS TO THE
10 DIVISION. THE COURT SHALL GIVE ONE COPY OF THE FORM TO THE VIOLENT FELONY
11 OFFENDER AND SHALL SEND TWO COPIES TO THE DIVISION WHICH SHALL
12 FORWARD ONE COPY TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE
13 THE VIOLENT FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER RELEASE.
14 WITHIN TEN CALENDAR DAYS OF BEING RELEASED ON PROBATION OR DISCHARGED
15 UPON PAYMENT OF A FINE, SUCH VIOLENT FELONY OFFENDER SHALL REGISTER WITH
16 THE DIVISION FOR PURPOSES OF VERIFYING SUCH VIOLENT FELONY OFFENDER'S
17 INTENDED PLACE OF RESIDENCE. ON EACH ANNIVERSARY OF THE VIOLENT FELONY
18 OFFENDER'S ORIGINAL REGISTRATION DATE, THE PROVISIONS OF SECTION ONE
19 HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. THE DIVISION SHALL
20 ALSO IMMEDIATELY FORWARD THE CONVICTION DATA AND FINGERPRINTS TO THE
21 FEDERAL BUREAU OF INVESTIGATION IF NOT ALREADY OBTAINED.

22 3. FOR VIOLENT FELONY OFFENDERS UNDER THIS SECTION, IT SHALL BE THE
23 DUTY OF THE COURT APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION
24 FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE TO DETERMINE
25 THE DURATION OF REGISTRATION PURSUANT TO SECTION ONE HUNDRED SIXTY-SEV-
26 EN-B OF THIS ARTICLE AND NOTIFICATION PURSUANT TO SUBDIVISION SIX OF
27 SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE. IN MAKING THE DETER-
28 MINATION, THE COURT SHALL REVIEW ANY VICTIM'S STATEMENT AND ANY MATERI-
29 ALS SUBMITTED BY THE VIOLENT FELONY OFFENDER. THE COURT SHALL ALSO ALLOW
30 THE VIOLENT FELONY OFFENDER TO APPEAR AND BE HEARD, AND INFORM THE
31 VIOLENT FELONY OFFENDER OF HIS OR HER RIGHT TO HAVE COUNSEL APPOINTED,
32 IF NECESSARY.

33 S 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL FACILI-
34 TY; DUTIES OF OFFICIAL IN CHARGE. 1. ANY VIOLENT FELONY OFFENDER, TO BE
35 DISCHARGED, PAROLED OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL
36 FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR
37 COMMITTED, SHALL WITHIN FORTY-FIVE CALENDAR DAYS PRIOR TO DISCHARGE,
38 PAROLE OR RELEASE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS
39 ARTICLE, BY THE FACILITY IN WHICH HE OR SHE WAS CONFINED OR COMMITTED.
40 THE FACILITY SHALL REQUIRE THE VIOLENT FELONY OFFENDER TO READ AND SIGN
41 SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING THE DUTY TO REGIS-
42 TER AND THE PROCEDURE FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER.
43 THE FACILITY SHALL OBTAIN ON SUCH FORM THE ADDRESS WHERE THE VIOLENT
44 FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR
45 RELEASE AND SHALL REPORT THE ADDRESS TO THE DIVISION. THE FACILITY SHALL
46 GIVE ONE COPY OF THE FORM TO THE VIOLENT FELONY OFFENDER AND SHALL SEND
47 TWO COPIES TO THE DIVISION WHICH SHALL FORWARD ONE COPY TO THE LAW
48 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER
49 EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR RELEASE. IN ADDI-
50 TION, THE FACILITY SHALL GIVE THE VIOLENT FELONY OFFENDER A FORM TO
51 REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR PURPOSES OF
52 VERIFYING SUCH VIOLENT FELONY OFFENDER'S INTENDED PLACE OF RESIDENCE.

53 2. THE DIVISION SHALL ALSO IMMEDIATELY TRANSMIT THE CONVICTION DATA
54 AND FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION, IF NOT ALREADY
55 OBTAINED.

1 S 167. DUTY TO REGISTER. 1. ANY VIOLENT FELONY OFFENDER, WHO IS
2 DISCHARGED, PAROLED OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL
3 FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR
4 COMMITTED, SHALL REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR
5 PURPOSES OF VERIFYING SUCH VIOLENT FELONY OFFENDER'S INTENDED PLACE OF
6 RESIDENCE.

7 2. FOR A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTI-
8 CLE ON EACH ANNIVERSARY OF THE VIOLENT FELONY OFFENDER'S INITIAL REGIS-
9 TRATION DATE DURING THE PERIOD ON WHICH HE OR SHE IS REQUIRED TO REGIS-
10 TER UNDER THIS SECTION THE FOLLOWING APPLIES:

11 (A) THE VIOLENT FELONY OFFENDER SHALL MAIL THE VERIFICATION FORM TO
12 THE DIVISION WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF THE FORM.

13 (B) THE VERIFICATION FORM SHALL BE SIGNED BY THE VIOLENT FELONY OFFEN-
14 DER, AND STATE THAT HE OR SHE STILL RESIDES AT THE ADDRESS LAST REPORTED
15 TO THE DIVISION.

16 (C) IF THE VIOLENT FELONY OFFENDER FAILS TO MAIL THE VERIFICATION FORM
17 TO THE DIVISION WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF THE FORM, HE
18 OR SHE SHALL BE IN VIOLATION OF THIS SECTION UNLESS HE OR SHE PROVES
19 THAT HE OR SHE HAS NOT CHANGED HIS OR HER RESIDENCE ADDRESS.

20 3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED
21 TO A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE
22 EXCEPT THAT SUCH VIOLENT FELONY OFFENDER DESIGNATED AS A VIOLENT PRED-
23 ATOR MUST PERSONALLY VERIFY WITH THE LOCAL LAW ENFORCEMENT AGENCY, THE
24 REGISTRATION EVERY NINETY CALENDAR DAYS AFTER THE DATE OF THE INITIAL
25 RELEASE OR COMMENCEMENT OF PAROLE.

26 4. ANY VIOLENT FELONY OFFENDER SHALL REGISTER WITH THE DIVISION WITHIN
27 TEN CALENDAR DAYS PRIOR TO ANY CHANGE OF ADDRESS. THE DIVISION SHALL, IF
28 THE VIOLENT FELONY OFFENDER CHANGES RESIDENCE TO ANOTHER STATE, NOTIFY
29 THE APPROPRIATE STATE LAW ENFORCEMENT AGENCY WITH WHICH THE VIOLENT
30 FELONY OFFENDER MUST REGISTER IN THE NEW STATE. IF ANY PERSON REQUIRED
31 TO REGISTER AS PROVIDED IN THIS ARTICLE CHANGES THE ADDRESS OF HIS OR
32 HER RESIDENCE, THE VIOLENT FELONY OFFENDER SHALL WITHIN TEN CALENDAR
33 DAYS, INFORM IN WRITING THE LAW ENFORCEMENT AGENCY WHERE LAST REGISTERED
34 OF THE NEW ADDRESS. THE LAW ENFORCEMENT AGENCY SHALL, WITHIN THREE
35 CALENDAR DAYS OF RECEIPT OF THE NEW ADDRESS, FORWARD THIS INFORMATION TO
36 THE DIVISION AND TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN
37 THE NEW PLACE OF RESIDENCE.

38 5. THE DUTY TO REGISTER UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT
39 BE APPLICABLE TO ANY VIOLENT FELONY OFFENDER WHOSE CONVICTION WAS
40 REVERSED UPON APPEAL OR WHO WAS PARDONED BY THE GOVERNOR.

41 S 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER. 1. THE
42 DEPARTMENT OR THE PROBATION DEPARTMENT SUPERVISING THE VIOLENT FELONY
43 OFFENDER OR DEPARTMENT OF PROBATION AND CORRECTIONAL ALTERNATIVES IN
44 ACCORDANCE WITH RISK FACTORS PURSUANT TO SECTION ONE HUNDRED SIXTY-SEV-
45 EN-F OF THIS ARTICLE SHALL DETERMINE THE DURATION OF REGISTRATION PURSU-
46 ANT TO SECTION ONE HUNDRED SIXTY-SEVEN-B OF THIS ARTICLE AND NOTIFICA-
47 TION FOR EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE OF THIS
48 ARTICLE IS THEN ON PAROLE OR PROBATION FOR COMMITTING A VIOLENT FELONY
49 OFFENSE OR A CLASS A OFFENSE DEFINED IN THE PENAL LAW EXCEPT FOR A CLASS
50 A OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW.

51 2. EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE OF THIS
52 ARTICLE IS THEN ON PAROLE OR PROBATION FOR A VIOLENT FELONY OFFENSE
53 SHALL WITHIN TEN CALENDAR DAYS OF SUCH DETERMINATION REGISTER WITH HIS
54 OR HER PAROLE OR PROBATION OFFICER. ON EACH ANNIVERSARY OF THE VIOLENT
55 FELONY OFFENDER'S INITIAL REGISTRATION DATE THEREAFTER, THE PROVISIONS
56 OF SECTION ONE HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. ANY

VIOLENT FELONY OFFENDER WHO FAILS OR REFUSES TO SO COMPLY SHALL BE SUBJECT TO THE SAME PENALTIES AS OTHERWISE PROVIDED FOR IN THIS ARTICLE WHICH WOULD BE IMPOSED UPON A VIOLENT FELONY OFFENDER WHO FAILS OR REFUSES TO SO COMPLY WITH THE PROVISIONS OF THIS ARTICLE ON OR AFTER SUCH EFFECTIVE DATE.

3. IT SHALL BE THE DUTY OF THE PAROLE OR PROBATION OFFICER TO INFORM AND REGISTER SUCH VIOLENT FELONY OFFENDER ACCORDING TO THE REQUIREMENTS IMPOSED BY THIS ARTICLE. A PAROLE OR PROBATION OFFICER SHALL GIVE ONE COPY OF THE FORM TO THE VIOLENT FELONY OFFENDER AND SHALL, WITHIN THREE CALENDAR DAYS, SEND TWO COPIES ELECTRONICALLY OR OTHERWISE TO THE DIVISION WHICH SHALL FORWARD ONE COPY ELECTRONICALLY OR OTHERWISE TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER RESIDES UPON HIS OR HER PAROLE, PROBATION, OR UPON ANY FORM OF STATE OR LOCAL CONDITIONAL RELEASE.

4. A PETITION FOR RELIEF FROM THIS SECTION IS PERMITTED TO ANY VIOLENT FELONY OFFENDER REQUIRED TO REGISTER WHILE RELEASED ON PAROLE OR PROBATION PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-I OF THIS ARTICLE.

S 167-B. DURATION OF REGISTRATION. THE DURATION OF REGISTRATION FOR A VIOLENT FELONY OFFENDER SHALL BE ANNUALLY FOR A PERIOD OF TEN YEARS FROM THE INITIAL DATE OF REGISTRATION, PROVIDED, HOWEVER, THAT FOR A VIOLENT PREDATOR, SHALL ANNUALLY REGISTER AND VERIFY QUARTERLY FOR A MINIMUM OF TEN YEARS UNLESS THE COURT DETERMINES IN ACCORDANCE WITH SECTION ONE HUNDRED SIXTY-SEVEN-I OF THIS ARTICLE, THAT THE PERSON NO LONGER SUFFERS FROM A MENTAL ABNORMALITY THAT WOULD MAKE HIM OR HER LIKELY TO ENGAGE IN A PREDATORY VIOLENT OFFENSE.

S 167-C. REGISTRATION REQUIREMENTS. REGISTRATION AS REQUIRED BY THIS ARTICLE SHALL CONSIST OF A STATEMENT IN WRITING SIGNED BY THE VIOLENT FELONY OFFENDER GIVING THE INFORMATION THAT IS REQUIRED BY THE DIVISION AND THE DIVISION SHALL ENTER THE INFORMATION INTO AN APPROPRIATE ELECTRONIC DATABASE OR FILE.

S 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS. 1. UPON RECEIPT OF A CHANGE OF ADDRESS BY A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE, THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE VIOLENT FELONY OFFENDER LAST REGISTERED SHALL WITHIN THREE CALENDAR DAYS OF RECEIPT OF THE NEW ADDRESS, FORWARD THIS INFORMATION TO THE DIVISION AND TO THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION OF THE NEW PLACE OF RESIDENCE.

2. A CHANGE OF ADDRESS BY A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE SHALL BE IMMEDIATELY REPORTED BY THE DIVISION TO THE APPROPRIATE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER IS RESIDING.

3. UPON RECEIPT OF CHANGE OF ADDRESS INFORMATION, THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION OF THE NEW PLACE OF RESIDENCE SHALL ADHERE TO THE NOTIFICATION PROVISIONS SET FORTH IN SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE.

S 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE. A VIOLENT FELONY OFFENDER WHO HAS BEEN CONVICTED OF AN OFFENSE WHICH REQUIRES REGISTRATION UNDER SECTION ONE HUNDRED SIXTY-SEVEN-C OF THIS ARTICLE SHALL REGISTER THE NEW ADDRESS WITH THE DIVISION NO LATER THAN TEN CALENDAR DAYS AFTER SUCH VIOLENT FELONY OFFENDER ESTABLISHES RESIDENCE IN THIS STATE. THE DIVISION SHALL COORDINATE WITH THE DESIGNATED LAW ENFORCEMENT AGENCY OF THE STATE OF WHICH THE INDIVIDUAL DEPARTED ON INFORMATION RELEVANT TO THE DURATION OF REGISTRATION.

S 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS. 1. THERE SHALL BE A BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS WHICH SHALL POSSESS THE POWERS AND DUTIES SPECIFIED IN THIS SECTION. SUCH BOARD

1 SHALL CONSIST OF FIVE MEMBERS OF THE DEPARTMENT WHO SHALL BE APPOINTED
2 BY THE GOVERNOR, THREE OF WHOM SHALL BE EXPERTS IN THE FIELD OF THE
3 BEHAVIOR AND TREATMENT OF VIOLENT FELONY OFFENDERS. THE TERM OF OFFICE
4 OF EACH MEMBER OF SUCH BOARD SHALL BE FOR SIX YEARS; PROVIDED, HOWEVER,
5 THAT ANY MEMBER CHOSEN TO FILL A VACANCY OCCURRING OTHERWISE THAN BY
6 EXPIRATION OF TERM SHALL BE APPOINTED FOR THE REMAINDER OF THE UNEXPIRED
7 TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. IN THE EVENT OF THE
8 INABILITY TO ACT OF ANY MEMBER, THE GOVERNOR MAY APPOINT SOME COMPETENT
9 INFORMED PERSON TO ACT IN HIS OR HER STEAD DURING THE CONTINUANCE OF
10 SUCH DISABILITY.

11 2. THE GOVERNOR SHALL DESIGNATE ONE OF THE MEMBERS OF THE BOARD AS
12 CHAIRMAN TO SERVE IN SUCH CAPACITY AT THE PLEASURE OF THE GOVERNOR OR
13 UNTIL THE MEMBER'S TERM OF OFFICE EXPIRES AND A SUCCESSOR IS DESIGNATED
14 IN ACCORDANCE WITH LAW, WHICHEVER FIRST OCCURS.

15 3. ANY MEMBER OF THE BOARD MAY BE REMOVED BY THE GOVERNOR FOR CAUSE
16 AFTER AN OPPORTUNITY TO BE HEARD.

17 4. EXCEPT AS OTHERWISE PROVIDED BY LAW, A MAJORITY OF THE BOARD SHALL
18 CONSTITUTE A QUORUM FOR THE TRANSACTION OF ALL BUSINESS OF THE BOARD.

19 5. THE BOARD SHALL DEVELOP GUIDELINES AND PROCEDURES TO ASSESS THE
20 RISK OF A REPEAT OFFENSE BY SUCH VIOLENT FELONY OFFENDER AND THE THREAT
21 POSED TO THE PUBLIC SAFETY. SUCH GUIDELINES SHALL BE BASED UPON, BUT NOT
22 LIMITED TO, THE FOLLOWING:

23 (A) CRIMINAL HISTORY FACTORS INDICATIVE OF HIGH RISK OF REPEAT
24 OFFENSE, INCLUDING: (I) WHETHER THE VIOLENT FELONY OFFENDER HAS A MENTAL
25 ABNORMALITY;

26 (II) WHETHER THE VIOLENT FELONY OFFENDER'S CONDUCT WAS FOUND TO BE
27 CHARACTERIZED BY REPETITIVE AND COMPULSIVE BEHAVIOR, ASSOCIATED WITH
28 DRUGS OR ALCOHOL;

29 (III) WHETHER THE VIOLENT FELONY OFFENDER SERVED THE MAXIMUM TERM;

30 (IV) WHETHER THE VIOLENT FELONY OFFENDER COMMITTED THE VIOLENT FELONY
31 OFFENSE AGAINST A CHILD;

32 (V) THE AGE OF THE VIOLENT FELONY OFFENDER AT THE TIME OF THE COMMIS-
33 SION OF THE FIRST VIOLENT OFFENSE;

34 (B) OTHER CRIMINAL HISTORY FACTORS TO BE CONSIDERED IN DETERMINING
35 RISK, INCLUDING:

36 (I) THE RELATIONSHIP BETWEEN SUCH VIOLENT FELONY OFFENDER AND THE
37 VICTIM;

38 (II) WHETHER THE OFFENSE INVOLVED THE USE OF A WEAPON, VIOLENCE OR
39 INFLECTION OF SERIOUS BODILY INJURY;

40 (III) THE NUMBER, DATE AND NATURE OF PRIOR OFFENSES;

41 (C) CONDITIONS OF RELEASE THAT MINIMIZE RISK OF RE-OFFENSE, INCLUDING
42 BUT NOT LIMITED TO WHETHER THE VIOLENT FELONY OFFENDER IS UNDER SUPER-
43 VISION; RECEIVING COUNSELING, THERAPY OR TREATMENT; OR RESIDING IN A
44 HOME SITUATION THAT PROVIDES GUIDANCE AND SUPERVISION;

45 (D) PHYSICAL CONDITIONS THAT MINIMIZE RISK OF RE-OFFENSE, INCLUDING
46 BUT NOT LIMITED TO ADVANCED AGE OR DEBILITATING ILLNESS;

47 (E) WHETHER PSYCHOLOGICAL OR PSYCHIATRIC PROFILES INDICATE A RISK OF
48 RECIDIVISM;

49 (F) THE VIOLENT FELONY OFFENDER'S RESPONSE TO TREATMENT;

50 (G) RECENT BEHAVIOR, INCLUDING BEHAVIOR WHILE CONFINED;

51 (H) RECENT THREATS OR GESTURES AGAINST PERSONS OR EXPRESSIONS OF
52 INTENT TO COMMIT ADDITIONAL OFFENSES; AND

53 (I) REVIEW OF ANY VICTIM IMPACT STATEMENT.

54 6. APPLYING THESE GUIDELINES, THE BOARD SHALL WITHIN SIXTY CALENDAR
55 DAYS PRIOR TO THE DISCHARGE, PAROLE OR RELEASE OF A VIOLENT FELONY
56 OFFENDER MAKE A RECOMMENDATION WHICH SHALL BE CONFIDENTIAL AND SHALL NOT

1 BE AVAILABLE FOR PUBLIC INSPECTION, TO THE SENTENCING COURT AS TO WHETH-
2 ER SUCH VIOLENT FELONY OFFENDER WARRANTS THE DESIGNATION OF VIOLENT
3 PREDATOR. IN ADDITION, THE GUIDELINES SHALL BE APPLIED BY THE BOARD TO
4 MAKE A RECOMMENDATION TO THE SENTENCING COURT, PROVIDING FOR ONE OF THE
5 FOLLOWING THREE LEVELS OF NOTIFICATION NOTWITHSTANDING ANY OTHER
6 PROVISION OF LAW DEPENDING UPON THE DEGREE OF THE RISK OF RE-OFFENSE BY
7 THE VIOLENT FELONY OFFENDER.

8 (A) IF THE RISK OF REPEAT OFFENSE IS LOW, A LEVEL ONE DESIGNATION
9 SHALL BE GIVEN TO SUCH VIOLENT FELONY OFFENDER. IN SUCH CASE THE LAW
10 ENFORCEMENT AGENCY HAVING JURISDICTION AND THE LAW ENFORCEMENT AGENCY
11 HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION SHALL BE
12 NOTIFIED PURSUANT TO THIS ARTICLE.

13 (B) IF THE RISK OF REPEAT OFFENSE IS MODERATE, A LEVEL TWO DESIGNATION
14 SHALL BE GIVEN TO SUCH VIOLENT FELONY OFFENDER. IN SUCH CASE THE LAW
15 ENFORCEMENT AGENCY HAVING JURISDICTION AND THE LAW ENFORCEMENT AGENCY
16 HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION SHALL BE
17 NOTIFIED AND MAY DISSEMINATE RELEVANT INFORMATION WHICH MAY INCLUDE
18 APPROXIMATE ADDRESS BASED ON VIOLENT FELONY OFFENDER'S ZIP CODE, A
19 PHOTOGRAPH OF THE OFFENDER, BACKGROUND INFORMATION INCLUDING THE
20 OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE OF VICTIM
21 TARGETED AND THE DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON THE OFFEN-
22 DER TO ANY ENTITY WITH VULNERABLE POPULATIONS RELATED TO THE NATURE OF
23 THE OFFENSE COMMITTED BY SUCH VIOLENT FELONY OFFENDER. ANY ENTITY
24 RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY DISCLOSE OR
25 FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION.

26 (C) IF THE RISK OF REPEAT OFFENSE IS HIGH AND THERE EXISTS A THREAT TO
27 THE PUBLIC SAFETY, SUCH VIOLENT FELONY OFFENDER SHALL BE DEEMED A
28 "VIOLENT PREDATOR" AND A LEVEL THREE DESIGNATION SHALL BE GIVEN TO SUCH
29 VIOLENT FELONY OFFENDER. IN SUCH CASE, THE LAW ENFORCEMENT AGENCY HAVING
30 JURISDICTION AND THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT
31 THE TIME OF HIS OR HER CONVICTION SHALL BE NOTIFIED AND MAY DISSEMINATE
32 RELEVANT INFORMATION WHICH MAY INCLUDE THE VIOLENT FELONY OFFENDER'S
33 EXACT ADDRESS, A PHOTOGRAPH OF THE OFFENDER, BACKGROUND INFORMATION
34 INCLUDING THE OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE
35 OF VICTIM TARGETED, AND THE DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON
36 THE OFFENDER TO ANY ENTITY WITH VULNERABLE POPULATIONS RELATED TO THE
37 NATURE OF THE OFFENSE COMMITTED BY SUCH VIOLENT FELONY OFFENDERS.

38 ANY ENTITY RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY
39 DISCLOSE OR FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION. IN
40 ADDITION, IN SUCH CASE, THE INFORMATION DESCRIBED IN THIS SECTION SHALL
41 ALSO BE PROVIDED IN THE SUBDIRECTORY ESTABLISHED IN THIS ARTICLE AND
42 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUCH INFORMATION SHALL, UPON
43 REQUEST, BE MADE AVAILABLE TO THE PUBLIC.

44 7. UPON REQUEST BY THE COURT, PURSUANT TO SECTION ONE HUNDRED
45 SIXTY-SEVEN-I OF THIS ARTICLE, THE BOARD SHALL PROVIDE AN UPDATED REPORT
46 PERTAINING TO THE VIOLENT FELONY OFFENDER PETITIONING RELIEF OF DUTY TO
47 REGISTER.

48 S 167-G. REVIEW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
49 CONTRARY, ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITU-
50 TION SHALL FORWARD RELEVANT INFORMATION PERTAINING TO A VIOLENT FELONY
51 OFFENDER TO BE DISCHARGED, PAROLED OR RELEASED TO THE BOARD FOR REVIEW
52 NO LATER THAN ONE HUNDRED TWENTY DAYS PRIOR TO THE RELEASE OR DISCHARGE
53 AND THE BOARD SHALL MAKE RECOMMENDATIONS AS PROVIDED IN SUBDIVISION SIX
54 OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE WITHIN SIXTY DAYS
55 OF RECEIPT OF THE INFORMATION. INFORMATION MAY INCLUDE BUT MAY NOT BE
56 LIMITED TO THE COMMITMENT FILE, MEDICAL FILE AND TREATMENT FILE PERTAIN-

1 ING TO SUCH PERSON. SUCH PERSON SHALL BE PERMITTED TO SUBMIT TO THE
2 BOARD ANY INFORMATION RELEVANT TO THE REVIEW.

3 S 167-H. JUDICIAL DETERMINATION. 1. A DETERMINATION THAT AN OFFENDER
4 IS A VIOLENT FELONY OFFENDER OR A VIOLENT PREDATOR SHALL BE MADE PRIOR
5 TO THE DISCHARGE, PAROLE OR RELEASE OF SUCH OFFENDER BY THE SENTENCING
6 COURT AFTER RECEIVING A RECOMMENDATION FROM THE BOARD PURSUANT TO
7 SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE.

8 2. IN ADDITION, THE SENTENCING COURT SHALL ALSO MAKE A DETERMINATION
9 WITH RESPECT TO THE LEVEL OF NOTIFICATION, AFTER RECEIVING A RECOMMENDA-
10 TION FROM THE BOARD PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-F OF
11 THIS ARTICLE. BOTH DETERMINATIONS OF THE SENTENCING COURT SHALL BE MADE
12 THIRTY CALENDAR DAYS PRIOR TO DISCHARGE, PAROLE OR RELEASE.

13 3. IN MAKING THE DETERMINATION, THE COURT SHALL REVIEW ANY VICTIM'S
14 STATEMENT AND ANY MATERIALS SUBMITTED BY THE VIOLENT FELONY OFFENDER.
15 THE COURT SHALL ALSO ALLOW THE VIOLENT FELONY OFFENDER TO APPEAR AND BE
16 HEARD, AND INFORM THE VIOLENT FELONY OFFENDER OF HIS OR HER RIGHT TO
17 HAVE COUNSEL APPOINTED, IF NECESSARY.

18 4. UPON DETERMINATION THAT THE RISK OF REPEAT OFFENSE AND THREAT TO
19 PUBLIC SAFETY IS HIGH, THE SENTENCING COURT SHALL ALSO NOTIFY THE DIVI-
20 SION OF SUCH FACT FOR THE PURPOSES OF SECTION ONE HUNDRED SIXTY-SEVEN-K
21 OF THIS ARTICLE.

22 5. UPON THE REVERSAL OF A CONVICTION OF THE VIOLENT FELONY OFFENSE,
23 THE COURT SHALL ORDER THE EXPUNGEMENT OF ANY RECORDS REQUIRED TO BE KEPT
24 PURSUANT TO THIS SECTION.

25 S 167-I. PETITION FOR RELIEF. ANY VIOLENT FELONY OFFENDER REQUIRED TO
26 REGISTER PURSUANT TO THIS ARTICLE MAY BE RELIEVED OF ANY FURTHER DUTY TO
27 REGISTER UPON THE GRANTING OF A PETITION FOR RELIEF BY THE SENTENCING
28 COURT. UPON RECEIPT OF THE PETITION FOR RELIEF, THE COURT SHALL NOTIFY
29 THE BOARD AND REQUEST AN UPDATED REPORT PERTAINING TO THE VIOLENT FELONY
30 OFFENDER. AFTER RECEIVING THE REPORT FROM THE BOARD, THE COURT MAY GRANT
31 OR DENY THE RELIEF SOUGHT. THE COURT MAY CONSULT WITH THE VICTIM PRIOR
32 TO MAKING A DETERMINATION ON THE PETITION. SUCH PETITION, IF GRANTED,
33 SHALL NOT RELIEVE THE PETITIONER OF THE DUTY TO REGISTER PURSUANT TO
34 THIS ARTICLE UPON CONVICTION OF ANY OFFENSE REQUIRING REGISTRATION IN
35 THE FUTURE.

36 S 167-J. SPECIAL "900" TELEPHONE NUMBER. 1. PURSUANT TO SECTION ONE
37 HUNDRED SIXTY-THREE OF THIS ARTICLE, THE DIVISION SHALL ALSO OPERATE A
38 "900" TELEPHONE NUMBER THAT MEMBERS OF THE PUBLIC MAY CALL AND INQUIRE
39 WHETHER A NAMED INDIVIDUAL REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE
40 IS LISTED. THE DIVISION SHALL ASCERTAIN WHETHER A NAMED PERSON REASON-
41 ABLY APPEARS TO BE A PERSON SO LISTED AND PROVIDE THE CALLER WITH THE
42 RELEVANT INFORMATION ACCORDING TO RISK AS DESCRIBED IN SUBDIVISION SIX
43 OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE. THE DIVISION SHALL
44 DECIDE WHETHER THE NAMED PERSON REASONABLY APPEARS TO BE A PERSON LIST-
45 ED, BASED UPON INFORMATION FROM THE CALLER PROVIDING INFORMATION THAT
46 SHALL INCLUDE (A) AN EXACT STREET ADDRESS, INCLUDING APARTMENT NUMBER,
47 DRIVER'S LICENSE NUMBER OR BIRTH DATE, ALONG WITH ADDITIONAL INFORMATION
48 THAT MAY INCLUDE SOCIAL SECURITY NUMBER, HAIR COLOR, EYE COLOR, HEIGHT,
49 WEIGHT, DISTINCTIVE MARKINGS, ETHNICITY; OR (B) ANY COMBINATION OF THE
50 ABOVE LISTED CHARACTERISTICS IF AN EXACT BIRTH DATE OR ADDRESS IS NOT
51 AVAILABLE. IF THREE OF THE CHARACTERISTICS PROVIDED INCLUDE ETHNICITY,
52 HAIR COLOR, AND EYE COLOR, OTHER IDENTIFYING CHARACTERISTICS SHALL BE
53 PROVIDED. ANY INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE,
54 ADDRESS OR RELATION TO THE PERSON LISTED BY THE DIVISION SHALL BE
55 EXCLUDED BY THE DIVISION.

2. WHEN THE "900" NUMBER IS CALLED, A PREAMBLE SHALL BE PLAYED BEFORE CHARGES BEGIN TO ACCRUE. THE PREAMBLE SHALL RUN AT LEAST THE LENGTH OF TIME REQUIRED BY FEDERAL LAW AND SHALL PROVIDE THE FOLLOWING INFORMATION:

(A) NOTICE THAT THE CALLER'S TELEPHONE NUMBER WILL BE RECORDED;

(B) THE CHARGES FOR USE OF THE "900" NUMBER;

(C) NOTICE THAT THE CALLER IS REQUIRED TO IDENTIFY HIMSELF OR HERSELF TO THE OPERATOR AND PROVIDE CURRENT ADDRESS AND SHALL BE MAINTAINED IN A WRITTEN RECORD;

(D) NOTICE THAT THE CALLER IS REQUIRED TO BE EIGHTEEN YEARS OF AGE OR OLDER;

(E) A WARNING THAT IT IS ILLEGAL TO USE INFORMATION OBTAINED THROUGH THE "900" NUMBER TO COMMIT A CRIME AGAINST ANY PERSON LISTED OR TO ENGAGE IN ILLEGAL DISCRIMINATION OR HARASSMENT AGAINST SUCH PERSON;

(F) NOTICE THAT THE CALLER IS REQUIRED TO HAVE THE BIRTH DATE, DRIVER'S LICENSE OR IDENTIFICATION NUMBER, OR ADDRESS OR OTHER IDENTIFYING INFORMATION REGARDING THE PERSON ABOUT WHOM INFORMATION IS SOUGHT IN ORDER TO ACHIEVE A POSITIVE IDENTIFICATION OF THAT PERSON;

(G) A STATEMENT THAT THE NUMBER IS NOT A CRIME HOTLINE AND THAT ANY SUSPECTED CRIMINAL ACTIVITY SHOULD BE REPORTED TO LOCAL AUTHORITIES.

3. WHENEVER THERE IS REASONABLE CAUSE TO BELIEVE THAT ANY PERSON OR GROUP OF PERSONS IS ENGAGED IN A PATTERN OR PRACTICE OF MISUSE OF THE "900" NUMBER, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY OR ANY PERSON AGGRIEVED BY THE MISUSE OF THE NUMBER IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPROPRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER OR OTHER ORDER AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR THE PATTERN OR PRACTICE OF MISUSE. THE FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCEDURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS OF LAW. SUCH PERSON OR GROUP OF PERSONS SHALL BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS AND NOT MORE THAN ONE THOUSAND DOLLARS.

4. THE DIVISION SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT ON THE OPERATION OF THE "900" TELEPHONE NUMBER. THE ANNUAL REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

(A) NUMBER OF CALLS RECEIVED;

(B) AMOUNT OF INCOME EARNED PER YEAR THROUGH OPERATION OF THE "900" NUMBER;

(C) A DETAILED OUTLINE OF THE AMOUNT OF MONEY EXPENDED AND THE MANNER IN WHICH IT WAS EXPENDED FOR PURPOSES OF THIS SECTION;

(D) NUMBER OF CALLS THAT RESULTED IN AN AFFIRMATIVE RESPONSE AND THE NUMBER OF CALLS THAT RESULTED IN A NEGATIVE RESPONSE WITH REGARD TO WHETHER A NAMED INDIVIDUAL WAS LISTED;

(E) NUMBER OF PERSONS LISTED; AND

(F) A SUMMARY OF THE SUCCESS OF THE "900" TELEPHONE NUMBER PROGRAM BASED UPON SELECTED FACTORS.

S 167-K. VIOLENT PREDATOR SUBDIRECTORY. 1. THE DIVISION SHALL MAINTAIN A SUBDIRECTORY OF VIOLENT PREDATORS. THE SUBDIRECTORY SHALL INCLUDE THE EXACT ADDRESS AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG WITH THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL DESCRIPTION, AGE AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION INCLUDING THE VIOLENT FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE OF VICTIM TARGETED, AND A DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON THE VIOLENT FELONY OFFENDER SHALL ALSO BE INCLUDED. THE SUBDIRECTORY SHALL HAVE VIOLENT FELONY OFFENDER LISTINGS CATEGORIZED BY COUNTY AND ZIP CODE. A COPY OF THE SUBDIRECTORY SHALL ANNUALLY BE DISTRIBUTED TO THE

1 OFFICES OF LOCAL VILLAGE, TOWN OR CITY POLICE DEPARTMENTS FOR PURPOSES
2 OF PUBLIC ACCESS. SUCH DEPARTMENTS SHALL REQUIRE THAT A PERSON IN WRIT-
3 ING EXPRESS A PURPOSE IN ORDER TO HAVE ACCESS TO THE SUBDIRECTORY AND
4 SUCH DEPARTMENT SHALL MAINTAIN THESE REQUESTS. ANY INFORMATION IDENTIFY-
5 ING THE VICTIM BY NAME, BIRTH DATE, ADDRESS OR RELATION TO THE VIOLENT
6 FELONY OFFENDER SHALL BE EXCLUDED FROM THE SUBDIRECTORY DISTRIBUTED FOR
7 PURPOSES OF PUBLIC ACCESS. THE SUBDIRECTORY PROVIDED FOR IN THIS SECTION
8 SHALL BE UPDATED PERIODICALLY TO MAINTAIN ITS EFFICIENCY AND USEFULNESS
9 AND MAY BE COMPUTER ACCESSIBLE.

10 2. ANY PERSON WHO USES INFORMATION DISCLOSED PURSUANT TO THIS SECTION
11 IN VIOLATION OF THE LAW SHALL IN ADDITION TO ANY OTHER PENALTY OR FINE
12 IMPOSED, BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS AND
13 NOT MORE THAN ONE THOUSAND DOLLARS. UNAUTHORIZED REMOVAL OR DUPLICATION
14 OF THE SUBDIRECTORY FROM THE OFFICES OF LOCAL, VILLAGE OR CITY POLICE
15 DEPARTMENT SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND
16 DOLLARS. IN ADDITION, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY, OR
17 ANY PERSON AGGRIEVED IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPRO-
18 PRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR
19 A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER
20 AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR SUCH ACTION. THE
21 FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCE-
22 DURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS
23 OF LAW.

24 S 167-L. IMMUNITY FROM LIABILITY. 1. NO OFFICIAL, EMPLOYEE OR AGENCY,
25 WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL
26 LIABILITY FOR DAMAGES FOR ANY DISCRETIONARY DECISION TO RELEASE RELEVANT
27 AND NECESSARY INFORMATION PURSUANT TO THIS SECTION, PROVIDED THAT IT IS
28 SHOWN THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED REASONABLY AND IN
29 GOOD FAITH. THE IMMUNITY PROVIDED UNDER THIS SECTION APPLIES TO THE
30 RELEASE OF RELEVANT INFORMATION TO OTHER EMPLOYEES OR OFFICIALS OR TO
31 THE GENERAL PUBLIC.

32 2. NOTHING IN THIS SECTION SHALL BE DEEMED TO IMPOSE ANY CIVIL OR
33 CRIMINAL LIABILITY UPON OR TO GIVE RISE TO A CAUSE OF ACTION AGAINST ANY
34 OFFICIAL, EMPLOYEE OR AGENCY, WHETHER PUBLIC OR PRIVATE, FOR FAILING TO
35 RELEASE INFORMATION AS AUTHORIZED IN THIS SECTION PROVIDED THAT IT IS
36 SHOWN THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED REASONABLY AND IN
37 GOOD FAITH.

38 S 167-M. ANNUAL REPORT. THE DIVISION SHALL ON OR BEFORE FEBRUARY FIRST
39 IN EACH YEAR FILE A REPORT WITH THE GOVERNOR, AND THE LEGISLATURE
40 DETAILING THE PROGRAM, COMPLIANCE WITH PROVISIONS OF THIS ARTICLE AND
41 EFFECTIVENESS OF THE PROVISIONS OF THIS ARTICLE, TOGETHER WITH ANY
42 RECOMMENDATIONS TO FURTHER ENHANCE THE INTENT OF THIS ARTICLE.

43 S 167-N. FAILURE TO REGISTER; PENALTY. ANY PERSON REQUIRED TO REGISTER
44 PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHO FAILS TO REGISTER IN THE
45 MANNER AND WITHIN THE TIME PERIODS PROVIDED FOR IN THIS ARTICLE SHALL BE
46 GUILTY OF A CLASS A MISDEMEANOR FOR THE FIRST OFFENSE, AND FOR A SECOND
47 OR SUBSEQUENT OFFENSE SHALL BE GUILTY OF A CLASS D FELONY. ANY SUCH
48 FAILURE TO REGISTER MAY ALSO BE THE BASIS FOR REVOCATION OF PAROLE
49 PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW.

50 S 167-O. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE
51 OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEA-
52 NOR.

53 S 167-P. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
54 PART OF THIS ACT SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDIC-
55 TION TO BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL REVIEW,
56 THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THERE-

1 OF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE,
2 PARAGRAPH, SECTION OR PART OF THIS ACT DIRECTLY INVOLVED IN THE CONTRO-
3 VERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

4 S 167-Q. SUBDIRECTORY; INTERNET POSTING. 1. THE DIVISION SHALL MAIN-
5 TAIN A SUBDIRECTORY OF LEVEL TWO AND THREE VIOLENT FELONY OFFENDERS. THE
6 SUBDIRECTORY SHALL INCLUDE THE EXACT ADDRESS, ADDRESS OF THE OFFENDER'S
7 PLACE OF EMPLOYMENT AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG
8 WITH THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL
9 DESCRIPTION, AGE AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION
10 INCLUDING THE VIOLENT FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF
11 OPERATION, TYPE OF VICTIM TARGETED, THE NAME AND ADDRESS OF ANY INSTITU-
12 TION OF HIGHER EDUCATION AT WHICH THE VIOLENT FELONY OFFENDER IS
13 ENROLLED, ATTENDS, IS EMPLOYED OR RESIDES AND A DESCRIPTION OF SPECIAL
14 CONDITIONS IMPOSED ON THE VIOLENT FELONY OFFENDER SHALL ALSO BE
15 INCLUDED. THE SUBDIRECTORY SHALL HAVE VIOLENT FELONY OFFENDER LISTINGS
16 CATEGORIZED BY COUNTY AND ZIP CODE. A COPY OF THE SUBDIRECTORY SHALL
17 ANNUALLY BE DISTRIBUTED TO THE OFFICES OF LOCAL VILLAGE, TOWN, CITY,
18 COUNTY OR STATE LAW ENFORCEMENT AGENCIES FOR PURPOSES OF PUBLIC ACCESS.
19 THE DIVISION SHALL DISTRIBUTE MONTHLY UPDATES TO THE OFFICES OF LOCAL
20 VILLAGE, TOWN, CITY, COUNTY OR STATE LAW ENFORCEMENT AGENCIES FOR
21 PURPOSES OF PUBLIC ACCESS. SUCH DEPARTMENTS SHALL REQUIRE THAT A PERSON
22 IN WRITING PROVIDE THEIR NAME AND ADDRESS PRIOR TO VIEWING THE SUBDIREC-
23 TORY. ANY INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE,
24 ADDRESS OR RELATION TO THE VIOLENT FELONY OFFENDER SHALL BE EXCLUDED
25 FROM THE SUBDIRECTORY DISTRIBUTED FOR PURPOSES OF PUBLIC ACCESS. THE
26 SUBDIRECTORY PROVIDED FOR HEREIN SHALL BE UPDATED MONTHLY TO MAINTAIN
27 ITS EFFICIENCY AND USEFULNESS AND SHALL BE COMPUTER ACCESSIBLE. SUCH
28 SUBDIRECTORY SHALL BE MADE AVAILABLE AT ALL TIMES ON THE INTERNET VIA
29 THE DIVISION HOMEPAGE. ANY PERSON MAY APPLY TO THE DIVISION TO RECEIVE
30 AUTOMATED E-MAIL NOTIFICATIONS WHENEVER A NEW OR UPDATED SUBDIRECTORY
31 REGISTRATION OCCURS IN A GEOGRAPHIC AREA SPECIFIED BY SUCH PERSON. THE
32 DIVISION SHALL FURNISH SUCH SERVICE AT NO CHARGE TO SUCH PERSON, WHO
33 SHALL REQUEST E-MAIL NOTIFICATION BY COUNTY AND/OR ZIP CODE ON FORMS
34 DEVELOPED AND PROVIDED BY THE DIVISION. E-MAIL NOTIFICATION IS LIMITED
35 TO THREE GEOGRAPHIC AREAS PER E-MAIL ACCOUNT.

36 2. ANY PERSON WHO USES INFORMATION DISCLOSED PURSUANT TO THIS SECTION
37 IN VIOLATION OF THE LAW SHALL IN ADDITION TO ANY OTHER PENALTY OR FINE
38 IMPOSED, BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS AND
39 NOT MORE THAN ONE THOUSAND DOLLARS. UNAUTHORIZED REMOVAL OR DUPLICATION
40 OF THE SUBDIRECTORY FROM THE OFFICES OF LOCAL, VILLAGE OR CITY POLICE
41 DEPARTMENT SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND
42 DOLLARS. IN ADDITION, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY, OR
43 ANY PERSON AGGRIEVED IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPRO-
44 PRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR
45 A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER
46 AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR SUCH ACTION. THE
47 FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCE-
48 DURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS
49 OF LAW.

50 S 3. This act shall take effect on the one hundred eightieth day after
51 it shall have become a law; provided, however, that effective immediate-
52 ly, the addition, amendment and/or repeal of any rule or regulation
53 necessary for the implementation of this act on its effective date are
54 authorized and directed to be made and completed on or before such
55 effective date.