

3134

2009-2010 Regular Sessions

I N S E N A T E

March 11, 2009

Introduced by Sens. GRIFFO, BONACIC, GOLDEN, LARKIN, LITTLE, MORAHAN,
SALAND, SEWARD -- read twice and ordered printed, and when printed to
be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to enacting the "violent
felony offender registration act"

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

1 Section 1. The correction law is amended by adding a new article 6-B
2 to read as follows:

3 ARTICLE 6-B

4 VIOLENT FELONY OFFENDER REGISTRATION ACT

5 SECTION 161. SHORT TITLE.

6 162. DEFINITIONS.

7 163. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.

8 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION.

9 165. DUTIES OF THE COURT.

10 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL
11 FACILITY; DUTIES OF OFFICIAL IN CHARGE.

12 167. DUTY TO REGISTER.

13 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER.

14 167-B. DURATION OF REGISTRATION.

15 167-C. REGISTRATION REQUIREMENTS.

16 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE
17 OF ADDRESS.

18 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.

19 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS.

20 167-G. REVIEW.

21 167-H. JUDICIAL DETERMINATION.

22 167-I. PETITION FOR RELIEF.

23 167-J. SPECIAL "900" TELEPHONE NUMBER.

24 167-K. VIOLENT PREDATOR SUBDIRECTORY.

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

LBD08538-02-9

167-L. IMMUNITY FROM LIABILITY.

167-M. ANNUAL REPORT.

167-N. FAILURE TO REGISTER; PENALTY.

167-O. UNAUTHORIZED RELEASE OF INFORMATION.

167-P. SEVERABILITY.

S 161. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "VIOLENT FELONY OFFENDER REGISTRATION ACT".

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

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

2. "VIOLENT FELONY OFFENSE" MEANS A CONVICTION FOR AN OFFENSE AS DEFINED UNDER SECTION 70.02 OF THE PENAL LAW.

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

4. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES ESTABLISHED UNDER ARTICLE THIRTY-FIVE OF THE EXECUTIVE LAW.

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

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

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

8. "BOARD" MEANS THE BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS ESTABLISHED PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE.

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

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

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

(B) A PHOTOGRAPH AND SET OF FINGERPRINTS.

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

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

2. THE DIVISION IS AUTHORIZED TO MAKE THE REGISTRY AVAILABLE TO ANY REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS FOR THE PURPOSE OF SHARING INFORMATION. THE DIVISION SHALL ACCEPT FILES FROM ANY

1 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS AND SHALL MAKE
2 SUCH FILES AVAILABLE WHEN REQUESTED PURSUANT TO THE PROVISIONS OF THIS
3 ARTICLE. THE DIVISION SHALL REQUIRE THAT NO INFORMATION INCLUDED IN THE
4 REGISTRY SHALL BE MADE AVAILABLE EXCEPT IN THE FURTHERANCE OF THE
5 PROVISIONS OF THIS ARTICLE.

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

9 4. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE
10 LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIRE-
11 MENTS.

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

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

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

18 S 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION. 1. IN THE
19 CASE OF ANY VIOLENT FELONY OFFENDER, IT SHALL BE THE DUTY OF THE DEPART-
20 MENT, HOSPITAL OR LOCAL CORRECTIONAL FACILITY AT LEAST TEN CALENDAR DAYS
21 PRIOR TO THE RELEASE OR DISCHARGE OF ANY VIOLENT FELONY OFFENDER FROM A
22 CORRECTIONAL FACILITY, HOSPITAL OR LOCAL CORRECTIONAL FACILITY TO NOTIFY
23 THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE APPROPRIATE, AND
24 LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER
25 CONVICTION, OF THE CONTEMPLATED RELEASE OR DISCHARGE OF SUCH VIOLENT
26 FELONY OFFENDER, INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND
27 ALIASES OF THE VIOLENT FELONY OFFENDER, THE ADDRESS AT WHICH HE OR SHE
28 PROPOSES TO RESIDE, THE ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME
29 OF HIS OR HER CONVICTION, THE AMOUNT OF TIME REMAINING TO BE SERVED, IF
30 ANY, ON THE FULL TERM FOR WHICH HE OR SHE WAS SENTENCED, AND THE NATURE
31 OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME
32 TIME A COPY OF SUCH VIOLENT FELONY OFFENDER'S FINGERPRINTS AND PHOTO-
33 GRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH VIOLENT FELO-
34 NY OFFENDER CHANGES HIS OR HER PLACE OF RESIDENCE WHILE ON PAROLE, SUCH
35 NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT BY THE VIOLENT
36 FELONY OFFENDER'S PAROLE OFFICER WITHIN FORTY-EIGHT HOURS TO THE LAW
37 ENFORCEMENT AGENCY IN WHICH THE NEW PLACE OF RESIDENCE IS LOCATED.

38 2. IN THE CASE OF ANY VIOLENT FELONY OFFENDER CONVICTED AND SENTENCED
39 TO PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, IT SHALL
40 BE THE DUTY OF THE COURT WITHIN TWENTY-FOUR HOURS AFTER SUCH SENTENCE TO
41 NOTIFY THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION, WHERE APPROPRI-
42 ATE, AND OF THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE
43 TIME OF HIS OR HER CONVICTION, IF DIFFERENT FROM WHERE HE OR SHE
44 CURRENTLY RESIDES, AND/OR WHERE HE OR SHE CURRENTLY RESIDES, OF THE
45 SENTENCE OF PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE,
46 INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND ALIASES OF THE
47 PERSON, THE ADDRESS AT WHICH HE OR SHE PROPOSES TO RESIDE, RESIDED AT
48 AND/OR AT WHICH HE OR SHE CURRENTLY RESIDES, THE AMOUNT OF TIME TO BE
49 SERVED ON PROBATION, AND THE NATURE OF THE CRIME FOR WHICH HE OR SHE WAS
50 SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH VIOLENT FELONY
51 OFFENDER'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIM-
52 INAL RECORD. IF SUCH PERSON CHANGES HIS OR HER PLACE OF RESIDENCE WHILE
53 ON PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT
54 BY THE VIOLENT FELONY OFFENDER'S PROBATION OFFICER WITHIN FORTY-EIGHT
55 HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH THE NEW
56 PLACE OF RESIDENCE IS LOCATED.

1 3. IN THE CASE OF ANY VIOLENT FELONY OFFENDER, WHO ON THE EFFECTIVE
2 DATE OF THIS SUBDIVISION IS ON PAROLE OR PROBATION, IT SHALL BE THE DUTY
3 OF SUCH VIOLENT FELONY OFFENDER'S PAROLE OR PROBATION OFFICER WITHIN
4 FORTY-FIVE CALENDAR DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION TO
5 NOTIFY THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION IN WHICH SUCH
6 PERSON RESIDED AT THE TIME OF HIS OR HER CONVICTION, IF DIFFERENT FROM
7 WHERE HE OR SHE CURRENTLY RESIDES AND/OR WHERE HE OR SHE CURRENTLY
8 RESIDES, OF THE NAME AND ALIASES OF SUCH VIOLENT FELONY OFFENDER, THE
9 ADDRESS AT WHICH HE OR SHE RESIDED AND/OR AT WHICH HE OR SHE CURRENTLY
10 RESIDES, THE AMOUNT OF TIME TO BE SERVED ON PAROLE OR PROBATION, THE
11 NATURE OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT
12 THE SAME TIME A COPY OF SUCH VIOLENT FELONY OFFENDER'S FINGERPRINTS AND
13 PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH VIOLENT
14 FELONY OFFENDER CHANGES HIS OR HER PLACE OF RESIDENCE WHILE ON PAROLE OR
15 PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT BY
16 THE VIOLENT FELONY OFFENDER'S PAROLE OR PROBATION OFFICER WITHIN FORTY-
17 EIGHT HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH
18 THE NEW PLACE OF RESIDENCE IS LOCATED.

19 4. IN THE CASE IN WHICH ANY VIOLENT FELONY OFFENDER ESCAPES FROM A
20 STATE OR LOCAL CORRECTIONAL FACILITY OR HOSPITAL, THE DESIGNATED OFFI-
21 CIAL OF THE FACILITY OR HOSPITAL WHERE THE PERSON WAS CONFINED SHALL
22 NOTIFY WITHIN TWENTY-FOUR HOURS THE LAW ENFORCEMENT AGENCY HAVING HAD
23 JURISDICTION AT THE TIME OF HIS OR HER CONVICTION, INFORMING SUCH LAW
24 ENFORCEMENT AGENCY OF THE NAME AND ALIASES OF THE PERSON, AND THE
25 ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME OF HIS OR HER CONVICTION,
26 THE AMOUNT OF TIME REMAINING TO BE SERVED IF ANY, ON THE FULL TERM FOR
27 WHICH HE OR SHE WAS SENTENCED, AND THE NATURE OF THE CRIME FOR WHICH HE
28 OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH
29 VIOLENT FELONY OFFENDER'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF
30 HIS OR HER CRIMINAL RECORD.

31 S 165. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY
32 THAT THE PERSON IS A VIOLENT FELONY OFFENDER AND SHALL INCLUDE THE
33 CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE
34 THE VIOLENT FELONY OFFENDER OF THE DUTIES OF THIS ARTICLE.

35 2. ANY VIOLENT FELONY OFFENDER, WHO IS RELEASED ON PROBATION OR
36 DISCHARGED UPON PAYMENT OF A FINE SHALL, PRIOR TO SUCH RELEASE OR
37 DISCHARGE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE
38 BY THE COURT IN WHICH HE OR SHE WAS CONVICTED. WHERE THE COURT ORDERS A
39 VIOLENT FELONY OFFENDER RELEASED ON PROBATION, SUCH ORDER MUST INCLUDE A
40 PROVISION REQUIRING THAT HE OR SHE COMPLY WITH THE REQUIREMENTS OF THIS
41 ARTICLE. WHERE SUCH VIOLENT FELONY OFFENDER VIOLATES SUCH PROVISION,
42 PROBATION MAY BE IMMEDIATELY REVOKED IN THE MANNER PROVIDED BY ARTICLE
43 FOUR HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW. THE COURT SHALL REQUIRE
44 THE VIOLENT FELONY OFFENDER TO READ AND SIGN SUCH FORM AS MAY BE
45 REQUIRED BY THE DIVISION STATING THE DUTY TO REGISTER AND THE PROCEDURE
46 FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER. THE COURT SHALL ON
47 SUCH FORM OBTAIN THE ADDRESS WHERE THE VIOLENT FELONY OFFENDER EXPECTS
48 TO RESIDE UPON HIS OR HER RELEASE, AND SHALL REPORT THE ADDRESS TO THE
49 DIVISION. THE COURT SHALL GIVE ONE COPY OF THE FORM TO THE VIOLENT Felo-
50 NY OFFENDER AND SHALL SEND TWO COPIES TO THE DIVISION WHICH SHALL
51 FORWARD ONE COPY TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE
52 THE VIOLENT FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER RELEASE.
53 WITHIN TEN CALENDAR DAYS OF BEING RELEASED ON PROBATION OR DISCHARGED
54 UPON PAYMENT OF A FINE, SUCH VIOLENT FELONY OFFENDER SHALL REGISTER WITH
55 THE DIVISION FOR PURPOSES OF VERIFYING SUCH VIOLENT FELONY OFFENDER'S
56 INTENDED PLACE OF RESIDENCE. ON EACH ANNIVERSARY OF THE VIOLENT FELONY

1 OFFENDER'S ORIGINAL REGISTRATION DATE, THE PROVISIONS OF SECTION ONE
2 HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. THE DIVISION SHALL
3 ALSO IMMEDIATELY FORWARD THE CONVICTION DATA AND FINGERPRINTS TO THE
4 FEDERAL BUREAU OF INVESTIGATION IF NOT ALREADY OBTAINED.

5 3. FOR VIOLENT FELONY OFFENDERS UNDER THIS SECTION, IT SHALL BE THE
6 DUTY OF THE COURT APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION
7 FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE TO DETERMINE
8 THE DURATION OF REGISTRATION PURSUANT TO SECTION ONE HUNDRED SIXTY-SEV-
9 EN-B OF THIS ARTICLE AND NOTIFICATION PURSUANT TO SUBDIVISION SIX OF
10 SECTION ONE HUNDRED SIXTY-SEVEN-F. IN MAKING THE DETERMINATION, THE
11 COURT SHALL REVIEW ANY VICTIM'S STATEMENT AND ANY MATERIALS SUBMITTED BY
12 THE VIOLENT FELONY OFFENDER. THE COURT SHALL ALSO ALLOW THE VIOLENT
13 FELONY OFFENDER TO APPEAR AND BE HEARD, AND INFORM THE VIOLENT FELONY
14 OFFENDER OF HIS OR HER RIGHT TO HAVE COUNSEL APPOINTED, IF NECESSARY.

15 S 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL FACILI-
16 TY; DUTIES OF OFFICIAL IN CHARGE. 1. ANY VIOLENT FELONY OFFENDER, TO BE
17 DISCHARGED, PAROLED OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL
18 FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR
19 COMMITTED, SHALL WITHIN FORTY-FIVE CALENDAR DAYS PRIOR TO DISCHARGE,
20 PAROLE OR RELEASE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS
21 ARTICLE, BY THE FACILITY IN WHICH HE OR SHE WAS CONFINED OR COMMITTED.
22 THE FACILITY SHALL REQUIRE THE VIOLENT FELONY OFFENDER TO READ AND SIGN
23 SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING THE DUTY TO REGIS-
24 TER AND THE PROCEDURE FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER.
25 THE FACILITY SHALL OBTAIN ON SUCH FORM THE ADDRESS WHERE THE VIOLENT
26 FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR
27 RELEASE AND SHALL REPORT THE ADDRESS TO THE DIVISION. THE FACILITY SHALL
28 GIVE ONE COPY OF THE FORM TO THE VIOLENT FELONY OFFENDER AND SHALL SEND
29 TWO COPIES TO THE DIVISION WHICH SHALL FORWARD ONE COPY TO THE LAW
30 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER
31 EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR RELEASE. IN ADDI-
32 TION, THE FACILITY SHALL GIVE THE VIOLENT FELONY OFFENDER A FORM TO
33 REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR PURPOSES OF
34 VERIFYING SUCH VIOLENT FELONY OFFENDER'S INTENDED PLACE OF RESIDENCE.

35 2. THE DIVISION SHALL ALSO IMMEDIATELY TRANSMIT THE CONVICTION DATA
36 AND FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION, IF NOT ALREADY
37 OBTAINED.

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

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

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

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

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

1 3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED
2 TO A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE
3 EXCEPT THAT SUCH VIOLENT FELONY OFFENDER DESIGNATED AS A VIOLENT PREDATOR
4 MUST PERSONALLY VERIFY WITH THE LOCAL LAW ENFORCEMENT AGENCY, THE
5 REGISTRATION EVERY NINETY CALENDAR DAYS AFTER THE DATE OF THE INITIAL
6 RELEASE OR COMMENCEMENT OF PAROLE.

7 4. ANY VIOLENT FELONY OFFENDER SHALL REGISTER WITH THE DIVISION WITHIN
8 TEN CALENDAR DAYS PRIOR TO ANY CHANGE OF ADDRESS. THE DIVISION SHALL, IF
9 THE VIOLENT FELONY OFFENDER CHANGES RESIDENCE TO ANOTHER STATE, NOTIFY
10 THE APPROPRIATE STATE LAW ENFORCEMENT AGENCY WITH WHICH THE VIOLENT
11 FELONY OFFENDER MUST REGISTER IN THE NEW STATE. IF ANY PERSON REQUIRED
12 TO REGISTER AS PROVIDED IN THIS ARTICLE CHANGES THE ADDRESS OF HIS OR
13 HER RESIDENCE, THE VIOLENT FELONY OFFENDER SHALL WITHIN TEN CALENDAR
14 DAYS, INFORM IN WRITING THE LAW ENFORCEMENT AGENCY WHERE LAST REGISTERED
15 OF THE NEW ADDRESS. THE LAW ENFORCEMENT AGENCY SHALL, WITHIN THREE
16 CALENDAR DAYS OF RECEIPT OF THE NEW ADDRESS, FORWARD THIS INFORMATION TO
17 THE DIVISION AND TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN
18 THE NEW PLACE OF RESIDENCE.

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

22 S 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER. 1. THE DIVI-
23 SION OF PAROLE OR DEPARTMENT OF PROBATION AND CORRECTIONAL ALTERNATIVES
24 IN ACCORDANCE WITH RISK FACTORS PURSUANT TO SECTION ONE HUNDRED
25 SIXTY-SEVEN-F OF THIS ARTICLE SHALL DETERMINE THE DURATION OF REGISTRA-
26 TION PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-B AND NOTIFICATION FOR
27 EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE OF THIS ARTICLE
28 IS THEN ON PAROLE OR PROBATION FOR COMMITTING A VIOLENT FELONY OFFENSE.

29 2. EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE OF THIS
30 ARTICLE IS THEN ON PAROLE OR PROBATION FOR A VIOLENT FELONY OFFENSE
31 SHALL WITHIN TEN CALENDAR DAYS OF SUCH DETERMINATION REGISTER WITH HIS
32 OR HER PAROLE OR PROBATION OFFICER. ON EACH ANNIVERSARY OF THE VIOLENT
33 FELONY OFFENDER'S INITIAL REGISTRATION DATE THEREAFTER, THE PROVISIONS
34 OF SECTION ONE HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. ANY
35 VIOLENT FELONY OFFENDER WHO FAILS OR REFUSES TO SO COMPLY SHALL BE
36 SUBJECT TO THE SAME PENALTIES AS OTHERWISE PROVIDED FOR IN THIS ARTICLE
37 WHICH WOULD BE IMPOSED UPON A VIOLENT FELONY OFFENDER WHO FAILS OR
38 REFUSES TO SO COMPLY WITH THE PROVISIONS OF THIS ARTICLE ON OR AFTER
39 SUCH EFFECTIVE DATE.

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

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

52 S 167-B. DURATION OF REGISTRATION. THE DURATION OF REGISTRATION FOR A
53 VIOLENT FELONY OFFENDER SHALL BE ANNUALLY FOR A PERIOD OF TEN YEARS FROM
54 THE INITIAL DATE OF REGISTRATION, PROVIDED, HOWEVER, THAT FOR A VIOLENT
55 PREDATOR, SHALL ANNUALLY REGISTER AND VERIFY QUARTERLY FOR A MINIMUM OF
56 TEN YEARS UNLESS THE COURT DETERMINES IN ACCORDANCE WITH SECTION ONE

1 HUNDRED SIXTY-SEVEN-I OF THIS ARTICLE, THAT THE PERSON NO LONGER SUFFERS
2 FROM A MENTAL ABNORMALITY THAT WOULD MAKE HIM OR HER LIKELY TO ENGAGE IN
3 A PREDATORY VIOLENT OFFENSE.

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

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

16 2. A CHANGE OF ADDRESS BY A VIOLENT FELONY OFFENDER REQUIRED TO REGIS-
17 TER UNDER THIS ARTICLE SHALL BE IMMEDIATELY REPORTED BY THE DIVISION TO
18 THE APPROPRIATE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE
19 VIOLENT FELONY OFFENDER IS RESIDING.

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

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

32 S 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS. 1. THERE
33 SHALL BE A BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS WHICH SHALL
34 POSSESS THE POWERS AND DUTIES SPECIFIED IN THIS SECTION. SUCH BOARD
35 SHALL CONSIST OF FIVE MEMBERS APPOINTED BY THE GOVERNOR. THREE MEMBERS
36 WHO SHALL BE EXPERTS IN THE FIELD OF THE BEHAVIOR AND TREATMENT OF
37 VIOLENT FELONY OFFENDERS SHALL BE EMPLOYEES OF THE DIVISION OF PAROLE
38 AND THE REMAINING TWO MEMBERS SHALL BE FROM THE DEPARTMENT. THE TERM OF
39 OFFICE OF EACH MEMBER OF SUCH BOARD SHALL BE FOR SIX YEARS; PROVIDED,
40 HOWEVER, THAT ANY MEMBER CHOSEN TO FILL A VACANCY OCCURRING OTHERWISE
41 THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE REMAINDER OF THE
42 UNEXPIRED TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. IN THE EVENT
43 OF THE INABILITY TO ACT OF ANY MEMBER, THE GOVERNOR MAY APPOINT SOME
44 COMPETENT INFORMED PERSON TO ACT IN HIS OR HER STEAD DURING THE CONTIN-
45 UANCE OF SUCH DISABILITY.

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

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

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

54 5. THE BOARD SHALL DEVELOP GUIDELINES AND PROCEDURES TO ASSESS THE
55 RISK OF A REPEAT OFFENSE BY SUCH VIOLENT FELONY OFFENDER AND THE THREAT

POSED TO THE PUBLIC SAFETY. SUCH GUIDELINES SHALL BE BASED UPON, BUT NOT LIMITED TO, THE FOLLOWING:

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

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

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

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

(V) THE AGE OF THE VIOLENT FELONY OFFENDER AT THE TIME OF THE COMMISSION OF THE FIRST VIOLENT OFFENSE;

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

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

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

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

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

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

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

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

(G) RECENT BEHAVIOR, INCLUDING BEHAVIOR WHILE CONFINED;

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

(I) REVIEW OF ANY VICTIM IMPACT STATEMENT.

6. APPLYING THESE GUIDELINES, THE BOARD SHALL WITHIN SIXTY CALENDAR DAYS PRIOR TO THE DISCHARGE, PAROLE OR RELEASE OF A VIOLENT FELONY OFFENDER MAKE A RECOMMENDATION WHICH SHALL BE CONFIDENTIAL AND SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION, TO THE SENTENCING COURT AS TO WHETHER SUCH VIOLENT FELONY OFFENDER WARRANTS THE DESIGNATION OF VIOLENT PREDATOR. IN ADDITION, THE GUIDELINES SHALL BE APPLIED BY THE BOARD TO MAKE A RECOMMENDATION TO THE SENTENCING COURT, PROVIDING FOR ONE OF THE FOLLOWING THREE LEVELS OF NOTIFICATION NOTWITHSTANDING ANY OTHER PROVISION OF LAW DEPENDING UPON THE DEGREE OF THE RISK OF RE-OFFENSE BY THE VIOLENT FELONY OFFENDER.

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

(B) IF THE RISK OF REPEAT OFFENSE IS MODERATE, A LEVEL TWO DESIGNATION SHALL BE GIVEN TO SUCH VIOLENT FELONY OFFENDER. IN SUCH CASE THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION AND THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION SHALL BE NOTIFIED AND MAY DISSEMINATE RELEVANT INFORMATION WHICH MAY INCLUDE APPROXIMATE ADDRESS BASED ON VIOLENT FELONY OFFENDER'S ZIP CODE, A PHOTOGRAPH OF THE OFFENDER, BACKGROUND INFORMATION INCLUDING THE OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE OF VICTIM

1 TARGETED AND THE DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON THE OFFEN-
2 DER TO ANY ENTITY WITH VULNERABLE POPULATIONS RELATED TO THE NATURE OF
3 THE OFFENSE COMMITTED BY SUCH VIOLENT FELONY OFFENDER. ANY ENTITY
4 RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY DISCLOSE OR
5 FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION.

6 (C) IF THE RISK OF REPEAT OFFENSE IS HIGH AND THERE EXISTS A THREAT TO
7 THE PUBLIC SAFETY, SUCH VIOLENT FELONY OFFENDER SHALL BE DEEMED A
8 "VIOLENT PREDATOR" AND A LEVEL THREE DESIGNATION SHALL BE GIVEN TO SUCH
9 VIOLENT FELONY OFFENDER. IN SUCH CASE, THE LAW ENFORCEMENT AGENCY HAVING
10 JURISDICTION AND THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT
11 THE TIME OF HIS OR HER CONVICTION SHALL BE NOTIFIED AND MAY DISSEMINATE
12 RELEVANT INFORMATION WHICH MAY INCLUDE THE VIOLENT FELONY OFFENDER'S
13 EXACT ADDRESS, A PHOTOGRAPH OF THE OFFENDER, BACKGROUND INFORMATION
14 INCLUDING THE OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE
15 OF VICTIM TARGETED, AND THE DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON
16 THE OFFENDER TO ANY ENTITY WITH VULNERABLE POPULATIONS RELATED TO THE
17 NATURE OF THE OFFENSE COMMITTED BY SUCH VIOLENT FELONY OFFENDERS.

18 ANY ENTITY RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY
19 DISCLOSE OR FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION. IN
20 ADDITION, IN SUCH CASE, THE INFORMATION DESCRIBED IN THIS SECTION SHALL
21 ALSO BE PROVIDED IN THE SUBDIRECTORY ESTABLISHED IN THIS ARTICLE AND
22 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUCH INFORMATION SHALL, UPON
23 REQUEST, BE MADE AVAILABLE TO THE PUBLIC.

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

28 S 167-G. REVIEW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
29 CONTRARY, ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITU-
30 TION SHALL FORWARD RELEVANT INFORMATION PERTAINING TO A VIOLENT FELONY
31 OFFENDER TO BE DISCHARGED, PAROLED OR RELEASED TO THE BOARD FOR REVIEW
32 NO LATER THAN ONE HUNDRED TWENTY DAYS PRIOR TO THE RELEASE OR DISCHARGE
33 AND THE BOARD SHALL MAKE RECOMMENDATIONS AS PROVIDED IN SUBDIVISION SIX
34 OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE WITHIN SIXTY DAYS
35 OF RECEIPT OF THE INFORMATION. INFORMATION MAY INCLUDE BUT MAY NOT BE
36 LIMITED TO THE COMMITMENT FILE, MEDICAL FILE AND TREATMENT FILE PERTAIN-
37 ING TO SUCH PERSON. SUCH PERSON SHALL BE PERMITTED TO SUBMIT TO THE
38 BOARD ANY INFORMATION RELEVANT TO THE REVIEW.

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

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

49 3. IN MAKING THE DETERMINATION, THE COURT SHALL REVIEW ANY VICTIM'S
50 STATEMENT AND ANY MATERIALS SUBMITTED BY THE VIOLENT FELONY OFFENDER.
51 THE COURT SHALL ALSO ALLOW THE VIOLENT FELONY OFFENDER TO APPEAR AND BE
52 HEARD, AND INFORM THE VIOLENT FELONY OFFENDER OF HIS OR HER RIGHT TO
53 HAVE COUNSEL APPOINTED, IF NECESSARY.

54 4. UPON DETERMINATION THAT THE RISK OF REPEAT OFFENSE AND THREAT TO
55 PUBLIC SAFETY IS HIGH, THE SENTENCING COURT SHALL ALSO NOTIFY THE DIVI-

SION OF SUCH FACT FOR THE PURPOSES OF SECTION ONE HUNDRED SIXTY-SEVEN-K OF THIS ARTICLE.

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

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

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

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

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

16 (A) NUMBER OF CALLS RECEIVED;

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

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

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

24 (E) NUMBER OF PERSONS LISTED; AND

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

27 S 167-K. VIOLENT PREDATOR SUBDIRECTORY. 1. THE DIVISION SHALL MAINTAIN
28 A SUBDIRECTORY OF VIOLENT PREDATORS. THE SUBDIRECTORY SHALL INCLUDE THE
29 EXACT ADDRESS AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG WITH
30 THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL DESCRIPTION, AGE
31 AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION INCLUDING THE VIOLENT
32 FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE OF
33 VICTIM TARGETED, AND A DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON THE
34 VIOLENT FELONY OFFENDER SHALL ALSO BE INCLUDED. THE SUBDIRECTORY SHALL
35 HAVE VIOLENT FELONY OFFENDER LISTINGS CATEGORIZED BY COUNTY AND ZIP
36 CODE. A COPY OF THE SUBDIRECTORY SHALL ANNUALLY BE DISTRIBUTED TO THE
37 OFFICES OF LOCAL VILLAGE, TOWN OR CITY POLICE DEPARTMENTS FOR PURPOSES
38 OF PUBLIC ACCESS. SUCH DEPARTMENTS SHALL REQUIRE THAT A PERSON IN WRIT-
39 ING EXPRESS A PURPOSE IN ORDER TO HAVE ACCESS TO THE SUBDIRECTORY AND
40 SUCH DEPARTMENT SHALL MAINTAIN THESE REQUESTS. ANY INFORMATION IDENTIFY-
41 ING THE VICTIM BY NAME, BIRTH DATE, ADDRESS OR RELATION TO THE VIOLENT
42 FELONY OFFENDER SHALL BE EXCLUDED FROM THE SUBDIRECTORY DISTRIBUTED FOR
43 PURPOSES OF PUBLIC ACCESS. THE SUBDIRECTORY PROVIDED FOR IN THIS SECTION
44 SHALL BE UPDATED PERIODICALLY TO MAINTAIN ITS EFFICIENCY AND USEFULNESS
45 AND MAY BE COMPUTER ACCESSIBLE.

46 2. ANY PERSON WHO USES INFORMATION DISCLOSED PURSUANT TO THIS SECTION
47 IN VIOLATION OF THE LAW SHALL IN ADDITION TO ANY OTHER PENALTY OR FINE
48 IMPOSED, BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS AND
49 NOT MORE THAN ONE THOUSAND DOLLARS. UNAUTHORIZED REMOVAL OR DUPLICATION
50 OF THE SUBDIRECTORY FROM THE OFFICES OF LOCAL, VILLAGE OR CITY POLICE
51 DEPARTMENT SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND
52 DOLLARS. IN ADDITION, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY, OR
53 ANY PERSON AGGRIEVED IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPRO-
54 PRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR
55 A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER
56 AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR SUCH ACTION. THE

1 FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCE-
2 DURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS
3 OF LAW.

4 S 167-L. IMMUNITY FROM LIABILITY. 1. NO OFFICIAL, EMPLOYEE OR AGENCY,
5 WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL
6 LIABILITY FOR DAMAGES FOR ANY DISCRETIONARY DECISION TO RELEASE RELEVANT
7 AND NECESSARY INFORMATION PURSUANT TO THIS SECTION, UNLESS IT IS SHOWN
8 THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN
9 BAD FAITH. THE IMMUNITY PROVIDED UNDER THIS SECTION APPLIES TO THE
10 RELEASE OF RELEVANT INFORMATION TO OTHER EMPLOYEES OR OFFICIALS OR TO
11 THE GENERAL PUBLIC.

12 2. NOTHING IN THIS SECTION SHALL BE DEEMED TO IMPOSE ANY CIVIL OR
13 CRIMINAL LIABILITY UPON OR TO GIVE RISE TO A CAUSE OF ACTION AGAINST ANY
14 OFFICIAL, EMPLOYEE OR AGENCY, WHETHER PUBLIC OR PRIVATE, FOR FAILING TO
15 RELEASE INFORMATION AS AUTHORIZED IN THIS SECTION UNLESS IT IS SHOWN
16 THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN
17 BAD FAITH.

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

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

30 S 167-O. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE
31 OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEA-
32 NOR.

33 S 167-P. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
34 PART OF THIS ACT SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDIC-
35 TION TO BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL REVIEW,
36 THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THERE-
37 OF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE,
38 PARAGRAPH, SECTION OR PART OF THIS ACT DIRECTLY INVOLVED IN THE CONTRO-
39 VERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

40 S 2. This act shall take effect on the one hundred eightieth day after
41 it shall have become a law; provided, however, that effective immediate-
42 ly, the addition, amendment and/or repeal of any rule or regulation
43 necessary for the implementation of this act on its effective date are
44 authorized and directed to be made and completed on or before such
45 effective date.