S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 26, 2009

Introduced by M. of A. BARRA, KOLB, ERRIGO -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to the domestic violence registration act

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

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

ARTICLE 6-D
DOMESTIC VIOLENCE REGISTRATION ACT

SECTION 169. SHORT TITLE.
169-A. DEFINITIONS.
169-B. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.
169-C. DEFENDANT; RELOCATION; NOTIFICATION.
169-D. DUTIES OF THE COURT.
169-E. DISCHARGE OF DEFENDANT FROM CORRECTIONAL FACILITY; DUTIES OF OFFICIAL IN CHARGE.
169-F. DUTY TO REGISTER.
169-G. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER.
169-H. DURATION OF REGISTRATION.
169-I. REGISTRATION REQUIREMENTS.
169-J. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS.
169-K. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.
169-L. BOARD OF EXAMINERS OF DEFENDANTS.
169-M. REVIEW.
169-N. JUDICIAL DETERMINATION.
169-O. PETITION FOR RELIEF.
169-P. SPECIAL "900" TELEPHONE NUMBER.
169-Q. IMMUNITY FROM LIABILITY.

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

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169-R. ANNUAL REPORT.
169-S. FAILURE TO REGISTER; PENALTY.
169-T. UNAUTHORIZED RELEASE OF INFORMATION.
169-U. SEPARABILITY.

S 169. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "DOMESTIC VIOLENCE REGISTRATION ACT".

S 169-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING DEFINITIONS APPLY:

1. "DEFENDANT" INCLUDES ANY PERSON WHO IS CONVICTED OF ANY OF THE OFFENSES SET FORTH IN ARTICLE ONE HUNDRED TWENTY OF THE PENAL LAW, RELATING TO DOMESTIC VIOLENCE. 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. "LAW ENFORCEMENT AGENCY HAVING JURISDICTION" MEANS THE CHIEF LAW ENFORCEMENT OFFICER IN THE VILLAGE, TOWN OR CITY IN WHICH THE OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PROBATION, PAROLE OR UPON ANY FORM OF STATE OR LOCAL CONDITIONAL RELEASE.

3. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES AS DEFINED BY SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW.

4. "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.

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

S 169-B. 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 DEFENDANT'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 DEFENDANT WAS CONVICTED, THE DATE OF CONVICTION AND THE SENTENCE IMPOSED.

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

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

3. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIREMENTS.

S 169-C. DEFENDANT; RELOCATION; NOTIFICATION. 1. IN THE CASE OF ANY DEFENDANT, IT SHALL BE THE DUTY OF THE DEPARTMENT, HOSPITAL OR LOCAL CORRECTIONAL FACILITY AT LEAST TEN CALENDAR DAYS PRIOR TO THE RELEASE OR DISCHARGE OF ANY DEFENDANT FROM A CORRECTIONAL FACILITY, HOSPITAL OR LOCAL CORRECTIONAL FACILITY TO NOTIFY THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE APPROPRIATE, AND LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION, OF THE CONTEMPLATED RELEASE OR DISCHARGE OF SUCH DEFENDANT, INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND ALIASES OF THE DEFENDANT, THE ADDRESS AT WHICH HE OR SHE PROPOSES TO RESIDE, THE ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME OF HIS OR HER CONVICTION, THE AMOUNT OF TIME REMAINING TO BE

SERVED, IF ANY, THE FULL TERM FOR WHICH HE OR SHE WAS SENTENCED, AND THE NATURE OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH DEFENDANT'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH DEFENDANT CHANGES HIS OR HER PLACE OF RESIDENCE WHILE ON PAROLE, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT TO THE DEFENDANT'S PAROLE OFFICER WITHIN FORTY-EIGHT HOURS TO THE LAW ENFORCEMENT AGENCY IN WHICH THE NEW PLACE OF RESIDENCE IS LOCATED.

2. IN THE CASE OF ANY DEFENDANT CONVICTED AND SENTENCED TO PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, IT SHALL BE THE DUTY OF THE COURT WITHIN TWENTY-FOUR HOURS AFTER SUCH SENTENCE TO NOTIFY THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION, WHERE APPROPRIATE, AND OF THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION, IF DIFFERENT FROM WHERE HE OR SHE CURRENTLY RESIDES, AND/OR WHERE HE OR SHE CURRENTLY RESIDES, OF THE SENTENCE OF PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND ALIASES OF THE PERSON, THE ADDRESS AT WHICH HE OR SHE PROPOSES TO RESIDE, RESIDED AT AND/OR AT WHICH HE OR SHE CURRENTLY RESIDES, THE AMOUNT OF TIME TO BE SERVED ON PROBATION, AND THE NATURE OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH DEFENDANT'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH PERSON CHANGES HIS PLACE OF RESIDENCE WHILE ON PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT BY THE DEFENDANT'S PROBATION OFFICER WITHIN FORTY-EIGHT HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH THE NEW PLACE OF RESIDENCE IS LOCATED.

3. IN THE CASE IN WHICH ANY DEFENDANT ESCAPES FROM A STATE OR LOCAL CORRECTIONAL FACILITY OR HOSPITAL, THE DESIGNATED OFFICIAL OF THE FACILITY OR HOSPITAL WHERE THE PERSON WAS CONFINED SHALL NOTIFY WITHIN TWENTY-FOUR HOURS THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION, INFORMING SUCH LAW ENFORCEMENT AGENCY OF THE NAME AND ALIASES OF THE PERSON, AND THE ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME OF HIS OR HER CONVICTION, THE AMOUNT OF TIME REMAINING TO BE SERVED, IF ANY, ON THE FULL TERM FOR WHICH HE OR SHE WAS SENTENCED, AND THE NATURE OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH DEFENDANT'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD.

S 169-D. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY THAT THE PERSON IS A DEFENDANT, AS DEFINED IN THIS ARTICLE, AND SHALL INCLUDE THE CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE THE DEFENDANT OF THE DUTIES OF THIS ARTICLE.

2. ANY DEFENDANT, WHO IS RELEASED ON PROBATION OR DISCHARGED UPON PAYMENT OF A FINE SHALL, PRIOR TO SUCH RELEASE OR DISCHARGE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE BY THE COURT IN WHICH HE OR SHE WAS CONVICTED. WHERE THE COURT ORDERS A DEFENDANT RELEASED ON PROBATION, SUCH ORDER MUST INCLUDE A PROVISION REQUIRING THAT HE OR SHE COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE. WHERE SUCH DEFENDANT VIOLATES SUCH PROVISION, PROBATION MAY BE IMMEDIATELY REVOKED IN THE MANNER PROVIDED BY ARTICLE FOUR HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW. THE COURT SHALL REQUIRE THE DEFENDANT TO READ AND SIGN SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING THE DUTY TO REGISTER AND THE PROCEDURE FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER. THE COURT SHALL ON SUCH FORM OBTAIN THE ADDRESS WHERE THE DEFENDANT EXPECTS TO RESIDE UPON HIS OR HER RELEASE, AND SHALL REPORT THE ADDRESS TO THE DIVISION. THE COURT SHALL GIVE ONE COPY OF THE FORM TO THE DEFENDANT AND SHALL SEND TWO COPIES TO THE DIVISION WHICH SHALL FORWARD ONE COPY TO

THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE DEFENDANT EXPECTS TO RESIDE UPON HIS OR HER RELEASE. WITHIN TEN CALENDAR DAYS OF BEING RELEASED ON PROBATION OR DISCHARGED UPON PAYMENT OF A FINE, SUCH DEFENDANT SHALL REGISTER WITH THE DIVISION FOR PURPOSES OF VERIFYING SUCH DEFENDANT'S INTENDED PLACE OF RESIDENCE.

3. FOR DEFENDANTS UNDER THIS SECTION, IT SHALL BE THE DUTY OF THE COURT APPLYING THE GUIDELINES ESTABLISHED IN THIS ARTICLE TO DETERMINE THE DURATION OF REGISTRATION AND NOTIFICATION. IN MAKING THE DETERMINATION, THE COURT SHALL REVIEW ANY VICTIM'S STATEMENT AND ANY MATERIALS SUBMITTED BY THE DEFENDANT. THE COURT SHALL ALSO ALLOW THE DEFENDANT TO APPEAR AND BE HEARD, AND INFORM THE DEFENDANT OF HIS OR HER RIGHT TO HAVE COUNSEL APPOINTED, IF NECESSARY.

S 169-E. DISCHARGE OF DEFENDANT FROM CORRECTIONAL FACILITY; DUTIES OF OFFICIAL IN CHARGE. 1. ANY DEFENDANT, TO BE DISCHARGED, PAROLED OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR COMMITTED, SHALL WITHIN FORTY-FIVE CALENDAR DAYS PRIOR TO DISCHARGE, PAROLE OR RELEASE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE, BY THE FACILITY IN WHICH HE OR SHE WAS CONFINED OR COMMITTED. THE FACILITY SHALL REQUIRE THE DEFENDANT TO READ AND SIGN SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING THE DUTY TO REGISTER AND THE PROCEDURE FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER. THE FACILITY SHALL OBTAIN ON SUCH FORM THE ADDRESS WHERE THE DEFENDANT EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR RELEASE AND SHALL REPORT THE ADDRESS TO THE DIVISION. THE FACILITY SHALL GIVE ONE COPY OF THE FORM TO THE DEFENDANT AND SHALL SEND TWO COPIES TO THE DIVISION WHICH SHALL FORWARD ONE COPY TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE DEFENDANT EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR RELEASE. IN ADDITION, THE FACILITY SHALL GIVE THE DEFENDANT A FORM TO REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR PURPOSES OF VERIFYING SUCH DEFENDANT'S INTENDED PLACE OF RESIDENCE.

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

S 169-F. DUTY TO REGISTER. 1. ANY DEFENDANT, WHO IS DISCHARGED, PAROLED OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR COMMITTED, SHALL REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR PURPOSES OF VERIFYING SUCH DEFENDANT'S INTENDED PLACE OF RESIDENCE.

2. FOR A DEFENDANT REQUIRED TO REGISTER UNDER THIS ARTICLE ON EACH ANNIVERSARY OF THE DEFENDANT'S INITIAL REGISTRATION DATE DURING THE PERIOD IN WHICH HE OR SHE IS REQUIRED TO REGISTER UNDER THIS SECTION THE FOLLOWING APPLIES:

(A) THE DEFENDANT SHALL MAIL THE VERIFICATION FORM TO THE DIVISION WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF THE FORM.

(B) THE VERIFICATION FORM SHALL BE SIGNED BY THE DEFENDANT, AND STATE THAT HE OR SHE STILL RESIDES AT THE ADDRESS LAST REPORTED TO THE DIVISION.

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

3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED TO A DEFENDANT REQUIRED TO REGISTER UNDER THIS ARTICLE.

4. ANY DEFENDANT SHALL REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS PRIOR TO ANY CHANGE OF ADDRESS. THE DIVISION SHALL, IF THE DEFEND-

ANT CHANGES RESIDENCE TO ANOTHER STATE, NOTIFY THE APPROPRIATE STATE LAW ENFORCEMENT AGENCY WITH WHICH THE DEFENDANT MUST REGISTER IN THE NEW STATE. IF ANY PERSON REQUIRED TO REGISTER AS PROVIDED IN THIS ARTICLE CHANGES THE ADDRESS OF HIS OR HER RESIDENCE, THE DEFENDANT SHALL WITHIN TEN CALENDAR DAYS, INFORM IN WRITING THE LAW ENFORCEMENT AGENCY WHERE LAST REGISTERED OF THE NEW ADDRESS. THE LAW ENFORCEMENT AGENCY SHALL, WITHIN THREE CALENDAR DAYS OF RECEIPT OF THE NEW ADDRESS, FORWARD THIS INFORMATION TO THE DEPARTMENT OF CRIMINAL JUSTICE SERVICES AND TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN THE NEW PLACE OF RESIDENCE.

5. THE DUTY TO REGISTER UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT BE APPLICABLE TO ANY DEFENDANT WHOSE CONVICTION WAS REVERSED UPON APPEAL OR WHO WAS PARDONED BY THE GOVERNOR.

S 169-G. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER. 1. THE DIVISION OF PAROLE OR DEPARTMENT OF PROBATION AND CORRECTIONAL ALTERNATIVES SHALL DETERMINE THE DURATION OF REGISTRATION AND NOTIFICATION FOR EVERY DEFENDANT WHO ON THE EFFECTIVE DATE OF THIS ARTICLE IS THEN ON PAROLE OR PROBATION FOR AN OFFENSE PROVIDED FOR IN SECTION ONE HUNDRED SIXTY-NINE-C OF THIS ARTICLE.

2. EVERY DEFENDANT WHO ON THE EFFECTIVE DATE OF THIS ARTICLE IS THEN ON PAROLE OR PROBATION FOR AN OFFENSE PROVIDED FOR IN SECTION ONE HUNDRED SIXTY-NINE-C OF THIS ARTICLE SHALL WITHIN TEN CALENDAR DAYS OF SUCH DETERMINATION REGISTER WITH HIS OR HER PAROLE OR PROBATION OFFICER. ON EACH ANNIVERSARY OF THE DEFENDANT'S INITIAL REGISTRATION DATE THEREAFTER, THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-NINE-F OF THIS ARTICLE SHALL APPLY. ANY DEFENDANT 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 DEFENDANT 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 DEFENDANT ACCORDING TO THE REQUIREMENTS IMPOSED BY THIS ARTICLE. A PAROLE OR PROBATION OFFICER SHALL GIVE ONE COPY OF THE FORM TO THE DEFENDANT 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 DEFENDANT 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 DEFENDANT REQUIRED TO REGISTER WHILE RELEASED ON PAROLE OR PROBATION PURSUANT TO SECTION ONE HUNDRED SIXTY-NINE-O OF THIS ARTICLE.

S 169-H. DURATION OF REGISTRATION. THE DURATION OF REGISTRATION FOR A DEFENDANT SHALL BE ANNUALLY FOR A PERIOD OF TEN YEARS FROM THE INITIAL DATE OF REGISTRATION.

S 169-I. REGISTRATION REQUIREMENTS. REGISTRATION AS REQUIRED BY THIS ARTICLE SHALL CONSIST OF A STATEMENT IN WRITING SIGNED BY THE DEFENDANT GIVING THE INFORMATION THAT IS REQUIRED BY THE DIVISION AND THE DIVISION SHALL ENTER THE INFORMATION INTO AN APPROPRIATE ELECTRONIC DATA BASE OR FILE.

S 169-J. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS. (A) UPON RECEIPT OF A CHANGE OF ADDRESS BY A DEFENDANT REQUIRED TO REGISTER UNDER THIS ARTICLE, THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE DEFENDANT 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.

(B) A CHANGE OF ADDRESS BY A DEFENDANT REQUIRED TO REGISTER UNDER THIS ARTICLE SHALL BE IMMEDIATELY REPORTED BY THE DIVISION TO THE APPROPRIATE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE DEFENDANT IS RESIDING.

(C) 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 THIS ARTICLE.

S 169-K. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE. A DEFENDANT WHO HAS BEEN CONVICTED OF AN OFFENSE WHICH REQUIRES REGISTRATION UNDER SECTION ONE HUNDRED SIXTY-NINE-F OF THIS ARTICLE SHALL REGISTER THE NEW ADDRESS WITH THE DIVISION NO LATER THAN TEN CALENDAR DAYS AFTER SUCH SEX 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 169-L. BOARD OF EXAMINERS OF DEFENDANTS. 1. THERE SHALL BE A BOARD OF EXAMINERS OF DEFENDANTS WHICH SHALL POSSESS THE POWERS AND DUTIES HEREINAFTER SPECIFIED. SUCH BOARD SHALL CONSIST OF FIVE MEMBERS APPOINTED BY THE GOVERNOR. THREE MEMBERS WHO SHALL BE EXPERTS IN THE FIELD OF THE BEHAVIOR AND TREATMENT OF DEFENDANTS, AS DEFINED IN THIS ARTICLE SHALL BE EMPLOYEES OF THE DIVISION OF PAROLE AND THE REMAINING TWO MEMBERS SHALL BE FROM THE DEPARTMENT. THE TERM OF OFFICE OF EACH MEMBER OF SUCH BOARD SHALL BE FOR SIX YEARS; PROVIDED, HOWEVER, THAT ANY MEMBER CHOSEN TO FILL A VACANCY OCCURRING OTHERWISE THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER WHOM HE IS TO SUCCEED. IN THE EVENT OF THE INABILITY TO ACT OF ANY MEMBER, THE GOVERNOR MAY APPOINT SOME COMPETENT INFORMED PERSON TO ACT IN HIS OR HER STEAD DURING THE CONTINUANCE OF SUCH DISABILITY.

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

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

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

5. THE BOARD SHALL DEVELOP GUIDELINES AND PROCEDURES TO ASSESS THE RISK OF A REPEAT OFFENSE BY SUCH DEFENDANT 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 DEFENDANT HAS A MENTAL ABNORMALITY;

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

(III) WHETHER THE DEFENDANT SERVED THE MAXIMUM TERM;

(IV) WHETHER THE DEFENDANT COMMITTED THE CRIME AGAINST A CHILD;

(V) THE AGE OF THE DEFENDANT AT THE TIME OF THE COMMISSION OF THE FIRST RELEVANT CRIME;

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

(I) THE RELATIONSHIP BETWEEN SUCH DEFENDANT 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 DEFENDANT 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 DEFENDANT'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.

S 169-M. REVIEW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITUTION SHALL FORWARD RELEVANT INFORMATION PERTAINING TO A DEFENDANT TO BE DISCHARGED, PAROLED OR RELEASED TO THE BOARD FOR REVIEW NO LATER THAN ONE HUNDRED TWENTY DAYS PRIOR TO THE RELEASE OR DISCHARGE AND THE BOARD SHALL MAKE RECOMMENDATIONS WITHIN SIXTY DAYS OF RECEIPT OF THE INFORMATION. INFORMATION MAY INCLUDE BUT MAY NOT BE LIMITED TO THE COMMITMENT FILE, MEDICAL FILE AND TREATMENT FILE PERTAINING TO SUCH PERSON. SUCH PERSON SHALL BE PERMITTED TO SUBMIT TO THE BOARD ANY INFORMATION RELEVANT TO THE REVIEW.

S 169-N. JUDICIAL DETERMINATION. 1. A DETERMINATION THAT AN OFFENDER IS A DEFENDANT SHALL BE MADE PRIOR TO THE DISCHARGE, PAROLE OR RELEASE OF SUCH OFFENDER BY THE SENTENCING COURT AFTER RECEIVING A RECOMMENDATION FROM THE BOARD.

2. IN ADDITION, THE SENTENCING COURT SHALL ALSO MAKE A DETERMINATION WITH RESPECT TO THE LEVEL OF NOTIFICATION, AFTER RECEIVING A RECOMMENDATION FROM THE BOARD. BOTH DETERMINATIONS OF THE SENTENCING COURT SHALL BE MADE THIRTY CALENDAR DAYS PRIOR TO DISCHARGE, PAROLE OR RELEASE.

3. IN MAKING THE DETERMINATION, THE COURT SHALL, REVIEW ANY VICTIM'S STATEMENT AND ANY MATERIALS SUBMITTED BY THE DEFENDANT. THE COURT SHALL ALSO ALLOW THE DEFENDANT TO APPEAR AND BE HEARD, AND INFORM THE DEFENDANT OF HIS RIGHT TO HAVE COUNSEL APPOINTED, IF NECESSARY.

4. UPON DETERMINATION THAT THE RISK OF REPEAT OFFENSE AND THREAT TO PUBLIC SAFETY IS HIGH, THE SENTENCING COURT SHALL ALSO NOTIFY THE DIVISION OF SUCH FACT.

5. UPON THE REVERSAL OF A CONVICTION OF A CRIME, THE COURT SHALL ORDER THE EXPUNGEMENT OF ANY RECORDS REQUIRED TO BE KEPT HEREIN.

S 169-O. PETITION FOR RELIEF. ANY DEFENDANT 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 DEFENDANT. 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 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 169-P. SPECIAL "900" TELEPHONE NUMBER. 1. PURSUANT TO 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. 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.

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

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

S 169-R. ANNUAL REPORT. THE DIVISION SHALL ON OR BEFORE FEBRUARY FIRST IN EACH YEAR FILE A REPORT WITH THE GOVERNOR, AND THE LEGISLATURE DETAILING THE PROGRAM, COMPLIANCE WITH PROVISIONS OF THIS ARTICLE AND EFFECTIVENESS OF THE PROVISIONS OF THIS ARTICLE, TOGETHER WITH ANY RECOMMENDATIONS TO FURTHER ENHANCE THE INTENT OF THIS ARTICLE.

S 169-S. FAILURE TO REGISTER; PENALTY. ANY PERSON REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHO FAILS TO REGISTER IN THE MANNER AND WITHIN THE TIME PERIODS PROVIDED FOR HEREIN SHALL BE GUILTY OF A CLASS A MISDEMEANOR OF THE FIRST OFFENSE, AND FOR A SECOND OR SUBSEQUENT OFFENSE SHALL BE GUILTY OF A CLASS D FELONY. ANY SUCH FAILURE TO REGISTER MAY ALSO BE THE BASIS FOR REVOCATION OF PAROLE PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW.

S 169-T. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEANOR.

S 169-U. SEPARABILITY. IF ANY SECTION OF THIS ARTICLE, OR PART THEREOF SHALL BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER OR ANY OTHER SECTION OR PART THEREOF.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided, however, that any rules and regulations necessary for the timely implementation of this act on such date shall be promulgated immediately.