

3645--B

2011-2012 Regular Sessions

I N S E N A T E

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Introduced by Sens. GRIFFO, NOZZOLIO, DeFRANCISCO, GOLDEN, LARKIN, LITTLE, MAZIARZ, RANZENHOFER, 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

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.
11 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL
12 FACILITY; DUTIES OF OFFICIAL IN CHARGE.
13 167. DUTY TO REGISTER.
14 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER.
15 167-B. DURATION OF REGISTRATION.
16 167-C. REGISTRATION REQUIREMENTS. 167-D. NOTIFICATION OF LOCAL
17 LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS.
18 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.
19 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS.

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

LBD07018-06-1

1 167-G. REVIEW.
 2 167-H. JUDICIAL DETERMINATION.
 3 167-I. PETITION FOR RELIEF.
 4 167-J. SPECIAL "900" TELEPHONE NUMBER.
 5 167-K. VIOLENT PREDATOR SUBDIRECTORY.
 6 167-L. IMMUNITY FROM LIABILITY.
 7 167-M. ANNUAL REPORT.
 8 167-N. FAILURE TO REGISTER; PENALTY.
 9 167-O. UNAUTHORIZED RELEASE OF INFORMATION.
 10 167-P. SEVERABILITY.
 11 167-Q. SUBDIRECTORY; INTERNET POSTING.

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

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

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

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

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

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

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

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

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

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

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

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

54 (B) A PHOTOGRAPH AND SET OF FINGERPRINTS.

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

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

2 2. THE DIVISION IS AUTHORIZED TO MAKE THE REGISTRY AVAILABLE TO ANY
3 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS FOR THE
4 PURPOSE OF SHARING INFORMATION. THE DIVISION SHALL ACCEPT FILES FROM ANY
5 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS AND SHALL MAKE
6 SUCH FILES AVAILABLE WHEN REQUESTED PURSUANT TO THE PROVISIONS OF THIS
7 ARTICLE. THE DIVISION SHALL REQUIRE THAT NO INFORMATION INCLUDED IN THE
8 REGISTRY SHALL BE MADE AVAILABLE EXCEPT IN THE FURTHERANCE OF THE
9 PROVISIONS OF THIS ARTICLE.

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

13 4. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE
14 LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIRE-
15 MENTS.

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

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

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

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

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

1 ON PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT
2 BY THE VIOLENT FELONY OFFENDER'S PROBATION OFFICER WITHIN FORTY-EIGHT
3 HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH THE NEW
4 PLACE OF RESIDENCE IS LOCATED.

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

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

35 S 165. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY
36 THAT THE PERSON IS A VIOLENT FELONY OFFENDER AND SHALL INCLUDE THE
37 CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE
38 THE VIOLENT FELONY OFFENDER OF THE DUTIES OF THIS ARTICLE.

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

1 WITHIN TEN CALENDAR DAYS OF BEING RELEASED ON PROBATION OR DISCHARGED
2 UPON PAYMENT OF A FINE, SUCH VIOLENT FELONY OFFENDER SHALL REGISTER WITH
3 THE DIVISION FOR PURPOSES OF VERIFYING SUCH VIOLENT FELONY OFFENDER'S
4 INTENDED PLACE OF RESIDENCE. ON EACH ANNIVERSARY OF THE VIOLENT FELONY
5 OFFENDER'S ORIGINAL REGISTRATION DATE, THE PROVISIONS OF SECTION ONE
6 HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. THE DIVISION SHALL
7 ALSO IMMEDIATELY FORWARD THE CONVICTION DATA AND FINGERPRINTS TO THE
8 FEDERAL BUREAU OF INVESTIGATION IF NOT ALREADY OBTAINED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (I) REVIEW OF ANY VICTIM IMPACT STATEMENT.

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

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

53 (B) IF THE RISK OF REPEAT OFFENSE IS MODERATE, A LEVEL TWO DESIGNATION
54 SHALL BE GIVEN TO SUCH VIOLENT FELONY OFFENDER. IN SUCH CASE THE LAW
55 ENFORCEMENT AGENCY HAVING JURISDICTION AND THE LAW ENFORCEMENT AGENCY
56 HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION SHALL BE

1 NOTIFIED AND MAY DISSEMINATE RELEVANT INFORMATION WHICH MAY INCLUDE
2 APPROXIMATE ADDRESS BASED ON VIOLENT FELONY OFFENDER'S ZIP CODE, A
3 PHOTOGRAPH OF THE OFFENDER, BACKGROUND INFORMATION INCLUDING THE
4 OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE OF VICTIM
5 TARGETED AND THE DESCRIPTION OF SPECIAL CONDITIONS IMPOSED ON THE OFFEN-
6 DER TO ANY ENTITY WITH VULNERABLE POPULATIONS RELATED TO THE NATURE OF
7 THE OFFENSE COMMITTED BY SUCH VIOLENT FELONY OFFENDER. ANY ENTITY
8 RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY DISCLOSE OR
9 FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION.

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

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

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

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

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

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

53 3. IN MAKING THE DETERMINATION, THE COURT SHALL REVIEW ANY VICTIM'S
54 STATEMENT AND ANY MATERIALS SUBMITTED BY THE VIOLENT FELONY OFFENDER.
55 THE COURT SHALL ALSO ALLOW THE VIOLENT FELONY OFFENDER TO APPEAR AND BE

1 HEARD, AND INFORM THE VIOLENT FELONY OFFENDER OF HIS OR HER RIGHT TO
2 HAVE COUNSEL APPOINTED, IF NECESSARY.

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

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

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

21 S 167-J. SPECIAL "900" TELEPHONE NUMBER. 1. PURSUANT TO SECTION ONE
22 HUNDRED SIXTY-THREE OF THIS ARTICLE, THE DIVISION SHALL ALSO OPERATE A
23 "900" TELEPHONE NUMBER THAT MEMBERS OF THE PUBLIC MAY CALL AND INQUIRE
24 WHETHER A NAMED INDIVIDUAL REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE
25 IS LISTED. THE DIVISION SHALL ASCERTAIN WHETHER A NAMED PERSON REASON-
26 ABLY APPEARS TO BE A PERSON SO LISTED AND PROVIDE THE CALLER WITH THE
27 RELEVANT INFORMATION ACCORDING TO RISK AS DESCRIBED IN SUBDIVISION SIX
28 OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE. THE DIVISION SHALL
29 DECIDE WHETHER THE NAMED PERSON REASONABLY APPEARS TO BE A PERSON LIST-
30 ED, BASED UPON INFORMATION FROM THE CALLER PROVIDING INFORMATION THAT
31 SHALL INCLUDE (A) AN EXACT STREET ADDRESS, INCLUDING APARTMENT NUMBER,
32 DRIVER'S LICENSE NUMBER OR BIRTH DATE, ALONG WITH ADDITIONAL INFORMATION
33 THAT MAY INCLUDE SOCIAL SECURITY NUMBER, HAIR COLOR, EYE COLOR, HEIGHT,
34 WEIGHT, DISTINCTIVE MARKINGS, ETHNICITY; OR (B) ANY COMBINATION OF THE
35 ABOVE LISTED CHARACTERISTICS IF AN EXACT BIRTH DATE OR ADDRESS IS NOT
36 AVAILABLE. IF THREE OF THE CHARACTERISTICS PROVIDED INCLUDE ETHNICITY,
37 HAIR COLOR, AND EYE COLOR, OTHER IDENTIFYING CHARACTERISTICS SHALL BE
38 PROVIDED. ANY INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE,
39 ADDRESS OR RELATION TO THE PERSON LISTED BY THE DIVISION SHALL BE
40 EXCLUDED BY THE DIVISION.

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

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

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

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

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

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

55 (F) NOTICE THAT THE CALLER IS REQUIRED TO HAVE THE BIRTH DATE, DRIV-
56 ER'S LICENSE OR IDENTIFICATION NUMBER, OR ADDRESS OR OTHER IDENTIFYING

1 INFORMATION REGARDING THE PERSON ABOUT WHOM INFORMATION IS SOUGHT IN
2 ORDER TO ACHIEVE A POSITIVE IDENTIFICATION OF THAT PERSON;

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

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

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

20 (A) NUMBER OF CALLS RECEIVED;

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

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

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

28 (E) NUMBER OF PERSONS LISTED; AND

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

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

50 2. ANY PERSON WHO USES INFORMATION DISCLOSED PURSUANT TO THIS SECTION
51 IN VIOLATION OF THE LAW SHALL IN ADDITION TO ANY OTHER PENALTY OR FINE
52 IMPOSED, BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS AND
53 NOT MORE THAN ONE THOUSAND DOLLARS. UNAUTHORIZED REMOVAL OR DUPLICATION
54 OF THE SUBDIRECTORY FROM THE OFFICES OF LOCAL, VILLAGE OR CITY POLICE
55 DEPARTMENT SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND
56 DOLLARS. IN ADDITION, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY, OR

1 ANY PERSON AGGRIEVED IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPRO-
2 PRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR
3 A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER
4 AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR SUCH ACTION. THE
5 FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCE-
6 DURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS
7 OF LAW.

8 S 167-L. IMMUNITY FROM LIABILITY. 1. NO OFFICIAL, EMPLOYEE OR AGENCY,
9 WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL
10 LIABILITY FOR DAMAGES FOR ANY DISCRETIONARY DECISION TO RELEASE RELEVANT
11 AND NECESSARY INFORMATION PURSUANT TO THIS SECTION, PROVIDED THAT IT IS
12 SHOWN THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED REASONABLY AND IN
13 GOOD FAITH. THE IMMUNITY PROVIDED UNDER THIS SECTION APPLIES TO THE
14 RELEASE OF RELEVANT INFORMATION TO OTHER EMPLOYEES OR OFFICIALS OR TO
15 THE GENERAL PUBLIC.

16 2. NOTHING IN THIS SECTION SHALL BE DEEMED TO IMPOSE ANY CIVIL OR
17 CRIMINAL LIABILITY UPON OR TO GIVE RISE TO A CAUSE OF ACTION AGAINST ANY
18 OFFICIAL, EMPLOYEE OR AGENCY, WHETHER PUBLIC OR PRIVATE, FOR FAILING TO
19 RELEASE INFORMATION AS AUTHORIZED IN THIS SECTION PROVIDED THAT IT IS
20 SHOWN THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY REASONABLY AND IN GOOD
21 FAITH.

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

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

34 S 167-O. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE
35 OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEA-
36 NOR.

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

44 S 167-Q. SUBDIRECTORY; INTERNET POSTING. 1. THE DIVISION SHALL MAIN-
45 TAIN A SUBDIRECTORY OF LEVEL TWO AND THREE VIOLENT FELONY OFFENDERS. THE
46 SUBDIRECTORY SHALL INCLUDE THE EXACT ADDRESS, ADDRESS OF THE OFFENDER'S
47 PLACE OF EMPLOYMENT AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG
48 WITH THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL
49 DESCRIPTION, AGE AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION
50 INCLUDING THE VIOLENT FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF
51 OPERATION, TYPE OF VICTIM TARGETED, THE NAME AND ADDRESS OF ANY INSTITU-
52 TION OF HIGHER EDUCATION AT WHICH THE VIOLENT FELONY OFFENDER IS
53 ENROLLED, ATTENDS, IS EMPLOYED OR RESIDES AND A DESCRIPTION OF SPECIAL
54 CONDITIONS IMPOSED ON THE VIOLENT FELONY OFFENDER SHALL ALSO BE
55 INCLUDED. THE SUBDIRECTORY SHALL HAVE VIOLENT FELONY OFFENDER LISTINGS
56 CATEGORIZED BY COUNTY AND ZIP CODE. A COPY OF THE SUBDIRECTORY SHALL

1 ANNUALLY BE DISTRIBUTED TO THE OFFICES OF LOCAL VILLAGE, TOWN, CITY,
2 COUNTY OR STATE LAW ENFORCEMENT AGENCIES FOR PURPOSES OF PUBLIC ACCESS.
3 THE DIVISION SHALL DISTRIBUTE MONTHLY UPDATES TO THE OFFICES OF LOCAL
4 VILLAGE, TOWN, CITY, COUNTY OR STATE LAW ENFORCEMENT AGENCIES FOR
5 PURPOSES OF PUBLIC ACCESS. SUCH DEPARTMENTS SHALL REQUIRE THAT A PERSON
6 IN WRITING PROVIDE THEIR NAME AND ADDRESS PRIOR TO VIEWING THE SUBDIREC-
7 TORY. ANY INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE,
8 ADDRESS OR RELATION TO THE VIOLENT FELONY OFFENDER SHALL BE EXCLUDED
9 FROM THE SUBDIRECTORY DISTRIBUTED FOR PURPOSES OF PUBLIC ACCESS. THE
10 SUBDIRECTORY PROVIDED FOR HEREIN SHALL BE UPDATED MONTHLY TO MAINTAIN
11 ITS EFFICIENCY AND USEFULNESS AND SHALL BE COMPUTER ACCESSIBLE. SUCH
12 SUBDIRECTORY SHALL BE MADE AVAILABLE AT ALL TIMES ON THE INTERNET VIA
13 THE DIVISION HOMEPAGE. ANY PERSON MAY APPLY TO THE DIVISION TO RECEIVE
14 AUTOMATED E-MAIL NOTIFICATIONS WHENEVER A NEW OR UPDATED SUBDIRECTORY
15 REGISTRATION OCCURS IN A GEOGRAPHIC AREA SPECIFIED BY SUCH PERSON. THE
16 DIVISION SHALL FURNISH SUCH SERVICE AT NO CHARGE TO SUCH PERSON, WHO
17 SHALL REQUEST E-MAIL NOTIFICATION BY COUNTY AND/OR ZIP CODE ON FORMS
18 DEVELOPED AND PROVIDED BY THE DIVISION. E-MAIL NOTIFICATION IS LIMITED
19 TO THREE GEOGRAPHIC AREAS PER E-MAIL ACCOUNT.

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

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