

3645--C

Cal. No. 583

2011-2012 Regular Sessions

I N S E N A T E

February 28, 2011

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

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.

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

LBD07018-07-1

- 1 167-C. REGISTRATION REQUIREMENTS.
 2 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE
 3 OF ADDRESS.
 4 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.
 5 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS.
 6 167-G. REVIEW.
 7 167-H. JUDICIAL DETERMINATION.
 8 167-I. PETITION FOR RELIEF.
 9 167-J. SPECIAL "900" TELEPHONE NUMBER.
 10 167-K. VIOLENT PREDATOR SUBDIRECTORY.
 11 167-L. IMMUNITY FROM LIABILITY.
 12 167-M. ANNUAL REPORT.
 13 167-N. FAILURE TO REGISTER; PENALTY.
 14 167-O. UNAUTHORIZED RELEASE OF INFORMATION.
 15 167-P. SEVERABILITY.
 16 167-Q. SUBDIRECTORY; INTERNET POSTING.

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

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

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

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

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

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

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

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

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

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

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

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

4 (B) A PHOTOGRAPH AND SET OF FINGERPRINTS.

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

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

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

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

19 4. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE
20 LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIRE-
21 MENTS.

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

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

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

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

48 2. IN THE CASE OF ANY VIOLENT FELONY OFFENDER CONVICTED AND SENTENCED
49 TO PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE, IT SHALL
50 BE THE DUTY OF THE COURT WITHIN TWENTY-FOUR HOURS AFTER SUCH SENTENCE TO
51 NOTIFY THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION, WHERE APPROPRI-
52 ATE, AND OF THE LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE
53 TIME OF HIS OR HER CONVICTION, IF DIFFERENT FROM WHERE HE OR SHE
54 CURRENTLY RESIDES, AND/OR WHERE HE OR SHE CURRENTLY RESIDES, OF THE
55 SENTENCE OF PROBATION, CONDITIONAL DISCHARGE OR UNCONDITIONAL DISCHARGE,
56 INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND ALIASES OF THE

1 PERSON, THE ADDRESS AT WHICH HE OR SHE PROPOSES TO RESIDE, RESIDED AT
2 AND/OR AT WHICH HE OR SHE CURRENTLY RESIDES, THE AMOUNT OF TIME TO BE
3 SERVED ON PROBATION, AND THE NATURE OF THE CRIME FOR WHICH HE OR SHE WAS
4 SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH VIOLENT FELONY
5 OFFENDER'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF HIS OR HER CRIM-
6 INAL RECORD. IF SUCH PERSON CHANGES HIS OR HER PLACE OF RESIDENCE WHILE
7 ON PROBATION, SUCH NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT
8 BY THE VIOLENT FELONY OFFENDER'S PROBATION OFFICER WITHIN FORTY-EIGHT
9 HOURS TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN WHICH THE NEW
10 PLACE OF RESIDENCE IS LOCATED.

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

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

41 S 165. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY
42 THAT THE PERSON IS A VIOLENT FELONY OFFENDER AND SHALL INCLUDE THE
43 CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE
44 THE VIOLENT FELONY OFFENDER OF THE DUTIES OF THIS ARTICLE.

45 2. ANY VIOLENT FELONY OFFENDER, WHO IS RELEASED ON PROBATION OR
46 DISCHARGED UPON PAYMENT OF A FINE SHALL, PRIOR TO SUCH RELEASE OR
47 DISCHARGE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE
48 BY THE COURT IN WHICH HE OR SHE WAS CONVICTED. WHERE THE COURT ORDERS A
49 VIOLENT FELONY OFFENDER RELEASED ON PROBATION, SUCH ORDER MUST INCLUDE A
50 PROVISION REQUIRING THAT HE OR SHE COMPLY WITH THE REQUIREMENTS OF THIS
51 ARTICLE. WHERE SUCH VIOLENT FELONY OFFENDER VIOLATES SUCH PROVISION,
52 PROBATION MAY BE IMMEDIATELY REVOKED IN THE MANNER PROVIDED BY ARTICLE
53 FOUR HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW. THE COURT SHALL REQUIRE
54 THE VIOLENT FELONY OFFENDER TO READ AND SIGN SUCH FORM AS MAY BE
55 REQUIRED BY THE DIVISION STATING THE DUTY TO REGISTER AND THE PROCEDURE
56 FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER. THE COURT SHALL ON

1 SUCH FORM OBTAIN THE ADDRESS WHERE THE VIOLENT FELONY OFFENDER EXPECTS
2 TO RESIDE UPON HIS OR HER RELEASE, AND SHALL REPORT THE ADDRESS TO THE
3 DIVISION. THE COURT SHALL GIVE ONE COPY OF THE FORM TO THE VIOLENT FELO-
4 NY OFFENDER AND SHALL SEND TWO COPIES TO THE DIVISION WHICH SHALL
5 FORWARD ONE COPY TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE
6 THE VIOLENT FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER RELEASE.
7 WITHIN TEN CALENDAR DAYS OF BEING RELEASED ON PROBATION OR DISCHARGED
8 UPON PAYMENT OF A FINE, SUCH VIOLENT FELONY OFFENDER SHALL REGISTER WITH
9 THE DIVISION FOR PURPOSES OF VERIFYING SUCH VIOLENT FELONY OFFENDER'S
10 INTENDED PLACE OF RESIDENCE. ON EACH ANNIVERSARY OF THE VIOLENT FELONY
11 OFFENDER'S ORIGINAL REGISTRATION DATE, THE PROVISIONS OF SECTION ONE
12 HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. THE DIVISION SHALL
13 ALSO IMMEDIATELY FORWARD THE CONVICTION DATA AND FINGERPRINTS TO THE
14 FEDERAL BUREAU OF INVESTIGATION IF NOT ALREADY OBTAINED.

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

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

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

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

54 2. FOR A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTI-
55 CLE ON EACH ANNIVERSARY OF THE VIOLENT FELONY OFFENDER'S INITIAL REGIS-

1 TRATION DATE DURING THE PERIOD ON WHICH HE OR SHE IS REQUIRED TO REGIS-
2 TER UNDER THIS SECTION THE FOLLOWING APPLIES:

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

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

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

12 3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED
13 TO A VIOLENT FELONY OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE
14 EXCEPT THAT SUCH VIOLENT FELONY OFFENDER DESIGNATED AS A VIOLENT PREDA-
15 TOR MUST PERSONALLY VERIFY WITH THE LOCAL LAW ENFORCEMENT AGENCY, THE
16 REGISTRATION EVERY NINETY CALENDAR DAYS AFTER THE DATE OF THE INITIAL
17 RELEASE OR COMMENCEMENT OF PAROLE.

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

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

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

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

51 3. IT SHALL BE THE DUTY OF THE PAROLE OR PROBATION OFFICER TO INFORM
52 AND REGISTER SUCH VIOLENT FELONY OFFENDER ACCORDING TO THE REQUIREMENTS
53 IMPOSED BY THIS ARTICLE. A PAROLE OR PROBATION OFFICER SHALL GIVE ONE
54 COPY OF THE FORM TO THE VIOLENT FELONY OFFENDER AND SHALL, WITHIN THREE
55 CALENDAR DAYS, SEND TWO COPIES ELECTRONICALLY OR OTHERWISE TO THE DIVI-
56 SION WHICH SHALL FORWARD ONE COPY ELECTRONICALLY OR OTHERWISE TO THE LAW

1 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER
2 RESIDES UPON HIS OR HER PAROLE, PROBATION, OR UPON ANY FORM OF STATE OR
3 LOCAL CONDITIONAL RELEASE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (I) REVIEW OF ANY VICTIM IMPACT STATEMENT.

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

54 (A) IF THE RISK OF REPEAT OFFENSE IS LOW, A LEVEL ONE DESIGNATION
55 SHALL BE GIVEN TO SUCH VIOLENT FELONY OFFENDER. IN SUCH CASE THE LAW
56 ENFORCEMENT AGENCY HAVING JURISDICTION AND THE LAW ENFORCEMENT AGENCY

1 HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER CONVICTION SHALL BE
2 NOTIFIED PURSUANT TO THIS ARTICLE.

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

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

28 ANY ENTITY RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY
29 DISCLOSE OR FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION. IN
30 ADDITION, IN SUCH CASE, THE INFORMATION DESCRIBED IN THIS SECTION SHALL
31 ALSO BE PROVIDED IN THE SUBDIRECTORY ESTABLISHED IN THIS ARTICLE AND
32 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUCH INFORMATION SHALL, UPON
33 REQUEST, BE MADE AVAILABLE TO THE PUBLIC.

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

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

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

54 2. IN ADDITION, THE SENTENCING COURT SHALL ALSO MAKE A DETERMINATION
55 WITH RESPECT TO THE LEVEL OF NOTIFICATION, AFTER RECEIVING A RECOMMENDA-
56 TION FROM THE BOARD PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN-F OF

1 THIS ARTICLE. BOTH DETERMINATIONS OF THE SENTENCING COURT SHALL BE MADE
2 THIRTY CALENDAR DAYS PRIOR TO DISCHARGE, PAROLE OR RELEASE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (A) NUMBER OF CALLS RECEIVED;

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

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

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

33 (E) NUMBER OF PERSONS LISTED; AND

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

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

55 2. ANY PERSON WHO USES INFORMATION DISCLOSED PURSUANT TO THIS SECTION
56 IN VIOLATION OF THE LAW SHALL IN ADDITION TO ANY OTHER PENALTY OR FINE

1 IMPOSED, BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS AND
2 NOT MORE THAN ONE THOUSAND DOLLARS. UNAUTHORIZED REMOVAL OR DUPLICATION
3 OF THE SUBDIRECTORY FROM THE OFFICES OF LOCAL, VILLAGE OR CITY POLICE
4 DEPARTMENT SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND
5 DOLLARS. IN ADDITION, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY, OR
6 ANY PERSON AGGRIEVED IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPRO-
7 PRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR
8 A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER
9 AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR SUCH ACTION. THE
10 FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCE-
11 DURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS
12 OF LAW.

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

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

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

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

39 S 167-O. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE
40 OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEA-
41 NOR.

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

49 S 167-Q. SUBDIRECTORY; INTERNET POSTING. 1. THE DIVISION SHALL MAIN-
50 TAIN A SUBDIRECTORY OF LEVEL TWO AND THREE VIOLENT FELONY OFFENDERS. THE
51 SUBDIRECTORY SHALL INCLUDE THE EXACT ADDRESS, ADDRESS OF THE OFFENDER'S
52 PLACE OF EMPLOYMENT AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG
53 WITH THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL
54 DESCRIPTION, AGE AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION
55 INCLUDING THE VIOLENT FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF
56 OPERATION, TYPE OF VICTIM TARGETED, THE NAME AND ADDRESS OF ANY INSTITU-

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

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

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