

8916

I N A S S E M B L Y

February 28, 2014

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Correction

AN ACT to amend the penal law and the correction law, in relation to enacting "Brittany's Law - Domestic Violence Protection Act"

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 Law
2 - Domestic Violence Protection Act".

3 S 2. The penal law is amended by adding two new sections 195.03 and
4 195.04 to read as follows:

5 S 195.03 FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELONY OFFENDER IN
6 THE SECOND DEGREE.

7 A PERSON IS GUILTY OF FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELO-
8 NY OFFENDER IN THE SECOND DEGREE WHEN, BEING A VIOLENT FELONY OFFENDER
9 REQUIRED TO REGISTER OR VERIFY PURSUANT TO ARTICLE SIX-B OF THE
10 CORRECTION LAW, HE OR SHE FAILS TO REGISTER OR VERIFY IN THE MANNER AND
11 WITHIN THE TIME PERIODS PROVIDED FOR IN SUCH ARTICLE.

12 FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELONY OFFENDER IN THE
13 SECOND DEGREE IS A CLASS E FELONY.

14 S 195.04 FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELONY OFFENDER IN
15 THE FIRST DEGREE.

16 A PERSON IS GUILTY OF FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELO-
17 NY OFFENDER IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME OF
18 FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELONY OFFENDER IN THE SECOND
19 DEGREE AND HAS PREVIOUSLY BEEN CONVICTED OF FAILURE TO REGISTER OR VERI-
20 FY AS A VIOLENT FELONY OFFENDER IN THE SECOND DEGREE AS DEFINED IN
21 SECTION 195.03 OF THIS ARTICLE.

22 FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELONY OFFENDER IN THE
23 FIRST DEGREE IS A CLASS D FELONY.

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

26 ARTICLE 6-B

27 VIOLENT FELONY OFFENDER REGISTRATION

28 SECTION 162. DEFINITIONS.

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

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- 1 163. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.
2 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION.
3 165. DUTIES OF THE COURT.
4 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL
5 FACILITY; DUTIES OF OFFICIAL IN CHARGE.
6 167. DUTY TO REGISTER.
7 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER.
8 167-B. DURATION OF REGISTRATION.
9 167-C. REGISTRATION REQUIREMENTS.
10 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE
11 OF ADDRESS.
12 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.
13 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS.
14 167-G. REVIEW.
15 167-H. JUDICIAL DETERMINATION.
16 167-I. PETITION FOR RELIEF.
17 167-J. SPECIAL TELEPHONE NUMBER.
18 167-K. VIOLENT PREDATOR SUBDIRECTORY.
19 167-L. IMMUNITY FROM LIABILITY.
20 167-M. ANNUAL REPORT.
21 167-N. FAILURE TO REGISTER; PENALTY.
22 167-O. UNAUTHORIZED RELEASE OF INFORMATION.
23 167-P. SEVERABILITY.
24 167-Q. SUBDIRECTORY; INTERNET POSTING.

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

27 1. "VIOLENT FELONY OFFENDER" INCLUDES ANY PERSON WHO IS CONVICTED OF A
28 VIOLENT FELONY OFFENSE AS DEFINED UNDER SECTION 70.02 OF THE PENAL LAW
29 OR A CLASS A FELONY OFFENSE DEFINED IN THE PENAL LAW OTHER THAN A CLASS
30 A FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW.
31 CONVICTIONS THAT RESULT FROM OR ARE CONNECTED WITH THE SAME ACT, OR
32 RESULT FROM OFFENSES COMMITTED AT THE SAME TIME, SHALL BE COUNTED FOR
33 THE PURPOSE OF THIS ARTICLE AS ONE CONVICTION. ANY CONVICTION SET ASIDE
34 PURSUANT TO LAW IS NOT A CONVICTION FOR PURPOSES OF THIS ARTICLE.

35 2. "VIOLENT FELONY OFFENSE" MEANS A CONVICTION FOR AN OFFENSE AS
36 DEFINED UNDER SECTION 70.02 OF THE PENAL LAW OR A CLASS A FELONY OFFENSE
37 DEFINED IN THE PENAL LAW OTHER THAN A CLASS A OFFENSE DEFINED IN ARTICLE
38 TWO HUNDRED TWENTY OF THE PENAL LAW.

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

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

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

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

53 7. "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION OF A
54 PERSON THAT AFFECTS THE EMOTIONAL OR VOLITIONAL CAPACITY OF THE PERSON
55 IN A MANNER THAT PREDISPOSES THAT PERSON TO THE COMMISSION OF CRIMINAL

1 VIOLENT ACTS TO A DEGREE THAT MAKES THE PERSON A MENACE TO THE HEALTH
2 AND SAFETY OF OTHER PERSONS.

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

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

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

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

16 (B) A PHOTOGRAPH AND SET OF FINGERPRINTS.

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

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

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

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

31 4. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE
32 LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIRE-
33 MENTS.

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

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

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

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

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

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

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

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

53 S 165. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY
54 THAT THE PERSON IS A VIOLENT FELONY OFFENDER AND SHALL INCLUDE THE
55 CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE
56 THE VIOLENT FELONY OFFENDER OF THE DUTIES OF THIS ARTICLE.

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

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

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

1 REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR PURPOSES OF
2 VERIFYING SUCH VIOLENT FELONY OFFENDER'S INTENDED PLACE OF RESIDENCE.

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

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

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

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

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

21 (C) IF THE VIOLENT FELONY OFFENDER FAILS TO MAIL THE VERIFICATION FORM
22 TO THE DIVISION WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF THE FORM, HE
23 OR SHE SHALL BE IN VIOLATION OF THIS SECTION.

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

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

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

45 S 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER. 1. IT SHALL
46 BE THE DUTY OF THE SENTENCING COURT APPLYING THE GUIDELINES ESTABLISHED
47 IN SUBDIVISION FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE
48 TO DETERMINE THE DURATION OF REGISTRATION PURSUANT TO SECTION ONE
49 HUNDRED SIXTY-SEVEN-B OF THIS ARTICLE AND NOTIFICATION PURSUANT TO
50 SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE AND
51 NOTIFICATION FOR EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE
52 OF THIS ARTICLE IS THEN ON PAROLE OR PROBATION FOR COMMITTING A VIOLENT
53 FELONY OFFENSE OR A CLASS A OFFENSE DEFINED IN THE PENAL LAW EXCEPT FOR
54 A CLASS A OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL
55 LAW.

1 2. EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE OF THIS
2 ARTICLE IS THEN ON PAROLE OR PROBATION FOR A VIOLENT FELONY OFFENSE
3 SHALL WITHIN TEN CALENDAR DAYS OF SUCH DETERMINATION REGISTER WITH HIS
4 OR HER PAROLE OR PROBATION OFFICER. ON EACH ANNIVERSARY OF THE VIOLENT
5 FELONY OFFENDER'S INITIAL REGISTRATION DATE THEREAFTER, THE PROVISIONS
6 OF SECTION ONE HUNDRED SIXTY-SEVEN OF THIS ARTICLE SHALL APPLY. ANY
7 VIOLENT FELONY OFFENDER WHO FAILS OR REFUSES TO SO COMPLY SHALL BE
8 SUBJECT TO THE SAME PENALTIES AS OTHERWISE PROVIDED FOR IN THIS ARTICLE
9 WHICH WOULD BE IMPOSED UPON A VIOLENT FELONY OFFENDER WHO FAILS OR
10 REFUSES TO SO COMPLY WITH THE PROVISIONS OF THIS ARTICLE ON OR AFTER
11 SUCH EFFECTIVE DATE.

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

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

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

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

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

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

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

52 S 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE. 1. A
53 VIOLENT FELONY OFFENDER WHO HAS BEEN CONVICTED OF AN OFFENSE WHICH
54 REQUIRES REGISTRATION UNDER SECTION ONE HUNDRED SIXTY-SEVEN-C OF THIS
55 ARTICLE SHALL REGISTER THE NEW ADDRESS WITH THE DIVISION NO LATER THAN
56 TEN CALENDAR DAYS AFTER SUCH VIOLENT FELONY OFFENDER ESTABLISHES RESI-

1 DENCE IN THIS STATE. THE DIVISION SHALL COORDINATE WITH THE DESIGNATED
2 LAW ENFORCEMENT AGENCY OF THE STATE OF WHICH THE INDIVIDUAL DEPARTED ON
3 INFORMATION RELEVANT TO THE DURATION OF REGISTRATION.

4 2. THE DIVISION SHALL ADVISE THE BOARD THAT THE OFFENDER HAS ESTAB-
5 LISHED RESIDENCE IN THIS STATE. THE BOARD SHALL DETERMINE WHETHER THE
6 OFFENDER IS REQUIRED TO REGISTER WITH THE DIVISION. IF IT IS DETERMINED
7 THAT THE OFFENDER IS REQUIRED TO REGISTER, THE DIVISION SHALL NOTIFY THE
8 OFFENDER OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE AND SHALL
9 REQUIRE THE OFFENDER TO SIGN A FORM AS MAY BE REQUIRED BY THE DIVISION
10 ACKNOWLEDGING THAT THE DUTY TO REGISTER AND THE PROCEDURE FOR REGISTRA-
11 TION HAS BEEN EXPLAINED TO THE OFFENDER. THE DIVISION SHALL OBTAIN ON
12 SUCH FORM THE ADDRESS WHERE THE OFFENDER EXPECTS TO RESIDE WITHIN THE
13 STATE AND THE OFFENDER SHALL RETAIN ONE COPY OF THE FORM AND SEND TWO
14 COPIES TO THE DIVISION WHICH SHALL PROVIDE THE INFORMATION TO THE LAW
15 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE OFFENDER EXPECTS TO
16 RESIDE WITHIN THIS STATE. NO LATER THAN THIRTY DAYS PRIOR TO THE BOARD
17 MAKING A RECOMMENDATION, THE OFFENDER SHALL BE NOTIFIED THAT HIS OR HER
18 CASE IS UNDER REVIEW AND THAT HE OR SHE IS PERMITTED TO SUBMIT TO THE
19 BOARD ANY INFORMATION RELEVANT TO THE REVIEW. AFTER REVIEWING ANY INFOR-
20 MATION OBTAINED, AND APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION
21 FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE, THE BOARD
22 SHALL WITHIN SIXTY CALENDAR DAYS MAKE A RECOMMENDATION REGARDING THE
23 LEVEL OF NOTIFICATION PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED
24 SIXTY-SEVEN-F OF THIS ARTICLE AND WHETHER SUCH OFFENDER SHALL BE DESIG-
25 NATED A VIOLENT FELONY OFFENDER OR A VIOLENT PREDATOR. THIS RECOMMENDA-
26 TION SHALL BE CONFIDENTIAL AND SHALL NOT BE AVAILABLE FOR PUBLIC
27 INSPECTION. IT SHALL BE SUBMITTED BY THE BOARD TO THE COUNTY COURT OR
28 SUPREME COURT AND TO THE DISTRICT ATTORNEY IN THE COUNTY OF RESIDENCE OF
29 THE OFFENDER AND TO THE OFFENDER. IT SHALL BE THE DUTY OF THE COUNTY
30 COURT OR SUPREME COURT IN THE COUNTY OF RESIDENCE OF THE OFFENDER,
31 APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION FIVE OF SECTION ONE
32 HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE, TO DETERMINE THE LEVEL OF NOTIFI-
33 CATION PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-SEVEN-F
34 OF THIS ARTICLE AND WHETHER SUCH OFFENDER SHALL BE DESIGNATED A VIOLENT
35 FELONY OFFENDER OR A VIOLENT PREDATOR. AT LEAST THIRTY DAYS PRIOR TO
36 THE DETERMINATION PROCEEDING, SUCH COURT SHALL NOTIFY THE DISTRICT
37 ATTORNEY AND THE OFFENDER, IN WRITING, OF THE DATE OF THE DETERMINATION
38 PROCEEDING AND THE COURT SHALL ALSO PROVIDE THE DISTRICT ATTORNEY AND
39 OFFENDER WITH A COPY OF THE RECOMMENDATION RECEIVED FROM THE BOARD AND
40 ANY STATEMENT OF THE REASONS FOR THE RECOMMENDATION RECEIVED FROM THE
41 BOARD. THIS NOTICE SHALL INCLUDE THE FOLLOWING STATEMENT OR A SUBSTAN-
42 TIALY SIMILAR STATEMENT: "THIS PROCEEDING IS BEING HELD TO DETERMINE
43 WHETHER YOU WILL BE CLASSIFIED AS A LEVEL 3 OFFENDER (RISK OF REPEAT
44 OFFENSE IS HIGH), A LEVEL 2 OFFENDER (RISK OF REPEAT OFFENSE IS MODER-
45 ATE), OR A LEVEL 1 OFFENDER (RISK OF REPEAT OFFENSE IS LOW), OR WHETHER
46 YOU WILL BE DESIGNATED AS A VIOLENT FELONY OFFENDER OR A VIOLENT PEDA-
47 TOR, WHICH WILL DETERMINE HOW LONG YOU MUST REGISTER AS AN OFFENDER AND
48 HOW MUCH INFORMATION CAN BE PROVIDED TO THE PUBLIC CONCERNING YOUR
49 REGISTRATION. IF YOU FAIL TO APPEAR AT THIS PROCEEDING, WITHOUT SUFFI-
50 CIENT EXCUSE, IT SHALL BE HELD IN YOUR ABSENCE. FAILURE TO APPEAR MAY
51 RESULT IN A LONGER PERIOD OF REGISTRATION OR A HIGHER LEVEL OF COMMUNITY
52 NOTIFICATION BECAUSE YOU ARE NOT PRESENT TO OFFER EVIDENCE OR CONTEST
53 EVIDENCE OFFERED BY THE DISTRICT ATTORNEY." THE COURT SHALL ALSO ADVISE
54 THE OFFENDER THAT HE OR SHE HAS A RIGHT TO A HEARING PRIOR TO THE
55 COURT'S DETERMINATION, THAT HE OR SHE HAS THE RIGHT TO BE REPRESENTED BY
56 COUNSEL AT THE HEARING AND THAT COUNSEL WILL BE APPOINTED IF HE OR SHE

1 IS FINANCIALLY UNABLE TO RETAIN COUNSEL. A RETURNABLE FORM SHALL BE
2 ENCLOSED IN THE COURT'S NOTICE TO THE OFFENDER ON WHICH THE OFFENDER MAY
3 APPLY FOR ASSIGNMENT OF COUNSEL. IF THE OFFENDER APPLIES FOR ASSIGNMENT
4 OF COUNSEL AND THE COURT FINDS THAT THE OFFENDER IS FINANCIALLY UNABLE
5 TO RETAIN COUNSEL, THE COURT SHALL ASSIGN COUNSEL TO REPRESENT THE
6 OFFENDER PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW. IF THE
7 DISTRICT ATTORNEY SEEKS A DETERMINATION THAT DIFFERS FROM THE RECOMMEN-
8 DATION SUBMITTED BY THE BOARD, AT LEAST TEN DAYS PRIOR TO THE DETERMI-
9 NATION PROCEEDING THE DISTRICT ATTORNEY SHALL PROVIDE TO THE COURT AND
10 THE OFFENDER A STATEMENT SETTING FORTH THE DETERMINATIONS SOUGHT BY THE
11 DISTRICT ATTORNEY TOGETHER WITH THE REASONS FOR SEEKING SUCH DETERMI-
12 NATIONS. THE COURT SHALL ALLOW THE OFFENDER TO APPEAR AND BE HEARD. THE
13 STATE SHALL APPEAR BY THE DISTRICT ATTORNEY, OR HIS OR HER DESIGNEE, WHO
14 SHALL BEAR THE BURDEN OF PROVING THE FACTS SUPPORTING THE DETERMINATIONS
15 SOUGHT BY CLEAR AND CONVINCING EVIDENCE. IT SHALL BE THE DUTY OF THE
16 COURT APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION FIVE OF SECTION
17 ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE TO DETERMINE THE LEVEL OF
18 NOTIFICATION PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED
19 SIXTY-SEVEN-F OF THIS ARTICLE AND WHETHER SUCH OFFENDER SHALL BE DESIG-
20 NATED A VIOLENT FELONY OFFENDER OR A VIOLENT PREDATOR. WHERE THERE IS A
21 DISPUTE BETWEEN THE PARTIES CONCERNING THE DETERMINATIONS, THE COURT
22 SHALL ADJOURN THE HEARING AS NECESSARY TO PERMIT THE OFFENDER OR THE
23 DISTRICT ATTORNEY TO OBTAIN MATERIALS RELEVANT TO THE DETERMINATIONS
24 FROM THE STATE BOARD OF EXAMINERS OF OFFENDERS OR ANY STATE OR LOCAL
25 FACILITY, HOSPITAL, INSTITUTION, OFFICE, AGENCY, DEPARTMENT OR DIVISION.
26 SUCH MATERIALS MAY BE OBTAINED BY SUBPOENA IF NOT VOLUNTARILY PROVIDED
27 TO THE REQUESTING PARTY. IN MAKING THE DETERMINATIONS THE COURT SHALL
28 REVIEW ANY VICTIM'S STATEMENT AND ANY RELEVANT MATERIALS AND EVIDENCE
29 SUBMITTED BY THE OFFENDER AND THE DISTRICT ATTORNEY AND THE RECOMMENDA-
30 TION AND ANY MATERIAL SUBMITTED BY THE BOARD, AND MAY CONSIDER RELIABLE
31 HEARSAY EVIDENCE SUBMITTED BY EITHER PARTY, PROVIDED THAT IT IS RELEVANT
32 TO THE DETERMINATIONS. IF AVAILABLE, FACTS PROVEN AT TRIAL OR ELICITED
33 AT THE TIME OF A PLEA OF GUILTY SHALL BE DEEMED ESTABLISHED BY CLEAR AND
34 CONVINCING EVIDENCE AND SHALL NOT BE RELITIGATED. THE COURT SHALL RENDER
35 AN ORDER SETTING FORTH ITS DETERMINATIONS AND THE FINDINGS OF FACT AND
36 CONCLUSIONS OF LAW ON WHICH THE DETERMINATIONS ARE BASED. A COPY OF THE
37 ORDER SHALL BE SUBMITTED BY THE COURT TO THE DIVISION. UPON APPLICATION
38 OF EITHER PARTY, THE COURT SHALL SEAL ANY PORTION OF THE COURT FILE OR
39 RECORD WHICH CONTAINS MATERIAL THAT IS CONFIDENTIAL UNDER ANY STATE OR
40 FEDERAL STATUTE. EITHER PARTY MAY APPEAL AS OF RIGHT FROM THE ORDER
41 PURSUANT TO THE PROVISIONS OF ARTICLES FIFTY-FIVE, FIFTY-SIX AND FIFTY-
42 SEVEN OF THE CIVIL PRACTICE LAW AND RULES. WHERE COUNSEL HAS BEEN
43 ASSIGNED TO REPRESENT THE OFFENDER UPON THE GROUND THAT THE OFFENDER IS
44 FINANCIALLY UNABLE TO RETAIN COUNSEL, THAT ASSIGNMENT SHALL BE CONTINUED
45 THROUGHOUT THE PENDENCY OF THE APPEAL, AND THE PERSON MAY APPEAL AS A
46 POOR PERSON PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW.

47 3. IF AN OFFENDER, HAVING BEEN GIVEN NOTICE, INCLUDING THE TIME AND
48 PLACE OF THE DETERMINATION PROCEEDING IN ACCORDANCE WITH THIS SECTION,
49 FAILS TO APPEAR AT THIS PROCEEDING, WITHOUT SUFFICIENT EXCUSE, THE COURT
50 SHALL CONDUCT THE HEARING AND MAKE THE DETERMINATIONS IN THE MANNER SET
51 FORTH IN SUBDIVISION TWO OF THIS SECTION.

52 S 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS. 1. THERE
53 SHALL BE A BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS WHICH SHALL
54 POSSESS THE POWERS AND DUTIES SPECIFIED IN THIS SECTION. SUCH BOARD
55 SHALL CONSIST OF FIVE MEMBERS OF THE DEPARTMENT WHO SHALL BE APPOINTED
56 BY THE GOVERNOR, THREE OF WHOM SHALL BE EXPERTS IN THE FIELD OF THE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 (I) REVIEW OF ANY VICTIM IMPACT STATEMENT.

52 6. APPLYING THESE GUIDELINES, THE BOARD SHALL WITHIN SIXTY CALENDAR
53 DAYS PRIOR TO THE DISCHARGE, PAROLE OR RELEASE OF A VIOLENT FELONY
54 OFFENDER MAKE A RECOMMENDATION WHICH SHALL BE CONFIDENTIAL AND SHALL NOT
55 BE AVAILABLE FOR PUBLIC INSPECTION, TO THE SENTENCING COURT AS TO WHETH-
56 ER SUCH VIOLENT FELONY OFFENDER WARRANTS THE DESIGNATION OF VIOLENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 2. WHENEVER THERE IS REASONABLE CAUSE TO BELIEVE THAT ANY PERSON OR
55 GROUP OF PERSONS IS ENGAGED IN A PATTERN OR PRACTICE OF MISUSE OF THE
56 TELEPHONE NUMBER, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY OR ANY

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

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

13 (A) NUMBER OF CALLS RECEIVED;

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

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

19 (D) NUMBER OF PERSONS LISTED; AND

20 (E) A SUMMARY OF THE SUCCESS OF THE TELEPHONE NUMBER PROGRAM BASED
21 UPON SELECTED FACTORS.

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

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

55 S 167-L. IMMUNITY FROM LIABILITY. 1. NO OFFICIAL, EMPLOYEE OR AGENCY,
56 WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL

1 LIABILITY FOR DAMAGES FOR ANY DISCRETIONARY DECISION TO RELEASE RELEVANT
2 AND NECESSARY INFORMATION PURSUANT TO THIS SECTION, PROVIDED THAT IT IS
3 SHOWN THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED REASONABLY AND IN
4 GOOD FAITH. THE IMMUNITY PROVIDED UNDER THIS SECTION APPLIES TO THE
5 RELEASE OF RELEVANT INFORMATION TO OTHER EMPLOYEES OR OFFICIALS OR TO
6 THE GENERAL PUBLIC.

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

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

18 S 167-N. FAILURE TO REGISTER; PENALTY. ANY PERSON REQUIRED TO REGISTER
19 PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHO FAILS TO REGISTER IN THE
20 MANNER AND WITHIN THE TIME PERIODS PROVIDED FOR IN THIS ARTICLE SHALL BE
21 GUILTY OF A CLASS E FELONY FOR THE FIRST OFFENSE, AND FOR A SECOND OR
22 SUBSEQUENT OFFENSE SHALL BE GUILTY OF A CLASS D FELONY RESPECTIVELY IN
23 ACCORDANCE WITH SECTIONS 195.03 AND 195.04 OF THE PENAL LAW. ANY SUCH
24 FAILURE TO REGISTER MAY ALSO BE THE BASIS FOR REVOCATION OF PAROLE
25 PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW WHICH
26 SHALL BE IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW.

27 S 167-O. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE
28 OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEA-
29 NOR.

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

37 S 167-Q. SUBDIRECTORY; INTERNET POSTING. 1. THE DIVISION SHALL MAIN-
38 TAIN A SUBDIRECTORY OF LEVEL TWO AND THREE VIOLENT FELONY OFFENDERS. THE
39 SUBDIRECTORY SHALL INCLUDE THE EXACT ADDRESS, ADDRESS OF THE OFFENDER'S
40 PLACE OF EMPLOYMENT AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG
41 WITH THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL
42 DESCRIPTION, AGE AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION
43 INCLUDING THE VIOLENT FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF
44 OPERATION, TYPE OF VICTIM TARGETED, THE NAME AND ADDRESS OF ANY INSTITU-
45 TION OF HIGHER EDUCATION AT WHICH THE VIOLENT FELONY OFFENDER IS
46 ENROLLED, ATTENDS, IS EMPLOYED OR RESIDES AND A DESCRIPTION OF SPECIAL
47 CONDITIONS IMPOSED ON THE VIOLENT FELONY OFFENDER SHALL ALSO BE
48 INCLUDED. THE SUBDIRECTORY SHALL HAVE VIOLENT FELONY OFFENDER LISTINGS
49 CATEGORIZED BY COUNTY AND ZIP CODE. A COPY OF THE SUBDIRECTORY SHALL
50 ANNUALLY BE DISTRIBUTED TO THE OFFICES OF LOCAL VILLAGE, TOWN, CITY,
51 COUNTY OR STATE LAW ENFORCEMENT AGENCIES FOR PURPOSES OF PUBLIC ACCESS.
52 THE DIVISION SHALL DISTRIBUTE MONTHLY UPDATES TO THE OFFICES OF LOCAL
53 VILLAGE, TOWN, CITY, COUNTY OR STATE LAW ENFORCEMENT AGENCIES FOR
54 PURPOSES OF PUBLIC ACCESS. SUCH DEPARTMENTS SHALL REQUIRE THAT A PERSON
55 IN WRITING PROVIDE THEIR NAME AND ADDRESS PRIOR TO VIEWING THE SUBDIREC-
56 TORY. ANY INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE,

1 ADDRESS OR RELATION TO THE VIOLENT FELONY OFFENDER SHALL BE EXCLUDED
2 FROM THE SUBDIRECTORY DISTRIBUTED FOR PURPOSES OF PUBLIC ACCESS. THE
3 SUBDIRECTORY PROVIDED FOR HEREIN SHALL BE UPDATED MONTHLY TO MAINTAIN
4 ITS EFFICIENCY AND USEFULNESS AND SHALL BE COMPUTER ACCESSIBLE. SUCH
5 SUBDIRECTORY SHALL BE MADE AVAILABLE AT ALL TIMES ON THE INTERNET VIA
6 THE DIVISION HOMEPAGE. ANY PERSON MAY APPLY TO THE DIVISION TO RECEIVE
7 AUTOMATED E-MAIL NOTIFICATIONS WHENEVER A NEW OR UPDATED SUBDIRECTORY
8 REGISTRATION OCCURS IN A GEOGRAPHIC AREA SPECIFIED BY SUCH PERSON. THE
9 DIVISION SHALL FURNISH SUCH SERVICE AT NO CHARGE TO SUCH PERSON, WHO
10 SHALL REQUEST E-MAIL NOTIFICATION BY COUNTY AND/OR ZIP CODE ON FORMS
11 DEVELOPED AND PROVIDED BY THE DIVISION. E-MAIL NOTIFICATION IS LIMITED
12 TO THREE GEOGRAPHIC AREAS PER E-MAIL ACCOUNT.

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

27 S 4. This act shall take effect on the one hundred eightieth day after
28 it shall have become a law; provided, however, that effective immediate-
29 ly, the addition, amendment and/or repeal of any rule or regulation
30 necessary for the implementation of this act on its effective date are
31 authorized and directed to be made and completed on or before such
32 effective date.