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

928--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. HEASTIE, LAVINE, COOK, MOSLEY, DINOWITZ -- Multi-Sponsored by -- M. of A. BRENNAN, SEPULVEDA -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to creating a felony possession of a firearm registration and crime registration act

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

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

ARTICLE 6-D

FELONY GUN POSSESSION REGISTRATION AND CRIME REGISTRY ACT

SECTION 168-AA. SHORT TITLE.
168-BB. DEFINITIONS.
168-CC. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.
168-DD. OFFENDER; RELOCATION; NOTIFICATION.
168-EE. DUTIES OF THE COURT.
168-FF. DISCHARGE OF OFFENDER FROM CORRECTIONAL FACILITY; DUTIES OF OFFICIAL IN CHARGE.
168-GG. DUTY TO REGISTER AND TO VERIFY.
168-HH. DURATION OF REGISTRATION AND VERIFICATION REQUIREMENTS.
168-II. REGISTRATION AND VERIFICATION REQUIREMENTS.
168-JJ. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS.
168-KK. SPECIAL TELEPHONE NUMBER.
168-LL. IMMUNITY FROM LIABILITY.
168-MM. PENALTY.
168-NN. UNAUTHORIZED RELEASE OF INFORMATION.
168-OO. SEPARABILITY.

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

LBD04300-04-3

S 168-AA. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "FELONY POSSESSION OF A FIREARM REGISTRATION ACT".

S 168-BB. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING DEFINITIONS APPLY:

1. "ANTIQUE FIREARM" MEANS ANY UNLOADED MUZZLE LOADING FIREARM WITH A MATCHLOCK, FLINTLOCK, PERCUSSION CAP, OR SIMILAR TYPE OF IGNITION SYSTEM, OR A FIREARM WHICH USES FIXED CARTRIDGES WHICH ARE NO LONGER AVAILABLE IN THE ORDINARY CHANNELS OF COMMERCIAL TRADE.

2. "ASSAULT WEAPON" MEANS: (A) A SEMIAUTOMATIC RIFLE THAT HAS AN ABILITY TO ACCEPT A DETACHABLE MAGAZINE AND HAS AT LEAST ONE OF THE FOLLOWING CHARACTERISTICS: (I) A FOLDING OR TELESCOPING STOCK;

(II) A PISTOL GRIP THAT PROTRUDES CONSPICUOUSLY BENEATH THE ACTION OF THE WEAPON;

(III) A THUMBHOLE STOCK;

(IV) A SECOND HANDGRIP OR A PROTRUDING GRIP THAT CAN BE HELD BY THE NON-TRIGGER HAND;

(V) A BAYONET MOUNT;

(VI) A FLASH SUPPRESSOR, MUZZLE BREAK, MUZZLE COMPENSATOR, OR THREADED BARREL DESIGNED TO ACCOMMODATE A FLASH SUPPRESSOR, MUZZLE BREAK, OR MUZZLE COMPENSATOR;

(VII) A GRENADE LAUNCHER; OR

(B) A SEMIAUTOMATIC SHOTGUN THAT HAS AT LEAST ONE OF THE FOLLOWING CHARACTERISTICS:

(I) A FOLDING OR TELESCOPING STOCK;

(II) A THUMBHOLE STOCK;

(III) A SECOND HANDGRIP OR A PROTRUDING GRIP THAT CAN BE HELD BY THE NON-TRIGGER HAND;

(IV) A FIXED MAGAZINE CAPACITY IN EXCESS OF SEVEN ROUNDS;

(V) AN ABILITY TO ACCEPT A DETACHABLE MAGAZINE; OR

(C) A SEMIAUTOMATIC PISTOL THAT HAS AN ABILITY TO ACCEPT A DETACHABLE MAGAZINE AND HAS AT LEAST ONE OF THE FOLLOWING CHARACTERISTICS:

(I) A FOLDING OR TELESCOPING STOCK;

(II) A THUMBHOLE STOCK;

(III) A SECOND HANDGRIP OR A PROTRUDING GRIP THAT CAN BE HELD BY THE NON-TRIGGER HAND;

(IV) CAPACITY TO ACCEPT AN AMMUNITION MAGAZINE THAT ATTACHES TO THE PISTOL OUTSIDE OF THE PISTOL GRIP;

(V) A THREADED BARREL CAPABLE OF ACCEPTING A BARREL EXTENDER, FLASH SUPPRESSOR, FORWARD HANDGRIP, OR SILENCER;

(VI) A SHROUD THAT IS ATTACHED TO, OR PARTIALLY OR COMPLETELY ENCIRCLES, THE BARREL AND THE PERMITS THE SHOOTER TO HOLD THE FIREARM WITH THE NON-TRIGGER HAND WITHOUT BEING BURNED;

(VII) A MANUFACTURED WEIGHT OF FIFTY OUNCES OR MORE WHEN THE PISTOL IS UNLOADED; OR

(VIII) A SEMIAUTOMATIC VERSION OF AN AUTOMATIC RIFLE, SHOTGUN OR FIREARM;

(D) A REVOLVING CYLINDER SHOTGUN;

(E) A SEMIAUTOMATIC RIFLE, A SEMIAUTOMATIC SHOTGUN OR A SEMIAUTOMATIC PISTOL OR WEAPON DEFINED IN SUBPARAGRAPH (V) OF PARAGRAPH (E) OF SUBDIVISION TWENTY-TWO OF SECTION 265.00 OF THE PENAL LAW AS ADDED BY CHAPTER ONE HUNDRED EIGHTY-NINE OF THE LAWS OF TWO THOUSAND AND OTHERWISE LAWFULLY POSSESSED PURSUANT TO SUCH CHAPTER OF THE LAWS OF TWO THOUSAND PRIOR TO SEPTEMBER FOURTEENTH, NINETEEN HUNDRED NINETY-FOUR;

(F) A SEMIAUTOMATIC RIFLE, A SEMIAUTOMATIC SHOTGUN OR A SEMIAUTOMATIC PISTOL OR WEAPON DEFINED IN PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVI-

SION, POSSESSED PRIOR TO THE DATE OF ENACTMENT OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS PARAGRAPH;

(G) PROVIDED, HOWEVER, THAT SUCH TERM DOES NOT INCLUDE:

(I) ANY RIFLE, SHOTGUN OR PISTOL THAT (A) IS MANUALLY OPERATED BY BOLT, PUMP, LEVER OR SLIDE ACTION; (B) HAS BEEN RENDERED PERMANENTLY INOPERABLE; OR (C) IS AN ANTIQUE FIREARM AS DEFINED IN 18 U.S.C. 921(A)(16);

(II) A SEMIAUTOMATIC RIFLE THAT CANNOT ACCEPT A DETACHABLE MAGAZINE THAT HOLD MORE THAN FIVE ROUNDS OF AMMUNITION;

(III) A SEMIAUTOMATIC SHOTGUN THAT CANNOT HOLD MORE THAN FIVE ROUNDS OF AMMUNITION IN A FIXED OR DETACHABLE MAGAZINE; OR

(IV) A RIFLE, SHOTGUN OR PISTOL, OR A REPLICA OR A DUPLICATE THEREOF, SPECIFIED IN APPENDIX A TO 18 U.S.C. 922 AS SUCH WEAPON WAS MANUFACTURED ON OCTOBER FIRST, NINETEEN HUNDRED NINETY-THREE. THE MERE FACT THAT A WEAPON IS NOT LISTED IN APPENDIX A SHALL NOT BE CONSTRUED TO MEAN THAT SUCH WEAPON IS AN ASSAULT WEAPON;

(V) ANY WEAPON VALIDLY REGISTERED PURSUANT TO SUBDIVISION SIXTEEN-A OF SECTION 400.00 OF THE PENAL LAW. SUCH WEAPONS SHALL BE SUBJECT TO THE PROVISIONS OF PARAGRAPH (H) OF THIS SUBDIVISION;

(VI) ANY FIREARM, RIFLE, OR SHOTGUN THAT WAS MANUFACTURED AT LEAST FIFTY YEARS PRIOR TO THE CURRENT DATE, BUT NOT INCLUDING REPLICAS THEREOF THAT ARE VALIDLY REGISTERED PURSUANT TO SUBDIVISION SIXTEEN-A OF SECTION 400.00 OF THE PENAL LAW;

(H) ANY WEAPON DEFINED IN PARAGRAPH (E) OR (F) OF THIS SUBDIVISION AND ANY LARGE CAPACITY AMMUNITION FEEDING DEVICE THAT WAS LEGALLY POSSESSED BY AN INDIVIDUAL PRIOR TO THE ENACTMENT OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS PARAGRAPH, MAY ONLY BE SOLD TO, EXCHANGED WITH OR DISPOSED OF TO A PURCHASER AUTHORIZED TO POSSESS SUCH WEAPONS OR TO AN INDIVIDUAL OR ENTITY OUTSIDE OF THE STATE PROVIDED THAT ANY SUCH TRANSFER TO AN INDIVIDUAL OR ENTITY OUTSIDE OF THE STATE MUST BE REPORTED TO THE ENTITY WHEREIN THE WEAPON IS REGISTERED WITHIN SEVENTY-TWO HOURS OF SUCH TRANSFER. AN INDIVIDUAL WHO TRANSFERS ANY SUCH WEAPON OR LARGE CAPACITY AMMUNITION DEVICE TO AN INDIVIDUAL INSIDE NEW YORK STATE OR WITHOUT COMPLYING WITH THE PROVISIONS OF THIS PARAGRAPH SHALL BE GUILTY OF A CLASS A MISDEMEANOR UNLESS SUCH LARGE CAPACITY AMMUNITION FEEDING DEVICE, THE POSSESSION OF WHICH IS MADE ILLEGAL BY THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS PARAGRAPH, IS TRANSFERRED WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS PARAGRAPH.

3. "CONVICTION" MEANS THE ENTRY OF A PLEA OF GUILTY TO, OR A VERDICT OF GUILTY UPON, AN ACCUSATORY INSTRUMENT OTHER THAN MISDEMEANOR CONVICTIONS.

4. "DISGUISED GUN" MEANS ANY WEAPON OR DEVICE CAPABLE OF BEING CONCEALED ON THE PERSON FROM WHICH A SHOT CAN BE DISCHARGED THROUGH THE ENERGY OF AN EXPLOSIVE AND IS DESIGNED AND INTENDED TO APPEAR TO BE SOMETHING OTHER THAN A GUN.

5. "FIREARM" MEANS (A) ANY PISTOL OR REVOLVER; OR (B) A SHOTGUN HAVING ONE OR MORE BARRELS LESS THAN EIGHTEEN INCHES IN LENGTH; OR (C) A RIFLE HAVING ONE OR MORE BARRELS LESS THAN SIXTEEN INCHES IN LENGTH; OR (D) ANY WEAPON MADE FROM A SHOTGUN OR RIFLE WHETHER BY ALTERATION, MODIFICATION, OR OTHERWISE IF SUCH WEAPON AS ALTERED, MODIFIED, OR OTHERWISE HAS AN OVERALL LENGTH OF LESS THAN TWENTY-SIX INCHES; OR (E) AN ASSAULT WEAPON. FOR THE PURPOSE OF THIS SUBDIVISION THE LENGTH OF THE BARREL ON A SHOTGUN OR RIFLE SHALL BE DETERMINED BY MEASURING THE DISTANCE BETWEEN THE MUZZLE AND THE FACE OF THE BOLT, BREECH, OR BREECHLOCK WHEN CLOSED AND WHEN THE SHOTGUN OR RIFLE IS COCKED; THE OVERALL LENGTH OF A WEAPON

MADE FROM A SHOTGUN OR RIFLE IS THE DISTANCE BETWEEN THE EXTREME ENDS OF THE WEAPON MEASURED ALONG A LINE PARALLEL TO THE CENTER LINE OF THE BORE. FIREARM DOES NOT INCLUDE AN ANTIQUE FIREARM.

6. "FIREARM SILENCER" MEANS ANY INSTRUMENT, ATTACHMENT, WEAPON OR APPLIANCE FOR CAUSING THE FIRING OF ANY GUN, REVOLVER, PISTOL OR OTHER FIREARMS TO BE SILENT, OR INTENDED TO LESSEN OR MUFFLE THE NOISE OF THE FIRING OF ANY GUN, REVOLVER, PISTOL OR OTHER FIREARMS.

7. "GUN POSSESSION OFFENDER" MEANS ANY PERSON WHO IS CONVICTED OF OR HAS A CONVICTION FOR AN ATTEMPT TO COMMIT ANY OF THE PROVISIONS OF SECTION 265.02, 265.03 OR 265.04 OF THE PENAL LAW. ANY CONVICTION SET ASIDE PURSUANT TO LAW IS NOT A CONVICTION FOR THE PURPOSES OF THIS ARTICLE.

8. "LOADED FIREARM" MEANS ANY FIREARM LOADED WITH AMMUNITION OR ANY FIREARM WHICH IS POSSESSED BY ONE WHO, AT THE SAME TIME, POSSESSES A QUANTITY OF AMMUNITION WHICH MAY BE USED TO DISCHARGE SUCH FIREARM.

9. "MACHINE-GUN" MEANS A WEAPON OF ANY DESCRIPTION, IRRESPECTIVE OF SIZE, BY WHATEVER NAME KNOWN, LOADED OR UNLOADED, FROM WHICH A NUMBER OF SHOTS OR BULLETS MAY BE RAPIDLY OR AUTOMATICALLY DISCHARGED FROM A MAGAZINE WITH ONE CONTINUOUS PULL OF THE TRIGGER AND INCLUDES A SUB-MACHINE GUN.

10. "RIFLE" MEANS A WEAPON DESIGNED OR REDESIGNED, MADE OR REMADE, AND INTENDED TO BE FIRED FROM THE SHOULDER AND DESIGNED OR REDESIGNED AND MADE OR REMADE TO USE THE ENERGY OF THE EXPLOSIVE IN A FIXED METALLIC CARTRIDGE TO FIRE ONLY A SINGLE PROJECTILE THROUGH A RIFLED BORE FOR EACH SINGLE PULL OF THE TRIGGER.

11. "SEMIAUTOMATIC" MEANS ANY REPEATING RIFLE, SHOTGUN OR PISTOL, REGARDLESS OF BARREL OR OVERALL LENGTH, WHICH UTILIZES A PORTION OF THE ENERGY OF A FIRING CARTRIDGE OR SHELL TO EXTRACT THE FIRED CARTRIDGE CASE OR SPENT SHELL AND CHAMBER THE NEXT ROUND, AND WHICH REQUIRES A SEPARATE PULL OF THE TRIGGER TO FIRE EACH CARTRIDGE OR SHELL.

12. "SHOTGUN" MEANS A WEAPON DESIGNED OR REDESIGNED, MADE OR REMADE, AND INTENDED TO BE FIRED FROM THE SHOULDER AND DESIGNED OR REDESIGNED AND MADE OR REMADE TO USE THE ENERGY OF THE EXPLOSIVE IN A FIXED SHOTGUN SHELL TO FIRE THROUGH A SMOOTH BORE EITHER A NUMBER OF BALL SHOT OR A SINGLE PROJECTILE FOR EACH SINGLE PULL OF THE TRIGGER.

13. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES.

S 168-CC. DUTIES OF THE DIVISION; REGISTRATION INFORMATION. 1. THE DIVISION SHALL ESTABLISH AND MAINTAIN A FILE OF INDIVIDUALS REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHICH SHALL INCLUDE THE FOLLOWING INFORMATION OF EACH REGISTRANT:

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

(B) A PHOTOGRAPH AND SET OF FINGERPRINTS. THE DIVISION SHALL, DURING THE PERIOD OF REGISTRATION, UPDATE SUCH PHOTOGRAPH ONCE EVERY THREE YEARS. THE DIVISION SHALL NOTIFY THE OFFENDER BY MAIL OF THE DUTY TO APPEAR AND BE PHOTOGRAPHED AT THE SPECIFIED LAW ENFORCEMENT AGENCY HAVING JURISDICTION. SUCH NOTIFICATION SHALL BE MAILED AT LEAST THIRTY DAYS AND NOT MORE THAN SIXTY DAYS BEFORE THE PHOTOGRAPH IS REQUIRED TO BE TAKEN.

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

(D) THE NAME AND ADDRESS OF ANY INSTITUTION OF HIGHER EDUCATION AT WHICH THE OFFENDER IS OR EXPECTS TO BE ENROLLED, ATTENDING OR EMPLOYED, WHETHER FOR COMPENSATION OR NOT, AND WHETHER SUCH OFFENDER RESIDES IN OR WILL RESIDE IN A FACILITY OWNED OR OPERATED BY SUCH INSTITUTION.

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

2. (A) THE DIVISION IS AUTHORIZED TO MAKE THE REGISTRY AVAILABLE TO ANY REGIONAL OR NATIONAL REGISTRY OF OFFENDERS FOR THE PURPOSE OF SHARING INFORMATION. THE DIVISION SHALL ACCEPT FILES FROM ANY REGIONAL OR NATIONAL REGISTRY OF OFFENDERS AND SHALL MAKE SUCH FILES AVAILABLE WHEN REQUESTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(B) THE DIVISION SHALL REQUIRE THAT NO INFORMATION INCLUDED IN THE REGISTRY SHALL BE MADE AVAILABLE EXCEPT IN THE FURTHERANCE OF THE PROVISIONS OF THIS ARTICLE.

3. THE DIVISION SHALL DEVELOP A STANDARDIZED REGISTRATION FORM TO BE MADE AVAILABLE TO THE APPROPRIATE AUTHORITIES AND PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION. SUCH FORM SHALL BE WRITTEN IN CLEAR AND CONCISE LANGUAGE AND SHALL ADVISE THE OFFENDER OF HIS OR HER DUTIES AND OBLIGATIONS UNDER THIS ARTICLE.

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

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

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

7. THE DIVISION SHALL CHARGE A FEE OF TEN DOLLARS EACH TIME AN OFFENDER REGISTERS ANY CHANGE OF ADDRESS OR ANY CHANGE OF HIS OR HER STATUS OF ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF HIGHER EDUCATION AS REQUIRED BY SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-EIGHT-GG OF THIS ARTICLE. THE FEE SHALL BE PAID TO THE DIVISION BY THE OFFENDER. THE STATE COMPTROLLER IS HEREBY AUTHORIZED TO DEPOSIT SUCH FEES INTO THE GENERAL FUND.

8. THE DIVISION SHALL MAINTAIN A GUN CRIME REGISTRY FROM THE INFORMATION OBTAINED FROM EACH REGISTERED INDIVIDUAL AND MAKE SUCH INFORMATION AVAILABLE TO THE PUBLIC ON A WEBSITE MAINTAINED AND OPERATED BY THE DIVISION IN A SIMILAR MANNER AS THE SEX OFFENDER REGISTRY AS ESTABLISHED IN ARTICLE SIX-C OF THIS CHAPTER.

S 168-DD. OFFENDER; RELOCATION; NOTIFICATION. IN THE CASE OF ANY OFFENDER ON PROBATION, IT SHALL BE THE DUTY OF THE OFFENDER'S PROBATION OFFICER TO NOTIFY THE DIVISION WITHIN FORTY-EIGHT HOURS OF THE NEW PLACE OF RESIDENCE ON A FORM PROVIDED BY THE DIVISION. IF SUCH OFFENDER CHANGES THE STATUS OF HIS OR HER ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF HIGHER EDUCATION WHILE ON PROBATION, SUCH NOTIFICATION OF THE CHANGE OF STATUS SHALL BE SENT BY THE OFFENDER'S PROBATION OFFICER WITHIN FORTY-EIGHT HOURS TO THE DIVISION ON A FORM PROVIDED BY THE DIVISION.

S 168-EE. DUTIES OF THE COURT. UPON CONVICTION OF ANY OF THE OFFENSES SET FORTH IN SUBDIVISION SEVEN OF SECTION ONE HUNDRED SIXTY-EIGHT-BB OF THIS ARTICLE THE COURT SHALL CERTIFY THAT THE PERSON IS AN OFFENDER AND SHALL INCLUDE THE CERTIFICATION IN THE ORDER OF COMMITMENT, IF ANY, AND JUDGMENT OF CONVICTION. THE COURT SHALL ALSO ADVISE THE OFFENDER OF HIS OR HER DUTIES UNDER THIS ARTICLE. FAILURE TO INCLUDE THE CERTIFICATION IN THE ORDER OF COMMITMENT OR THE JUDGMENT OF CONVICTION SHALL NOT RELIEVE AN OFFENDER OF THE OBLIGATIONS IMPOSED BY THIS ARTICLE.

S 168-FF. DISCHARGE OF OFFENDER FROM CORRECTIONAL FACILITY; DUTIES OF OFFICIAL IN CHARGE. ANY OFFENDER, TO BE DISCHARGED, PAROLED, RELEASED TO POST-RELEASE SUPERVISION OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR COMMITTED, SHALL AT LEAST FORTY-FIVE DAYS PRIOR TO DISCHARGE, PAROLE OR RELEASE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE, BY THE

FACILITY IN WHICH HE OR SHE WAS CONFINED OR COMMITTED. THE FACILITY SHALL REQUIRE THE OFFENDER TO READ AND SIGN SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING THE DUTY TO REGISTER AND THE PROCEDURE FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER AND TO COMPLETE THE REGISTRATION PORTION OF SUCH FORM. THE FACILITY SHALL OBTAIN ON SUCH FORM THE ADDRESS WHERE THE OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE OR PAROLE AND THE NAME AND ADDRESS OF ANY INSTITUTION OF HIGHER EDUCATION HE OR SHE EXPECTS TO BE EMPLOYED BY, ENROLLED IN OR ATTENDING, WHETHER FOR COMPENSATION OR NOT, AND WHETHER HE OR SHE EXPECTS TO RESIDE IN A FACILITY OWNED OR OPERATED BY SUCH AN INSTITUTION, AND SHALL REPORT SUCH INFORMATION TO THE DIVISION. THE FACILITY SHALL GIVE ONE COPY OF THE FORM TO THE OFFENDER, RETAIN ONE COPY AND SHALL SEND ONE COPY TO THE DIVISION WHICH SHALL PROVIDE THE INFORMATION TO THE LAW ENFORCEMENT AGENCIES HAVING JURISDICTION. THE FACILITY SHALL GIVE THE OFFENDER A FORM PREPARED BY THE DIVISION, TO REGISTER WITH THE DIVISION AT LEAST FIFTEEN CALENDAR DAYS PRIOR TO RELEASE AND SUCH FORM SHALL BE COMPLETED, SIGNED BY THE OFFENDER AND SENT TO THE DIVISION BY THE FACILITY AT LEAST TEN DAYS PRIOR TO THE OFFENDER'S RELEASE OR DISCHARGE.

S 168-GG. DUTY TO REGISTER AND TO VERIFY. 1. ANY OFFENDER SHALL, AT LEAST TWENTY CALENDAR DAYS PRIOR TO DISCHARGE, PAROLE, RELEASE TO POST-RELEASE SUPERVISION OR RELEASE FROM ANY STATE OR LOCAL CORRECTIONAL FACILITY OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR COMMITTED, REGISTER WITH THE DIVISION IN A FORM PREPARED BY THE DIVISION.

2. FOR AN OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE THE FOLLOWING APPLIES:

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

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

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

3. ANY OFFENDER SHALL REGISTER WITH THE DIVISION NO LATER THAN TEN CALENDAR DAYS AFTER ANY CHANGE OF ADDRESS OR ANY CHANGE OF HIS OR HER STATUS OF ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF HIGHER EDUCATION. A FEE OF TEN DOLLARS, AS AUTHORIZED BY SUBDIVISION SEVEN OF SECTION ONE HUNDRED SIXTY-EIGHT-CC OF THIS ARTICLE, SHALL BE SUBMITTED BY THE OFFENDER EACH TIME SUCH OFFENDER REGISTERS ANY CHANGE OF ADDRESS OR ANY CHANGE OF HIS OR HER STATUS OF ENROLLMENT, ATTENDANCE, EMPLOYMENT OR RESIDENCE AT ANY INSTITUTION OF HIGHER EDUCATION. ANY FAILURE OR OMISSION TO SUBMIT THE REQUIRED FEE SHALL NOT AFFECT THE ACCEPTANCE BY THE DIVISION OF THE CHANGE OF ADDRESS OR CHANGE OF STATUS.

4. THE OFFENDER SHALL NOTIFY LOCAL LAW ENFORCEMENT OR THE DIVISION IN WRITING OF A NEW ADDRESS WITHIN TEN DAYS AFTER MOVING.

5. THE OFFENDER SHALL REPORT IN PERSON TO A LOCAL POLICE AGENCY TO HAVE A CURRENT PHOTO TAKEN EVERY THREE YEARS.

6. THE DIVISION SHALL MAIL TO THE OFFENDER'S ADDRESS A VERIFICATION FORM EVERY NINETY DAYS FOR A PERIOD OF THREE YEARS AFTER CONVICTION AND EVERY SIX MONTHS THEREAFTER TO ENSURE THE DIVISION HAS AN ACCURATE ADDRESS FOR THE OFFENDER.

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

S 168-HH. DURATION OF REGISTRATION AND VERIFICATION REQUIREMENTS. AN OFFENDER SHALL REMAIN ON THE REGISTRY FOR THE INITIAL PERIOD OF TEN YEARS AFTER CONVICTION AND CAN BE REMOVED FOLLOWING THE INITIAL PERIOD UPON ORDER OF THE COURT CONVICTION.

S 168-II. REGISTRATION AND VERIFICATION REQUIREMENTS. REGISTRATION AND VERIFICATION AS REQUIRED BY THIS ARTICLE SHALL CONSIST OF A STATEMENT IN WRITING SIGNED BY THE OFFENDER GIVING THE INFORMATION THAT IS REQUIRED BY THE DIVISION AND THE DIVISION SHALL ENTER THE INFORMATION INTO AN APPROPRIATE ELECTRONIC DATA BASE OR FILE.

S 168-JJ. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF ADDRESS. UPON RECEIPT OF A CHANGE OF ADDRESS BY AN OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE, THE DIVISION SHALL NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION OF THE NEW PLACE OF RESIDENCE AND THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE OFFENDER LAST RESIDED OF THE NEW PLACE OF RESIDENCE.

S 168-KK. SPECIAL TELEPHONE NUMBER. 1. PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-CC OF THIS ARTICLE, THE DIVISION SHALL ALSO OPERATE A TELEPHONE NUMBER THAT MEMBERS OF THE PUBLIC MAY CALL FREE OF CHARGE AND INQUIRE WHETHER A NAMED INDIVIDUAL REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE IS LISTED. THE DIVISION SHALL ASCERTAIN WHETHER A NAMED PERSON REASONABLY APPEARS TO BE A PERSON SO LISTED AND PROVIDE THE CALLER WITH THE RELEVANT INFORMATION. THE DIVISION SHALL DECIDE WHETHER THE NAMED PERSON REASONABLY APPEARS TO BE A PERSON LISTED, BASED UPON INFORMATION FROM THE CALLER PROVIDING INFORMATION THAT SHALL INCLUDE (A) AN EXACT STREET ADDRESS, INCLUDING APARTMENT NUMBER, DRIVER'S LICENSE NUMBER OR BIRTH DATE, ALONG WITH ADDITIONAL INFORMATION THAT MAY INCLUDE SOCIAL SECURITY NUMBER, HAIR COLOR, EYE COLOR, HEIGHT, WEIGHT, DISTINCTIVE MARKINGS, ETHNICITY; OR (B) ANY COMBINATION OF THE ABOVE LISTED CHARACTERISTICS IF AN EXACT BIRTH DATE OR ADDRESS IS NOT AVAILABLE. IF THREE OF THESE CHARACTERISTICS PROVIDED INCLUDE ETHNICITY, HAIR COLOR, AND EYE COLOR, OTHER IDENTIFYING CHARACTERISTICS SHALL BE PROVIDED. ANY INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE, ADDRESS OR RELATION TO THE PERSON LISTED BY THE DIVISION SHALL BE EXCLUDED BY THE DIVISION.

2. WHEN THE TELEPHONE NUMBER IS CALLED, A PREAMBLE SHALL BE PLAYED WHICH SHALL PROVIDE THE FOLLOWING INFORMATION:

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

(B) THAT THERE IS NO CHARGE FOR USE OF THE TELEPHONE NUMBER;

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

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

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

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

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

S 168-LL. IMMUNITY FROM LIABILITY. 1. NO OFFICIAL, EMPLOYEE OR AGENCY, WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY FOR DAMAGES FOR ANY DISCRETIONARY DECISION TO RELEASE RELEVANT AND NECESSARY INFORMATION PURSUANT TO THIS ARTICLE, UNLESS IT IS SHOWN THAT SUCH OFFICIAL, EMPLOYEE OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN

BAD FAITH. THE IMMUNITY PROVIDED UNDER THIS SECTION APPLIES TO THE RELEASE OF RELEVANT INFORMATION TO OTHER EMPLOYEES OR OFFICIALS OR TO THE GENERAL PUBLIC.

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

S 168-MM. PENALTY. ANY OFFENDER REQUIRED TO REGISTER OR TO VERIFY PURSUANT TO THE PROVISIONS OF THIS ARTICLE WHO FAILS TO REGISTER OR VERIFY IN THE MANNER AND WITHIN THE TIME PERIODS PROVIDED FOR IN THIS ARTICLE SHALL BE GUILTY OF A CLASS A MISDEMEANOR UPON CONVICTION FOR THE FIRST OFFENSE, AND UPON CONVICTION FOR A SECOND OR SUBSEQUENT OFFENSE SHALL BE GUILTY OF A CLASS D FELONY. ANY SUCH FAILURE TO REGISTER OR VERIFY MAY ALSO BE THE BASIS FOR REVOCATION OF PAROLE PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW OR THE BASIS FOR REVOCATION OF PROBATION PURSUANT TO ARTICLE FOUR HUNDRED TEN OF THE CRIMINAL PROCEDURE LAW.

S 168-NN. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEANOR.

S 168-OO. SEPARABILITY. IF ANY SECTION OF THIS ARTICLE, OR PART THEREOF SHALL BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER OR ANY OTHER SECTION OR PART THEREOF.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.