

1850--B

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. NOZZOLIO, GRIFFO, BONACIC, BOYLE, DeFRANCISCO, FLAN-  
AGAN, GALLIVAN, GOLDEN, GRISANTI, KENNEDY, LARKIN, MARCHIONE, MARTINS,  
MAZIARZ, O'BRIEN, SAVINO, SEWARD, YOUNG -- 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 --  
recommitted to the Committee on Codes in accordance with Senate Rule  
6, sec. 8 -- committee discharged, bill amended, ordered reprinted as  
amended and recommitted to said committee

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 ASSEM-  
BLY, 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

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

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1 FAILURE TO REGISTER OR VERIFY AS A VIOLENT FELONY OFFENDER IN THE SECOND  
2 DEGREE AND HAS PREVIOUSLY BEEN CONVICTED OF FAILURE TO REGISTER OR VERI-  
3 FY AS A VIOLENT FELONY OFFENDER IN THE SECOND DEGREE AS DEFINED IN  
4 SECTION 195.03 OF THIS ARTICLE.

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

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

9 ARTICLE 6-B

10 VIOLENT FELONY OFFENDER REGISTRATION

11 SECTION 162. DEFINITIONS.

12 163. DUTIES OF THE DIVISION; REGISTRATION INFORMATION.

13 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION.

14 165. DUTIES OF THE COURT.

15 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL  
16 FACILITY; DUTIES OF OFFICIAL IN CHARGE.

17 167. DUTY TO REGISTER.

18 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER.

19 167-B. DURATION OF REGISTRATION.

20 167-C. REGISTRATION REQUIREMENTS.

21 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE  
22 OF ADDRESS.

23 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE.

24 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS.

25 167-G. REVIEW.

26 167-H. JUDICIAL DETERMINATION.

27 167-I. PETITION FOR RELIEF.

28 167-J. SPECIAL TELEPHONE NUMBER.

29 167-K. VIOLENT PREDATOR SUBDIRECTORY.

30 167-L. IMMUNITY FROM LIABILITY.

31 167-M. ANNUAL REPORT.

32 167-N. FAILURE TO REGISTER; PENALTY.

33 167-O. UNAUTHORIZED RELEASE OF INFORMATION.

34 167-P. SEVERABILITY.

35 167-Q. SUBDIRECTORY; INTERNET POSTING.

36 S 162. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING DEFINITIONS  
37 APPLY:

38 1. "VIOLENT FELONY OFFENDER" INCLUDES ANY PERSON WHO IS CONVICTED OF A  
39 VIOLENT FELONY OFFENSE AS DEFINED UNDER SECTION 70.02 OF THE PENAL LAW  
40 OR A CLASS A FELONY OFFENSE DEFINED IN THE PENAL LAW OTHER THAN A CLASS  
41 A FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW.  
42 CONVICTIONS THAT RESULT FROM OR ARE CONNECTED WITH THE SAME ACT, OR  
43 RESULT FROM OFFENSES COMMITTED AT THE SAME TIME, SHALL BE COUNTED FOR  
44 THE PURPOSE OF THIS ARTICLE AS ONE CONVICTION. ANY CONVICTION SET ASIDE  
45 PURSUANT TO LAW IS NOT A CONVICTION FOR PURPOSES OF THIS ARTICLE.

46 2. "VIOLENT FELONY OFFENSE" MEANS A CONVICTION FOR AN OFFENSE AS  
47 DEFINED UNDER SECTION 70.02 OF THE PENAL LAW OR A CLASS A FELONY OFFENSE  
48 DEFINED IN THE PENAL LAW OTHER THAN A CLASS A OFFENSE DEFINED IN ARTICLE  
49 TWO HUNDRED TWENTY OF THE PENAL LAW.

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

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

1 5. "HOSPITAL" MEANS A HOSPITAL AS DEFINED IN SUBDIVISION TWO OF  
2 SECTION FOUR HUNDRED OF THIS CHAPTER AND APPLIES TO PERSONS COMMITTED TO  
3 SUCH HOSPITAL BY ORDER OF COMMITMENT MADE PURSUANT TO ARTICLE SIXTEEN OF  
4 THIS CHAPTER.

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

9 7. "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION OF A  
10 PERSON THAT AFFECTS THE EMOTIONAL OR VOLITIONAL CAPACITY OF THE PERSON  
11 IN A MANNER THAT PREDISPOSES THAT PERSON TO THE COMMISSION OF CRIMINAL  
12 VIOLENT ACTS TO A DEGREE THAT MAKES THE PERSON A MENACE TO THE HEALTH  
13 AND SAFETY OF OTHER PERSONS.

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

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

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

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

27 (B) A PHOTOGRAPH AND SET OF FINGERPRINTS.

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

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

31 2. THE DIVISION IS AUTHORIZED TO MAKE THE REGISTRY AVAILABLE TO ANY  
32 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS FOR THE  
33 PURPOSE OF SHARING INFORMATION. THE DIVISION SHALL ACCEPT FILES FROM ANY  
34 REGIONAL OR NATIONAL REGISTRY OF VIOLENT FELONY OFFENDERS AND SHALL MAKE  
35 SUCH FILES AVAILABLE WHEN REQUESTED PURSUANT TO THE PROVISIONS OF THIS  
36 ARTICLE. THE DIVISION SHALL REQUIRE THAT NO INFORMATION INCLUDED IN THE  
37 REGISTRY SHALL BE MADE AVAILABLE EXCEPT IN THE FURTHERANCE OF THE  
38 PROVISIONS OF THIS ARTICLE.

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

42 4. THE DIVISION SHALL MAIL A NONFORWARDABLE VERIFICATION FORM TO THE  
43 LAST REPORTED ADDRESS OF THE PERSON FOR ANNUAL VERIFICATION REQUIRE-  
44 MENTS.

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

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

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

51 S 164. VIOLENT FELONY OFFENDER; RELOCATION; NOTIFICATION. 1. IN THE  
52 CASE OF ANY VIOLENT FELONY OFFENDER, IT SHALL BE THE DUTY OF THE DEPART-  
53 MENT, HOSPITAL OR LOCAL CORRECTIONAL FACILITY AT LEAST TEN CALENDAR DAYS  
54 PRIOR TO THE RELEASE OR DISCHARGE OF ANY VIOLENT FELONY OFFENDER FROM A  
55 CORRECTIONAL FACILITY, HOSPITAL OR LOCAL CORRECTIONAL FACILITY TO NOTIFY  
56 THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION WHERE APPROPRIATE, AND

1 LAW ENFORCEMENT AGENCY HAVING HAD JURISDICTION AT THE TIME OF HIS OR HER  
2 CONVICTION, OF THE CONTEMPLATED RELEASE OR DISCHARGE OF SUCH VIOLENT  
3 FELONY OFFENDER, INFORMING SUCH LAW ENFORCEMENT AGENCIES OF THE NAME AND  
4 ALIASES OF THE VIOLENT FELONY OFFENDER, THE ADDRESS AT WHICH HE OR SHE  
5 PROPOSES TO RESIDE, THE ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME  
6 OF HIS OR HER CONVICTION, THE AMOUNT OF TIME REMAINING TO BE SERVED, IF  
7 ANY, ON THE FULL TERM FOR WHICH HE OR SHE WAS SENTENCED, AND THE NATURE  
8 OF THE CRIME FOR WHICH HE OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME  
9 TIME A COPY OF SUCH VIOLENT FELONY OFFENDER'S FINGERPRINTS AND PHOTO-  
10 GRAPH AND A SUMMARY OF HIS OR HER CRIMINAL RECORD. IF SUCH VIOLENT FELONY  
11 OFFENDER CHANGES HIS OR HER PLACE OF RESIDENCE WHILE ON PAROLE, SUCH  
12 NOTIFICATION OF THE CHANGE OF RESIDENCE SHALL BE SENT BY THE VIOLENT  
13 FELONY OFFENDER'S PAROLE OFFICER WITHIN FORTY-EIGHT HOURS TO THE LAW  
14 ENFORCEMENT AGENCY IN WHICH THE NEW PLACE OF RESIDENCE IS LOCATED.

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

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

52 4. IN THE CASE IN WHICH ANY VIOLENT FELONY OFFENDER ESCAPES FROM A  
53 STATE OR LOCAL CORRECTIONAL FACILITY OR HOSPITAL, THE DESIGNATED OFFI-  
54 CIAL OF THE FACILITY OR HOSPITAL WHERE THE PERSON WAS CONFINED SHALL  
55 NOTIFY WITHIN TWENTY-FOUR HOURS THE LAW ENFORCEMENT AGENCY HAVING HAD  
56 JURISDICTION AT THE TIME OF HIS OR HER CONVICTION, INFORMING SUCH LAW

1 ENFORCEMENT AGENCY OF THE NAME AND ALIASES OF THE PERSON, AND THE  
2 ADDRESS AT WHICH HE OR SHE RESIDED AT THE TIME OF HIS OR HER CONVICTION,  
3 THE AMOUNT OF TIME REMAINING TO BE SERVED IF ANY, ON THE FULL TERM FOR  
4 WHICH HE OR SHE WAS SENTENCED, AND THE NATURE OF THE CRIME FOR WHICH HE  
5 OR SHE WAS SENTENCED, TRANSMITTING AT THE SAME TIME A COPY OF SUCH  
6 VIOLENT FELONY OFFENDER'S FINGERPRINTS AND PHOTOGRAPH AND A SUMMARY OF  
7 HIS OR HER CRIMINAL RECORD.

8 S 165. DUTIES OF THE COURT. 1. UPON CONVICTION THE COURT SHALL CERTIFY  
9 THAT THE PERSON IS A VIOLENT FELONY OFFENDER AND SHALL INCLUDE THE  
10 CERTIFICATION IN THE ORDER OF COMMITMENT. THE COURT SHALL ALSO ADVISE  
11 THE VIOLENT FELONY OFFENDER OF THE DUTIES OF THIS ARTICLE.

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

38 3. FOR VIOLENT FELONY OFFENDERS UNDER THIS SECTION, IT SHALL BE THE  
39 DUTY OF THE COURT APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION  
40 FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE TO DETERMINE  
41 THE DURATION OF REGISTRATION PURSUANT TO SECTION ONE HUNDRED SIXTY-SEV-  
42 EN-B OF THIS ARTICLE AND NOTIFICATION PURSUANT TO SUBDIVISION SIX OF  
43 SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE. IN MAKING THE DETER-  
44 MINATION, THE COURT SHALL REVIEW ANY VICTIM'S STATEMENT AND ANY MATERI-  
45 ALS SUBMITTED BY THE VIOLENT FELONY OFFENDER. THE COURT SHALL ALSO ALLOW  
46 THE VIOLENT FELONY OFFENDER TO APPEAR AND BE HEARD, AND INFORM THE  
47 VIOLENT FELONY OFFENDER OF HIS OR HER RIGHT TO HAVE COUNSEL APPOINTED,  
48 IF NECESSARY.

49 S 166. DISCHARGE OF VIOLENT FELONY OFFENDER FROM CORRECTIONAL FACILI-  
50 TY; DUTIES OF OFFICIAL IN CHARGE. 1. ANY VIOLENT FELONY OFFENDER, TO BE  
51 DISCHARGED, PAROLED OR RELEASED FROM ANY STATE OR LOCAL CORRECTIONAL  
52 FACILITY, HOSPITAL OR INSTITUTION WHERE HE OR SHE WAS CONFINED OR  
53 COMMITTED, SHALL WITHIN FORTY-FIVE CALENDAR DAYS PRIOR TO DISCHARGE,  
54 PAROLE OR RELEASE, BE INFORMED OF HIS OR HER DUTY TO REGISTER UNDER THIS  
55 ARTICLE, BY THE FACILITY IN WHICH HE OR SHE WAS CONFINED OR COMMITTED.  
56 THE FACILITY SHALL REQUIRE THE VIOLENT FELONY OFFENDER TO READ AND SIGN

1 SUCH FORM AS MAY BE REQUIRED BY THE DIVISION STATING THE DUTY TO REGIS-  
2 TER AND THE PROCEDURE FOR REGISTRATION HAS BEEN EXPLAINED TO HIM OR HER.  
3 THE FACILITY SHALL OBTAIN ON SUCH FORM THE ADDRESS WHERE THE VIOLENT  
4 FELONY OFFENDER EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR  
5 RELEASE AND SHALL REPORT THE ADDRESS TO THE DIVISION. THE FACILITY SHALL  
6 GIVE ONE COPY OF THE FORM TO THE VIOLENT FELONY OFFENDER AND SHALL SEND  
7 TWO COPIES TO THE DIVISION WHICH SHALL FORWARD ONE COPY TO THE LAW  
8 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER  
9 EXPECTS TO RESIDE UPON HIS OR HER DISCHARGE, PAROLE OR RELEASE. IN ADDI-  
10 TION, THE FACILITY SHALL GIVE THE VIOLENT FELONY OFFENDER A FORM TO  
11 REGISTER WITH THE DIVISION WITHIN TEN CALENDAR DAYS FOR PURPOSES OF  
12 VERIFYING SUCH VIOLENT FELONY OFFENDER'S INTENDED PLACE OF RESIDENCE.

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

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

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

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

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

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

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

40 4. ANY VIOLENT FELONY OFFENDER SHALL REGISTER WITH THE DIVISION WITHIN  
41 TEN CALENDAR DAYS PRIOR TO ANY CHANGE OF ADDRESS. THE DIVISION SHALL, IF  
42 THE VIOLENT FELONY OFFENDER CHANGES RESIDENCE TO ANOTHER STATE, NOTIFY  
43 THE APPROPRIATE STATE LAW ENFORCEMENT AGENCY WITH WHICH THE VIOLENT  
44 FELONY OFFENDER MUST REGISTER IN THE NEW STATE. IF ANY PERSON REQUIRED  
45 TO REGISTER AS PROVIDED IN THIS ARTICLE CHANGES THE ADDRESS OF HIS OR  
46 HER RESIDENCE, THE VIOLENT FELONY OFFENDER SHALL WITHIN TEN CALENDAR  
47 DAYS, INFORM IN WRITING THE LAW ENFORCEMENT AGENCY WHERE LAST REGISTERED  
48 OF THE NEW ADDRESS. THE LAW ENFORCEMENT AGENCY SHALL, WITHIN THREE  
49 CALENDAR DAYS OF RECEIPT OF THE NEW ADDRESS, FORWARD THIS INFORMATION TO  
50 THE DIVISION AND TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN  
51 THE NEW PLACE OF RESIDENCE.

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

55 S 167-A. PRIOR CONVICTIONS; DUTY TO INFORM AND REGISTER. 1. IT SHALL  
56 BE THE DUTY OF THE SENTENCING COURT APPLYING THE GUIDELINES ESTABLISHED

1 IN SUBDIVISION FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE  
2 TO DETERMINE THE DURATION OF REGISTRATION PURSUANT TO SECTION ONE  
3 HUNDRED SIXTY-SEVEN-B OF THIS ARTICLE AND NOTIFICATION PURSUANT TO  
4 SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE AND  
5 NOTIFICATION FOR EVERY VIOLENT FELONY OFFENDER WHO ON THE EFFECTIVE DATE  
6 OF THIS ARTICLE IS THEN ON PAROLE OR PROBATION FOR COMMITTING A VIOLENT  
7 FELONY OFFENSE OR A CLASS A OFFENSE DEFINED IN THE PENAL LAW EXCEPT FOR  
8 A CLASS A OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL  
9 LAW.

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

21 3. IT SHALL BE THE DUTY OF THE PAROLE OR PROBATION OFFICER TO INFORM  
22 AND REGISTER SUCH VIOLENT FELONY OFFENDER ACCORDING TO THE REQUIREMENTS  
23 IMPOSED BY THIS ARTICLE. A PAROLE OR PROBATION OFFICER SHALL GIVE ONE  
24 COPY OF THE FORM TO THE VIOLENT FELONY OFFENDER AND SHALL, WITHIN THREE  
25 CALENDAR DAYS, SEND TWO COPIES ELECTRONICALLY OR OTHERWISE TO THE DIVI-  
26 SION WHICH SHALL FORWARD ONE COPY ELECTRONICALLY OR OTHERWISE TO THE LAW  
27 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE VIOLENT FELONY OFFENDER  
28 RESIDES UPON HIS OR HER PAROLE, PROBATION, OR UPON ANY FORM OF STATE OR  
29 LOCAL CONDITIONAL RELEASE.

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

33 S 167-B. DURATION OF REGISTRATION. THE DURATION OF REGISTRATION FOR A  
34 VIOLENT FELONY OFFENDER SHALL BE ANNUALLY FOR A PERIOD OF TEN YEARS FROM  
35 THE INITIAL DATE OF REGISTRATION, PROVIDED, HOWEVER, THAT FOR A VIOLENT  
36 PREDATOR, SHALL ANNUALLY REGISTER AND VERIFY QUARTERLY FOR A MINIMUM OF  
37 TEN YEARS UNLESS THE COURT DETERMINES IN ACCORDANCE WITH SECTION ONE  
38 HUNDRED SIXTY-SEVEN-I OF THIS ARTICLE, THAT THE PERSON NO LONGER SUFFERS  
39 FROM A MENTAL ABNORMALITY THAT WOULD MAKE HIM OR HER LIKELY TO ENGAGE IN  
40 A PREDATORY VIOLENT OFFENSE.

41 S 167-C. REGISTRATION REQUIREMENTS. REGISTRATION AS REQUIRED BY THIS  
42 ARTICLE SHALL CONSIST OF A STATEMENT IN WRITING SIGNED BY THE VIOLENT  
43 FELONY OFFENDER GIVING THE INFORMATION THAT IS REQUIRED BY THE DIVISION  
44 AND THE DIVISION SHALL ENTER THE INFORMATION INTO AN APPROPRIATE ELEC-  
45 TRONIC DATABASE OR FILE.

46 S 167-D. NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGE OF  
47 ADDRESS. 1. UPON RECEIPT OF A CHANGE OF ADDRESS BY A VIOLENT FELONY  
48 OFFENDER REQUIRED TO REGISTER UNDER THIS ARTICLE, THE LOCAL LAW ENFORCE-  
49 MENT AGENCY WHERE THE VIOLENT FELONY OFFENDER LAST REGISTERED SHALL  
50 WITHIN THREE CALENDAR DAYS OF RECEIPT OF THE NEW ADDRESS, FORWARD THIS  
51 INFORMATION TO THE DIVISION AND TO THE LOCAL LAW ENFORCEMENT AGENCY  
52 HAVING JURISDICTION OF THE NEW PLACE OF RESIDENCE.

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

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

5 S 167-E. REGISTRATION FOR CHANGE OF ADDRESS FROM ANOTHER STATE. 1. A  
6 VIOLENT FELONY OFFENDER WHO HAS BEEN CONVICTED OF AN OFFENSE WHICH  
7 REQUIRES REGISTRATION UNDER SECTION ONE HUNDRED SIXTY-SEVEN-C OF THIS  
8 ARTICLE SHALL REGISTER THE NEW ADDRESS WITH THE DIVISION NO LATER THAN  
9 TEN CALENDAR DAYS AFTER SUCH VIOLENT FELONY OFFENDER ESTABLISHES RESI-  
10 DENCE IN THIS STATE. THE DIVISION SHALL COORDINATE WITH THE DESIGNATED  
11 LAW ENFORCEMENT AGENCY OF THE STATE OF WHICH THE INDIVIDUAL DEPARTED ON  
12 INFORMATION RELEVANT TO THE DURATION OF REGISTRATION.

13 2. THE DIVISION SHALL ADVISE THE BOARD THAT THE OFFENDER HAS ESTAB-  
14 LISHED RESIDENCE IN THIS STATE. THE BOARD SHALL DETERMINE WHETHER THE  
15 OFFENDER IS REQUIRED TO REGISTER WITH THE DIVISION. IF IT IS DETERMINED  
16 THAT THE OFFENDER IS REQUIRED TO REGISTER, THE DIVISION SHALL NOTIFY THE  
17 OFFENDER OF HIS OR HER DUTY TO REGISTER UNDER THIS ARTICLE AND SHALL  
18 REQUIRE THE OFFENDER TO SIGN A FORM AS MAY BE REQUIRED BY THE DIVISION  
19 ACKNOWLEDGING THAT THE DUTY TO REGISTER AND THE PROCEDURE FOR REGISTRA-  
20 TION HAS BEEN EXPLAINED TO THE OFFENDER. THE DIVISION SHALL OBTAIN ON  
21 SUCH FORM THE ADDRESS WHERE THE OFFENDER EXPECTS TO RESIDE WITHIN THE  
22 STATE AND THE OFFENDER SHALL RETAIN ONE COPY OF THE FORM AND SEND TWO  
23 COPIES TO THE DIVISION WHICH SHALL PROVIDE THE INFORMATION TO THE LAW  
24 ENFORCEMENT AGENCY HAVING JURISDICTION WHERE THE OFFENDER EXPECTS TO  
25 RESIDE WITHIN THIS STATE. NO LATER THAN THIRTY DAYS PRIOR TO THE BOARD  
26 MAKING A RECOMMENDATION, THE OFFENDER SHALL BE NOTIFIED THAT HIS OR HER  
27 CASE IS UNDER REVIEW AND THAT HE OR SHE IS PERMITTED TO SUBMIT TO THE  
28 BOARD ANY INFORMATION RELEVANT TO THE REVIEW. AFTER REVIEWING ANY INFOR-  
29 MATION OBTAINED, AND APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION  
30 FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE, THE BOARD  
31 SHALL WITHIN SIXTY CALENDAR DAYS MAKE A RECOMMENDATION REGARDING THE  
32 LEVEL OF NOTIFICATION PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED  
33 SIXTY-SEVEN-F OF THIS ARTICLE AND WHETHER SUCH OFFENDER SHALL BE DESIG-  
34 NATED A VIOLENT FELONY OFFENDER OR A VIOLENT PREDATOR. THIS RECOMMENDA-  
35 TION SHALL BE CONFIDENTIAL AND SHALL NOT BE AVAILABLE FOR PUBLIC  
36 INSPECTION. IT SHALL BE SUBMITTED BY THE BOARD TO THE COUNTY COURT OR  
37 SUPREME COURT AND TO THE DISTRICT ATTORNEY IN THE COUNTY OF RESIDENCE OF  
38 THE OFFENDER AND TO THE OFFENDER. IT SHALL BE THE DUTY OF THE COUNTY  
39 COURT OR SUPREME COURT IN THE COUNTY OF RESIDENCE OF THE OFFENDER,  
40 APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION FIVE OF SECTION ONE  
41 HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE, TO DETERMINE THE LEVEL OF NOTIFI-  
42 CATION PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-SEVEN-F  
43 OF THIS ARTICLE AND WHETHER SUCH OFFENDER SHALL BE DESIGNATED A VIOLENT  
44 FELONY OFFENDER OR A VIOLENT PREDATOR. AT LEAST THIRTY DAYS PRIOR TO  
45 THE DETERMINATION PROCEEDING, SUCH COURT SHALL NOTIFY THE DISTRICT  
46 ATTORNEY AND THE OFFENDER, IN WRITING, OF THE DATE OF THE DETERMINATION  
47 PROCEEDING AND THE COURT SHALL ALSO PROVIDE THE DISTRICT ATTORNEY AND  
48 OFFENDER WITH A COPY OF THE RECOMMENDATION RECEIVED FROM THE BOARD AND  
49 ANY STATEMENT OF THE REASONS FOR THE RECOMMENDATION RECEIVED FROM THE  
50 BOARD. THIS NOTICE SHALL INCLUDE THE FOLLOWING STATEMENT OR A SUBSTAN-  
51 Tially SIMILAR STATEMENT: "THIS PROCEEDING IS BEING HELD TO DETERMINE  
52 WHETHER YOU WILL BE CLASSIFIED AS A LEVEL 3 OFFENDER (RISK OF REPEAT  
53 OFFENSE IS HIGH), A LEVEL 2 OFFENDER (RISK OF REPEAT OFFENSE IS MODER-  
54 ATE), OR A LEVEL 1 OFFENDER (RISK OF REPEAT OFFENSE IS LOW), OR WHETHER  
55 YOU WILL BE DESIGNATED AS A VIOLENT FELONY OFFENDER OR A VIOLENT PREDA-  
56 TOR, WHICH WILL DETERMINE HOW LONG YOU MUST REGISTER AS AN OFFENDER AND



1 HOW MUCH INFORMATION CAN BE PROVIDED TO THE PUBLIC CONCERNING YOUR  
2 REGISTRATION. IF YOU FAIL TO APPEAR AT THIS PROCEEDING, WITHOUT SUFFI-  
3 CIENT EXCUSE, IT SHALL BE HELD IN YOUR ABSENCE. FAILURE TO APPEAR MAY  
4 RESULT IN A LONGER PERIOD OF REGISTRATION OR A HIGHER LEVEL OF COMMUNITY  
5 NOTIFICATION BECAUSE YOU ARE NOT PRESENT TO OFFER EVIDENCE OR CONTEST  
6 EVIDENCE OFFERED BY THE DISTRICT ATTORNEY." THE COURT SHALL ALSO ADVISE  
7 THE OFFENDER THAT HE OR SHE HAS A RIGHT TO A HEARING PRIOR TO THE  
8 COURT'S DETERMINATION, THAT HE OR SHE HAS THE RIGHT TO BE REPRESENTED BY  
9 COUNSEL AT THE HEARING AND THAT COUNSEL WILL BE APPOINTED IF HE OR SHE  
10 IS FINANCIALLY UNABLE TO RETAIN COUNSEL. A RETURNABLE FORM SHALL BE  
11 ENCLOSED IN THE COURT'S NOTICE TO THE OFFENDER ON WHICH THE OFFENDER MAY  
12 APPLY FOR ASSIGNMENT OF COUNSEL. IF THE OFFENDER APPLIES FOR ASSIGNMENT  
13 OF COUNSEL AND THE COURT FINDS THAT THE OFFENDER IS FINANCIALLY UNABLE  
14 TO RETAIN COUNSEL, THE COURT SHALL ASSIGN COUNSEL TO REPRESENT THE  
15 OFFENDER PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW. IF THE  
16 DISTRICT ATTORNEY SEEKS A DETERMINATION THAT DIFFERS FROM THE RECOMMEN-  
17 DATION SUBMITTED BY THE BOARD, AT LEAST TEN DAYS PRIOR TO THE DETERMI-  
18 NATION PROCEEDING THE DISTRICT ATTORNEY SHALL PROVIDE TO THE COURT AND  
19 THE OFFENDER A STATEMENT SETTING FORTH THE DETERMINATIONS SOUGHT BY THE  
20 DISTRICT ATTORNEY TOGETHER WITH THE REASONS FOR SEEKING SUCH DETERMI-  
21 NATIONS. THE COURT SHALL ALLOW THE OFFENDER TO APPEAR AND BE HEARD. THE  
22 STATE SHALL APPEAR BY THE DISTRICT ATTORNEY, OR HIS OR HER DESIGNEE, WHO  
23 SHALL BEAR THE BURDEN OF PROVING THE FACTS SUPPORTING THE DETERMINATIONS  
24 SOUGHT BY CLEAR AND CONVINCING EVIDENCE. IT SHALL BE THE DUTY OF THE  
25 COURT APPLYING THE GUIDELINES ESTABLISHED IN SUBDIVISION FIVE OF SECTION  
26 ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE TO DETERMINE THE LEVEL OF  
27 NOTIFICATION PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED  
28 SIXTY-SEVEN-F OF THIS ARTICLE AND WHETHER SUCH OFFENDER SHALL BE DESIG-  
29 NATED A VIOLENT FELONY OFFENDER OR A VIOLENT PREDATOR. WHERE THERE IS A  
30 DISPUTE BETWEEN THE PARTIES CONCERNING THE DETERMINATIONS, THE COURT  
31 SHALL ADJOURN THE HEARING AS NECESSARY TO PERMIT THE OFFENDER OR THE  
32 DISTRICT ATTORNEY TO OBTAIN MATERIALS RELEVANT TO THE DETERMINATIONS  
33 FROM THE STATE BOARD OF EXAMINERS OF OFFENDERS OR ANY STATE OR LOCAL  
34 FACILITY, HOSPITAL, INSTITUTION, OFFICE, AGENCY, DEPARTMENT OR DIVISION.  
35 SUCH MATERIALS MAY BE OBTAINED BY SUBPOENA IF NOT VOLUNTARILY PROVIDED  
36 TO THE REQUESTING PARTY. IN MAKING THE DETERMINATIONS THE COURT SHALL  
37 REVIEW ANY VICTIM'S STATEMENT AND ANY RELEVANT MATERIALS AND EVIDENCE  
38 SUBMITTED BY THE OFFENDER AND THE DISTRICT ATTORNEY AND THE RECOMMENDA-  
39 TION AND ANY MATERIAL SUBMITTED BY THE BOARD, AND MAY CONSIDER RELIABLE  
40 HEARSAY EVIDENCE SUBMITTED BY EITHER PARTY, PROVIDED THAT IT IS RELEVANT  
41 TO THE DETERMINATIONS. IF AVAILABLE, FACTS PROVEN AT TRIAL OR ELICITED  
42 AT THE TIME OF A PLEA OF GUILTY SHALL BE DEEMED ESTABLISHED BY CLEAR AND  
43 CONVINCING EVIDENCE AND SHALL NOT BE RELITIGATED. THE COURT SHALL RENDER  
44 AN ORDER SETTING FORTH ITS DETERMINATIONS AND THE FINDINGS OF FACT AND  
45 CONCLUSIONS OF LAW ON WHICH THE DETERMINATIONS ARE BASED. A COPY OF THE  
46 ORDER SHALL BE SUBMITTED BY THE COURT TO THE DIVISION. UPON APPLICATION  
47 OF EITHER PARTY, THE COURT SHALL SEAL ANY PORTION OF THE COURT FILE OR  
48 RECORD WHICH CONTAINS MATERIAL THAT IS CONFIDENTIAL UNDER ANY STATE OR  
49 FEDERAL STATUTE. EITHER PARTY MAY APPEAL AS OF RIGHT FROM THE ORDER  
50 PURSUANT TO THE PROVISIONS OF ARTICLES FIFTY-FIVE, FIFTY-SIX AND FIFTY-  
51 SEVEN OF THE CIVIL PRACTICE LAW AND RULES. WHERE COUNSEL HAS BEEN  
52 ASSIGNED TO REPRESENT THE OFFENDER UPON THE GROUND THAT THE OFFENDER IS  
53 FINANCIALLY UNABLE TO RETAIN COUNSEL, THAT ASSIGNMENT SHALL BE CONTINUED  
54 THROUGHOUT THE PENDENCY OF THE APPEAL, AND THE PERSON MAY APPEAL AS A  
55 POOR PERSON PURSUANT TO ARTICLE EIGHTEEN-B OF THE COUNTY LAW.

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

6 S 167-F. BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS. 1. THERE  
7 SHALL BE A BOARD OF EXAMINERS OF VIOLENT FELONY OFFENDERS WHICH SHALL  
8 POSSESS THE POWERS AND DUTIES SPECIFIED IN THIS SECTION. SUCH BOARD  
9 SHALL CONSIST OF FIVE MEMBERS OF THE DEPARTMENT WHO SHALL BE APPOINTED  
10 BY THE GOVERNOR, THREE OF WHOM SHALL BE EXPERTS IN THE FIELD OF THE  
11 BEHAVIOR AND TREATMENT OF VIOLENT FELONY OFFENDERS. THE TERM OF OFFICE  
12 OF EACH MEMBER OF SUCH BOARD SHALL BE FOR SIX YEARS; PROVIDED, HOWEVER,  
13 THAT ANY MEMBER CHOSEN TO FILL A VACANCY OCCURRING OTHERWISE THAN BY  
14 EXPIRATION OF TERM SHALL BE APPOINTED FOR THE REMAINDER OF THE UNEXPIRED  
15 TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. IN THE EVENT OF THE  
16 INABILITY TO ACT OF ANY MEMBER, THE GOVERNOR MAY APPOINT SOME COMPETENT  
17 INFORMED PERSON TO ACT IN HIS OR HER STEAD DURING THE CONTINUANCE OF  
18 SUCH DISABILITY.

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

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

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

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

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

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

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

38 (IV) WHETHER THE VIOLENT FELONY OFFENDER COMMITTED THE VIOLENT FELONY  
39 OFFENSE AGAINST A CHILD;

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

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

44 (I) THE RELATIONSHIP BETWEEN SUCH VIOLENT FELONY OFFENDER AND THE  
45 VICTIM;

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

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

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

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

55 (E) WHETHER PSYCHOLOGICAL OR PSYCHIATRIC PROFILES INDICATE A RISK OF  
56 RECIDIVISM;

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

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

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

5 (I) REVIEW OF ANY VICTIM IMPACT STATEMENT.

6 6. APPLYING THESE GUIDELINES, THE BOARD SHALL WITHIN SIXTY CALENDAR  
7 DAYS PRIOR TO THE DISCHARGE, PAROLE OR RELEASE OF A VIOLENT FELONY  
8 OFFENDER MAKE A RECOMMENDATION WHICH SHALL BE CONFIDENTIAL AND SHALL NOT  
9 BE AVAILABLE FOR PUBLIC INSPECTION, TO THE SENTENCING COURT AS TO WHETH-  
10 ER SUCH VIOLENT FELONY OFFENDER WARRANTS THE DESIGNATION OF VIOLENT  
11 PREDATOR. IN ADDITION, THE GUIDELINES SHALL BE APPLIED BY THE BOARD TO  
12 MAKE A RECOMMENDATION TO THE SENTENCING COURT, PROVIDING FOR ONE OF THE  
13 FOLLOWING THREE LEVELS OF NOTIFICATION NOTWITHSTANDING ANY OTHER  
14 PROVISION OF LAW DEPENDING UPON THE DEGREE OF THE RISK OF RE-OFFENSE BY  
15 THE VIOLENT FELONY OFFENDER.

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

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

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

46 ANY ENTITY RECEIVING INFORMATION ON A VIOLENT FELONY OFFENDER MAY  
47 DISCLOSE OR FURTHER DISSEMINATE SUCH INFORMATION AT THEIR DISCRETION. IN  
48 ADDITION, IN SUCH CASE, THE INFORMATION DESCRIBED IN THIS SECTION SHALL  
49 ALSO BE PROVIDED IN THE SUBDIRECTORY ESTABLISHED IN THIS ARTICLE AND  
50 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUCH INFORMATION SHALL, UPON  
51 REQUEST, BE MADE AVAILABLE TO THE PUBLIC.

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

1 S 167-G. REVIEW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE  
2 CONTRARY, ANY STATE OR LOCAL CORRECTIONAL FACILITY, HOSPITAL OR INSTITU-  
3 TION SHALL FORWARD RELEVANT INFORMATION PERTAINING TO A VIOLENT FELONY  
4 OFFENDER TO BE DISCHARGED, PAROLED OR RELEASED TO THE BOARD FOR REVIEW  
5 NO LATER THAN ONE HUNDRED TWENTY DAYS PRIOR TO THE RELEASE OR DISCHARGE  
6 AND THE BOARD SHALL MAKE RECOMMENDATIONS AS PROVIDED IN SUBDIVISION SIX  
7 OF SECTION ONE HUNDRED SIXTY-SEVEN-F OF THIS ARTICLE WITHIN SIXTY DAYS  
8 OF RECEIPT OF THE INFORMATION. INFORMATION MAY INCLUDE BUT MAY NOT BE  
9 LIMITED TO THE COMMITMENT FILE, MEDICAL FILE AND TREATMENT FILE PERTAIN-  
10 ING TO SUCH PERSON. SUCH PERSON SHALL BE PERMITTED TO SUBMIT TO THE  
11 BOARD ANY INFORMATION RELEVANT TO THE REVIEW.

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

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

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

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

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

34 S 167-I. PETITION FOR RELIEF. ANY VIOLENT FELONY OFFENDER REQUIRED TO  
35 REGISTER PURSUANT TO THIS ARTICLE MAY BE RELIEVED OF ANY FURTHER DUTY TO  
36 REGISTER UPON THE GRANTING OF A PETITION FOR RELIEF BY THE SENTENCING  
37 COURT. UPON RECEIPT OF THE PETITION FOR RELIEF, THE COURT SHALL NOTIFY  
38 THE BOARD AND REQUEST AN UPDATED REPORT PERTAINING TO THE VIOLENT FELONY  
39 OFFENDER. AFTER RECEIVING THE REPORT FROM THE BOARD, THE COURT MAY GRANT  
40 OR DENY THE RELIEF SOUGHT. THE COURT MAY CONSULT WITH THE VICTIM PRIOR  
41 TO MAKING A DETERMINATION ON THE PETITION. SUCH PETITION, IF GRANTED,  
42 SHALL NOT RELIEVE THE PETITIONER OF THE DUTY TO REGISTER PURSUANT TO  
43 THIS ARTICLE UPON CONVICTION OF ANY OFFENSE REQUIRING REGISTRATION IN  
44 THE FUTURE.

45 S 167-J. SPECIAL TELEPHONE NUMBER. 1. PURSUANT TO SECTION ONE HUNDRED  
46 SIXTY-THREE OF THIS ARTICLE, THE DIVISION SHALL ALSO OPERATE A TELEPHONE  
47 NUMBER THAT MEMBERS OF THE PUBLIC MAY CALL AND INQUIRE WHETHER A NAMED  
48 INDIVIDUAL REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE IS LISTED. THE  
49 DIVISION SHALL ASCERTAIN WHETHER A NAMED PERSON REASONABLY APPEARS TO BE  
50 A PERSON SO LISTED AND PROVIDE THE CALLER WITH THE RELEVANT INFORMATION  
51 ACCORDING TO RISK AS DESCRIBED IN SUBDIVISION SIX OF SECTION ONE HUNDRED  
52 SIXTY-SEVEN-F OF THIS ARTICLE. THE DIVISION SHALL DECIDE WHETHER THE  
53 NAMED PERSON REASONABLY APPEARS TO BE A PERSON LISTED, BASED UPON INFOR-  
54 MATION FROM THE CALLER PROVIDING INFORMATION THAT SHALL INCLUDE (A) AN  
55 EXACT STREET ADDRESS, INCLUDING APARTMENT NUMBER, DRIVER'S LICENSE  
56 NUMBER OR BIRTH DATE, ALONG WITH ADDITIONAL INFORMATION THAT MAY INCLUDE

1 SOCIAL SECURITY NUMBER, HAIR COLOR, EYE COLOR, HEIGHT, WEIGHT, DISTINC-  
2 TIVE MARKINGS, ETHNICITY; OR (B) ANY COMBINATION OF THE ABOVE LISTED  
3 CHARACTERISTICS IF AN EXACT BIRTH DATE OR ADDRESS IS NOT AVAILABLE. IF  
4 THREE OF THE CHARACTERISTICS PROVIDED INCLUDE ETHNICITY, HAIR COLOR, AND  
5 EYE COLOR, OTHER IDENTIFYING CHARACTERISTICS SHALL BE PROVIDED. ANY  
6 INFORMATION IDENTIFYING THE VICTIM BY NAME, BIRTH DATE, ADDRESS OR  
7 RELATION TO THE PERSON LISTED BY THE DIVISION SHALL BE EXCLUDED BY THE  
8 DIVISION.

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

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

- 24 (A) NUMBER OF CALLS RECEIVED;
- 25 (B) A DETAILED OUTLINE OF THE AMOUNT OF MONEY EXPENDED AND THE MANNER  
26 IN WHICH IT WAS EXPENDED FOR PURPOSES OF THIS SECTION;
- 27 (C) NUMBER OF CALLS THAT RESULTED IN AN AFFIRMATIVE RESPONSE AND THE  
28 NUMBER OF CALLS THAT RESULTED IN A NEGATIVE RESPONSE WITH REGARD TO  
29 WHETHER A NAMED INDIVIDUAL WAS LISTED;
- 30 (D) NUMBER OF PERSONS LISTED; AND
- 31 (E) A SUMMARY OF THE SUCCESS OF THE TELEPHONE NUMBER PROGRAM BASED  
32 UPON SELECTED FACTORS.

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

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

DEPARTMENT SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS. IN ADDITION, THE ATTORNEY GENERAL, ANY DISTRICT ATTORNEY, OR ANY PERSON AGGRIEVED IS AUTHORIZED TO BRING A CIVIL ACTION IN THE APPROPRIATE COURT REQUESTING PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER AGAINST THE PERSON OR GROUP OF PERSONS RESPONSIBLE FOR SUCH ACTION. THE FOREGOING REMEDIES SHALL BE INDEPENDENT OF ANY OTHER REMEDIES OR PROCEDURES THAT MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER OTHER PROVISIONS OF LAW.

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

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

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

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

S 167-O. UNAUTHORIZED RELEASE OF INFORMATION. THE UNAUTHORIZED RELEASE OF ANY INFORMATION REQUIRED BY THIS ARTICLE SHALL BE A CLASS B MISDEMEANOR.

S 167-P. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ACT SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL REVIEW, THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ACT DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

S 167-Q. SUBDIRECTORY; INTERNET POSTING. 1. THE DIVISION SHALL MAINTAIN A SUBDIRECTORY OF LEVEL TWO AND THREE VIOLENT FELONY OFFENDERS. THE SUBDIRECTORY SHALL INCLUDE THE EXACT ADDRESS, ADDRESS OF THE OFFENDER'S PLACE OF EMPLOYMENT AND PHOTOGRAPH OF THE VIOLENT FELONY OFFENDER ALONG WITH THE FOLLOWING INFORMATION, IF AVAILABLE: NAME, PHYSICAL DESCRIPTION, AGE AND DISTINCTIVE MARKINGS. BACKGROUND INFORMATION INCLUDING THE VIOLENT FELONY OFFENDER'S CRIME OF CONVICTION, MODUS OF OPERATION, TYPE OF VICTIM TARGETED, THE NAME AND ADDRESS OF ANY INSTITUTION OF HIGHER EDUCATION AT WHICH THE VIOLENT FELONY OFFENDER IS

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

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

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