

# STATE OF NEW YORK

7312--A

2017-2018 Regular Sessions

## IN ASSEMBLY

April 21, 2017

Introduced by M. of A. TITONE, CUSICK, ORTIZ, M. G. MILLER, BENEDETTO, SIMOTAS, PAULIN, GALEF, BRONSON, ZEBROWSKI, LUPARDO, TITUS, ENGLE-BRIGHT, GUNTHER, GRAF, ROSENTHAL, COLTON, PERRY, KOLB -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, CRESPO, GIGLIO, HIKIND, MALLIO-TAKIS, McDONOUGH, RA, THIELE -- 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 penal law, in relation to establishing the crimes of failure to register or verify as a domestic abuse offender in the first and second degrees; to amend the correction law, in relation to enacting "Danielle DiMedici, Jessica Tush and Brittany Passalacqua's Law"; and to amend the criminal procedure law, in relation to domestic abuse offenders

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The penal law is amended by adding two new sections 195.03  
2 and 195.04 to read as follows:

3 § 195.03 Failure to register or verify as a domestic abuse offender in  
4 the second degree.

5 A person is guilty of failure to register or verify as a domestic  
6 abuse offender in the second degree when, being a domestic abuse offen-  
7 der required to register or verify pursuant to article six-D of the  
8 correction law, he or she fails to register or verify in the manner and  
9 within the time periods provided for in such article.

10 Failure to register or verify as a domestic abuse offender in the  
11 second degree is a class E felony.

12 § 195.04 Failure to register or verify as a domestic abuse offender in  
13 the first degree.

14 A person is guilty of failure to register or verify as a domestic  
15 abuse offender in the first degree when he or she commits the crime of  
16 failure to register or verify as a domestic abuse offender in the second

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

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degree and has previously been convicted of failure to register or verify as a domestic abuse offender in the second degree as defined in section 195.03 of this article.

Failure to register or verify as a domestic abuse offender in the first degree is a class D felony.

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

ARTICLE 6-D

DANIELLE DIMEDICI, JESSICA TUSH AND BRITTANY PASSALACQUA'S LAW

Section 169. Short title.

169-a. Definitions.

169-b. Duties of the division; registration information.

169-c. Domestic abuse offender; relocation; notification.

169-d. Duties of the court.

169-e. Discharge of domestic abuse offender from correctional facility; duties of official in charge.

169-f. Duty to register and to verify.

169-g. Prior convictions; duty to inform and register.

169-h. Duration of registration and verification.

169-i. Registration and verification requirements.

169-j. Notification of local law enforcement agencies of change of address.

169-k. Registration for change of address from another state.

169-l. Petition for relief or modification.

169-m. Special telephone number.

169-n. Directory; internet posting.

169-o. Immunity from liability.

169-p. Annual report.

169-q. Failure to register; penalty.

169-r. Unauthorized release of information.

169-s. Separability.

§ 169. Short title. This article shall be known and may be cited as "Danielle DiMedici, Jessica Tush and Brittany Passalacqua's law".

§ 169-a. Definitions. As used in this article, the following definitions apply:

1. "Domestic abuse offender" includes any person who (a) is convicted of any of the offenses set forth in subdivision two of this section. Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this article; or (b) has been determined by the court to be a domestic abuse offender by a court pursuant to section 530.15 or paragraph (c) of subdivision one of section 530.12 of the criminal procedure law.

2. "Domestic abuse offense" means:

(a) disorderly conduct, criminal obstruction of breathing or blood circulation, strangulation in the first degree, strangulation in the second degree, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, assault in the second degree, assault in the third degree or an attempted assault between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age

1 pursuant to section 30.00 of the penal law. For purposes of this  
2 section, "disorderly conduct" includes disorderly conduct not in a  
3 public place; or

4 (b) a conviction of (i) an offense in any other jurisdiction which  
5 includes all of the essential elements of any such crime provided for in  
6 paragraph (a) of this subdivision or (ii) a felony in any other juris-  
7 isdiction for which the offender is required to register as a domestic  
8 abuse offender in the jurisdiction in which the conviction occurred,  
9 provided that the elements of such crime of conviction are substantially  
10 the same as those which are a part of such offense as of the date on  
11 which this section takes effect.

12 3. For purposes of this section, "members of the same family or house-  
13 hold" with respect to a proceeding in the criminal courts shall mean the  
14 following:

15 (a) persons related by consanguinity or affinity;

16 (b) persons legally married to one another;

17 (c) persons formerly married to one another regardless of whether they  
18 still reside in the same household;

19 (d) persons who have a child in common, regardless of whether such  
20 persons have been married or have lived together at any time;

21 (e) persons who are not related by consanguinity or affinity and who  
22 are or have been in an intimate relationship regardless of whether such  
23 persons have lived together at any time. Factors the court may consider  
24 in determining whether a relationship is an "intimate relationship"  
25 include but are not limited to: the nature or type of relationship,  
26 regardless of whether the relationship is sexual in nature; the frequen-  
27 cy of interaction between the persons; and the duration of the relation-  
28 ship. Neither a casual acquaintance nor ordinary fraternization between  
29 two individuals in business or social contexts shall be deemed to  
30 constitute an "intimate relationship"; and

31 (f) persons residing together continually or at regular intervals,  
32 currently or in the past.

33 4. "Law enforcement agency having jurisdiction" means:

34 (a) (i) the chief law enforcement officer in the village, town or city  
35 in which the domestic abuse offender expects to reside upon his or her  
36 discharge, probation, parole, release to post-release supervision or  
37 upon any form of state or local conditional release; or (ii) if there be  
38 no chief law enforcement officer in such village, town or city, the  
39 chief law enforcement officer of the county in which the offender  
40 expects to reside; or (iii) if there be no chief enforcement officer in  
41 such village, town, city or county, the division of state police; and

42 (b) in the case of a domestic abuse offender who is or expects to be  
43 employed by, enrolled in, attending or employed, whether for compen-  
44 sation or not, at an institution of higher education: (i) the chief law  
45 enforcement officer in the village, town or city in which such institu-  
46 tion is located; or (ii) if there be no chief law enforcement officer in  
47 such village, town or city, the chief law enforcement officer of the  
48 county in which such institution is located; or (iii) if there be no  
49 chief law enforcement officer in such village, town, city or county, the  
50 division of state police; and (iv) if such institution operates or  
51 employs a campus law enforcement or security agency, the chief of such  
52 agency.

53 5. "Division" means the division of criminal justice services as  
54 defined by section eight hundred thirty-five of the executive law.

1 6. "Local correctional facility" means a local correctional facility  
2 as that term is defined in subdivision sixteen of section two of this  
3 chapter.

4 7. "Probation" means a sentence of probation imposed pursuant to arti-  
5 cle sixty-five of the penal law and shall include a sentence of impri-  
6 sonment imposed in conjunction with a sentence of probation.

7 8. "Nonresident worker" means any person required to register as a  
8 domestic abuse offender in another jurisdiction who is employed or  
9 carries on a vocation in this state, on either a full-time or a part-  
10 time basis, with or without compensation, for more than fourteen consec-  
11 utive days, or for an aggregate period exceeding thirty days in a calen-  
12 dar year.

13 9. "Nonresident student" means a person required to register as a  
14 domestic abuse offender in another jurisdiction who is enrolled on a  
15 full-time or part-time basis in any public or private educational insti-  
16 tution in this state including any secondary school, trade or profes-  
17 sional institution or institution of higher education.

18 § 169-b. Duties of the division; registration information. 1. The  
19 division shall establish and maintain a file of individuals required to  
20 register pursuant to the provisions of this article which shall include  
21 the following information of each registrant:

22 (a) The domestic abuse offender's name, all aliases used, date of  
23 birth, sex, race, height, weight, eye color, driver's license number,  
24 and home address and/or expected place of domicile.

25 (b) A photograph and set of fingerprints.

26 (c) A description of the offense for which the domestic abuse offender  
27 was convicted, the date of conviction and the sentence imposed.

28 (d) The name and address of any institution of higher education at  
29 which the domestic abuse offender is or expects to be enrolled, attend-  
30 ing or employed, whether for compensation or not, and whether such  
31 domestic abuse offender resides in or will reside in a facility owned or  
32 operated by such institution.

33 (e) Any other information deemed pertinent by the division.

34 2. (a) The division is authorized to make the registry available to  
35 any regional or national registry of domestic abuse offenders for the  
36 purpose of sharing information. The division shall accept files from any  
37 regional or national registry of domestic abuse offenders and shall make  
38 such files available when requested pursuant to the provisions of this  
39 article.

40 (b) The division shall require that no information included in the  
41 registry shall be made available except in the furtherance of the  
42 provisions of this article.

43 3. The division shall develop a standardized registration form to be  
44 made available to the appropriate authorities and promulgate rules and  
45 regulations to implement the provisions of this section. Such form shall  
46 be written in clear and concise language and shall advise the domestic  
47 abuse offender of his or her duties and obligations under this article.

48 4. The division shall mail a nonforwardable verification form to the  
49 last reported address of the person for annual verification require-  
50 ments.

51 5. The division shall establish and operate a telephone number as  
52 provided for in section one hundred sixty-nine-m of this article.

53 6. The division shall establish a directory pursuant to section one  
54 hundred sixty-nine-n of this article.

55 7. The division shall establish a public awareness campaign to advise  
56 the public of the provisions of this article.

1 8. (a) The division shall charge an administrative fee to a domestic  
2 abuse offender to cover the cost of inclusion on the registry. Such fee  
3 shall be set at a reasonable rate to be determined periodically by the  
4 division.

5 (b) The division shall charge a fee of ten dollars each time a domes-  
6 tic abuse offender registers any change of address or any change of his  
7 or her status of enrollment, attendance, employment or residence at any  
8 institution of higher education as required by subdivision three of  
9 section one hundred sixty-nine-f of this article. The fee shall be paid  
10 to the division by the domestic abuse offender. The state comptroller is  
11 hereby authorized to deposit such fees into the general fund.

12 § 169-c. Domestic abuse offender; relocation; notification. 1. In the  
13 case of any domestic abuse offender, it shall be the duty of the depart-  
14 ment or local correctional facility at least ten calendar days prior to  
15 the release or discharge of any domestic abuse offender from a correc-  
16 tional facility or local correctional facility to notify the division of  
17 the contemplated release or discharge of such domestic abuse offender,  
18 informing the division in writing on a form provided by the division  
19 indicating the address at which he or she proposes to reside and the  
20 name and address of any institution of higher education at which he or  
21 she expects to be enrolled, attending or employed, whether for compen-  
22 sation or not, and whether he or she resides in or will reside in a  
23 facility owned or operated by such institution. If such domestic abuse  
24 offender changes his or her place of residence while on parole, such  
25 notification of the change of residence shall be sent by the domestic  
26 abuse offender's parole officer within forty-eight hours to the division  
27 on a form provided by the division. If such domestic abuse offender  
28 changes the status of his or her enrollment, attendance, employment or  
29 residence at any institution of higher education while on parole, such  
30 notification of the change of status shall be sent by the domestic abuse  
31 offender's parole officer within forty-eight hours to the division on a  
32 form provided by the division.

33 2. In the case of any domestic abuse offender on probation, it shall  
34 be the duty of the domestic abuse offender's probation officer to notify  
35 the division within forty-eight hours of the new place of residence on a  
36 form provided by the division. If such domestic abuse offender changes  
37 the status of his or her enrollment, attendance, employment or residence  
38 at any institution of higher education while on probation, such notifi-  
39 cation of the change of status shall be sent by the domestic abuse  
40 offender's probation officer within forty-eight hours to the division on  
41 a form provided by the division.

42 3. In the case in which any domestic abuse offender escapes from a  
43 state or local correctional facility, the designated official of the  
44 facility where the domestic abuse offender was confined shall notify  
45 within twenty-four hours the law enforcement agency having had jurisdic-  
46 tion at the time of his or her conviction, informing such law enforce-  
47 ment agency of the name and aliases of the domestic abuse offender, and  
48 the address at which he or she resided at the time of his or her  
49 conviction, the amount of time remaining to be served, if any, on the  
50 full term for which he or she was sentenced, and the nature of the crime  
51 for which he or she was sentenced, transmitting at the same time a copy  
52 of such domestic abuse offender's fingerprints and photograph and a  
53 summary of his or her criminal record.

54 4. The division shall provide general information, in registration  
55 materials and annual correspondence, to registrants concerning notifica-  
56 tion and registration procedures that may apply if the registrant is

1 authorized to relocate and relocates to another state or United States  
2 possession, or commences employment or attendance at an educational  
3 institution in another state or United States possession. Such informa-  
4 tion shall include addresses and telephone numbers for relevant agencies  
5 from which additional information may be obtained.

6 § 169-d. Duties of the court. 1. Upon conviction of any of the  
7 offenses set forth in subdivision two of section one hundred  
8 sixty-nine-a of this article the court shall certify that the person is  
9 a domestic abuse offender and shall include the certification in the  
10 judgment of conviction. The court shall also advise the domestic abuse  
11 offender of his or her duties under this article. Failure to include the  
12 certification in the judgment of conviction shall not relieve a domestic  
13 abuse offender of the obligations imposed by this article.

14 2. Any domestic abuse offender who has been convicted of a violent  
15 felony or two or more misdemeanors against a person who is a member of  
16 such offender's family or household as defined in section 530.12 of the  
17 criminal procedure law, who is released on probation or discharged upon  
18 payment of a fine, conditional discharge or unconditional discharge  
19 shall, prior to such release or discharge, be informed of his or her  
20 duty to register under this article by the court in which he or she was  
21 convicted. At the time sentence is imposed, such domestic abuse offender  
22 shall register with the division on a form prepared by the division. The  
23 court shall require the domestic abuse offender to read and sign such  
24 form and to complete the registration portion of such form. The court  
25 shall on such form obtain the address where the domestic abuse offender  
26 expects to reside upon his or her release, and the name and address of  
27 any institution of higher education he or she expects to be employed by,  
28 enrolled in, attending or employed, whether for compensation or not, and  
29 whether he or she expects to reside in a facility owned or operated by  
30 such an institution, and shall report such information to the division.  
31 The court shall give one copy of the form to the domestic abuse offender  
32 and shall send two copies to the division which shall forward the infor-  
33 mation to the law enforcement agencies having jurisdiction. Where the  
34 court orders a domestic abuse offender released on probation, such order  
35 must include a provision requiring that he or she comply with the  
36 requirements of this article. Where such domestic abuse offender  
37 violates such provision, probation may be immediately revoked in the  
38 manner provided by article four hundred ten of the criminal procedure  
39 law.

40 3. Notwithstanding any other provision of law to the contrary, it  
41 shall be in the courts discretion to require an offender to register  
42 pursuant to this article. In determining whether an offender should be  
43 on the registry, a judge shall consider, among other things, whether the  
44 offender is a victim who was defending himself or herself and the  
45 offender's history of and propensity for violence. In addition, a judge  
46 may require a threat assessment of future risk, utilizing methods such  
47 as a Domestic Violence MOSAIC, a Danger Assessment, a Domestic Violence  
48 Screening Instrument or a Kingston Screening Instrument for Domestic  
49 Violence or other threat assessment as the court may deem appropriate.

50 4. The court shall provide reasonable opportunity to a victim to  
51 object to an offender's inclusion in the registry and shall take such  
52 information into account while determining the offender's inclusion  
53 pursuant to subdivision three of this section.

54 § 169-e. Discharge of domestic abuse offender from correctional facil-  
55 ity; duties of official in charge. 1. Any domestic abuse offender, to be  
56 discharged, paroled, released to post-release supervision or released

1 from any state or local correctional facility, shall at least fifteen  
2 calendar days prior to discharge, parole or release, be informed of his  
3 or her duty to register under this article, by the facility in which he  
4 or she was confined. The facility shall require the domestic abuse  
5 offender to read and sign such form as may be required by the division  
6 stating the duty to register and the procedure for registration has been  
7 explained to him or her and to complete the registration portion of such  
8 form. The facility shall obtain on such form the address where the  
9 domestic abuse offender expects to reside upon his or her discharge,  
10 parole or release and the name and address of any institution of higher  
11 education he or she expects to be employed by, enrolled in, attending or  
12 employed, whether for compensation or not, and whether he or she expects  
13 to reside in a facility owned or operated by such an institution, and  
14 shall report such information to the division. The facility shall give  
15 one copy of the form to the domestic abuse offender, retain one copy and  
16 shall send one copy to the division which shall provide the information  
17 to the law enforcement agencies having jurisdiction. The facility shall  
18 give the domestic abuse offender a form prepared by the division, to  
19 register with the division at least fifteen calendar days prior to  
20 release and such form shall be completed, signed by the domestic abuse  
21 offender and sent to the division by the facility at least ten days  
22 prior to the domestic abuse offender's release or discharge.

23 2. The division shall also immediately transmit the conviction data  
24 and fingerprints to the Federal Bureau of Investigation if not already  
25 obtained.

26 § 169-f. Duty to register and to verify. 1. Any domestic abuse offen-  
27 der shall (a) at least ten calendar days prior to discharge, parole,  
28 release to post-release supervision or release from any state or local  
29 correctional facility where he or she was confined, or (b) if released  
30 on probation or discharged upon payment of a fine, conditional discharge  
31 or unconditional discharge, at the time sentence is imposed, register  
32 with the division on a form prepared by the division.

33 2. Any domestic abuse offender required to register under this article  
34 shall on or before each anniversary of the domestic abuse offender's  
35 initial registration date during the period in which he or she is  
36 required to register verify that he or she still resides at the address  
37 last reported to the division.

38 3. Any domestic abuse offender shall register with the division no  
39 later than ten calendar days after any change of address or any change  
40 of his or her status of enrollment, attendance, employment or residence  
41 at any institution of higher education. A fee of ten dollars, as author-  
42 ized by subdivision eight of section one hundred sixty-nine-b of this  
43 article, shall be submitted by the domestic abuse offender each time  
44 such domestic abuse offender registers any change of address or any  
45 change of his or her status of enrollment, attendance, employment or  
46 residence at any institution of higher education. Any failure or omis-  
47 sion to submit the required fee shall not affect the acceptance by the  
48 division of the change of address or change of status.

49 4. The duty to register under the provisions of this article shall not  
50 be applicable to any domestic abuse offender whose conviction was  
51 reversed upon appeal or who was pardoned by the governor.

52 5. Any nonresident worker or nonresident student, as defined in subdivi-  
53 sions eight and nine of section one hundred sixty-nine-a of this arti-  
54 cle, shall register his or her current address and the address of his or  
55 her place of employment or educational institution attended with the  
56 division within ten calendar days after such nonresident worker or

1 nonresident student commences employment or attendance at an educational  
2 institution in the state. Any nonresident worker or nonresident student  
3 shall notify the division of any change of residence, employment or  
4 educational institution address no later than ten days after such  
5 change. The division shall notify the law enforcement agency where the  
6 nonresident worker is employed or the educational institution is located  
7 that a nonresident worker or nonresident student is present in that  
8 agency's jurisdiction.

9 § 169-g. Prior convictions; duty to inform and register. 1. Every  
10 domestic abuse offender who on the effective date of this article is  
11 then on parole or probation for an offense provided for in subdivision  
12 two of section one hundred sixty-nine-a of this article shall within  
13 thirty calendar days of such effective date register with his or her  
14 parole or probation officer. Any domestic abuse offender who fails or  
15 refuses to so comply shall be subject to the same penalties as otherwise  
16 provided for in this article which would be imposed upon a domestic  
17 abuse offender who fails or refuses to so comply with the provisions of  
18 this article on or after such effective date.

19 2. It shall be the duty of the parole or probation officer to inform  
20 and register such domestic abuse offender according to the requirements  
21 imposed by this article. A parole or probation officer shall give one  
22 copy of the form to the domestic abuse offender and shall, within three  
23 calendar days, send two copies electronically or otherwise to the divi-  
24 sion which shall forward one copy electronically or otherwise to the law  
25 enforcement agency having jurisdiction where the domestic abuse offender  
26 resides upon his or her parole, probation, or upon any form of state or  
27 local conditional release.

28 § 169-h. Duration of registration and verification. The duration of  
29 registration and verification for a domestic abuse offender shall be for  
30 a period of five to ten years from the initial date of registration, as  
31 determined by the court, or while a permanent order of protection exists  
32 against the domestic abuse offender whichever is longer.

33 § 169-i. Registration and verification requirements. Registration and  
34 verification as required by this article shall consist of a statement in  
35 writing signed by the domestic abuse offender giving the information  
36 that is required by the division and the division shall enter the infor-  
37 mation into an appropriate electronic data base or file.

38 § 169-j. Notification of local law enforcement agencies of change of  
39 address. 1. Upon receipt of a change of address by a domestic abuse  
40 offender required to register under this article, the division shall  
41 notify the local law enforcement agency having jurisdiction of the new  
42 place of residence and the local law enforcement agency where the domes-  
43 tic abuse offender last resided of the new place of residence.

44 2. The division shall, if the domestic abuse offender changes resi-  
45 dence to another state, notify the appropriate agency within that state  
46 of the new place of residence.

47 3. Upon receipt of a change in the status of the enrollment, attend-  
48 ance, employment or residence at an institution of higher education by a  
49 domestic abuse offender required to register under this article, the  
50 division shall notify each law enforcement agency having jurisdiction  
51 which is affected by such change.

52 § 169-k. Registration for change of address from another state. 1. A  
53 domestic abuse offender who has been convicted of an offense which  
54 requires registration under paragraph (b) of subdivision two of section  
55 one hundred sixty-nine-a of this article shall notify the division of

1 the new address no later than ten calendar days after such domestic  
2 abuse offender establishes residence in this state.

3 2. The division shall undertake an information campaign designed to  
4 provide information to officials and appropriate individuals in other  
5 states and United States possessions concerning the notification proce-  
6 dures required by this article. Such information campaign shall be ongo-  
7 ing, and shall include, but not be limited to, letters, notice forms and  
8 similar materials providing relevant information about this article and  
9 the specific procedures required to effect notification. Such materials  
10 shall include an address and telephone number which such officials and  
11 individuals in other states and United States possessions may use to  
12 obtain additional information.

13 § 169-l. Petition for relief or modification. Any domestic abuse  
14 offender who is required to register or verify pursuant to this article  
15 and who has been registered for a minimum period of ten years may be  
16 relieved of any further duty to register upon the granting of a petition  
17 for relief by the sentencing court or by the court which made the deter-  
18 mination regarding duration of registration and level of notification.  
19 The offender shall bear the burden of proving by clear and convincing  
20 evidence that his or her risk of repeat offense and threat to public  
21 safety is such that registration or verification is no longer necessary.  
22 Such petition, if granted, shall not relieve the petitioner of the duty  
23 to register pursuant to this article upon conviction of any offense  
24 requiring registration in the future. Such a petition shall not be  
25 considered more than once every two years. In the event that the domes-  
26 tic abuse offender's petition for relief is granted, the district attor-  
27 ney may appeal as of right from the order pursuant to the provisions of  
28 articles fifty-five, fifty-six and fifty-seven of the civil practice law  
29 and rules. Where counsel has been assigned to represent the domestic  
30 abuse offender upon the ground that the domestic abuse offender is  
31 financially unable to retain counsel, that assignment shall be continued  
32 throughout the pendency of the appeal, and the person may appeal as a  
33 poor person pursuant to article eighteen-B of the county law.

34 § 169-m. Special telephone number. 1. Pursuant to section one hundred  
35 sixty-nine-b of this article, the division shall operate a telephone  
36 number that members of the public may call free of charge and inquire  
37 whether a named individual required to register pursuant to this article  
38 is listed. The division shall ascertain whether a named person reason-  
39 ably appears to be a person so listed and provide the caller with the  
40 relevant information. The division shall decide whether the named person  
41 reasonably appears to be a person listed, based upon information from  
42 the caller providing information that shall include (a) an exact street  
43 address, including apartment number, driver's license number or birth  
44 date, along with additional information that may include social security  
45 number, hair color, eye color, height, weight, distinctive markings,  
46 ethnicity; or (b) any combination of the above listed characteristics if  
47 an exact birth date or address is not available. If three of the charac-  
48 teristics provided include ethnicity, hair color, and eye color, other  
49 identifying characteristics shall be provided. Any information identify-  
50 ing the victim by name, birth date, address or relation to the person  
51 listed by the division shall be excluded by the division.

52 2. When the telephone number is called, a preamble shall be played  
53 which shall provide the following information:

- 54 (a) notice that the caller's telephone number will be recorded;  
55 (b) that there is no charge for use of the telephone number;

1 (c) notice that the caller is required to identify himself or herself  
2 to the operator and provide a current address and that the call shall be  
3 maintained in a written record;

4 (d) a warning that it is illegal to use information obtained through  
5 the telephone number to commit a crime against any person listed or to  
6 engage in illegal discrimination or harassment against such person;

7 (e) notice that the caller is required to have the birth date, driv-  
8 er's license or identification number, or address or other identifying  
9 information regarding the person about whom information is sought in  
10 order to achieve a positive identification of that person; and

11 (f) a statement that the number is not a crime hotline and that any  
12 suspected criminal activity should be reported to local authorities.

13 3. Whenever there is reasonable cause to believe that any person or  
14 group of persons is engaged in a pattern or practice of misuse of the  
15 telephone number, the attorney general, any district attorney or any  
16 person aggrieved by the misuse of the number is authorized to bring a  
17 civil action in the appropriate court requesting preventive relief,  
18 including an application for a permanent or temporary injunction,  
19 restraining order or other order against the person or group of persons  
20 responsible for the pattern or practice of misuse. The foregoing reme-  
21 dies shall be independent of any other remedies or procedures that may  
22 be available to an aggrieved party under other provisions of law. Such  
23 person or group of persons shall be subject to a fine of not less than  
24 five hundred dollars and not more than one thousand dollars.

25 4. The division shall submit to the legislature an annual report on  
26 the operation of the telephone number. The annual report shall include,  
27 but not be limited to, all of the following:

28 (a) number of calls received;

29 (b) a detailed outline of the amount of money expended and the manner  
30 in which it was expended for purposes of this section;

31 (c) number of calls that resulted in an affirmative response and the  
32 number of calls that resulted in a negative response with regard to  
33 whether a named individual was listed;

34 (d) number of persons listed; and

35 (e) a summary of the success of the telephone number program based  
36 upon selected factors.

37 § 169-n. Directory; internet posting. 1. The division shall maintain a  
38 directory of domestic abuse offenders. The directory shall include the  
39 address, address of the offender's place of employment and photograph of  
40 the domestic abuse offender along with the following information, if  
41 available: name, physical description, age and distinctive markings. The  
42 directory shall have domestic abuse offender listings categorized by  
43 county and zip code. A copy of the directory shall annually be distrib-  
44 uted to the offices of local, village, town, city, county or state law  
45 enforcement agencies for purposes of public access. The division shall  
46 distribute monthly updates to the offices of local, village, town, city,  
47 county or state law enforcement agencies for purposes of public access.  
48 Such departments shall require that a person in writing provide their  
49 name and address prior to viewing the directory. The directory provided  
50 for in this section shall be updated monthly to maintain its efficiency  
51 and usefulness and shall be computer accessible. Such directory shall be  
52 made available at all times on the internet via the division homepage.

53 2. Every page of the division's website shall prominently display a  
54 link to the website of the New York state office for the prevention of  
55 domestic violence and the telephone number of the New York state domes-  
56 tic violence hotline and shall also contain a caveat informing users

1 that a person who is not on the registry may still have a history of  
2 violence or a propensity for violence and if the user suspects that a  
3 person he or she is involved with is dangerous, he or she should call  
4 the hotline.

5 3. Any person who uses information disclosed pursuant to this section  
6 in violation of the law shall in addition to any other penalty or fine  
7 imposed, be subject to a fine of not less than five hundred dollars and  
8 not more than one thousand dollars. Unauthorized removal or duplication  
9 of the directory from the offices of a local, village or city police  
10 department shall be punishable by a fine not to exceed one thousand  
11 dollars. In addition, the attorney general, any district attorney, or  
12 any person aggrieved is authorized to bring a civil action in the appro-  
13 priate court requesting preventive relief, including an application for  
14 a permanent or temporary injunction, restraining order, or other order  
15 against the person or group of persons responsible for such action. The  
16 foregoing remedies shall be independent of any other remedies or proce-  
17 dures that may be available to an aggrieved party under other provisions  
18 of law.

19 § 169-o. Immunity from liability. 1. No official, employee or agency,  
20 whether public or private, shall be subject to any civil or criminal  
21 liability for damages for any discretionary decision to release relevant  
22 and necessary information pursuant to this article, if that official,  
23 employee or agency acted reasonably and in good faith. The immunity  
24 provided under this section applies to the release of relevant informa-  
25 tion to other employees or officials or to the general public.

26 2. Nothing in this section shall be deemed to impose any civil or  
27 criminal liability upon or to give rise to a cause of action against any  
28 official, employee or agency, whether public or private, for failing to  
29 release information as authorized in this section unless it is shown  
30 that such official, employee or agency acted with gross negligence or in  
31 bad faith.

32 § 169-p. Annual report. The division shall on or before August first  
33 in each year file a report with the governor and the legislature detail-  
34 ing the program, compliance with provisions of this article and effec-  
35 tiveness of the provisions of this article, together with any recommen-  
36 dations to further enhance the intent of this article.

37 § 169-q. Failure to register; penalty. Any person required to register  
38 pursuant to the provisions of this article who fails to register in the  
39 manner and within the time periods provided for in this article shall be  
40 guilty of a class E felony for the first offense, and for a second or  
41 subsequent offense shall be guilty of a class D felony respectively in  
42 accordance with sections 195.03 and 195.04 of the penal law. Any such  
43 failure to register may also be the basis for revocation of parole  
44 pursuant to section two hundred fifty-nine-i of the executive law which  
45 shall be in addition to any other penalties provided by law.

46 § 169-r. Unauthorized release of information. The unauthorized release  
47 of any information required by this article shall be a class B misdemea-  
48 nor.

49 § 169-s. Separability. If any section of this article, or part thereof  
50 shall be adjudged by a court of competent jurisdiction to be invalid,  
51 such judgment shall not affect, impair or invalidate the remainder or  
52 any other section or part thereof.

53 § 3. The criminal procedure law is amended by adding a new section  
54 530.15 to read as follows:

55 § 530.15 Domestic abuse offender determination.

1 If in the opinion of the court the interest of justice would be  
2 served, the court may, in its discretion, find a defendant against whom  
3 an order of protection has been issued on two or more separate occasions  
4 is a "domestic abuse offender" as defined in subdivision one of section  
5 one hundred sixty-nine-a of the correction law.

6 § 4. Subdivision 1 of section 530.12 of the criminal procedure law is  
7 amended by adding a new paragraph (c) to read as follows:

8 (c) determine a defendant against whom an order of protection has been  
9 issued on two or more separate occasions to be a "domestic abuse offen-  
10 der" as defined in subdivision one of section one hundred sixty-nine-a  
11 of the correction law.

12 § 5. This act shall take effect on the one hundred eightieth day after  
13 it shall have become a law; provided, however, that section one of this  
14 act shall take effect on the first of November next succeeding the date  
15 on which it shall have become a law; and provided further, that effec-  
16 tive immediately, the addition, amendment and/or repeal of any rule or  
17 regulation necessary for the implementation of this act on its effective  
18 date are authorized to be made and completed on or before such date.