

STATE OF NEW YORK

6072

2019-2020 Regular Sessions

IN ASSEMBLY

February 26, 2019

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

AN ACT to amend the correction law, in relation to creating the drug dealer registration act

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

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

ARTICLE 6-D

DRUG DEALER REGISTRATION ACT

Section 169. Short title.

169-a. Definitions.

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

169-c. Drug dealer; relocation; notification.

169-d. Duties of the court.

169-e. Discharge of drug dealer 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. Board of examiners of drug dealers.

169-m. Review.

169-n. Judicial determination.

169-o. Petition for relief or modification.

169-p. Special telephone number.

169-q. Subdirectory; internet posting.

169-r. Immunity from liability.

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

LBD09884-01-9

1 169-s. Annual report.

2 169-t. Penalty.

3 169-u. Unauthorized release of information.

4 169-v. Prohibition of employment on motor vehicles engaged in
5 retail sales of frozen desserts.

6 169-w. Separability.

7 § 169. Short title. This article shall be known and may be cited as
8 the "Drug Dealer Registration Act".

9 § 169-a. Definitions. As used in this article, the following defi-
10 nitions apply:

11 1. "Drug dealer" includes any person who is convicted of any of the
12 offenses set forth in subdivision two of this section. Convictions that
13 result from or are connected with the same act, or result from offenses
14 committed at the same time, shall be counted for the purpose of this
15 article as one conviction. Any conviction set aside pursuant to law is
16 not a conviction for purposes of this article.

17 2. "Drug offense" means a conviction of or a conviction for an attempt
18 to commit any of the provisions of section 220.31, 220.34, 220.39,
19 220.41, 220.43, 220.44, 220.48, 220.65, 220.73, 220.74, 220.75 or 220.77
20 of article two hundred twenty of the penal law or section 221.35,
21 221.40, 221.45, 221.50 or 221.55 of article two hundred twenty-one of
22 the penal law.

23 3. "Law enforcement agency having jurisdiction" means: (a) (i) the
24 chief law enforcement officer in the village, town or city in which the
25 dealer expects to reside upon his or her discharge, probation, parole,
26 release to post-release supervision or upon any form of state or local
27 conditional release; or (ii) if there be no chief law enforcement offi-
28 cer in such village, town or city, the chief law enforcement officer of
29 the county in which the dealer expects to reside; or (iii) if there be
30 no chief enforcement officer in such village, town, city or county, the
31 division of state police and (b) in the case of a drug dealer who is or
32 expects to be employed by, enrolled in, attending or employed, whether
33 for compensation or not, at an institution of higher education, (i) the
34 chief law enforcement officer in the village, town or city in which such
35 institution is located; or (ii) if there be no chief law enforcement
36 officer in such village, town or city, the chief law enforcement officer
37 of the county in which such institution is located; or (iii) if there be
38 no chief law enforcement officer in such village, town, city or county,
39 the division of state police; and (iv) if such institution operates or
40 employs a campus law enforcement or security agency, the chief of such
41 agency and (c) in the case of a drug dealer who expects to reside within
42 a state park or on other land under the jurisdiction of the office of
43 parks, recreation and historic preservation, the state regional park
44 police.

45 4. "Division" means the division of criminal justice services as
46 defined by section eight hundred thirty-seven of the executive law.

47 5. "Board" means the "board of examiners of drug dealers" established
48 pursuant to section one hundred sixty-nine-1 of this article.

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

52 § 169-b. Duties of the division; registration information. 1. The
53 division shall establish and maintain a file of individuals required to
54 register pursuant to the provisions of this article which shall include
55 the following information of each registrant:

1 (a) The drug dealer's name, all aliases used, date of birth, sex,
2 race, height, weight, eye color, driver's license number, home address
3 and/or expected place of domicile.

4 (b) A photograph and set of fingerprints. For a drug dealer given a
5 level three designation, the division shall, during the period of regis-
6 tration, update such photograph once each year. For a drug dealer given
7 a level one or level two designation, the division shall, during the
8 period of registration, update such photograph once every three years.
9 The division shall notify the drug dealer by mail of the duty to appear
10 and be photographed at the specified law enforcement agency having
11 jurisdiction. Such notification shall be mailed at least thirty days and
12 not more than sixty days before the photograph is required to be taken
13 pursuant to subdivision two of section one hundred sixty-nine-f of this
14 article.

15 (c) A description of the offense for which the drug dealer was
16 convicted, the date of conviction and the sentence imposed including the
17 type of assigned supervision and the length of time of such supervision.

18 (d) The name and address of any institution of higher education at
19 which the drug dealer is or expects to be enrolled, attending or
20 employed, whether for compensation or not, and whether such dealer
21 resides in or will reside in a facility owned or operated by such insti-
22 tution.

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

24 2. (a) The division is authorized to make the registry available to
25 any regional or national registry of drug dealers for the purpose of
26 sharing information. The division shall accept files from any regional
27 or national registry of drug dealers and shall make such files available
28 when requested pursuant to the provisions of this article.

29 (b) The division shall also make registry information available to:
30 (i) the department of health, to enable such department to identify
31 persons ineligible to receive reimbursement or coverage for drugs,
32 procedures or supplies pursuant to subdivision seven of section twenty-
33 five hundred ten of the public health law, paragraph (e) of subdivision
34 four of section three hundred sixty-five-a of the social services law,
35 and subdivision one of section two hundred forty-one of the elder law;
36 (ii) the department of financial services to enable such department to
37 identify persons ineligible to receive reimbursement or coverage for
38 drugs, procedures or supplies pursuant to subsection (b-1) of section
39 four thousand three hundred twenty-two and subsection (d-1) of section
40 four thousand three hundred twenty-six of the insurance law; and (iii) a
41 court, to enable the court to promptly comply with the provisions of
42 paragraph (a-1) of subdivision one of section two hundred forty of the
43 domestic relations law, subdivision (e) of section six hundred fifty-one
44 of the family court act, and subdivision (g) of section 81.19 of the
45 mental hygiene law.

46 (c) No official, agency, authorized person or entity, whether public
47 or private, shall be subject to any civil or criminal liability for
48 damages for any decision or action made in the ordinary course of busi-
49 ness of that official, agency, authorized person or entity pursuant to
50 paragraph (b) of this subdivision, provided that such official, agency,
51 authorized person or entity acted reasonably and in good faith with
52 respect to such registry information.

53 (d) The division shall require that no information included in the
54 registry shall be made available except in the furtherance of the
55 provisions of this article.

1 3. The division shall develop a standardized registration form to be
2 made available to the appropriate authorities and promulgate rules and
3 regulations to implement the provisions of this section. Such form shall
4 be written in clear and concise language and shall advise the drug dealer
5 of his or her duties and obligations under this article.

6 4. The division shall mail a nonforwardable verification form to the
7 last reported address of the person for annual verification require-
8 ments.

9 5. The division shall also establish and operate a telephone number as
10 provided for in section one hundred sixty-nine-p of this article.

11 6. The division shall also establish a subdirectory pursuant to
12 section one hundred sixty-nine-q of this article.

13 7. The division shall also establish a public awareness campaign to
14 advise the public of the provisions of this article.

15 8. The division shall charge a fee of ten dollars each time a drug
16 dealer registers any change of address or any change of his or her
17 status of enrollment, attendance, employment or residence at any insti-
18 tution of higher education as required by subdivision four of section
19 one hundred sixty-nine-f of this article. The fee shall be paid to the
20 division by the drug dealer. The state comptroller is hereby authorized
21 to deposit such fees into the general fund.

22 9. The division shall, upon the request of any children's camp opera-
23 tor, release to such person any information in the registry relating to
24 a prospective employee of any such person or entity in accordance with
25 the provisions of this article. The division shall promulgate rules and
26 regulations relating to procedures for the release of information in the
27 registry to such persons.

28 10. The division shall make registry information available to municip-
29 al housing authorities to enable such authorities to identify persons
30 ineligible to reside in public housing. The division shall, at least
31 monthly, release to each municipal housing authority information about
32 drug dealers with a home address and/or expected place of domicile with-
33 in the corresponding municipality. The division may promulgate rules and
34 regulations relating to procedures for the release of information in the
35 registry to such authorities.

36 § 169-c. Drug dealer; relocation; notification. 1. In the case of any
37 drug dealer, it shall be the duty of the department, hospital or local
38 correctional facility at least ten calendar days prior to the release or
39 discharge of any drug dealer from a correctional facility, hospital or
40 local correctional facility to notify the division of the contemplated
41 release or discharge of such drug dealer, informing the division in
42 writing on a form provided by the division indicating the address at
43 which he or she proposes to reside and the name and address of any
44 institution of higher education at which he or she expects to be
45 enrolled, attending or employed, whether for compensation or not, and
46 whether he or she resides in or will reside in a facility owned or oper-
47 ated by such institution. If such drug dealer changes his or her place
48 of residence while on parole, such notification of the change of resi-
49 dence shall be sent by the drug dealer's parole officer within forty-
50 eight hours to the division on a form provided by the division. If such
51 drug dealer changes the status of his or her enrollment, attendance,
52 employment or residence at any institution of higher education while on
53 parole, such notification of the change of status shall be sent by the
54 drug dealer's parole officer within forty-eight hours to the division on
55 a form provided by the division.

2. In the case of any drug dealer on probation, it shall be the duty of the drug dealer's probation officer to notify the division within forty-eight hours of the new place of residence on a form provided by the division. If such drug dealer changes the status of his or her enrollment, attendance, employment or residence at any institution of higher education while on probation, such notification of the change of status shall be sent by the drug dealer's probation officer within forty-eight hours to the division on a form provided by the division.

3. In the case in which any drug dealer escapes from a state or local correctional facility or hospital, the designated official of the facility or hospital where the person was confined shall notify within twenty-four hours the law enforcement agency having had jurisdiction at the time of his or her conviction, informing such law enforcement agency of the name and aliases of the person, and the address at which he or she resided at the time of his or her conviction, the amount of time remaining to be served, if any, on the full term for which he or she was sentenced, and the nature of the crime for which he or she was sentenced, transmitting at the same time a copy of such drug dealer's fingerprints and photograph and a summary of his or her criminal record.

4. The division shall provide general information, in registration materials and annual correspondence, to registrants concerning notification and registration procedures that may apply if the registrant is authorized to relocate and relocates to another state or United States possession, or commences employment or attendance at an education institution in another state or United States possession. Such information shall include addresses and telephone numbers for relevant agencies from which additional information may be obtained.

§ 169-d. Duties of the court. 1. Upon conviction of any of the offenses set forth in subdivision two of section one hundred sixty-nine-a of this article the court shall certify that the person is a drug dealer and shall include the certification in the order of commitment, if any, and judgment of conviction. The court shall also advise the drug dealer of his or her duties under this article. Failure to include the certification in the order of commitment or the judgment of conviction shall not relieve a drug dealer of the obligations imposed by this article.

2. Any drug dealer, who is released on probation or discharged upon payment of a fine, conditional discharge or unconditional discharge shall, prior to such release or discharge, be informed of his or her duty to register under this article by the court in which he or she was convicted. At the time sentence is imposed, such drug dealer shall register with the division on a form prepared by the division. The court shall require the drug dealer to read and sign such form and to complete the registration portion of such form. The court shall on such form obtain the address where the drug dealer expects to reside upon his or her release, and the name and address of any institution of higher education he or she expects to be employed by, enrolled in, attending or employed. The court shall give one copy of the form to the drug dealer and shall send two copies to the division which shall forward the information to the law enforcement agencies having jurisdiction. The court shall also notify the district attorney and the drug dealer of the date of the determination proceeding to be held pursuant to subdivision three of this section, which shall be held at least forty-five days after such notice is given. This notice shall include the following statement or a substantially similar statement: "This proceeding is being held to determine whether you will be classified as a level 3 dealer (risk of

repeat offense is high), a level 2 dealer (risk of repeat offense is moderate), or a level 1 dealer (risk of repeat offense is low), which will determine how long you must register as a drug dealer and how much information can be provided to the public concerning your registration. If you fail to appear at this proceeding, without sufficient excuse, it shall be held in your absence. Failure to appear may result in a longer period of registration or a higher level of community notification because you are not present to offer evidence or contest evidence offered by the district attorney." The court shall also advise the drug dealer that he or she has a right to a hearing prior to the court's determination, that he or she has the right to be represented by counsel at the hearing and that counsel will be appointed if he or she is financially unable to retain counsel. If the drug dealer applies for assignment of counsel to represent him or her at the hearing and counsel was not previously assigned to represent the drug dealer in the underlying criminal action, the court shall determine whether the dealer is financially unable to retain counsel. If such a finding is made, the court shall assign counsel to represent the drug dealer pursuant to article eighteen-B of the county law. Where the court orders a drug dealer released on probation, such order must include a provision requiring that he or she comply with the requirements of this article. Where such drug dealer violates such provision, probation may be immediately revoked in the manner provided by article four hundred ten of the criminal procedure law.

3. For drug dealers released on probation or discharged upon payment of a fine, conditional discharge or unconditional discharge, it shall be the duty of the court applying the guidelines established in subdivision five of section one hundred sixty-nine-1 of this article to determine the level of notification pursuant to subdivision six of section one hundred sixty-nine-1 of this article. At least fifteen days prior to the determination proceeding, the district attorney shall provide to the court and the drug dealer a written statement setting forth the determinations sought by the district attorney together with the reasons for seeking such determinations. The court shall allow the drug dealer to appear and be heard. The state shall appear by the district attorney, or his or her designee, who shall bear the burden of proving the facts supporting the determinations sought by clear and convincing evidence. Where there is a dispute between the parties concerning the determinations, the court shall adjourn the hearing as necessary to permit the drug dealer or the district attorney to obtain materials relevant to the determinations from any state or local facility, hospital, institution, office, agency, department or division. Such materials may be obtained by subpoena if not voluntarily provided to the requesting party. In making the determinations, the court shall review any victim's statement and any relevant materials and evidence submitted by the drug dealer and the district attorney and the court may consider reliable hearsay evidence submitted by either party provided that it is relevant to the determinations. Facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be re-litigated. The court shall render an order setting forth its determinations and the findings of fact and conclusions of law on which the determinations are based. A copy of the order shall be submitted by the court to the division. Upon application of either party, the court shall seal any portion of the court file or record which contains material that is confidential under any state or federal statute. Either party may appeal as of right from

1 the order pursuant to the provisions of articles fifty-five, fifty-six
2 and fifty-seven of the civil practice law and rules. Where counsel has
3 been assigned to represent the drug dealer upon the ground that the drug
4 dealer is financially unable to retain counsel, that assignment shall be
5 continued throughout the pendency of the appeal, and the person may
6 appeal as a poor person pursuant to article eighteen-B of the county
7 law.

8 4. If a drug dealer, having been given notice, including the time and
9 place of the determination proceeding in accordance with this section,
10 fails to appear at this proceeding, without sufficient excuse, the court
11 shall conduct the hearing and make the determinations in the manner set
12 forth in subdivision three of this section.

13 § 169-e. Discharge of drug dealer from correctional facility; duties
14 of official in charge. 1. Any drug dealer, to be discharged, paroled,
15 released to post-release supervision or released from any state or local
16 correctional facility, hospital or institution where he or she was
17 confined or committed, shall at least fifteen calendar days prior to
18 discharge, parole or release, be informed of his or her duty to register
19 under this article, by the facility in which he or she was confined or
20 committed. The facility shall require the drug dealer to read and sign
21 such form as may be required by the division stating the duty to regis-
22 ter and the procedure for registration has been explained to him or her
23 and to complete the registration portion of such form. The facility
24 shall obtain on such form the address where the drug dealer expects to
25 reside upon his or her discharge, parole or release and the name and
26 address of any institution of higher education he or she expects to be
27 employed by, enrolled in, attending or employed, whether for compen-
28 sation or not. The facility shall give one copy of the form to the drug
29 dealer, retain one copy and shall send one copy to the division which
30 shall provide the information to the law enforcement agencies having
31 jurisdiction. The facility shall give the drug dealer a form prepared by
32 the division, to register with the division at least fifteen calendar
33 days prior to release and such form shall be completed, signed by the
34 drug dealer and sent to the division by the facility at least ten days
35 prior to the drug dealer's release or discharge.

36 2. The division shall also immediately transmit the conviction data
37 and fingerprints to the Federal Bureau of Investigation if not already
38 obtained.

39 § 169-f. Duty to register and to verify. 1. Any drug dealer shall, (a)
40 at least ten calendar days prior to discharge, parole, release to post-
41 release supervision or release from any state or local correctional
42 facility, hospital or institution where he or she was confined or
43 committed, or, (b) at the time sentence is imposed for any drug dealer
44 released on probation or discharged upon payment of a fine, conditional
45 discharge or unconditional discharge, register with the division on a
46 form prepared by the division.

47 2. For a drug dealer required to register under this article on each
48 anniversary of the drug dealer's initial registration date during the
49 period in which he or she is required to register under this section the
50 following applies:

51 (a) The drug dealer shall mail the verification form to the division
52 within ten calendar days after receipt of the form.

53 (b) The verification form shall be signed by the drug dealer, and
54 state that he or she still resides at the address last reported to the
55 division.

1 (c) If the drug dealer has been given a level two or three designation, such dealer shall sign the verification form, and state that he
2 or she still is employed at the address last reported to the division.

3
4 (d) If the drug dealer has been given a level three designation, he or
5 she shall personally appear at the law enforcement agency having juris-
6 isdiction within twenty days of the first anniversary of the drug dealer's
7 initial registration and every year thereafter during the period of
8 registration for the purpose of providing a current photograph of such
9 dealer. The law enforcement agency having jurisdiction shall photograph
10 the drug dealer and shall promptly forward a copy of such photograph to
11 the division. For purposes of this paragraph, if such drug dealer is
12 confined in a state or local correctional facility, the local law
13 enforcement agency having jurisdiction shall be the warden, superinten-
14 dent, sheriff or other person in charge of the state or local correc-
15 tional facility.

16 (e) If the drug dealer has been given a level one or level two designation, he or she shall personally appear at the law enforcement agency
17 having jurisdiction within twenty days of the third anniversary of the
18 drug dealer's initial registration and every three years thereafter
19 during the period of registration for the purpose of providing a current
20 photograph of such dealer. The law enforcement agency having jurisdic-
21 tion shall photograph the drug dealer and shall promptly forward a copy
22 of such photograph to the division. For purposes of this paragraph, if
23 such drug dealer is confined in a state or local correctional facility,
24 the local law enforcement agency having jurisdiction shall be the ward-
25 en, superintendent, sheriff or other person in charge of the state or
26 local correctional facility.

27
28 (f) If the drug dealer fails to mail the signed verification form to
29 the division within ten calendar days after receipt of the form, he or
30 she shall be in violation of this section unless he or she proves that
31 he or she has not changed his or her residence address.

32 (g) If the drug dealer, to whom a notice has been mailed at the last
33 reported address pursuant to paragraph (b) of subdivision one of section
34 one hundred sixty-nine-b of this article, fails to personally appear at
35 the law enforcement agency having jurisdiction, as provided in paragraph
36 (d) or (e) of this subdivision, within twenty days of the anniversary of
37 the drug dealer's initial registration, or an alternate later date sche-
38 duled by the law enforcement agency having jurisdiction, he or she shall
39 be in violation of this section. The duty to personally appear for such
40 updated photograph shall be temporarily suspended during any period in
41 which the drug dealer is confined in any hospital or institution, and
42 such drug dealer shall personally appear for such updated photograph no
43 later than ninety days after release from such hospital or institution,
44 or an alternate later date scheduled by the law enforcement agency
45 having jurisdiction.

46 3. The duty to register under the provisions of this article shall not
47 be applicable to any drug dealer whose conviction was reversed upon
48 appeal or who was pardoned by the governor.

49 4. Any drug dealer shall register with the division no later than ten
50 calendar days after any change of address, or any change of his or her
51 status of enrollment, attendance, employment or residence at any insti-
52 tution of higher education. A fee of ten dollars, as authorized by
53 subdivision eight of section one hundred sixty-nine-b of this article,
54 shall be submitted by the drug dealer each time such dealer registers
55 any change of address or any change of his or her status of enrollment,
56 attendance, employment or residence at any institution of higher educa-

tion. Any failure or omission to submit the required fee shall not affect the acceptance by the division of the change of address or change of status.

§ 169-g. Prior convictions; duty to inform and register. 1. The department or office of probation and correctional alternatives in accordance with risk factors pursuant to section one hundred sixty-nine-1 of this article shall determine the duration of registration and notification for every drug dealer who on the effective date of this article is then on community supervision or probation for an offense provided for in subdivision two of section one hundred sixty-nine-a of this article.

2. Every drug dealer who on the effective date of this article is then on community supervision or probation for an offense provided for in subdivision two of section one hundred sixty-nine-a of this article shall within ten calendar days of such determination register with his parole or probation officer. On each anniversary of the drug dealer's initial registration date thereafter, the provisions of section one hundred sixty-nine-f of this article shall apply. Any drug dealer who fails or refuses to so comply shall be subject to the same penalties as otherwise provided for in this article which would be imposed upon a drug dealer who fails or refuses to so comply with the provisions of this article on or after such effective date.

3. It shall be the duty of the parole or probation officer to inform and register such drug dealer according to the requirements imposed by this article. A parole or probation officer shall give one copy of the form to the drug dealer and shall, within three calendar days, send two copies electronically or otherwise to the department which shall forward one copy electronically or otherwise to the law enforcement agency having jurisdiction where the drug dealer resides upon his or her community supervision, probation, or local conditional release.

4. A petition for relief from this section is permitted to any drug dealer required to register while released to community supervision or probation pursuant to section one hundred sixty-nine-o of this article.

§ 169-h. Duration of registration and verification. 1. The duration of registration and verification for a drug dealer shall be annually for a period of twenty years from the initial date of registration.

2. Any drug dealer having been designated a level three risk shall also personally verify his or her address every ninety calendar days with the local law enforcement agency having jurisdiction where the dealer resides.

§ 169-i. Registration and verification requirements. Registration and verification as required by this article shall consist of a statement in writing signed by the drug dealer giving the information that is required by the division and the division shall enter the information into an appropriate electronic data base or file.

§ 169-j. Notification of local law enforcement agencies of change of address. 1. Upon receipt of a change of address by a drug dealer required to register under this article, the division shall notify the local law enforcement agency having jurisdiction of the new place of residence and the local law enforcement agency where the drug dealer last resided of the new place of residence.

2. Upon receipt of change of address information, the local law enforcement agency having jurisdiction of the new place of residence shall adhere to the notification provisions set forth in subdivision six of section one hundred sixty-nine-1 of this article.

1 3. The division shall, if the drug dealer changes residence to another
2 state, notify the appropriate agency within that state of the new place
3 of residence.

4 4. Upon receipt of a change in the status of the enrollment, attend-
5 ance, employment or residence at an institution of higher education by a
6 drug dealer required to register under this article, the division shall
7 notify each law enforcement agency having jurisdiction which is affected
8 by such change.

9 5. Upon receipt of change in the status of the enrollment, attendance,
10 employment or residence at an institution of higher education by a drug
11 dealer required to register under this article, each law enforcement
12 agency having jurisdiction shall adhere to the notification provisions
13 set forth in subdivision six of section one hundred sixty-nine-1 of this
14 article.

15 § 169-k. Registration for change of address from another state. 1. A
16 drug dealer who has been convicted of an offense under subdivision two
17 of section one hundred sixty-nine-a of this article and requires regis-
18 tration shall notify the division of the new address no later than ten
19 calendar days after such drug dealer establishes residence in this
20 state.

21 2. The division shall advise the board that the drug dealer has estab-
22 lished residence in this state. The board shall determine whether the
23 drug dealer is required to register with the division. If it is deter-
24 mined that the drug dealer is required to register, the division shall
25 notify the drug dealer of his or her duty to register under this article
26 and shall require the drug dealer to sign a form as may be required by
27 the division acknowledging that the duty to register and the procedure
28 for registration has been explained to the drug dealer. The division
29 shall obtain on such form the address where the drug dealer expects to
30 reside within the state and the drug dealer shall retain one copy of the
31 form and send two copies to the division which shall provide the infor-
32 mation to the law enforcement agency having jurisdiction where the drug
33 dealer expects to reside within this state. No later than thirty days
34 prior to the board making a recommendation, the drug dealer shall be
35 notified that his or her case is under review and that he or she is
36 permitted to submit to the board any information relevant to the review.
37 After reviewing any information obtained, and applying the guidelines
38 established in subdivision five of section one hundred sixty-nine-1 of
39 this article, the board shall within sixty calendar days make a recom-
40 mendation regarding the level of notification pursuant to subdivision
41 six of section one hundred sixty-nine-1 of this article. This recommen-
42 dation shall be confidential and shall not be available for public
43 inspection. It shall be submitted by the board to the county court or
44 supreme court and to the district attorney in the county of residence of
45 the drug dealer and to the drug dealer. It shall be the duty of the
46 county court or supreme court in the county of residence of the drug
47 dealer, applying the guidelines established in subdivision five of
48 section one hundred sixty-nine-1 of this article, to determine the level
49 of notification pursuant to subdivision six of section one hundred
50 sixty-nine-1 of this article. At least thirty days prior to the determi-
51 nation proceeding, such court shall notify the district attorney and the
52 drug dealer, in writing, of the date of the determination proceeding and
53 the court shall also provide the district attorney and drug dealer with
54 a copy of the recommendation received from the board and any statement
55 of the reasons for the recommendation received from the board. This
56 notice shall include the following statement or a substantially similar

1 statement: "This proceeding is being held to determine whether you will
2 be classified as a level 3 dealer (risk of repeat offense is high), a
3 level 2 dealer (risk of repeat offense is moderate), or a level 1 dealer
4 (risk of repeat offense is low), which will determine how long you must
5 register as a drug dealer and how much information can be provided to
6 the public concerning your registration. If you fail to appear at this
7 proceeding, without sufficient excuse, it shall be held in your absence.
8 Failure to appear may result in a longer period of registration or a
9 higher level of community notification because you are not present to
10 offer evidence or contest evidence offered by the district attorney."
11 The court shall also advise the drug dealer that he or she has a right
12 to a hearing prior to the court's determination, that he or she has the
13 right to be represented by counsel at the hearing and that counsel will
14 be appointed if he or she is financially unable to retain counsel. A
15 returnable form shall be enclosed in the court's notice to the drug
16 dealer on which the drug dealer may apply for assignment of counsel. If
17 the drug dealer applies for assignment of counsel and the court finds
18 that the dealer is financially unable to retain counsel, the court shall
19 assign counsel to represent the drug dealer pursuant to article eigh-
20 teen-B of the county law. If the district attorney seeks a determination
21 that differs from the recommendation submitted by the board, at least
22 ten days prior to the determination proceeding the district attorney
23 shall provide to the court and the drug dealer a statement setting forth
24 the determinations sought by the district attorney together with the
25 reasons for seeking such determinations. The court shall allow the drug
26 dealer to appear and be heard. The state shall appear by the district
27 attorney, or his or her designee, who shall bear the burden of proving
28 the facts supporting the determinations sought by clear and convincing
29 evidence. It shall be the duty of the court applying the guidelines
30 established in subdivision five of section one hundred sixty-nine-1 of
31 this article to determine the level of notification pursuant to subdivi-
32 sion six of section one hundred sixty-nine-1 of this article. Where
33 there is a dispute between the parties concerning the determinations,
34 the court shall adjourn the hearing as necessary to permit the drug
35 dealer or the district attorney to obtain materials relevant to the
36 determinations from the state board of examiners of drug dealers or any
37 state or local facility, hospital, institution, office, agency, depart-
38 ment or division. Such materials may be obtained by subpoena if not
39 voluntarily provided to the requesting party. In making the determi-
40 nations the court shall review any relevant materials and evidence
41 submitted by the drug dealer and the district attorney and the recommen-
42 dation and any material submitted by the board, and may consider reli-
43 able hearsay evidence submitted by either party, provided that it is
44 relevant to the determinations. If available, facts proven at trial or
45 elicited at the time of a plea of guilty shall be deemed established by
46 clear and convincing evidence and shall not be re-litigated. The court
47 shall render an order setting forth its determinations and the findings
48 of fact and conclusions of law on which the determinations are based. A
49 copy of the order shall be submitted by the court to the division. Upon
50 application of either party, the court shall seal any portion of the
51 court file or record which contains material that is confidential under
52 any state or federal statute. Either party may appeal as of right from
53 the order pursuant to the provisions of articles fifty-five, fifty-six
54 and fifty-seven of the civil practice law and rules. Where counsel has
55 been assigned to represent the drug dealer upon the ground that the drug
56 dealer is financially unable to retain counsel, that assignment shall be

1 continued throughout the pendency of the appeal, and the person may
2 appeal as a poor person pursuant to article eighteen-B of the county
3 law.

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

14 4. If a drug dealer, having been given notice, including the time and
15 place of the determination proceeding in accordance with this section,
16 fails to appear at this proceeding, without sufficient excuse, the court
17 shall conduct the hearing and make the determinations in the manner set
18 forth in subdivision two of this section.

19 § 169-1. Board of examiners of drug dealers. 1. There shall be a board
20 of examiners of drug dealers which shall possess the powers and duties
21 hereinafter specified. Such board shall consist of five members
22 appointed by the governor. All members shall be employees of the depart-
23 ment and shall be experts in the field of the behavior and treatment of
24 drug dealers. The term of office of each member of such board shall be
25 for six years; provided, however, that any member chosen to fill a
26 vacancy occurring otherwise than by expiration of term shall be
27 appointed for the remainder of the unexpired term of the member whom he
28 or she is to succeed. In the event of the inability to act of any
29 member, the governor may appoint some competent informed person to act
30 in his or her stead during the continuance of such disability.

31 2. The governor shall designate one of the members of the board as
32 chairman to serve in such capacity at the pleasure of the governor or
33 until the member's term of office expires and a successor is designated
34 in accordance with law, whichever first occurs.

35 3. Any member of the board may be removed by the governor for cause
36 after an opportunity to be heard.

37 4. Except as otherwise provided by law, a majority of the board shall
38 constitute a quorum for the transaction of all business of the board.

39 5. The board shall develop guidelines and procedures to assess the
40 risk of a repeat offense by such drug dealer and the threat posed to the
41 public safety. Such guidelines shall be based upon, but not limited to,
42 the following:

43 (a) criminal history factors indicative of high risk of repeat
44 offense, including:

45 (i) whether the drug dealer served the maximum term;

46 (ii) whether the drug dealer sold drugs to a minor;

47 (iii) the amount of drugs sold; and

48 (iv) the age of the drug dealer at the time of the commission of the
49 first drug sale;

50 (b) other criminal history factors to be considered in determining
51 risk, including the number, date and nature of prior offenses;

52 (c) conditions of release that minimize risk of re-offense, including
53 but not limited to whether the drug dealer is under supervision or
54 residing in a home situation that provides guidance and supervision; and

55 (d) recent behavior, including behavior while confined.

1 6. The guidelines shall be applied by the board to make a recommenda-
2 tion to the sentencing court which shall be confidential and shall not
3 be available for public inspection, providing for one of the following
4 three levels of notification depending upon the degree of the risk of
5 re-offense by the drug dealer.

6 (a) If the risk of repeat offense is low, a level one designation
7 shall be given to such drug dealer. In such case the law enforcement
8 agency or agencies having jurisdiction and the law enforcement agency or
9 agencies having had jurisdiction at the time of his or her conviction
10 shall be notified and may disseminate relevant information which may
11 include a photograph and description of the dealer and which may include
12 the name of the drug dealer, approximate address based on the drug deal-
13 er's zip code, background information including the dealer's crime of
14 conviction, modus of operation, and the name and address of any institu-
15 tion of higher education at which the drug dealer is enrolled, attends,
16 is employed or resides.

17 (b) If the risk of repeat offense is moderate, a level two designation
18 shall be given to such drug dealer. In such case the law enforcement
19 agency or agencies having jurisdiction and the law enforcement agency or
20 agencies having had jurisdiction at the time of his or her conviction
21 shall be notified and may disseminate relevant information which shall
22 include a photograph and description of the dealer and which may include
23 the exact name and any aliases used by the drug dealer, exact address,
24 background information including the dealer's crime of conviction, mode
25 of operation, and the name and address of any institution of higher
26 education at which the drug dealer is enrolled, attends, is employed or
27 resides.

28 (c) If the risk of repeat offense is high and there exists a threat to
29 the public safety a level three designation shall be given to such drug
30 dealer. In such case, the law enforcement agency or agencies having
31 jurisdiction and the law enforcement agency or agencies having had
32 jurisdiction at the time of his or her conviction shall be notified and
33 may disseminate relevant information which shall include a photograph
34 and description of the dealer and which may include the drug dealer's
35 exact name and any aliases used by the dealer, exact address, address of
36 the dealer's place of employment, background information including the
37 dealer's crime of conviction, mode of operation, and the name and
38 address of any institution of higher education at which the drug dealer
39 is enrolled, attends, is employed or resides.

40 7. Upon request by the court, pursuant to section one hundred sixty-
41 nine-o of this article, the board shall provide an updated report
42 pertaining to the drug dealer petitioning for relief of the duty to
43 register or for a modification of his or her level of notification.

44 8. A failure by a state or local agency or the board to act or by a
45 court to render a determination within the time period specified in this
46 article shall not affect the obligation of the drug dealer to register
47 or verify under this article nor shall such failure prevent a court from
48 making a determination regarding the drug dealer's level of notification
49 and whether such dealer is required by law to be registered for a period
50 of twenty years or for life. Where a court is unable to make a determi-
51 nation prior to the date scheduled for a drug dealer's discharge,
52 parole, release to post-release supervision or release, it shall adjourn
53 the hearing until after the dealer is discharged, paroled, released to
54 post-release supervision or released, and shall then expeditiously
55 complete the hearing and issue its determination.

1 § 169-m. Review. Notwithstanding any other provision of law to the
2 contrary, any state or local correctional facility, hospital or institu-
3 tion, district attorney, law enforcement agency, probation department,
4 state board of parole, court or child protective agency shall forward
5 relevant information pertaining to a drug dealer to be discharged,
6 paroled, released to post-release supervision or released to the board
7 for review no later than one hundred twenty days prior to the release or
8 discharge and the board shall make recommendations as provided in subdivi-
9 sion six of section one hundred sixty-nine-1 of this article within
10 sixty days of receipt of the information. Information may include, but
11 may not be limited to all or a portion of the arrest file, prosecutor's
12 file, probation or parole file, child protective file, court file,
13 commitment file, medical file and treatment file pertaining to such
14 person. Such person shall be permitted to submit to the board any infor-
15 mation relevant to the review. Upon application of the drug dealer or
16 the district attorney, the court shall seal any portion of the board's
17 file pertaining to the drug dealer that contains material that is confi-
18 dential under any state or federal law; provided, however, that in any
19 subsequent proceedings in which the drug dealer who is the subject of
20 the sealed record is a party and which requires the board to provide a
21 recommendation to the court pursuant to this article, such sealed record
22 shall be available to the drug dealer, the district attorney, the court
23 and the attorney general where the attorney general is a party, or
24 represents a party, in the proceeding.

25 § 169-n. Judicial determination. 1. Applying the guidelines estab-
26 lished in subdivision five of section one hundred sixty-nine-1 of this
27 article, the sentencing court shall make a determination with respect to
28 the level of notification, after receiving a recommendation from the
29 board pursuant to section one hundred sixty-nine-1 of this article.
30 Both determinations of the sentencing court shall be made thirty calen-
31 dar days prior to discharge, parole or release.

32 2. No later than thirty days prior to the board's recommendation, the
33 drug dealer shall be notified that his or her case is under review and
34 that he or she is permitted to submit to the board any information rele-
35 vant to the review. Upon receipt of the board's recommendation, the
36 sentencing court shall determine whether the drug dealer was previously
37 found to be eligible for assigned counsel in the underlying case. Where
38 such a finding was previously made, the court shall assign counsel to
39 represent the dealer, pursuant to article eighteen-B of the county law.
40 At least twenty days prior to the determination proceeding, the sentenc-
41 ing court shall notify the district attorney, the drug dealer and the
42 drug dealer's counsel, in writing, of the date of the determination
43 proceeding and shall also provide the district attorney, the drug dealer
44 and the drug dealer's counsel with a copy of the recommendation received
45 from the board and any statement of the reasons for the recommendation
46 received from the board. This notice shall include the following state-
47 ment or a substantially similar statement: "This proceeding is being
48 held to determine whether you will be classified as a level 3 dealer
49 (risk of repeat offense is high), a level 2 dealer (risk of repeat
50 offense is moderate), or a level 1 dealer (risk of repeat offense is
51 low), which will determine how long you must register as a drug dealer
52 and how much information can be provided to the public concerning your
53 registration. If you fail to appear at this proceeding, without suffi-
54 cient excuse, it shall be held in your absence. Failure to appear may
55 result in a longer period of registration or a higher level of community
56 notification because you are not present to offer evidence or contest

1 evidence offered by the district attorney." The written notice to the
2 drug dealer shall also advise the dealer that he or she has a right to a
3 hearing prior to the court's determination, and that he or she has the
4 right to be represented by counsel at the hearing. If counsel has been
5 assigned to represent the dealer at the determination proceeding, the
6 notice shall also provide the name, address and telephone number of the
7 assigned counsel. Where counsel has not been assigned, the notice shall
8 advise the drug dealer that counsel will be appointed if he or she is
9 financially unable to retain counsel, and a returnable form shall be
10 enclosed in the court's notice to the drug dealer on which the drug
11 dealer may apply for assignment of counsel. If the drug dealer applies
12 for assignment of counsel and the court finds that the dealer is finan-
13 cially unable to retain counsel, the court shall assign counsel to
14 represent the drug dealer pursuant to article eighteen-B of the county
15 law. If the district attorney seeks a determination that differs from
16 the recommendation submitted by the board, at least ten days prior to
17 the determination proceeding the district attorney shall provide to the
18 court and the drug dealer a statement setting forth the determinations
19 sought by the district attorney together with the reasons for seeking
20 such determinations. The court shall allow the drug dealer to appear and
21 be heard. The state shall appear by the district attorney, or his or her
22 designee, who shall bear the burden of proving the facts supporting the
23 determinations sought by clear and convincing evidence. Where there is a
24 dispute between the parties concerning the determinations, the court
25 shall adjourn the hearing as necessary to permit the drug dealer or the
26 district attorney to obtain materials relevant to the determinations
27 from the state board of examiners of drug dealers or any state or local
28 facility, hospital, institution, office, agency, department or division.
29 Such materials may be obtained by subpoena if not voluntarily provided
30 to the requesting party. In making the determinations the court shall
31 review any relevant materials and evidence submitted by the drug dealer
32 and the district attorney and the recommendation and any materials
33 submitted by the board, and may consider reliable hearsay evidence
34 submitted by either party, provided that it is relevant to the determi-
35 nations. Facts previously proven at trial or elicited at the time of
36 entry of a plea of guilty shall be deemed established by clear and
37 convincing evidence and shall not be relitigated. The court shall render
38 an order setting forth its determinations and the findings of fact and
39 conclusions of law on which the determinations are based. A copy of the
40 order shall be submitted by the court to the division. Upon application
41 of either party, the court shall seal any portion of the court file or
42 record which contains material that is confidential under any state or
43 federal statute. Either party may appeal as of right from the order
44 pursuant to the provisions of articles fifty-five, fifty-six and fifty-
45 seven of the civil practice law and rules. Where counsel has been
46 assigned to represent the drug dealer upon the ground that the drug
47 dealer is financially unable to retain counsel, that assignment shall be
48 continued throughout the pendency of the appeal, and the person may
49 appeal as a poor person pursuant to article eighteen-B of the county
50 law.

51 3. Upon determination that the risk of repeat offense and threat to
52 public safety is high, the sentencing court shall also notify the divi-
53 sion of such fact for the purposes of section one hundred sixty-nine-g
54 of this article.

55 4. Upon the reversal of a conviction of a drug offense defined in
56 subdivision two of section one hundred sixty-nine-a of this article, the

1 appellate court shall remand the case to the lower court for entry of an
2 order directing the expungement of any records required to be kept here-
3 in.

4 5. If a drug dealer, having been given notice, including the time and
5 place of the determination proceeding in accordance with this section,
6 fails to appear at this proceeding, without sufficient excuse, the court
7 shall conduct the hearing and make the determinations in the manner set
8 forth in subdivision three of this section.

9 § 169-o. Petition for relief or modification. 1. Any drug dealer who
10 is classified as a level two risk, who is required to register or verify
11 pursuant to this article and who has been registered for a minimum peri-
12 od of thirty years may be relieved of any further duty to register upon
13 the granting of a petition for relief by the sentencing court or by the
14 court which made the determination regarding duration of registration
15 and level of notification. The drug dealer shall bear the burden of
16 proving by clear and convincing evidence that his or her risk of repeat
17 offense is no longer necessary. Such petition, if granted, shall not
18 relieve the petitioner of the duty to register pursuant to this article
19 upon conviction of any offense requiring registration in the future.
20 Such a petition shall not be considered more than once every two years.
21 In the event that the drug dealer's petition for relief is granted, the
22 district attorney may appeal as of right from the order pursuant to the
23 provisions of articles fifty-five, fifty-six and fifty-seven of the
24 civil practice law and rules. Where counsel has been assigned to repre-
25 sent the drug dealer upon the ground that the drug dealer is financially
26 unable to retain counsel, that assignment shall be continued throughout
27 the pendency of the appeal, and the person may appeal as a poor person
28 pursuant to article eighteen-B of the county law.

29 2. Any drug dealer required to register or verify pursuant to this
30 article may petition the sentencing court or the court which made the
31 determination regarding the level of notification for an order modifying
32 the level of notification. The petition shall set forth the level of
33 notification sought, together with the reasons for seeking such determi-
34 nation. The drug dealer shall bear the burden of proving the facts
35 supporting the requested modification by clear and convincing evidence.
36 Such a petition shall not be considered more than annually. In the
37 event that the drug dealer's petition to modify the level of notifica-
38 tion is granted, the district attorney may appeal as of right from the
39 order pursuant to the provisions of articles fifty-five, fifty-six and
40 fifty-seven of the civil practice law and rules. Where counsel has been
41 assigned to represent the drug dealer upon the ground that the drug
42 dealer is financially unable to retain counsel, that assignment shall be
43 continued throughout the pendency of the appeal, and the person may
44 appeal as a poor person pursuant to article eighteen-B of the county
45 law.

46 3. The district attorney may file a petition to modify the level of
47 notification for a drug dealer with the sentencing court or with the
48 court which made the determination regarding the level of notification,
49 where the drug dealer (a) has been convicted of a new crime, or there
50 has been a determination after a proceeding pursuant to section 410.70
51 of the criminal procedure law or section two hundred fifty-nine-i of the
52 executive law that the drug dealer has violated one or more conditions
53 imposed as part of a sentence of a conditional discharge, probation,
54 parole or post-release supervision for a designated crime, and (b) the
55 conduct underlying the new crime or the violation is of a nature that
56 indicates an increased risk of a repeat drug offense. The petition shall

1 set forth the level of notification sought, together with the reasons
2 for seeking such determination. The district attorney shall bear the
3 burden of proving the facts supporting the requested modification, by
4 clear and convincing evidence. In the event that the district attorney's
5 petition is granted, the drug dealer may appeal as of right from the
6 order, pursuant to the provisions of articles fifty-five, fifty-six and
7 fifty-seven of the civil practice law and rules. Where counsel has been
8 assigned to represent the dealer upon the ground that he or she is
9 financially unable to retain counsel, that assignment shall be continued
10 throughout the pendency of the appeal, and the person may proceed as a
11 poor person, pursuant to article eighteen-B of the county law.

12 4. Upon receipt of a petition submitted pursuant to subdivision one,
13 two or three of this section, the court shall forward a copy of the
14 petition to the board and request an updated recommendation pertaining
15 to the drug dealer and shall provide a copy of the petition to the other
16 party. The court shall also advise the drug dealer that he or she has
17 the right to be represented by counsel at the hearing and counsel will
18 be appointed if he or she is financially unable to retain counsel. A
19 returnable form shall be enclosed in the court's notice to the drug
20 dealer on which the drug dealer may apply for assignment of counsel. If
21 the drug dealer applies for assignment of counsel and the court finds
22 that the dealer is financially unable to retain counsel, the court shall
23 assign counsel to represent the dealer, pursuant to article eighteen-B
24 of the county law. Where the petition was filed by a district attorney,
25 at least thirty days prior to making an updated recommendation the board
26 shall notify the drug dealer and his or her counsel that the dealer's
27 case is under review and he or she is permitted to submit to the board
28 any information relevant to the review. The board's updated recommenda-
29 tion on the drug dealer shall be confidential and shall not be available
30 for public inspection. After receiving an updated recommendation from
31 the board concerning a drug dealer, the court shall, at least thirty
32 days prior to ruling upon the petition, provide a copy of the updated
33 recommendation to the drug dealer, the drug dealer's counsel and the
34 district attorney and notify them, in writing, of the date set by the
35 court for a hearing on the petition. After reviewing the recommendation
36 received from the board and any relevant materials and evidence submit-
37 ted by the drug dealer and the district attorney, the court may grant or
38 deny the petition. The court may also consult with the victim prior to
39 making a determination on the petition. The court shall render an order
40 setting forth its determination, and the findings of fact and conclu-
41 sions of law on which the determination is based. If the petition is
42 granted, it shall be the obligation of the court to submit a copy of its
43 order to the division. Upon application of either party, the court shall
44 seal any portion of the court file or record which contains material
45 that is confidential under any state or federal statute.

46 § 169-p. Special telephone number. 1. Pursuant to section one hundred
47 sixty-nine-b of this article, the division shall also operate a tele-
48 phone number that members of the public may call free of charge and
49 inquire whether a named individual required to register pursuant to this
50 article is listed. The division shall ascertain whether a named person
51 reasonably appears to be a person so listed and provide the caller with
52 the relevant information according to risk as described in subdivision
53 six of section one hundred sixty-nine-1 of this article. The division
54 shall decide whether the named person reasonably appears to be a person
55 listed, based upon information from the caller providing information
56 that shall include (a) an exact street address, including apartment

1 number, driver's license number or birth date, along with additional
2 information that may include social security number, hair color, eye
3 color, height, weight, distinctive markings, ethnicity; or (b) any
4 combination of the above listed characteristics if an exact birth date
5 or address is not available. If three of the characteristics provided
6 include ethnicity, hair color, and eye color, other identifying charac-
7 teristics shall be provided.

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

10 (a) notice that the caller's telephone number will be recorded;

11 (b) notice that there is no charge for use of the telephone number;

12 (c) notice that the caller is required to identify himself or herself
13 to the operator and provide current address and shall be maintained in a
14 written record;

15 (d) notice that the caller is required to be eighteen years of age or
16 older;

17 (e) a warning that it is illegal to use information obtained through
18 the telephone number to commit a crime against any person listed or to
19 engage in illegal discrimination or harassment against such person;

20 (f) notice that the caller is required to have the birth date, driv-
21 er's license or identification number, or address or other identifying
22 information regarding the person about whom information is sought in
23 order to achieve a positive identification of that person;

24 (g) a statement that the number is not a crime hotline and that any
25 suspected criminal activity should be reported to local authorities;

26 (h) a statement that an information package which will include a
27 description of the law and drug offense are available upon request from
28 the division. Such information package shall include questions and
29 answers regarding the most commonly asked questions about the drug deal-
30 er registration act, and current drug offense prevention material.

31 3. (a) The division shall establish a program allowing non-profit and
32 not-for-profit youth services organizations to pre-register with the
33 division for use of the telephone number. Pre-registration shall
34 include the identification of up to two officials of the organization
35 who may call the telephone number and obtain information on behalf of
36 the organization. A pre-registered certificate issued under this subdivi-
37 sion shall be valid for two years, unless earlier revoked by the divi-
38 sion for good cause shown. No fee shall be charged to an applicant for
39 the issuance of a pre-registered certificate pursuant to this subdivi-
40 sion.

41 (b) An organization granted a pre-registered certificate pursuant to
42 this subdivision may, upon calling the telephone number, inquire whether
43 multiple named individuals are listed on the drug dealer registry.
44 Notwithstanding any per call limitation the division may place on calls
45 by private individuals, the division shall allow such pre-registered
46 organizations to inquire about up to twenty prospective coaches, leaders
47 or volunteers in each call to the telephone number.

48 (c) For purposes of this subdivision, "youth services organization"
49 shall mean a formalized program operated by a corporation pursuant to
50 subparagraph five of paragraph (a) of section one hundred two of the
51 not-for-profit corporation law that functions primarily to: (a) provide
52 children the opportunity to participate in adult-supervised sporting
53 activities; or (b) match children or groups of children with adult
54 volunteers for the purpose of providing children with positive role
55 models to enhance their development.

1 4. Whenever there is reasonable cause to believe that any person or
2 group of persons is engaged in a pattern or practice of misuse of the
3 telephone number, the attorney general, any district attorney or any
4 person aggrieved by the misuse of the number is authorized to bring a
5 civil action in the appropriate court requesting preventive relief,
6 including an application for a permanent or temporary injunction,
7 restraining order or other order against the person or group of persons
8 responsible for the pattern or practice of misuse. The foregoing reme-
9 dies shall be independent of any other remedies or procedures that may
10 be available to an aggrieved party under other provisions of law. Such
11 person or group of persons shall be subject to a fine of not less than
12 five hundred dollars and not more than one thousand dollars.

13 5. The division shall submit to the legislature an annual report on
14 the operation of the telephone number. The annual report shall include,
15 but not be limited to, all of the following:

- 16 (a) number of calls received;
- 17 (b) a detailed outline of the amount of money expended and the manner
18 in which it was expended for purposes of this section;
- 19 (c) number of calls that resulted in an affirmative response and the
20 number of calls that resulted in a negative response with regard to
21 whether a named individual was listed;
- 22 (d) number of persons listed; and
- 23 (e) a summary of the success of the telephone number program based
24 upon selected factors.

25 § 169-q. Subdirectory; internet posting. 1. The division shall main-
26 tain a subdirectory of level two and three drug dealers. The subdirecto-
27 ry shall include the exact address, address of the dealer's place of
28 employment and photograph of the drug dealer along with the following
29 information, if available: name, physical description, age and distinc-
30 tive markings. Background information including all of the drug dealer's
31 crimes of conviction that require him or her to register pursuant to
32 this article, the name and address of any institution of higher educa-
33 tion at which the drug dealer is enrolled, attends, is employed or
34 resides and a description of special conditions imposed on the drug
35 dealer shall also be included. The subdirectory shall have drug dealer
36 listings categorized by county and zip code. Such subdirectory shall be
37 made available at all times on the internet via the division homepage.
38 Any person may apply to the division to receive automated e-mail notifi-
39 cations whenever a new or updated subdirectory registration occurs in a
40 geographic area specified by such person. The division shall furnish
41 such service at no charge to such person, who shall request e-mail
42 notification by county and/or zip code on forms developed and provided
43 by the division. E-mail notification is limited to three geographic
44 areas per e-mail account.

45 2. Any person who uses information disclosed pursuant to this section
46 in violation of the law shall in addition to any other penalty or fine
47 imposed, be subject to a fine of not less than five hundred dollars and
48 not more than one thousand dollars. Unauthorized removal or duplication
49 of the subdirectory from the offices of local, village or city police
50 department shall be punishable by a fine not to exceed one thousand
51 dollars. In addition, the attorney general, any district attorney, or
52 any person aggrieved is authorized to bring a civil action in the appro-
53 priate court requesting preventive relief, including an application for
54 a permanent or temporary injunction, restraining order, or other order
55 against the person or group of persons responsible for such action. The
56 foregoing remedies shall be independent of any other remedies or proce-

dures that may be available to an aggrieved party under other provisions of law.

§ 169-r. 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, unless it is shown that such official, employee or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

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

§ 169-s. 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.

§ 169-t. Penalty. Any drug dealer required to register or to verify pursuant to the provisions of this article who fails to register or verify in the manner and within the time periods provided for in this article shall be guilty of a class E felony upon conviction for the first offense, and upon conviction for a second or subsequent offense shall be guilty of a class D felony. Any drug dealer who violates the provisions of section one hundred sixty-nine-v of this article shall be guilty of a class A misdemeanor upon conviction for the first offense, and upon conviction for a second or subsequent offense shall be guilty of a class D felony. Any such failure to register or verify may also be the basis for revocation of parole pursuant to section two hundred fifty-nine-i of the executive law or the basis for revocation of probation pursuant to article four hundred ten of the criminal procedure law.

§ 169-u. Unauthorized release of information. The unauthorized release of any information required by this article shall be a class B misdemeanor.

§ 169-v. Prohibition of employment on motor vehicles engaged in retail sales of frozen desserts. No person required to maintain registration under this article (drug dealer registration act) shall operate, be employed on or dispense goods for sale at retail on a motor vehicle engaged in retail sales of frozen desserts as defined in subdivision thirty-seven of section three hundred seventy-five of the vehicle and traffic law.

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

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