

# STATE OF NEW YORK

3388

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

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.

LBD02030-01-3

169-s. Annual report.

169-t. Penalty.

169-u. Unauthorized release of information.

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

169-w. Separability.

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

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

1. "Drug dealer" includes any person who 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.

2. "Drug offense" means a conviction of or a conviction for an attempt to commit any of the provisions of section 220.31, 220.34, 220.39, 220.41, 220.43, 220.44, 220.48, 220.65, 220.73, 220.74, 220.75 or 220.77 of article two hundred twenty of the penal law.

3. "Law enforcement agency having jurisdiction" means: (a) (i) the chief law enforcement officer in the village, town or city in which the dealer expects to reside upon his or her discharge, probation, parole, release to post-release supervision or upon any form of state or local conditional release; or (ii) if there be no chief law enforcement officer in such village, town or city, the chief law enforcement officer of the county in which the dealer expects to reside; or (iii) if there be no chief enforcement officer in such village, town, city or county, the division of state police and (b) in the case of a drug dealer who is or expects to be employed by, enrolled in, attending or employed, whether for compensation or not, at an institution of higher education, (i) the chief law enforcement officer in the village, town or city in which such institution is located; or (ii) if there be no chief law enforcement officer in such village, town or city, the chief law enforcement officer of the county in which such institution is located; or (iii) if there be no chief law enforcement officer in such village, town, city or county, the division of state police; and (iv) if such institution operates or employs a campus law enforcement or security agency, the chief of such agency and (c) in the case of a drug dealer who expects to reside within a state park or on other land under the jurisdiction of the office of parks, recreation and historic preservation, the state regional park police.

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

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

6. "Probation" means a sentence of probation imposed pursuant to article sixty-five of the penal law and shall include a sentence of imprisonment imposed in conjunction with a sentence of probation.

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

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

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

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

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

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

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

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

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

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

53 3. The division shall develop a standardized registration form to be  
54 made available to the appropriate authorities and promulgate rules and  
55 regulations to implement the provisions of this section. Such form shall

1 be written in clear and concise language and shall advise the drug deal-  
2 er of his or her duties and obligations under this article.

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

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

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

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

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

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

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

33 § 169-c. Drug dealer; relocation; notification. 1. In the case of any  
34 drug dealer, it shall be the duty of the department, hospital or local  
35 correctional facility at least ten calendar days prior to the release or  
36 discharge of any drug dealer from a correctional facility, hospital or  
37 local correctional facility to notify the division of the contemplated  
38 release or discharge of such drug dealer, informing the division in  
39 writing on a form provided by the division indicating the address at  
40 which he or she proposes to reside and the name and address of any  
41 institution of higher education at which he or she expects to be  
42 enrolled, attending or employed, whether for compensation or not, and  
43 whether he or she resides in or will reside in a facility owned or oper-  
44 ated by such institution. If such drug dealer changes his or her place  
45 of residence while on parole, such notification of the change of resi-  
46 dence shall be sent by the drug dealer's parole officer within forty-  
47 eight hours to the division on a form provided by the division. If such  
48 drug dealer changes the status of his or her enrollment, attendance,  
49 employment or residence at any institution of higher education while on  
50 parole, such notification of the change of status shall be sent by the  
51 drug dealer's parole officer within forty-eight hours to the division on  
52 a form provided by the division.

53 2. In the case of any drug dealer on probation, it shall be the duty  
54 of the drug dealer's probation officer to notify the division within  
55 forty-eight hours of the new place of residence on a form provided by  
56 the division. If such drug dealer changes the status of his or her

1 enrollment, attendance, employment or residence at any institution of  
2 higher education while on probation, such notification of the change of  
3 status shall be sent by the drug dealer's probation officer within  
4 forty-eight hours to the division on a form provided by the division.

5 3. In the case in which any drug dealer escapes from a state or local  
6 correctional facility or hospital, the designated official of the facil-  
7 ity or hospital where the person was confined shall notify within twen-  
8 ty-four hours the law enforcement agency having had jurisdiction at the  
9 time of his or her conviction, informing such law enforcement agency of  
10 the name and aliases of the person, and the address at which he or she  
11 resided at the time of his or her conviction, the amount of time remain-  
12 ing to be served, if any, on the full term for which he or she was  
13 sentenced, and the nature of the crime for which he or she was  
14 sentenced, transmitting at the same time a copy of such drug dealer's  
15 fingerprints and photograph and a summary of his or her criminal record.

16 4. The division shall provide general information, in registration  
17 materials and annual correspondence, to registrants concerning notifica-  
18 tion and registration procedures that may apply if the registrant is  
19 authorized to relocate and relocates to another state or United States  
20 possession, or commences employment or attendance at an education insti-  
21 tution in another state or United States possession. Such information  
22 shall include addresses and telephone numbers for relevant agencies from  
23 which additional information may be obtained.

24 § 169-d. Duties of the court. 1. Upon conviction of any of the  
25 offenses set forth in subdivision two of section one hundred  
26 sixty-nine-a of this article the court shall certify that the person is  
27 a drug dealer and shall include the certification in the order of  
28 commitment, if any, and judgment of conviction. The court shall also  
29 advise the drug dealer of his or her duties under this article. Failure  
30 to include the certification in the order of commitment or the judgment  
31 of conviction shall not relieve a drug dealer of the obligations imposed  
32 by this article.

33 2. Any drug dealer, who is released on probation or discharged upon  
34 payment of a fine, conditional discharge or unconditional discharge  
35 shall, prior to such release or discharge, be informed of his or her  
36 duty to register under this article by the court in which he or she was  
37 convicted. At the time sentence is imposed, such drug dealer shall  
38 register with the division on a form prepared by the division. The court  
39 shall require the drug dealer to read and sign such form and to complete  
40 the registration portion of such form. The court shall on such form  
41 obtain the address where the drug dealer expects to reside upon his or  
42 her release, and the name and address of any institution of higher  
43 education he or she expects to be employed by, enrolled in, attending or  
44 employed. The court shall give one copy of the form to the drug dealer  
45 and shall send two copies to the division which shall forward the infor-  
46 mation to the law enforcement agencies having jurisdiction. The court  
47 shall also notify the district attorney and the drug dealer of the date  
48 of the determination proceeding to be held pursuant to subdivision three  
49 of this section, which shall be held at least forty-five days after such  
50 notice is given. This notice shall include the following statement or a  
51 substantially similar statement: "This proceeding is being held to  
52 determine whether you will be classified as a level 3 dealer (risk of  
53 repeat offense is high), a level 2 dealer (risk of repeat offense is  
54 moderate), or a level 1 dealer (risk of repeat offense is low), which  
55 will determine how long you must register as a drug dealer and how much  
56 information can be provided to the public concerning your registration.

1 If you fail to appear at this proceeding, without sufficient excuse, it  
2 shall be held in your absence. Failure to appear may result in a longer  
3 period of registration or a higher level of community notification  
4 because you are not present to offer evidence or contest evidence  
5 offered by the district attorney." The court shall also advise the drug  
6 dealer that he or she has a right to a hearing prior to the court's  
7 determination, that he or she has the right to be represented by counsel  
8 at the hearing and that counsel will be appointed if he or she is finan-  
9 cially unable to retain counsel. If the drug dealer applies for assign-  
10 ment of counsel to represent him or her at the hearing and counsel was  
11 not previously assigned to represent the drug dealer in the underlying  
12 criminal action, the court shall determine whether the dealer is finan-  
13 cially unable to retain counsel. If such a finding is made, the court  
14 shall assign counsel to represent the drug dealer pursuant to article  
15 eighteen-B of the county law. Where the court orders a drug dealer  
16 released on probation, such order must include a provision requiring  
17 that he or she comply with the requirements of this article. Where such  
18 drug dealer violates such provision, probation may be immediately  
19 revoked in the manner provided by article four hundred ten of the crimi-  
20 nal procedure law.

21 3. For drug dealers released on probation or discharged upon payment  
22 of a fine, conditional discharge or unconditional discharge, it shall be  
23 the duty of the court applying the guidelines established in subdivision  
24 five of section one hundred sixty-nine-1 of this article to determine  
25 the level of notification pursuant to subdivision six of section one  
26 hundred sixty-nine-1 of this article. At least fifteen days prior to  
27 the determination proceeding, the district attorney shall provide to the  
28 court and the drug dealer a written statement setting forth the determi-  
29 nations sought by the district attorney together with the reasons for  
30 seeking such determinations. The court shall allow the drug dealer to  
31 appear and be heard. The state shall appear by the district attorney, or  
32 his or her designee, who shall bear the burden of proving the facts  
33 supporting the determinations sought by clear and convincing evidence.  
34 Where there is a dispute between the parties concerning the determi-  
35 nations, the court shall adjourn the hearing as necessary to permit the  
36 drug dealer or the district attorney to obtain materials relevant to the  
37 determinations from any state or local facility, hospital, institution,  
38 office, agency, department or division. Such materials may be obtained  
39 by subpoena if not voluntarily provided to the requesting party. In  
40 making the determinations, the court shall review any victim's statement  
41 and any relevant materials and evidence submitted by the drug dealer and  
42 the district attorney and the court may consider reliable hearsay  
43 evidence submitted by either party provided that it is relevant to the  
44 determinations. Facts previously proven at trial or elicited at the time  
45 of entry of a plea of guilty shall be deemed established by clear and  
46 convincing evidence and shall not be re-litigated. The court shall  
47 render an order setting forth its determinations and the findings of  
48 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 4. 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-e. Discharge of drug dealer from correctional facility; duties  
10 of official in charge. 1. Any drug dealer, to be discharged, paroled,  
11 released to post-release supervision or released from any state or local  
12 correctional facility, hospital or institution where he or she was  
13 confined or committed, shall at least fifteen calendar days prior to  
14 discharge, parole or release, be informed of his or her duty to register  
15 under this article, by the facility in which he or she was confined or  
16 committed. The facility shall require the drug dealer to read and sign  
17 such form as may be required by the division stating the duty to regis-  
18 ter and the procedure for registration has been explained to him or her  
19 and to complete the registration portion of such form. The facility  
20 shall obtain on such form the address where the drug dealer expects to  
21 reside upon his or her discharge, parole or release and the name and  
22 address of any institution of higher education he or she expects to be  
23 employed by, enrolled in, attending or employed, whether for compen-  
24 sation or not. The facility shall give one copy of the form to the drug  
25 dealer, retain one copy and shall send one copy to the division which  
26 shall provide the information to the law enforcement agencies having  
27 jurisdiction. The facility shall give the drug dealer a form prepared by  
28 the division, to register with the division at least fifteen calendar  
29 days prior to release and such form shall be completed, signed by the  
30 drug dealer and sent to the division by the facility at least ten days  
31 prior to the drug dealer's release or discharge.

32 2. The division shall also immediately transmit the conviction data  
33 and fingerprints to the Federal Bureau of Investigation if not already  
34 obtained.

35 § 169-f. Duty to register and to verify. 1. Any drug dealer shall, (a)  
36 at least ten calendar days prior to discharge, parole, release to post-  
37 release supervision or release from any state or local correctional  
38 facility, hospital or institution where he or she was confined or  
39 committed, or, (b) at the time sentence is imposed for any drug dealer  
40 released on probation or discharged upon payment of a fine, conditional  
41 discharge or unconditional discharge, register with the division on a  
42 form prepared by the division.

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

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

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

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

55 (d) If the drug dealer has been given a level three designation, he or  
56 she shall personally appear at the law enforcement agency having juris-

1 diction within twenty days of the first anniversary of the drug dealer's  
2 initial registration and every year thereafter during the period of  
3 registration for the purpose of providing a current photograph of such  
4 dealer. The law enforcement agency having jurisdiction shall photograph  
5 the drug dealer and shall promptly forward a copy of such photograph to  
6 the division. For purposes of this paragraph, if such drug dealer is  
7 confined in a state or local correctional facility, the local law  
8 enforcement agency having jurisdiction shall be the warden, superinten-  
9 dent, sheriff or other person in charge of the state or local correc-  
10 tional facility.

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

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

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

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

44 4. Any drug dealer shall register with the division no later than ten  
45 calendar days after any change of address, or any change of his or her  
46 status of enrollment, attendance, employment or residence at any insti-  
47 tution of higher education. A fee of ten dollars, as authorized by  
48 subdivision eight of section one hundred sixty-nine-b of this article,  
49 shall be submitted by the drug dealer each time such dealer registers  
50 any change of address or any change of his or her status of enrollment,  
51 attendance, employment or residence at any institution of higher educa-  
52 tion. Any failure or omission to submit the required fee shall not  
53 affect the acceptance by the division of the change of address or change  
54 of status.

55 § 169-g. Prior convictions; duty to inform and register. 1. The  
56 department or office of probation and correctional alternatives in

1 accordance with risk factors pursuant to section one hundred  
2 sixty-nine-l of this article shall determine the duration of registra-  
3 tion and notification for every drug dealer who on the effective date of  
4 this article is then on community supervision or probation for an  
5 offense provided for in subdivision two of section one hundred sixty-  
6 nine-a of this article.

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

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

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

29 § 169-h. Duration of registration and verification. 1. The duration of  
30 registration and verification for a drug dealer shall be annually for a  
31 period of twenty years from the initial date of registration.

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

36 § 169-i. Registration and verification requirements. Registration and  
37 verification as required by this article shall consist of a statement in  
38 writing signed by the drug dealer giving the information that is  
39 required by the division and the division shall enter the information  
40 into an appropriate electronic data base or file.

41 § 169-j. Notification of local law enforcement agencies of change of  
42 address. 1. Upon receipt of a change of address by a drug dealer  
43 required to register under this article, the division shall notify the  
44 local law enforcement agency having jurisdiction of the new place of  
45 residence and the local law enforcement agency where the drug dealer  
46 last resided of the new place of residence.

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

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

54 4. Upon receipt of a change in the status of the enrollment, attend-  
55 ance, employment or residence at an institution of higher education by a  
56 drug dealer required to register under this article, the division shall

1 notify each law enforcement agency having jurisdiction which is affected  
2 by such change.

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

9 § 169-k. Registration for change of address from another state. 1. A  
10 drug dealer who has been convicted of an offense under subdivision two  
11 of section one hundred sixty-nine-a of this article and requires regis-  
12 tration shall notify the division of the new address no later than ten  
13 calendar days after such drug dealer establishes residence in this  
14 state.

15 2. The division shall advise the board that the drug dealer has estab-  
16 lished residence in this state. The board shall determine whether the  
17 drug dealer is required to register with the division. If it is deter-  
18 mined that the drug dealer is required to register, the division shall  
19 notify the drug dealer of his or her duty to register under this article  
20 and shall require the drug dealer to sign a form as may be required by  
21 the division acknowledging that the duty to register and the procedure  
22 for registration has been explained to the drug dealer. The division  
23 shall obtain on such form the address where the drug dealer expects to  
24 reside within the state and the drug dealer shall retain one copy of the  
25 form and send two copies to the division which shall provide the infor-  
26 mation to the law enforcement agency having jurisdiction where the drug  
27 dealer expects to reside within this state. No later than thirty days  
28 prior to the board making a recommendation, the drug dealer shall be  
29 notified that his or her case is under review and that he or she is  
30 permitted to submit to the board any information relevant to the review.  
31 After reviewing any information obtained, and applying the guidelines  
32 established in subdivision five of section one hundred sixty-nine-1 of  
33 this article, the board shall within sixty calendar days make a recom-  
34 mendation regarding the level of notification pursuant to subdivision  
35 six of section one hundred sixty-nine-1 of this article. This recommen-  
36 dation shall be confidential and shall not be available for public  
37 inspection. It shall be submitted by the board to the county court or  
38 supreme court and to the district attorney in the county of residence of  
39 the drug dealer and to the drug dealer. It shall be the duty of the  
40 county court or supreme court in the county of residence of the drug  
41 dealer, applying the guidelines established in subdivision five of  
42 section one hundred sixty-nine-1 of this article, to determine the level  
43 of notification pursuant to subdivision six of section one hundred  
44 sixty-nine-1 of this article. At least thirty days prior to the determi-  
45 nation proceeding, such court shall notify the district attorney and the  
46 drug dealer, in writing, of the date of the determination proceeding and  
47 the court shall also provide the district attorney and drug dealer with  
48 a copy of the recommendation received from the board and any statement  
49 of the reasons for the recommendation received from the board. This  
50 notice shall include the following statement or a substantially similar  
51 statement: "This proceeding is being held to determine whether you will  
52 be classified as a level 3 dealer (risk of repeat offense is high), a  
53 level 2 dealer (risk of repeat offense is moderate), or a level 1 dealer  
54 (risk of repeat offense is low), which will determine how long you must  
55 register as a drug dealer and how much information can be provided to  
56 the public concerning your registration. If you fail to appear at this

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

54 3. The division shall undertake an information campaign designed to  
55 provide information to officials and appropriate individuals in other  
56 states and United States possessions concerning the notification proce-

1 dures required by this article. Such information campaign shall be ongoing,  
2 and shall include, but not be limited to, letters, notice forms and  
3 similar materials providing relevant information about this article and  
4 the specific procedures required to effect notification. Such materials  
5 shall include an address and telephone number which such officials and  
6 individuals in other states and United States possessions may use to  
7 obtain additional information.

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 two of this section.

13 § 169-1. Board of examiners of drug dealers. 1. There shall be a board  
14 of examiners of drug dealers which shall possess the powers and duties  
15 hereinafter specified. Such board shall consist of five members  
16 appointed by the governor. All members shall be employees of the depart-  
17 ment and shall be experts in the field of the behavior and treatment of  
18 drug dealers. The term of office of each member of such board shall be  
19 for six years; provided, however, that any member chosen to fill a  
20 vacancy occurring otherwise than by expiration of term shall be  
21 appointed for the remainder of the unexpired term of the member whom he  
22 or she is to succeed. In the event of the inability to act of any  
23 member, the governor may appoint some competent informed person to act  
24 in his or her stead during the continuance of such disability.

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

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

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

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

37 (a) criminal history factors indicative of high risk of repeat  
38 offense, including:

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

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

41 (iii) the amount of drugs sold; and

42 (iv) the age of the drug dealer at the time of the commission of the  
43 first drug sale;

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

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

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

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

55 (a) If the risk of repeat offense is low, a level one designation  
56 shall be given to such drug dealer. In such case the law enforcement

1 agency or agencies having jurisdiction and the law enforcement agency or  
2 agencies having had jurisdiction at the time of his or her conviction  
3 shall be notified and may disseminate relevant information which may  
4 include a photograph and description of the dealer and which may include  
5 the name of the drug dealer, approximate address based on the drug deal-  
6 er's zip code, background information including the dealer's crime of  
7 conviction, modus of operation, and the name and address of any institu-  
8 tion of higher education at which the drug dealer is enrolled, attends,  
9 is employed or resides.

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

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

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

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

49 § 169-m. Review. Notwithstanding any other provision of law to the  
50 contrary, any state or local correctional facility, hospital or institu-  
51 tion, district attorney, law enforcement agency, probation department,  
52 state board of parole, court or child protective agency shall forward  
53 relevant information pertaining to a drug dealer to be discharged,  
54 paroled, released to post-release supervision or released to the board  
55 for review no later than one hundred twenty days prior to the release or  
56 discharge and the board shall make recommendations as provided in subdi-

1 vision six of section one hundred sixty-nine-1 of this article within  
2 sixty days of receipt of the information. Information may include, but  
3 may not be limited to all or a portion of the arrest file, prosecutor's  
4 file, probation or parole file, child protective file, court file,  
5 commitment file, medical file and treatment file pertaining to such  
6 person. Such person shall be permitted to submit to the board any infor-  
7 mation relevant to the review. Upon application of the drug dealer or  
8 the district attorney, the court shall seal any portion of the board's  
9 file pertaining to the drug dealer that contains material that is confi-  
10 dential under any state or federal law; provided, however, that in any  
11 subsequent proceedings in which the drug dealer who is the subject of  
12 the sealed record is a party and which requires the board to provide a  
13 recommendation to the court pursuant to this article, such sealed record  
14 shall be available to the drug dealer, the district attorney, the court  
15 and the attorney general where the attorney general is a party, or  
16 represents a party, in the proceeding.

17 § 169-n. Judicial determination. 1. Applying the guidelines estab-  
18 lished in subdivision five of section one hundred sixty-nine-1 of this  
19 article, the sentencing court shall make a determination with respect to  
20 the level of notification, after receiving a recommendation from the  
21 board pursuant to section one hundred sixty-nine-1 of this article.  
22 Both determinations of the sentencing court shall be made thirty calen-  
23 dar days prior to discharge, parole or release.

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

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

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

47 4. Upon the reversal of a conviction of a drug offense defined in  
48 subdivision two of section one hundred sixty-nine-a of this article, the  
49 appellate court shall remand the case to the lower court for entry of an  
50 order directing the expungement of any records required to be kept here-  
51 in.

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

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

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

38 3. The district attorney may file a petition to modify the level of  
39 notification for a drug dealer with the sentencing court or with the  
40 court which made the determination regarding the level of notification,  
41 where the drug dealer (a) has been convicted of a new crime, or there  
42 has been a determination after a proceeding pursuant to section 410.70  
43 of the criminal procedure law or section two hundred fifty-nine-i of the  
44 executive law that the drug dealer has violated one or more conditions  
45 imposed as part of a sentence of a conditional discharge, probation,  
46 parole or post-release supervision for a designated crime, and (b) the  
47 conduct underlying the new crime or the violation is of a nature that  
48 indicates an increased risk of a repeat drug offense. The petition shall  
49 set forth the level of notification sought, together with the reasons  
50 for seeking such determination. The district attorney shall bear the  
51 burden of proving the facts supporting the requested modification, by  
52 clear and convincing evidence. In the event that the district attorney's  
53 petition is granted, the drug dealer may appeal as of right from the  
54 order, pursuant to the provisions of articles fifty-five, fifty-six and  
55 fifty-seven of the civil practice law and rules. Where counsel has been  
56 assigned to represent the dealer upon the ground that he or she is

1 financially unable to retain counsel, that assignment shall be continued  
2 throughout the pendency of the appeal, and the person may proceed as a  
3 poor person, pursuant to article eighteen-B of the county law.

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

38 § 169-p. Special telephone number. 1. Pursuant to section one hundred  
39 sixty-nine-b of this article, the division shall also operate a tele-  
40 phone number that members of the public may call free of charge and  
41 inquire whether a named individual required to register pursuant to this  
42 article is listed. The division shall ascertain whether a named person  
43 reasonably appears to be a person so listed and provide the caller with  
44 the relevant information according to risk as described in subdivision  
45 six of section one hundred sixty-nine-1 of this article. The division  
46 shall decide whether the named person reasonably appears to be a person  
47 listed, based upon information from the caller providing information  
48 that shall include (a) an exact street address, including apartment  
49 number, driver's license number or birth date, along with additional  
50 information that may include social security number, hair color, eye  
51 color, height, weight, distinctive markings, ethnicity; or (b) any  
52 combination of the above listed characteristics if an exact birth date  
53 or address is not available. If three of the characteristics provided  
54 include ethnicity, hair color, and eye color, other identifying charac-  
55 teristics shall be provided.

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

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

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

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

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

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

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

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

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

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

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

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

49 4. Whenever there is reasonable cause to believe that any person or  
50 group of persons is engaged in a pattern or practice of misuse of the  
51 telephone number, the attorney general, any district attorney or any  
52 person aggrieved by the misuse of the number is authorized to bring a  
53 civil action in the appropriate court requesting preventive relief,  
54 including an application for a permanent or temporary injunction,  
55 restraining order or other order against the person or group of persons  
56 responsible for the pattern or practice of misuse. The foregoing reme-

1 dies shall be independent of any other remedies or procedures that may  
2 be available to an aggrieved party under other provisions of law. Such  
3 person or group of persons shall be subject to a fine of not less than  
4 five hundred dollars and not more than one thousand dollars.

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

8 (a) number of calls received;

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

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

14 (d) number of persons listed; and

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

17 § 169-q. Subdirectory; internet posting. 1. The division shall main-  
18 tain a subdirectory of level two and three drug dealers. The subdirecto-  
19 ry shall include the exact address, address of the dealer's place of  
20 employment and photograph of the drug dealer along with the following  
21 information, if available: name, physical description, age and distinc-  
22 tive markings. Background information including all of the drug dealer's  
23 crimes of conviction that require him or her to register pursuant to  
24 this article, the name and address of any institution of higher educa-  
25 tion at which the drug dealer is enrolled, attends, is employed or  
26 resides and a description of special conditions imposed on the drug  
27 dealer shall also be included. The subdirectory shall have drug dealer  
28 listings categorized by county and zip code. Such subdirectory shall be  
29 made available at all times on the internet via the division homepage.  
30 Any person may apply to the division to receive automated e-mail notifi-  
31 cations whenever a new or updated subdirectory registration occurs in a  
32 geographic area specified by such person. The division shall furnish  
33 such service at no charge to such person, who shall request e-mail  
34 notification by county and/or zip code on forms developed and provided  
35 by the division. E-mail notification is limited to three geographic  
36 areas per e-mail account.

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

51 § 169-r. Immunity from liability. 1. No official, employee or agency,  
52 whether public or private, shall be subject to any civil or criminal  
53 liability for damages for any discretionary decision to release relevant  
54 and necessary information pursuant to this section, unless it is shown  
55 that such official, employee or agency acted with gross negligence or in  
56 bad faith. The immunity provided under this section applies to the

1 release of relevant information to other employees or officials or to  
2 the general public.

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

9 § 169-s. Annual report. The division shall on or before February first  
10 in each year file a report with the governor and the legislature detail-  
11 ing the program, compliance with provisions of this article and effec-  
12 tiveness of the provisions of this article, together with any recommen-  
13 dations to further enhance the intent of this article.

14 § 169-t. Penalty. Any drug dealer required to register or to verify  
15 pursuant to the provisions of this article who fails to register or  
16 verify in the manner and within the time periods provided for in this  
17 article shall be guilty of a class E felony upon conviction for the  
18 first offense, and upon conviction for a second or subsequent offense  
19 shall be guilty of a class D felony. Any drug dealer who violates the  
20 provisions of section one hundred sixty-nine-v of this article shall be  
21 guilty of a class A misdemeanor upon conviction for the first offense,  
22 and upon conviction for a second or subsequent offense shall be guilty  
23 of a class D felony. Any such failure to register or verify may also be  
24 the basis for revocation of parole pursuant to section two hundred  
25 fifty-nine-i of the executive law or the basis for revocation of  
26 probation pursuant to article four hundred ten of the criminal procedure  
27 law.

28 § 169-u. Unauthorized release of information. The unauthorized release  
29 of any information required by this article shall be a class B misdemea-  
30 nor.

31 § 169-v. Prohibition of employment on motor vehicles engaged in retail  
32 sales of frozen desserts. No person required to maintain registration  
33 under this article (drug dealer registration act) shall operate, be  
34 employed on or dispense goods for sale at retail on a motor vehicle  
35 engaged in retail sales of frozen desserts as defined in subdivision  
36 thirty-seven of section three hundred seventy-five of the vehicle and  
37 traffic law.

38 § 169-w. Separability. If any section of this article, or part thereof  
39 shall be adjudged by a court of competent jurisdiction to be invalid,  
40 such judgment shall not affect, impair or invalidate the remainder or  
41 any other section or part thereof.

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