

HOUSE No. 1751

By Mr. Vallee of Franklin, petition of James E. Vallee and others for legislation to further regulate the registration of sex offenders. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

James E. Vallee	Richard T. Moore
Scott P. Brown	Matthew C. Patrick
Colleen M. Garry	Walter F. Timilty
Donald F. Humason, Jr.	Mary S. Rogeness
Bradley H. Jones, Jr.	Paul C. Casey
William C. Galvin	James E. Timilty
Frank M. Hynes	Karen E. Spilka
Richard J. Ross	James R. Miceli
Jeffrey Davis Perry	Jennifer M. Callahan
Robert K. Coughlin	

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO SEX OFFENDERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Clause twenty-six of Section 7 of Chapter 4 of the
2 General Laws, as appearing in the 2000 Official Edition, is hereby
3 amended adding the following subclause:—
4 (m) the contents of the child sex abuse civil judgment and settle-
5 ment database maintained by the attorney general pursuant to
6 Section 11M of Chapter 12.

1 SECTION 2. Section 171 of Chapter 6 of the Massachusetts
2 General Laws as appearing in the 2002 Official Edition is hereby
3 amended by adding at the end thereof, the following:—
4 The board shall promulgate regulations requiring sexual offender
5 registry information to be included on the criminal offender record
6 information.

1 SECTION 3. Section 178C of Chapter 6 of the General Laws, as
2 amended by Chapter 77 of the acts of 2003, is hereby amended by
3 striking out after the word “part-time” the following words:— “for a
4 period of time exceeding 14 days or for an aggregate period of time
5 exceeding 30 days during any calendar year”.

1 SECTION 4. Section 178C of Chapter 6 of the General Laws, as
2 most recently amended by Chapter 77 of the acts of 2003, is hereby
3 further amended by inserting after the definition of “Predatory” the
4 following 2 definitions:—

5 “Primary address”, the one legal address of the place where a sex
6 offender lives, abides, lodges or resides for 14 or more consecutive
7 days in the Commonwealth including the address a sex offender pro-
8 vides to the Registry of Motor Vehicles, the Department of Revenue,
9 the Department of Transitional Assistance, or any other state agency
10 a sex offender must legally provide an address to receive services,
11 permits, licenses, or benefits.

12 “Secondary addresses”, all the addresses of the places where a sex
13 offender lives, abides, lodges, or resides for a period of 14 or more
14 days in the aggregate during any calendar year and which is not a
15 sex offender’s primary address; or a place where a sex offender rou-
16 tinely lives, abides, lodges, or resides for a period of 4 or more con-
17 secutive or nonconsecutive days in any month and which is not a sex
18 offender’s permanent address, including any out-of-state address.

1 SECTION 5. Said Section 178C of Chapter 6, is hereby further
2 amended by striking the following words “a person who resides”
3 from the definition of “sex offender” and inserting in place thereof
4 the following:— a person who has a primary address or secondary
5 addresses.

1 SECTION 6. Section 178D of Chapter 6, as most recently
2 amended by Section 5 of Chapter 140 of the acts of 2003, is hereby
3 further amended by striking out in clause (a) of the first paragraph
4 the words “home address” and inserting in place thereof the
5 following:— primary address, secondary addresses.

1 SECTION 7. Said Section 178D of Chapter 6 is further amended
2 by striking out in clause (ii) of the second paragraph the words

3 “home address” and inserting in place thereof the following:— pri-
4 mary address and secondary addresses.

1 SECTION 8. Section 178D of Chapter 6, as appearing in the 2004
2 Official Edition, is hereby amended by striking out in lines 30-31 the
3 words “or level 2”.

1 SECTION 9. Said Section 178D of Chapter 6, as appearing in the
2 2004 Official Edition, is hereby amended by deleting the language
3 after the word “offender” in line 43.

1 SECTION 10. Section 178D of Chapter 6, as appearing in the
2 2002 Official Edition, is hereby amended by striking out the
3 following phrase:— “, to ensure the prompt and, complete removal
4 of registration data for persons whose duty to register has terminated
5 or expired under Sections 178G, 178L or 178M or any other law”.

1 SECTION 11. Section 178D of Chapter 6 of the General Laws, as
2 appearing in the 2002 Official Edition, is amended by striking out
3 the following phrase:— “, the eligibility of sex offenders to be
4 relieved of the obligation to register, including but not limited to,
5 regulations limiting motions under subsection (e) of Section 178E,
6 Section 178G and relief from registration pursuant to paragraph (d)
7 of subsection (2) of Section 178K”.

1 SECTION 12. Section 178E of said Chapter 6, as most recently
2 amended by Chapter 140 of the acts of 2003, is hereby further
3 amended by striking out in paragraphs (a), (b), (c), (g), (h), (l), and
4 (o) the words “home address or intended home address” each time
5 they appear and inserting in place thereof the following:— primary
6 address and secondary addresses or intended primary address and
7 intended secondary addresses.

1 SECTION 13. Said Section 178E subsection (a), as amended by
2 Chapter 77 of the Acts of 2003 and as further amended by Chapter
3 140 of the Acts of 2003, is hereby further amended by striking out
4 said subsection and inserting in place thereof the following text:—
5 “(a) Within five days of receiving upon sentence any sex offender
6 required to register pursuant to Sections 178C to 17Q, inclusive,

7 who shall serve an actual sentence of more than one year of incarcer-
8 ation, the agency which has custody of the sex offender, including
9 the department of correction, the department of youth services and
10 each of the houses of correction, shall transmit to the board said sex
11 offender's registration data, which for purposes of this paragraph
12 shall include identifying factors, anticipated future residence,
13 offense history, documentation of any treatment received for a
14 mental abnormality, the official version of any sex offenses, the mit-
15 timus, and any prior incarceration history. The custodial agency shall
16 also provide to the board within five days of assuming custody the
17 projected maximum release date and the earliest possible release
18 date for the sex offender. All custodial agencies shall comply with
19 the transmission of said data identified in this section within five
20 days of receiving custody of the sex offender. All custodial agencies
21 shall inform the board immediately of any transfers of sex offenders
22 so that there may be contact with the offender throughout the classi-
23 fication process. The board shall promptly transmit the registration
24 data to the police departments in the municipalities where the sex
25 offender intends to live and work and where the offense was com-
26 mitted and to the Federal Bureau of Investigation. The sex offender
27 shall be informed by, and shall acknowledge in writing to, the
28 agency which has custody of the sex offender of the duty to register
29 in the Commonwealth and in any state where he resides, is
30 employed, carries on a vocation or is a student, to verify registration
31 information, to give notice of change of address or intended change
32 of address within the Commonwealth or in another state and the
33 penalties for failure to do so and for giving false registration infor-
34 mation, and of his right to submit to the board, according to Section
35 178L, documentary evidence relative to his risk of re-offense, the
36 degree of dangerousness posed to the public and of his duty to reg-
37 ister under this section. If such sex offender is a juvenile at the time
38 of such notification, notification shall also be mailed to such sex
39 offender's legal guardian or agency having custody of the juvenile in
40 the absence of a legal guardian and his most recent attorney of
41 record. The agency shall transmit such acknowledgment to the board
42 within ten days of receipt of such acknowledgment. Not later than
43 ten days before his release from custody, a sex offender shall register
44 by mailing to the board on a form approved by the board and signed
45 under the pains and penalties of perjury, the sex offender's name,

46 date of birth, home address or intended home address, work address
47 or intended work address and, if the sex offender is or intends to
48 become a part-time or full-time employee of an institution of higher
49 learning, the name and address of the institution, and, if the sex
50 offender is or intends to become a part-time or full-time student of
51 an institution of higher learning, the name and address of the institu-
52 tion. No sex offender shall be released from custody unless such reg-
53 istration has been filled out, signed and mailed to the board.”

1 SECTION 14. Section 178E, as appearing in the 2002 Official
2 Edition, is amended by striking out subsections (e) and (f).

1 SECTION 15. Said Section 178E of Chapter 6 is further amended
2 by striking out in paragraph (h) the words “who intends to move to a
3 different city or town within the Commonwealth” and inserting in
4 place thereof the following:— who intends to change his primary
5 address or change or establish a secondary address in a different city
6 or town within the Commonwealth.

1 SECTION 16. Said Section 178E of Chapter 6 is further amended
2 by striking out in paragraph (h) the words “his address within a city
3 or town shall notify the board in writing not later than ten days prior
4 to establishing such new residence” and inserting in place thereof the
5 following:— his primary address and/or secondary addresses within
6 a city or town shall notify the board in writing not later than ten days
7 prior to establishing such new primary address and/or secondary
8 addresses.

1 SECTION 17. Said Section 178E of Chapter 6 is further amended
2 by striking out in paragraph (q) the words “home address” and
3 inserting in place thereof the following:— primary address and sec-
4 ondary addresses.

1 SECTION 18. Section 178F of said Chapter 6, as most recently
2 amended by Chapter 77 of the acts of 2003, is hereby further
3 amended by striking out in the first paragraph the words “home
4 address or intended home address” and inserting in place thereof the
5 following:— primary address and secondary addresses or intended
6 primary address and intended secondary addresses.

1 SECTION 19. Said Section 178F of Chapter 6 is further amended
2 by striking out the second sentence in the first paragraph and
3 inserting in place thereof the following:—

4 A sex offender who lists homeless shelters as his primary address
5 or secondary addresses shall verify registration data every 90 days
6 with the board by mailing to the board on a form approved by the
7 board and signed under the pains and penalties of perjury the sex
8 offender's name, date of birth, primary address, secondary addresses
9 and work address.

1 SECTION 20. Said Section 178F of Chapter 6 is further amended
2 by striking out the following words in the first paragraph "the board
3 shall mail a non-forwardable verification form to the last reported
4 address of such sex offender" and inserting in place thereof the
5 following:— the board shall mail a non-forwardable verification
6 form to the last reported primary address of such sex offender.

1 SECTION 21. Section 178F½ of said Chapter 6, as most recently
2 amended by Chapter 140 of the acts of 2003, is hereby further
3 amended by striking out the first sentence of the first paragraph and
4 inserting in place thereof the following:—

5 "A sex offender finally classified by the board as a level 2 or a
6 level 3 sex offender who is required to register pursuant to Sections
7 178C to 178P, inclusive, shall appear in person annually at the local
8 police department in the city or town in which such sex offender has
9 his primary address, or if such sex offender does not have a primary
10 address in the Commonwealth, in the city or town in which such sex
11 offender has a secondary address, works, or attends an institution of
12 higher learning to verify that the registration data on file remains
13 true and accurate."

1 SECTION 22. Said Section 178F½ of Chapter 6 is further
2 amended by striking out the fourth sentence in the first paragraph
3 and inserting in place thereof the following:—

4 Such sex offender who lists a homeless shelter as his primary
5 address shall appear in person at such local police department every
6 90 days to verify that the registration data on file remains true and
7 accurate.

1 SECTION 23. Said Section 178F½ of Chapter 6 is further
2 amended by striking out the following words in the first paragraph
3 “the board shall mail a non-forwardable verification form to the last
4 reported address of such sex offender” and inserting in place thereof
5 the following:— the board shall mail a non-forwardable verification
6 form to the last reported primary address of such sex offender.

1 SECTION 24. Said Section 178F½ of Chapter 6 is further
2 amended by striking out the ninth sentence of the first paragraph and
3 inserting in place thereof the following:—
4 Such sex offender shall, within five days of receipt, sign the veri-
5 fication form under the penalties of perjury and register in person at
6 the police department in the municipality in which such sex offender
7 has his primary address, or if such sex offender does not have a pri-
8 mary address in the Commonwealth, in the city or town in which
9 such sex offender has a secondary address, works or attends an insti-
10 tution of higher learning.

1 SECTION 25. Said Section 178F½ of Chapter 6 is further
2 amended by striking out the last sentence of the first paragraph and
3 inserting in place thereof the following:—
4 A sex offender finally classified as a level 2 or level 3 offender
5 shall also comply with the provisions of paragraphs (g) to (j) and (o)
6 to (q), inclusive, of Section 178E, but the offender shall give the
7 required notice in person at the police department in the city or town
8 where such sex offender has his primary address, or if such sex
9 offender does not have a primary address in the Commonwealth, in
10 the city or town in which such sex offender has a secondary address,
11 works or attends an institution of higher learning.

1 SECTION 26. Section 178G of Chapter 6 of the General Laws, as
2 appearing in the 2002 official edition, is hereby amended by striking
3 out all from the word “The” in line 1 through the word “others.” in
4 line 19, inclusive.

1 SECTION 27. Section 178H of said Chapter 6, as so appearing, is
2 hereby amended by inserting at the end of paragraph (a) the
3 following sentence:—

4 “This includes any previous convictions by a court of the Com-
5 monwealth or any other jurisdiction because of a like violation.”

1 SECTION 28. Section 178H of said Chapter 6, as so appearing, is
2 hereby amended by striking out, in line 7, the words “six months”
3 and inserting in place thereof the following words:— one year.

1 SECTION 29. Section 178H of Chapter 6 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 inserting after paragraph 2 the following paragraph:—

4 (3) A sex offender required to register pursuant to this chapter
5 who has been convicted for a violation under this section and has
6 been classified as a level 3 sex offender by the sex offender registry
7 board pursuant to Sections 178C to 178P, inclusive, of Chapter 6,
8 shall, in addition to the term of imprisonment authorized by this
9 section, be punished by a term of community parole supervision for
10 life to be served under the jurisdiction of the parole board, as set
11 forth in Section 133C of Chapter 127. The sentence of community
12 parole supervision for life shall commence immediately upon the
13 expiration of the term of imprisonment imposed upon such person
14 by the court or upon such person’s release from probation supervi-
15 sion or upon discharge from commitment to the treatment center
16 pursuant to Section 9 of Chapter 123A, whichever first occurs.

1 SECTION 30. Section 178J of Chapter 6, as most recently
2 amended by Chapter 77 of the acts of 2003, is hereby further
3 amended by striking out the clause (2) of subsection (c) and
4 inserting in place thereof the following:— (2) the primary address
5 and/or secondary addresses if located in the areas described in clause
6 (2) or (3) of subsection (b).

1 SECTION 31. Section 178K(1) of Chapter 6 of the Massachusetts
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by striking out in line 35 the phrase “or for relief from the
4 obligation to register”.

1 SECTION 32. Section 178(K)(2) of Chapter 6 of the Massachu-
2 setts General Laws, as appearing in the 2002 official edition, is

3 hereby amended by striking out in lines 96-97 the phrase:— “or for
4 relief from the obligation to register”.

1 SECTION 33. Paragraph (b) of subsection (2) of Section 178K of
2 Chapter 6 of the General Laws, as most recently amended by
3 Section 20 of Chapter 77 of the acts of 2003, is hereby further
4 amended by inserting after the first sentence the following 2 sen-
5 tences:— If an offender designated as a level 2 offender was con-
6 victed of a sex offense involving a child, such offender shall be
7 given a level 2(a) designation and shall be subject to the level 3
8 community notification plan. If an offender designated as a level 2
9 offender committed any offense other than a sex offense involving a
10 child, such offender shall be given a level 2(b) designation and shall
11 be subject to the requirements of a level 2 offender.

1 SECTION 34. Section 178K of Chapter 6, as appearing in the
2 2004 Official Edition, is hereby amended by inserting after the word
3 “of” the first time it appears in line 143 the following:— “level 2
4 and”.

1 SECTION 35. Section 178K of Chapter 6, as most recently
2 amended by Section 13 of Chapter 149 of the acts of 2004, is hereby
3 further amended by striking out the paragraph (ii) of clause (c) of
4 subsection (2) and inserting in place thereof the following:— (ii) the
5 offender’s primary address and secondary addresses.

1 SECTION 36. Section 178K of Chapter 6, as appearing in the
2 2004 Official Edition, is hereby amended by inserting after the word
3 “a” in line 168 the words “level 2 and”.

1 SECTION 37. Section 178(K)(2) of Chapter 6 of the Massachu-
2 setts General Laws, as appearing in the 2002 official edition, is
3 hereby amended by striking out subsection (d) in its entirety.

1 SECTION 38. Section 178L(1)(a) of Chapter 6 of the Massachu-
2 setts General Laws, as appearing in the 2002 official edition, is
3 hereby amended by striking subsection (a) and inserting in place
4 thereof the following text:—

5 “(a) Within ten days of receipt from the department of correction,
6 the department of youth services and each of the houses of correc-
7 tion all of the information obtained pursuant to Section 178E(a) that
8 pertains to an individual who shall serve an actual sentence of more
9 than one year of incarceration, the board shall notify the sex offender
10 of his right to submit to the board documentary evidence relative to
11 his risk of re-offense and the degree of dangerousness posed to the
12 public and his duty to register according to the provisions of Section
13 178E. If the sex offender is a juvenile at the time of such notifica-
14 tion, notification shall also be mailed to the sex offender’s legal
15 guardian or agency having custody of the juvenile in the absence of
16 a legal guardian and his most recent attorney of record. Such sex
17 offender may submit such evidence to the board within 30 days of
18 receiving such notice from the board. Upon a reasonable showing,
19 the board may extend the time in which such sex offender may
20 submit such documentary evidence. Upon reviewing such evidence,
21 the board shall promptly notify the sex offender of the board’s rec-
22 ommended sex offender classification, his duty to register, if any, his
23 right to petition the board to request an evidentiary hearing to chal-
24 lenge such classification and duty, his right to retain counsel to rep-
25 resent him at such hearing and his right to have counsel appointed
26 for him if he is found to be indigent as determined by the board
27 using the standards under Chapter 211D; provided, however, that
28 such indigent offender may also apply for and the board may grant
29 payment of fees for an expert witness in any case where the board in
30 its classification proceeding intends to rely on the testimony or
31 report of an expert witness prepared specifically for the purposes of
32 the classification proceeding. Such sex offender shall petition the
33 board for such hearing within 20 days of receiving such notice. The
34 board shall conduct such hearing in a reasonable time according to
35 the provisions of subsection (2). A secured hearing facility shall be
36 provided by the custodial agency. The board shall issue its final clas-
37 sification decision prior to the offender’s release from custody. The
38 failure timely to petition the board for such hearing shall result in a
39 waiver of such right and the registration requirements, if any, and the
40 board’s recommended classification shall become final.”

1 SECTION 39. Chapter 6, Section 178(L)(1) of the Massachusetts
2 General Laws, as appearing in the 2002 official edition, is hereby

3 amended in subsection (c) by striking out in lines 54 and 55 the
4 phrase:— “and his duty to register, if any, according to Section
5 178E”.

1 SECTION 40. Section 178(L) of Chapter 6 of the Massachusetts
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by adding the following section after Section 2:—

4 “(3) Sex Offenders recommended to be a level 1 pursuant to
5 Section 178L(1) shall be exempt from the opportunity to request a
6 hearing, as this is the minimum classification permissible by opera-
7 tion of law. Level 1 recommendations shall be final classification
8 determinations, and not subject to judicial review pursuant to
9 Section 178M.”

1 SECTION 41. Section 178Q of Chapter 6, as established by
2 Chapter 26 of the Acts of 2003, is hereby amended by striking the
3 following sentence:—

4 “A sex offender’s duty to pay the fee established by this section
5 shall only terminate upon the termination of said offender’s duty to
6 register as a sex offender as set forth in Section 178G.”

1 SECTION 42. Said Chapter 6 is hereby amended by adding the
2 following section:—

3 Section 178R. (a) No sex offender designated as a level 2(a) or
4 level 3 offender convicted of a sex offense involving a child shall
5 knowingly establish a home address or intended home address or
6 any other living accommodation within 1000 feet of the property on
7 which any public or private school, licensed day care center, or any
8 other child care facility is located. Nor shall any level 2(a) or level 3
9 sex offender knowingly establish a home address or intended home
10 address or any other living accommodation within 1000 feet of the
11 property on which the offender’s former victim or victims, or said
12 victim’s immediate family members reside, nor shall such offender
13 knowingly and willfully come within 100 feet of any of the offend-
14 er’s former victims. Violations of this paragraph shall be punished in
15 accordance with a violation of the conditions of probation or parole.

16 (b) No sex offender designated as a level 2(a) or level 3 offender
17 convicted of a sex offense involving a child shall knowingly accept
18 employment within 1000 feet of the property on which any public or

19 private school, licensed day care center or any other child care
20 facility is located. No sex offender designated as a level 2(a) or level
21 3 sex offender shall knowingly accept employment within 1000 feet
22 of the property on which the offender's former victim or victims, or
23 the victim's immediate family members reside. Violations of the pro-
24 visions of this paragraph shall be punished in accordance with a vio-
25 lation of the conditions of probation or parole.

26 (c) No sex offender designated as a level 2(a) or level 3 offender
27 convicted of a sex offense involving a child shall establish living
28 conditions within, be placed in, or be transferred to any state-owned,
29 operated or funded housing or any facility contracted with the state
30 within 1½ miles of the property on which any public or private
31 school, licensed day care center, or any other child care facility is
32 located, or any residence occupied by at least one minor.

1 SECTION 43. Section 7 of Chapter 188 of the Acts of 1992 is
2 hereby amended by adding at the end of the second sentence, the
3 following words:—

4 “And sex offender criminal offender record information pursuant
5 to Chapter 6 of the General Laws.”

1 SECTION 44. The Sex Offender Registry Board shall establish an
2 annual public service campaign, subject to appropriation, to raise
3 awareness about the sex offender registry and to encourage citizens
4 to utilize the state's internet based information services and to visit
5 their local police departments to identify sex offenders in their cities
6 or towns.

1 SECTION 45. Chapter 12 of the General Laws is hereby amended
2 by inserting after Section 11L, as appearing in the 2000 Official Edi-
3 tion, the following section:—

4 Section 11M. The attorney general shall maintain a computer
5 database of all civil judgments and settlements of cases involving
6 allegations of sexual abuse of a person aged 17 or under, which
7 judgments and settlements have been forwarded to him by the chief
8 justice for administration and management of the trial court depart-
9 ment pursuant to clause (xxxx) of Section 9 of Chapter 211B. Con-
10 tents of the database shall not be subject to subpoena and shall not
11 be considered public records pursuant to clause twenty-sixth of

12 Section 7 of Chapter 4. If the database identifies 2 or more settle-
13 ments or judgments against a defendant or a combination of 2 or
14 more thereof involving the same defendant, the attorney general
15 shall conduct a criminal investigation of such defendant. As a result
16 of the investigation, the attorney general may initiate criminal pro-
17 ceedings against the defendant or refer the matter to the appropriate
18 district attorney or district attorneys for prosecution.

1 SECTION 46. Chapter 27 of the Massachusetts General Laws as
2 appearing in the 2002 Official Edition is hereby amended by adding
3 the following new Section 4A after Section 4:—

4 Section 4A. The Parole Board shall establish in each region an
5 intensive parole sex offenders program. Such programs shall be
6 established subject to appropriation, and shall be modeled upon the
7 current program operated by the parole board in Middlesex County,
8 and shall include unannounced visits, counseling, electronic moni-
9 toring, random drug testing, polygraph testing and other aspects of
10 intensive supervision.

1 SECTION 47. The third paragraph of Section 9 of Chapter 211B
2 of the General Laws, as so appearing, is hereby amended by adding
3 the following clause:—

4 (xxxx) the responsibility to report to the attorney general any civil
5 judgment against a defendant or any civil settlement of cases
6 involving allegations of sexual abuse of a person aged 17 or under,
7 which abuse would constitute a violation of Section 13B, 22A, 23,
8 24B of Chapter 265 or Section 4A, 4B, 28, 29A, 29B, 35A of
9 Chapter 272 or any attempt to commit a violation of any of the
10 aforementioned sections or a like violation of the laws of another
11 state, the United States or a military, territorial or Indian tribal
12 authority. The report shall contain only identifying data of the defen-
13 dant, including name, address, date of birth and social security
14 number, the date or dates of incidents giving rise to the action and
15 the date of judgment or settlement.

1 SECTION 48. Section 4 of Chapter 211D of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking out the first sentence.

1 SECTION 49. Section 5 of said Chapter 211D, as so appearing, is
2 hereby amended by striking the first sentence and inserting in place
3 thereof the foregoing sentence:—

4 Said committee shall establish, supervise and maintain a system
5 for the appointment or assignment of counsel at any stage of a pro-
6 ceeding, criminal in nature, provided, however, that the laws of the
7 Commonwealth or the rules of the supreme judicial court require
8 that a person in such proceeding be represented by counsel; and, pro-
9 vided further, that such person is unable to obtain counsel by reason
10 of his indigency.

1 SECTION 50. Section 6 of said Chapter 211D, as so appearing, is
2 hereby amended by inserting after the word “necessary”, in line 58,
3 the following words:— as long as it does not conflict with the law.

1 SECTION 51. Section 9 of said Chapter 211D, as so appearing, is
2 hereby amended by striking out, in line 5, the words “whenever pos-
3 sible”.

1 SECTION 52. Said Section 9 of said Chapter 211D, as so
2 appearing, is hereby amended by striking out clause (d).

1 SECTION 53. Section 13 of said Chapter 211D, as so appearing,
2 is hereby amended by inserting after the word “committee” in line 4,
3 the following words:— ; provided, however, that the duties do not
4 conflict with the law.

1 SECTION 54. Section 14 of said Chapter 211D, as so appearing,
2 is hereby amended by striking out the first sentence and inserting in
3 place thereof the following sentence:—

4 The public counsel division, except in cases of conflict of interest,
5 shall represent indigent defendants.

1 SECTION 55. Section 16 of said Chapter 211D, as so appearing,
2 is hereby amended by adding the following two sentences:—

3 Counsel shall not participate in any other proceeding, unless said
4 proceeding originates from the indigent defendant’s case. Counsel
5 shall not solicit plaintiffs, in particular in actions where the Com-
6 monwealth is a defendant.

1 SECTION 56. Section 1 of Chapter 258B of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 inserting, after the word “delinquency”, in line 10, the following
4 words:— or conviction as a youthful offender.

1 SECTION 57. Said Section 1 of said Chapter 258B, as so
2 appearing, is hereby further amended by striking, in lines 12-14, the
3 words “or found delinquent or against whom a finding of sufficient
4 facts for conviction or finding of delinquency is made” and
5 inserting, in place thereof, the following words:— adjudicated as a
6 delinquent or convicted as a youthful offender, or against whom a
7 finding of sufficient facts is made.

1 SECTION 58. Said Section 1 of said Chapter 258B, as so
2 appearing, is hereby further amended by inserting, after the word
3 “prosecution”, in line 41, the following words:— or family member
4 or guardian if such person is a minor, incompetent or deceased,

1 SECTION 59. Section 3 of said Chapter 258B, as appearing in the
2 2002 Official Edition, is hereby amended by inserting, after the word
3 “resources”, in line 5, the following words:— except in regard to
4 subsection (i) of this section as it applies to newly constructed or
5 substantially renovated courthouses.

1 SECTION 60. Subsection (b) of said Section 3 of said Chapter
2 258B, as so appearing, is hereby amended by inserting, in line 16,
3 after the word “all”, the following words:— adult and juvenile.

1 SECTION 61. Subsection (d) of said Section 3 of said Chapter
2 258B, as so appearing, is hereby amended by striking, in lines 31-34,
3 the words “protection from local law enforcement agencies from
4 harm and threats of harm arising out of their cooperation with law
5 enforcement and prosecution efforts” and inserting, in place thereof,
6 the following words:— assistance in developing safety plans and
7 appropriate referrals.

1 SECTION 62. Said Section 3 of said Chapter 258B, as so
2 appearing, is hereby amended by striking out subsection (i) in its
3 entirety and replacing it with the following new subsection:—

4 (i) for victims, family members, and witnesses, to be provided, by
5 the prosecutor, in any courthouse that is either newly constructed or
6 substantially renovated, if the construction or renovation was per-
7 formed under a building permit issued six months after passage of
8 this act, with a secure waiting area or room which is separate from
9 the waiting area of the defendant or the defendant's family, friends,
10 attorneys or witnesses, and separate from any district attorney's
11 office, during court proceedings. The court shall designate a waiting
12 area at each courthouse and develop any reasonable safeguards to
13 minimize contact between victims and the defendant, or the defen-
14 dant's family, friends, attorneys or witnesses.

1 SECTION 63. Subsection (m) of said Section 3 of said Chapter
2 258B, as so appearing, is hereby amended by inserting, at the end
3 thereof, the following:— ; provided further, defense counsel may not
4 seek to interview a victim or witness under the age of majority
5 without the permission of an adult family member, parent or
6 guardian other than the defendant.

1 SECTION 64. Subsection (p) of said Section 3 of said Chapter
2 258B, as so appearing, is hereby amended by striking, in line 111,
3 the word "at" and inserting, in place thereof, the following words:—
4 before sentence or disposition is imposed.

1 SECTION 65. Said subsection (p) of said Section 3 of said
2 Chapter 258B, as so appearing, is hereby further amended by
3 inserting after the word "defendant", in line 112, the following
4 words:— , even if there is admission to sufficient facts, the sentence
5 is mandatory, or there is an agreed upon plea,

1 SECTION 66. Said subsection (p) of said Chapter 3 of said
2 Chapter 258B, as so appearing, is hereby further amended by
3 inserting, at the end thereof, the following:— ; provided further,
4 upon showing by the prosecutor that a personal appearance by the
5 victim will cause an unreasonable hardship on the victim, the court
6 shall permit the victim to exercise the right to be heard by submit-
7 ting a statement through audio tape or videotape to be heard or
8 viewed before sentence or disposition is imposed.

1 SECTION 67. Said Section 3 of said Chapter 258B, as so
2 appearing, is hereby amended by striking out subsection (t) in its
3 entirety and replacing it with the following new subsection:—

4 (t) for victims and witnesses, to be informed by the prosecutor
5 about notification rights and the certification process required to
6 access the criminal offender record information files pursuant to
7 Sections 172(c) and 178A of Chapter 6. Individuals certified by the
8 criminal history systems board, or, in the case of a juvenile defen-
9 dant, certified by the department of youth services, will be informed
10 by the appropriate custodial authority if the offender escapes from
11 custody, receive advance notification when the offender receives a
12 temporary, provisional or final release from custody or is transferred
13 from a secure facility to a less-secure facility. Certified individuals
14 shall provide the criminal history systems board, or the department
15 of youth services in the case of a juvenile defendant, with current
16 contact information;

1 SECTION 68. Said Section 3 of said Chapter 258B, as so
2 appearing, is hereby further amended by inserting, at the end thereof,
3 the following new subsections:—

4 (w) for child victims and witnesses, notwithstanding any law to
5 the contrary, to have parents, a counselor, friend or other person
6 having a supportive relationship with the child, in addition to the
7 victim witness advocate, remain in the courtroom during the child's
8 testimony unless, in written findings made and entered, the court
9 finds that the defendant's constitutional right to a fair trial will be
10 prejudiced;

11 (x) for child victims and witnesses, for prosecutors to familiarize
12 the victim and witness with the courtroom setting, court personnel,
13 and rules of the court, to the extent practicable under the circum-
14 stances. This right may be applied to victims and witnesses with
15 physical, mental, developmental or other disabilities;

16 (y) for victims and witnesses, to have a summary of the rights
17 afforded under this section conspicuously posted in any courthouse
18 and in any police station. The victim and witness assistance board,
19 pursuant to Section 4 of this chapter, shall devise and provide
20 posters to satisfy this requirement to any court and any police sta-
21 tion, and, upon request and at the discretion of the office and board,
22 to any other institution or organization. The board shall develop the

23 posters in a variety of languages as determined by the Massachusetts
24 office for victim assistance. Upon request, the board will respond, to
25 the extent possible, to any requests for additional language transla-
26 tions of the posters;

27 (z) for victims, to confer with the prosecution prior to the accep-
28 tance of a plea of guilty or admission to sufficient facts. Before the
29 judge accepts a plea of guilty, an admission to sufficient facts, a dis-
30 position, or an agreed-upon sentence recommendation, the judge
31 shall ask the prosecutor if the victim has been consulted regarding
32 plea discussions, whether or not the victim agrees or disagrees with
33 the plea discussions and agreement, if the victim was notified of the
34 court date and is present, and if the victim would like to assert their
35 right to offer a victim impact statement;

36 (aa) for victims, to be notified by the prosecutor that they have the
37 right to provide the sex offender registry board with a written impact
38 statement for inclusion in the convicted sex offender's classification
39 determination pursuant to Section 178K(1)(k) of Chapter 6. Upon
40 the specific request of the victim to the sex offender registry board,
41 the board shall inform the victim of the sex offender's (i) registration
42 and classification status and (ii) the addresses of where the sex
43 offender lives, works, and attends an institution of higher learning
44 regardless of the classification level and registration status of the
45 offender;

46 (bb) for victims and witnesses, to be informed by the court at the
47 daily commencement of the regular criminal docket at which
48 accused persons are arraigned, that a summary of their rights is
49 posted within the courthouse;

1 SECTION 69. Section 8 of said Chapter 258B, as so appearing, is
2 hereby amended by striking out, in lines 4 and 5, the words, “. The
3 court shall impose an assessment of \$50” and inserting, in place
4 thereof, the following word:— , and.

1 SECTION 70. Said Section 8 of said Chapter 258B, as so
2 appearing, is hereby further amended by striking out, in lines 21-31,
3 the words “In the discretion of the court or the clerk magistrate in
4 the case of a civil motor vehicle infraction that has not been heard by
5 or brought before a justice, a civil motor vehicle assessment imposed
6 pursuant to this section which would cause the person against whom

7 the assessment is imposed severe financial hardship, may be reduced
8 or waived. An assessment other than for a civil motor vehicle infrac-
9 tion imposed pursuant to this section may be reduced or waived only
10 upon a written finding of fact that such payment would cause the
11 person against whom the assessment is imposed severe financial
12 hardship. Such a finding shall be made independently of a finding of
13 indigency for purposes of appointing counsel” and inserting, in place
14 thereof, the following sentence:—

15 Any assessment made pursuant to this section shall not be subject
16 to waiver by any court for any reason.

1 SECTION 71. Chapter 260 of the General Laws is hereby
2 amended by striking out Section 4C, as appearing in the 2002 Offi-
3 cial Edition.

1 SECTION 72. Section 26C of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended in sub-
3 division (a) by striking in line two the word “lure” and inserting in
4 place thereof the following:— groom, lure,

1 SECTION 73. Section 26C of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after subdivision (b) the following subdivision:—

4 (c) Any one who entices a child under 16, or a person believed to
5 be under 16, electronically via telephone, cell phone, electronic mail,
6 internet chat room or “instant messenger” with any comment, solici-
7 tation, request, suggestion, proposal, image, or other communication
8 verbal or otherwise which is obscene, lewd, lascivious, filthy, or
9 indecent, where sexual grooming, sexual abuse or sexual exploita-
10 tion was intended, shall be punished by imprisonment in the state
11 prison for not more than 5 years, or in the house of correction for not
12 more than 2 1/2 years, or by a fine of not more than \$5,000, or by
13 both imprisonment and fine.

1 SECTION 74. Chapter 272 of the General Laws is hereby
2 amended by striking out Section 53A, as appearing in the 2002 Offi-
3 cial Edition, and inserting in place thereof the following section:—

4 Section 53A. (a) Whoever engages, agrees to engage, or offers to
5 engage in sexual conduct with another person in return for a fee paid

6 or to be paid by another or to a third person, or whoever pays, agrees
7 to pay, or offers to pay any person to engage in sexual conduct with
8 that person or with another, shall be punished by imprisonment in
9 jail for not more than one year or by a fine of not more than 500 dol-
10 lars or by both such imprisonment and fine, whether such sexual
11 conduct occurs or not.

12 (b) Whoever pays, agrees to pay, or offers to pay any person with
13 the intent to engage in sexual conduct with a child under the age of
14 eighteen, or whoever is paid, agrees to pay, or agrees that a third
15 person be paid in return for aiding a person who intends to engage in
16 sexual conduct with a child under the age of eighteen, shall be pun-
17 ished by imprisonment in the state prison for not more than ten years
18 or in jail for not more than two and one half years, whether such
19 sexual conduct occurs or not.

1 SECTION 75. Section 100A of Chapter 276 of the General Laws,
2 as so appearing, is hereby amended by inserting after the word
3 “court,” in line 69, the following words:— a victim seeking infor-
4 mation on a sex offense, as defined in Section 178C of Chapter 6,
5 committed against the victim when the victim was a minor and the
6 offender an adult.

1 SECTION 76. Section 63 of Chapter 277 of the General Laws, as
2 so appearing, is hereby amended by inserting after the word “five”,
3 in line 5, the following words:— may be found at any time.

1 SECTION 77. Said Section 63 of said Chapter 277, as so
2 appearing, is hereby further amended by striking out, in lines 19 and
3 20, the words “, twenty-two, twenty-two A, twenty-three, twenty-
4 four B”.

1 SECTION 78. Notwithstanding any special or general law to the
2 contrary, nursing home and assisted living facilities administrators
3 shall conduct background checks of all potential residents to pro-
4 mote a safe living environment and for the protection of all current
5 residents.

1 SECTION 79. Be it resolved that all staff who work with individ-
2 uals served by the Department of Mental Retardation are required to

3 have national criminal background checks. Criminal background
4 verification will be determined by cross-referencing fingerprints
5 with the National Instant Criminal Background Check System
6 (NICS). The Department of Mental Retardation will work coopera-
7 tively with the Disabled Persons Protection Commission (DPPC)
8 and The Massachusetts State Police to implement national back-
9 ground checks.

10 Staff will be subject to said criminal background checks when
11 seeking employment with those agencies that provide services such
12 as, but not limited to the following:— residential, day and trans-
13 portation. It shall be the responsibility of the Commonwealth to
14 ensure that said criminal background checks are processed for
15 review prior to such a time that an individual begins unsupervised
16 work with any person served by the Department of Mental Retarda-
17 tion.

18 Any employer who recklessly hires, retains or supervises an
19 employee whom the employer knows or should know will interact
20 with individuals served by DMR and poses a probable risk of harm
21 to an adult with mental retardation and by such hiring, retention or
22 supervision permits the employee to criminally harm an adult with
23 mental retardation. These incidents of harm include but are not lim-
24 ited to the following criminal acts:— sexually exploit, commit
25 sexual assault, kidnap, stalk, or commit an assault and battery on an
26 adult with mental retardation that causes bodily injury. Knowingly
27 hiring dangerous individuals shall be punishable by a fine of not less
28 than \$1000 nor more than \$10,000 or by imprisonment for not less
29 than one year nor more than ten years.

1 SECTION 80. Notwithstanding any special or general law to the
2 contrary, a notification advisory council shall be established. Said
3 council shall consist of 13 persons who, by experience or training,
4 have a personal interest or professional expertise in law enforce-
5 ment, crime prevention, victim advocacy, criminology, psychology,
6 parole, education or community relations. The members of said
7 council shall be appointed in the following manner:— 3 shall be
8 appointed by the Governor, of whom no more than two shall be of
9 the same political party; 3 shall be appointed by the Senate
10 President, of whom no more than 2 shall be of the same political
11 party; and 4 shall be appointed by the Speaker of the House of

12 Representatives, of whom no more than 3 shall be of the same polit-
13 ical party. The remaining 3 spots shall consist of 2 victim's advo-
14 cates and 1 member of the Sex Offender Registry Board. Any
15 vacancies occurring in the membership shall be filled in the same
16 manner as the original appointments.

17 One year after the effective date of this act, the Attorney General
18 and the council shall conduct a comprehensive review of the guide-
19 lines to determine whether any changes or revisions should be pro-
20 mulgated. Upon completion of that review and the submission of
21 any recommendations thereon, that council shall expire.