

HOUSE No. 1299

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to protect children against 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. Section 13B of chapter 265 of the general laws, as appearing in the 2006
2 official edition, is hereby amended by adding the following:

3 For the first offense, the convicted will be subject to probation for a term of no less than
4 five years upon release or parole from jail or house of correction, and for the second or
5 subsequent offense be subject to probation for a term of no less than ten years upon release or
6 parole from jail or house of correction; provided, however, that a prosecution commenced under
7 the provisions of this section shall not be placed on file or continued without a finding.

8 Section 2. Section 13H of chapter 265 of the general laws, as appearing in the 2006
9 official edition, is hereby amended by adding the following:

10 For the first offense, the convicted will be subject to probation for a term of no less than
11 five years upon release or parole from jail or house of correction, and for the second or
12 subsequent offense be subject to probation for a term of no less than ten years upon release or

13 parole from jail or house of correction; provided, however, that a prosecution commenced under
14 the provisions of this section shall not be placed on file or continued without a finding.

15 Section 3. Section 22 of chapter 265 of the general laws, as appearing in the 2006
16 official edition, is hereby amended by adding the following:

17 For the first offense, the convicted will be subject to probation for a term of no less than
18 five years upon release or parole from jail or house of correction, and for the second or
19 subsequent offense be subject to probation for a term of no less than ten years upon release or
20 parole from jail or house of correction; provided, however, that a prosecution commenced under
21 the provisions of this section shall not be placed on file or continued without a finding.

22 Section 4. Section 22A of chapter 265 of the general laws, as appearing in the 2006
23 official edition, is hereby amended by adding the following:

24 For the first offense, the convicted will be subject to probation for a term of no less than
25 five years upon release or parole from jail or house of correction, and for the second or
26 subsequent offense be subject to probation for a term of no less than ten years upon release or
27 parole from jail or house of correction; provided, however, that a prosecution commenced under
28 the provisions of this section shall not be placed on file or continued without a finding.

29 Section 5. Section 23 of chapter 265 of the general laws, as appearing in the 2006
30 official edition, is hereby amended by adding the following:

31 For the first offense, the convicted will be subject to probation for a term of no less than
32 five years upon release or parole from jail or house of correction, and for the second or
33 subsequent offense be subject to probation for a term of no less than ten years upon release or

34 parole from jail or house of correction; provided, however, that a prosecution commenced under
35 the provisions of this section shall not be placed on file or continued without a finding.

36 Section 6. Section 24 of chapter 265 of the general laws, as appearing in the 2006
37 official edition, is hereby amended by adding the following:

38 For the first offense, the convicted will be subject to probation for a term of no less than
39 five years upon release or parole from jail or house of correction, and for the second or
40 subsequent offense be subject to probation for a term of no less than ten years upon release or
41 parole from jail or house of correction; provided, however, that a prosecution commenced under
42 the provisions of this section shall not be placed on file or continued without a finding.

43 Section 7. Section 24B of chapter 265 of the general laws, as appearing in the 2006
44 official edition, is hereby amended by adding the following:

45 For the first offense, the convicted will be subject to probation for a term of no less than
46 five years upon release or parole from jail or house of correction, and for the second or
47 subsequent offense be subject to probation for a term of no less than ten years upon release or
48 parole from jail or house of correction; provided, however, that a prosecution commenced under
49 the provisions of this section shall not be placed on file or continued without a finding.

50 Section 8. Section 27 of chapter 265 of the general laws, as appearing in the 2006
51 official edition, is hereby amended by adding the following:

52 For the first offense, the convicted will be subject to probation for a term of no less than
53 five years upon release or parole from jail or house of correction, and for the second or
54 subsequent offense be subject to probation for a term of no less than ten years upon release or

55 parole from jail or house of correction; provided, however, that a prosecution commenced under
56 the provisions of this section shall not be placed on file or continued without a finding.

57 Section 9. Section 4A of chapter 272 of the general laws, as appearing in the 2006
58 official edition, is hereby amended by adding the following:

59 For the first offense, the convicted will be subject to probation for a term of no less than
60 five years upon release or parole from jail or house of correction, and for the second or
61 subsequent offense be subject to probation for a term of no less than ten years upon release or
62 parole from jail or house of correction; provided, however, that a prosecution commenced under
63 the provisions of this section shall not be placed on file or continued without a finding.

64 Section 10. Section 35A of chapter 272 of the general laws, as appearing in the 2006
65 official edition, is hereby amended by adding the following:

66 For the first offense, the convicted will be subject to probation for a term of no less than
67 five years upon release or parole from jail or house of correction, and for the second or
68 subsequent offense be subject to probation for a term of no less than ten years upon release or
69 parole from jail or house of correction; provided, however, that a prosecution commenced under
70 the provisions of this section shall not be placed on file or continued without a finding.

71 Section 11. Section 47 of chapter 265 of the general laws, as appearing in the 2006
72 official edition, is hereby amended by replacing the second sentence with the following:

73 The commissioner of probation, in addition to any other conditions, shall establish
74 defined geographic inclusion zones and exclusion zones to minimize the probationer's contact
75 with children. The defined exclusion zones shall include, but not be limited to, playgrounds,

76 libraries, schools, day care centers, the parking area and land surrounding any of the
77 aforementioned facilities, and any other locale deemed worthy by a probation officer to minimize
78 the probationer's contact with children.

79 Section 12. Section 178L of chapter 6 of the general laws, as appearing in the 2006
80 official edition, is hereby amended by replacing section 1(a) with the following:

81 Section 178L of chapter 6 of the general laws, as appearing in the 2006 official edition, is
82 hereby amended by replacing section 1(a) with the following:

83 Not less than 180 days prior to the release or parole of a sex offender from custody or
84 incarceration, the board shall notify the sex offender of his right to submit to the board
85 documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to
86 the public and his duty to register according to the provisions of section 178E. If the sex
87 offender is a juvenile at the time of such notification, notification shall also be mailed to the sex
88 offender's legal guardian and his most recent attorney of record. Such sex offender may submit
89 such evidence to the board within 30 days of receiving such notice from the board. Upon a
90 reasonable showing, the board may extend the time in which such sex offender may submit such
91 documentary evidence by no more than 30 days. The board may extend the time which such sex
92 offender may submit such documentary evidence after the 30 days, but only after additional
93 reasonable showing and not more than 30 days at a time. Upon reviewing such evidence, the
94 board shall notify the sex offender within 30 days of the board's recommended sex offender
95 classification, his duty to register, if any, his right to petition the board to request an evidentiary
96 hearing to challenge such classification and duty, his right to retain counsel to represent him at
97 such hearing and his right to have counsel appointed for him if he is found to be indigent as

98 determined by the board using the standards under chapter 211D; provided, however, that such
99 indigent offender may also apply for and the board may grant payment of fees for an expert
100 witness in any case where the board in its classification proceeding intends to rely on the
101 testimony or report of an expert witness prepared specifically for the purposes of the
102 classification proceeding. If the offender is found to be indigent as determined by the board
103 using the standards under chapter 211D, counsel shall be appointed within 20 days. Such sex
104 offender shall petition the board for such hearing within 20 days of receiving such notice. The
105 board shall conduct such hearing within 60 days from the latter of petition from the sex offender
106 or appointment of counsel. The failure timely to petition the board for such hearing shall result
107 in a waiver of such right and the registration requirements, if any, and the board's recommended
108 classification shall become final.

109 Section 13. Section 178L of chapter 6 of the general laws, as appearing in the 2006
110 official edition, is hereby amended by replacing section 1(c) with the following:

111 In the case of any sex offender not in custody, upon receiving registration data from the
112 agency, the police department at which the sex offender registered, the sentencing court or by
113 any other means, the board shall promptly notify the sex offender of his right to submit to the
114 board documentary evidence relative to his risk of reoffense and the degree of dangerousness
115 posed to the public and his duty to register, if any, according to the provisions of section 178E.
116 If such sex offender is a juvenile at the time of such notification, notification shall also be mailed
117 to the sex offender's legal guardian and his most recent attorney of record. Such sex offender
118 may submit such evidence to the board within 30 days of receiving such notice from the board.
119 Upon a reasonable showing, the board may extend the time in which such sex offender may
120 submit such documentary evidence by no more than 30 days. The board may extend the time

121 which such sex offender may submit such documentary evidence after the 30 days, but only after
122 additional reasonable showing and not more than 30 days at a time. Upon reviewing such
123 evidence, the board shall notify the sex offender within 30 days of the board's recommended sex
124 offender classification, his duty to register, if any, his right to petition the board to request an
125 evidentiary hearing to challenge such classification and duty, his right to retain counsel to
126 represent him at such hearing and his right to have counsel appointed for him if he is found to be
127 indigent as determined by the board using the standards under chapter 211D; provided, however,
128 that such indigent offender may also apply for and the board may grant payment of fees for an
129 expert witness in any case where the board in its classification proceeding intends to rely on the
130 testimony or report of an expert witness prepared specifically for the purposes of the
131 classification proceeding. If the offender is found to be indigent as determined by the board
132 using the standards under chapter 211D, counsel shall be appointed within 20 days. Such sex
133 offender shall petition the board for such hearing within 20 days of receiving such notice. The
134 board shall conduct such hearing within 60 days from the latter of petition from the sex offender
135 or appointment of counsel. The failure timely to petition the board for such hearing shall result
136 in a waiver of such right and the registration requirements, if any, and the board's recommended
137 classification shall become final.