

HOUSE No. 4372

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to create a narcotics offender registry..

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

1 AN ACT TO CREATE A NARCOTICS OFFENDER REGISTRY

2 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting, after section
3 178, the following sections:

4 Section 178 ½(A). A narcotics offender shall be any person who has been convicted of
5 any of the following crimes contained chapter 94C:

6 Possession with intent to distribute any drug which falls into Class A, Class B, Class C,
7 Class D or Class E.

8 Distribution of any drug which falls into Class A, Class B, Class C, Class D, or Class E.

9 Trafficking any drug which falls into Class A, Class B, Class C, Class D, or Class E.

10 Creation or distribution of counterfeit substances.

11 Inducing a minor to distribute drugs

Any attempt to commit a violation of any of the aforementioned sections, or a like violation of the laws of another state, the United States, or a military, territorial or Indian tribal authority.

Section 178 ½ (B). There shall be a narcotics offenders' registry which shall contain the collected information and data that is received by the criminal history systems board.

Section 178 ½ (C). There shall be a narcotics offender registry board, known as the board, in cooperation with the criminal history systems board, shall establish and maintain a central computerized registry of all narcotics offenders required to register , known as the narcotics offender registry. The narcotics offender registry shall be updated based on information made available to the board, including information acquired pursuant to registration provisions. The file on each narcotics offender required to register shall include the following information, hereinafter referred to as registration data:

(a) the narcotics offender's name, aliases used, date and place of birth, sex, race, height, weight, eye and hair color, social security number, home address, any secondary addresses and work address and, if the narcotics offender works at or attends an institution of higher learning, the name and address of the institution;

(b) a photograph and set of fingerprints;

(c) a description of the offense for which the narcotics offender was convicted or adjudicated, the city or town where the offense occurred, the date of conviction or adjudication and the sentence imposed;

(d) any other information which may be useful in assessing the risk of the narcotics offender to reoffend; and

(e) any other information which may be useful in identifying the narcotics offender.

Notwithstanding any general or special law to the contrary and in addition to any responsibility otherwise imposed upon the board, the board shall make the narcotics offender information contained in the narcotics offender registry, delineated below in subsections (i) to (viii), inclusive, available for inspection by the general public in the form of a comprehensive database published on the internet, known as the “narcotics offender internet database”; provided, however, that no registration data relating to a narcotics offender given a level 1 or level 2 designation by the board under section E shall be published in the narcotics offender internet database but may be disseminated by the board as otherwise permitted by said section E; and provided further, that the board shall keep confidential and shall not publish in the narcotics offender internet database any information relating to requests for registration data .

(i) the name of the sex offender;

(ii) the offender’s home address and any secondary addresses;

(iii) the offender’s work address;

(iv) the offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication;

(v) the narcotics offender’s age, sex, race, height, weight, eye and hair color;

(vi) a photograph of the narcotics offender, if available;

(vii) whether the offender is in compliance with the registration obligations .

All information provided to the general public through the narcotics offender internet database shall include a warning regarding the criminal penalties for use of narcotics offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under section 4 of chapter 275. The narcotics offender internet database shall be updated regularly, based on information available to the board and shall be open to searches by the public at any time without charge or subscription. The board shall promulgate rules and regulations to implement, update and maintain such a narcotics offender internet database, to ensure the accuracy, integrity and security of information contained therein, to ensure the prompt and complete removal of registration data for persons whose duty to register has terminated or expired and to protect against the inaccurate, improper or inadvertent publication of registration data on the internet.

The board shall develop standardized registration and verification forms, which shall include registration data as required. The board shall make blank copies of such forms available to all agencies having custody of narcotics offenders and all city and town police departments; provided, however, that the board shall determine the format for the collection and dissemination of registration data, which may include the electronic transmission of data. Records maintained in the narcotics offender registry shall be open to any law enforcement agency in the commonwealth, the United States or any other state. The board shall promulgate rules and regulations to implement the provisions of this chapter. Such rules and regulations shall include provisions which may permit police departments located in a city or town that is divided into more than one zip code to disseminate information pursuant to categorized by zip code and to disseminate such information limited to one or more zip codes if the request for such

dissemination is so qualified; provided, however, that for the city of Boston dissemination of information may be limited to one or more police districts.

Section 178 ½(D). The following persons are required to register as narcotics offenders if they live or work in the commonwealth and were:

Convicted on or after August 1, 2009.

Adjudicated a delinquent juvenile on or after August 1, 2009

Adjudicated a youthful offender on or after August 1, 2009

Released from incarceration on or after August 1, 2009

Released from parole or probation supervision on or after August 1, 2009

Released from civil commitment on or after August 1, 2009.

Section 178 1/2(E). The following guidelines shall be used by the narcotics offender registry ;

Level I shall be low risk of re-offense and level 1 offender information shall not be made available to the public. This information, as well as the information contained in the narcotics offender registry data base, shall be available to police departments solely for law enforcement purposes.

Level 2 shall be moderate risk of re-offending individuals and information about these offenders will be available only to members of the public who request it. There is to be no community notification.

Level 3 shall be composed of high risk of re-offense. In each police department the records division supervisor or designated alternate shall disseminate posters of level 3 offenders to organizations in the town that are likely to encounter these offenders, and who wish to receive this information, in accordance the board's guidelines.

For a level 3 offender community notification must include, but not be limited to, publication of the information in local newspapers and public announcements via local cable television. Community notification fliers must be posted in town hall, libraries and similar publicly accessible areas. Notification must be made to all schools in the town. Information about the offender must be available to members of the public who request it. Police departments shall post all level 3 offenders on their websites.

Section 178 ½(F) The narcotics offenders registry board shall consist of 5 members, who shall be appointed by the governor for terms of 6 years, with the exception of the chairman, whose term shall be coterminous with the governor, and who shall devote their full time during business hours to their official duties. The board shall include one person with experience and knowledge in the field of criminal justice, who shall act as chair; one psychologist or psychiatrist with expertise in the field of drug abuse, one person from the office of public safety; one law enforcement officer with experience in the activities narcotic users and suppliers; and one former drug user or distributor who has demonstrated rehabilitation and presently works in the area of drug abuse and prevention. The board shall be responsible for the classification of offenders in section (E) and establish rules and regulations for the implementation of this section.

Section 178 ½(G). A narcotics offender, as defined in section (A), who has been convicted or adjudicated for a narcotics offense, shall register in person at the police department

in the community in which he resides. If a narcotics offender resides in another state but works in the commonwealth, he is required to register in the town in which he works. Certain governmental agencies including the board, the department of corrections, parole boards and probation departments shall notify the offender in writing of his obligation to register with his local police department. An offender must register annually in the month of his birth. A processing fee to be determined by the legislature shall be charged annually.

Failure to register or verify information shall be grounds for revocation of probation or parole. Failure to register or verify information will also be grounds for revocation of a Massachusetts driver's license. A narcotics offender may be prosecuted for violating this chapter if he knowingly fails to register, fails to verify registration notice, fails to provide notice of change of address or place of employment or provides false information. Such a violation may result in a fine not to exceed \$5000 and imprisonment in the house of correction for a period not to exceed 2 and ½ years

Level 1,2 and 3 offenders living in a town or city must register with the board immediately upon establishing residence within the town or city. All offenders must report changes of address in either home or work via US mail to the board 10 days prior to a move. Upon verifying registration data or giving notice of a change of address or intended change of address, the narcotics offender shall provide independent written verification of the address at which he is registered or, if changing an address, will be registered.

Section 178 ½(H) Whenever a police officer has probable cause to believe that a narcotics offender has failed to comply with the registration requirements of section G, such officer shall have the right to arrest such narcotics offender without a warrant and keep such

138 narcotics offender in custody. Such circumstances include a narcotics offender who knowingly
139 (1) Fails to register (ii) fails to verify registration information (iii) fails to provide notice of a
140 change of address or (iv) provides false information.