

**SENATE . . . . . No. 1818**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**

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An Act relative to timely classification of 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 2 of Chapter 74 of the Acts of 1999 are hereby amended in  
2       Subsection 178L (1) by striking out subsection (a) and replacing it with the following  
3       subsection:-  
4                   (a) Not less than 90 days prior to the release or parole of a sex offender from  
5       custody or incarceration, the board shall notify the sex offender of his right to submit to the  
6       board documentary evidence relative to his risk of reoffense and the degree of dangerousness  
7       posed to the public and his duty to register according to the provisions of section 178E. If the  
8       sex offender is a juvenile at the time of such notification, notification shall also be mailed to the  
9       sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal  
10      guardian and his most recent attorney of record. Such sex offender must submit such evidence to  
11      the board within 30 days of receiving such notice from the board. Upon a reasonable showing,  
12      the board may extend the time in which such sex offender may submit such documentary  
13      evidence, but in no case shall the sex offender submit any information less than 30 days prior to  
14      release or parole. Upon reviewing such evidence, the board shall promptly, but under no

15 circumstance, later than the date of release or parole of the sex offender, notify the sex offender  
16 of the board's recommended sex offender classification, his duty to register, if any, his right to  
17 retain counsel to represent him at such hearing and his right to have counsel appointed for him if  
18 he is found to be indigent as determined by the board using the standards under Chapter 211D;  
19 provided, however, that such indigent offender may also apply for and the board may grant  
20 payment of fees for an expert witness in any case where the board in its classification proceeding  
21 intends to rely on the testimony or report of an expert witness prepared specifically for the  
22 purposes of the classification proceeding. Such sex offender shall petition the board for such  
23 hearing within 15 days of receiving such notice. The board shall conduct such hearing in a  
24 reasonable period of time and shall make every effort to conduct such hearing before the date of  
25 release or parole of the sex offender according to the provisions of subsection (2). The failure  
26 timely to petition the board for such hearing shall result in a waiver of such right and the  
27 registration requirements, if any, and the board's recommended classification shall become  
28 final."