

**HOUSE . . . . . No. 1531**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Shaunna O'Connell***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the Sex Offender Registry Board.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>	<i>1/18/2013</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/31/2013</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/30/2013</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>1/28/2013</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>1/18/2013</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>1/31/2013</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/29/2013</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/29/2013</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>1/30/2013</i>

**HOUSE . . . . . No. 1531**

By Mrs. O'Connell of Taunton, a petition (accompanied by bill, House, No. 1531) of Shaunna O'Connell and others relative to the evaluation and classification of persons by the Sex Offender Registry Board. The Judiciary.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act relative to the Sex Offender Registry Board.

*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. Chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is  
2 hereby amended by striking section 178L in its entirety, and inserting in place thereof the  
3 following section:-

4 Section 178L. (1) Upon review of any information useful in assessing the risk of  
5 reoffense and the degree of dangerousness posed to the public by the sex offender, including  
6 materials described in the board guidelines and any materials submitted by the sex offender, the  
7 board shall prepare a recommended classification of each offender. Such recommendation may  
8 be made by board staff members upon written approval by one board member; provided,  
9 however, that if the sex offender was a juvenile at the time of the offense, written approval must  
10 be given by a board member who is a licensed psychologist or psychiatrist with special expertise  
11 in the assessment and evaluation of juvenile sex offenders.

12 (a) Not less than 60 days prior to the release or parole of a sex offender from custody or  
13 incarceration, the board shall notify the sex offender of his right to submit to the board  
14 documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to  
15 the public and his duty to register according to the provisions of section 178E. If the sex offender  
16 is a juvenile at the time of such notification, notification shall also be mailed to the sex  
17 offender's legal guardian or agency having custody of the juvenile in the absence of a legal  
18 guardian and his most recent attorney of record. Such sex offender may submit such evidence to  
19 the board within 30 days of receiving such notice from the board. Upon reviewing such  
20 evidence, the board shall promptly notify the sex offender of the board's recommended sex  
21 offender classification, his duty to register, if any, his right to petition the board to request an

22 evidentiary hearing to challenge such classification and his right to retain counsel to represent  
23 him at such hearing; provided, however, that such indigent offender may also apply for and the  
24 board may grant payment of fees for an expert witness in any case where the board in its  
25 classification proceeding intends to rely on the testimony or report of an expert witness prepared  
26 specifically for the purposes of the classification proceeding. Such sex offender shall petition the  
27 board for such hearing within 20 days of receiving such notice. The board shall conduct such  
28 hearing in a reasonable time according to the provisions of subsection (2). The failure timely to  
29 petition the board for such hearing shall result in a waiver of such right and the registration  
30 requirements, if any, and the board's recommended classification shall become final.

31 (b) The district attorney for the county where such sex offender was prosecuted may,  
32 within ten days of a conviction or adjudication of a sexually violent offense, file a motion with  
33 the board to make an expedited recommended classification upon a showing that such sex  
34 offender poses a grave risk of imminent reoffense. If the petition is granted, the board shall make  
35 such recommendation within ten days of the expiration of the time to submit documentary  
36 evidence. If the petition is not granted, the board shall make such recommended classification as  
37 otherwise provided in this section.

38 (c) In the case of any sex offender not in custody, upon receiving registration data from  
39 the agency, the police department at which the sex offender registered, the sentencing court or by  
40 any other means, the board shall promptly notify the sex offender of his right to submit to the  
41 board documentary evidence relative to his risk of reoffense and the degree of dangerousness  
42 posed to the public and his duty to register, if any, according to section 178E. If such sex  
43 offender is a juvenile at the time of such notification, notification shall also be mailed to such sex  
44 offender's legal guardian or agency having custody of the juvenile in the absence of a legal  
45 guardian and his most recent attorney of record. Such sex offender may submit such evidence to  
46 the board within 30 days of receiving such notice from the board. Upon a reasonable showing,  
47 the board may extend the time in which a sex offender may submit such documentary evidence.  
48 Upon reviewing such evidence, the board shall promptly notify such sex offender of the board's  
49 recommended sex offender classification, his duty to register, if any, and his right to petition the  
50 board to request an evidentiary hearing to challenge such classification and duty, his right to  
51 retain counsel to represent him at such hearing. Such sex offender shall petition the board for  
52 such hearing within 20 days of receiving such notice. The board shall conduct such hearing in a  
53 reasonable time according to the provisions of subsection (2). The failure timely to petition the  
54 board for such hearing shall result in a waiver of such right and the registration requirements, if  
55 any, and the board's recommended classification shall become final.

56 (2) If an offender requests a hearing in accordance with subsection (1), the chair may  
57 appoint a member, a panel of three board members or a hearing officer to conduct the hearing,  
58 according to the standard rules of adjudicatory procedure or other rules which the board may  
59 promulgate, and to determine by a preponderance of evidence such sex offender's duty to  
60 register and final classification. If the sex offender does not so request a hearing, the

61 recommended classification and determination of duty to register shall become the board's final  
62 classification and determination and shall not be subject to judicial review.

63 SECTION 2. Chapter 6 of the General Laws, as so appearing, is hereby amended by  
64 striking section 178M in its entirety and inserting in place thereof the following section:

65 Section 178M. An offender may seek judicial review, in accordance with section 14 of  
66 chapter 30A, of the board's final classification and registration requirements. An attorney  
67 employed or retained by the board may make an appearance, subject to section 3 of chapter 12,  
68 to defend the board's decision. The court shall reach its final decision within 60 days of such sex  
69 offender's petition for review.

70 SECTION 3. Section 16 of chapter 211D of the General Laws is hereby repealed.