

HOUSE No. 3259

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day, (BY REQUEST)

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 establishment of a Massachusetts violent offender registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul Sandman</i>	<i>52 Country Club Boulevard Worcester, MA</i>	

HOUSE No. 3259

By Mr. O'Day of West Boylston (by request), a petition (accompanied by bill, House, No. 3259) of Paul Sandman relative to the establishment of a violent offender registry. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the establishment of a Massachusetts violent 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 Section 1

2 Violent offense is a violent behavior that is largely non-sexual such as homicide, attempts
3 at killing and seriously injuring others, kidnapping, abduction, robbery, aggravated assault,
4 simple assault, threatening to hurt others, intimidation, crimes with weapons, and assault acts to
5 cause injury.

6 “Violent Offender”, a person convicted of a violent offense on or after the passing of this
7 law.

8 The criminal history systems board known as the board in this section shall establish and
9 maintain a central computerized registry of all identified violent offenders known as the violent
10 offender registry. The violent offender registry shall be updated based on information made
11 available to the board. The file on each violent offender shall include the following information,
12 hereinafter referred to as registration data:

13 (a) the violent offender’s name, aliases used, date and place of birth, sex, race, height,
14 weight, eye and hair color, social security number, home address and work address;

15 (b) a photograph and fingerprints;

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

19 (d) any other information which may be useful in assessing the risk of the violent
20 offender to re-offend including their history of violent behavior, substance abuse history, mental
21 health history, history of following through with mental health treatment or substance abuse
22 history, medication history, and history of past violent offender risk assessments;

23 (e) any other information which may be useful in identifying the violent offender

24 The board shall develop a standardized registration form, which shall include all
25 registration data.

26 Not less than thirty days prior to the release of any violent offender from custody, the
27 agency which has custody of the violent offender shall transmit his registration data to the board.
28 The board shall promptly transmit his registration data to the police departments where the
29 violent offender intends to live and work where the offense was committed. The agency which
30 has the custody of the violent offender shall notify the violent offender in writing of the duty to
31 register and shall require the violent offender to acknowledge in writing that he has been advised
32 of his duty to register. Within two days of his release from custody, the violent offender shall
33 register in person at the police department in the city or town that he resides.

34 Any violent offender who moves into the commonwealth from another jurisdiction shall,
35 within two days of moving into the commonwealth, register in person at the police department in
36 the city or town where he resides.

37 Any violent offender who intends to move to a different city or town within the
38 commonwealth must register at the police department where he intends to reside five days prior
39 to establishing the new residence. The violent offender shall also send written notice within five
40 days of the change of address to the police department where he last registered.

41 Any violent offender who intends to move out of the commonwealth shall notify the
42 police department where he last registered not later than five days before leaving the
43 commonwealth.

44 Any violent offender who intends to change his work address shall notify the police
45 department where he resides in writing five days prior to establishing the new work address.

46 The registrar of motor vehicles shall inform all persons applying for or renewing a license
47 to operate a motor vehicle in the commonwealth that they have a duty to register at their local
48 police department if they ever have been convicted of a violent offense as defined in this section
49 in the commonwealth or any other jurisdiction.

50 Every violent offender must appear in person at least one time per year at the local police
51 department to verify that the registration data on file remains true and accurate. If the violent
52 offender fails to register at least once per year he is in violation of this law and is subject to the
53 consequences arising from that.

Three levels of violent offender behaviors are identified and defined and they are the following:

Level 1 violent offenders have the lowest type of risk and violent risk toward others and are characterized as having a history of violence toward others, have never engaged in any homicidal behavior, have not murdered anyone, have not had any alleged violent incidents toward others in over 10 years; Level 2 violent offenders have a moderate level of dangerousness toward others, have never attempted to kill someone or murdered anyone, and have not participated in an alleged incident of violence in at least five years; and Level 3 violent offenders have the highest level of dangerousness toward others, may have recently assaulted another person, may have threatened to hurt someone or kill an individual or others recently (recently means in the past year), have tried to kill someone in the past, or have murdered someone or some people in the past using or not procuring a weapon or firearm.

Controls for violent offender registry are the following:

(1) Level 1 violent offenders would be required to engage in Violence Risk Assessments by Licensed Violence Risk Assessment Specialists every 3-6 months to determine their level of mental health/psychological functioning and dangerousness to the public, (2) Level 2 violent offenders would be required to engage in Violence Risk Assessments every 3-6 months as well, and (3) Level 3 violent offenders would be required to participate in Violence Risk Assessments once per month. Additionally it is recommended that Levels 2 and 3 violent offenders be required to have standing and continuous warrants for the police to search their living quarters for weapons as well as review their computers and telephones for signs of potential inappropriate violent behaviors and they should participate in electronic monitoring if home commitment is utilized as an intervention and potential consequence of their past and current violent behavior. It is recommended that all three levels be required to register with the National Violent Offender Registry so that others are warned about their proclivity for violence and to help reduce the level of their risk of dangerousness, for being forewarned may help someone be forearmed, and more quickly protect themselves.

All three levels of offenders would be required to complete at least a 1 year psychological treatment program and if they fell out of their program they would be required to complete at least a 2 year psychological treatment program.

Violent offender registry violence risk assessments would be required for the offender to engage in and are described as the following:

The Violence Risk Assessments administered by Licensed Violent Risk Offender Specialists would review the following parameters of dangerous tendency factors: level of severity of their assault acts in the past, past history of assault behavior, prior felony convictions, any sexual offenses, past domestic violence offenses, history of fighting, history of threats toward others, substance abuse/dependence factors, did they complete a psychological treatment

91 program for violence, are they on medication for violent behaviors and are they successfully
92 taking their medication, have they made any recent threats toward or engaged in any violent
93 behaviors toward others in the past 30, 60, or 90 days, arrest history, had any angry outbursts
94 toward others in the past 90 days, do they have any relationship problems with others, have they
95 been involuntarily or voluntarily hospitalized or received outpatient or residential treatment for
96 mental health/psychological issues in the past year, do they have any suicidal thoughts or
97 behaviors in the past year, and have they ever tried to escape from jail. The violent offender
98 would be rated by the Licensed Violence Risk Offender Specialist utilizing a 1-10 scale
99 regarding the level of dangerousness to the public. A score of 1 would be the lowest level of
100 dangerousness and a score of 10 would be the highest level of risk to the public.

101 The violence offender registry board shall develop guidelines to assess the risk of re-
102 offense by a violent offender and shall provide three levels of notification depending on the
103 degree of the risk of re-offense. Factors relevant to the risk of re-offense shall include, but are
104 not limited to, the following:

105 Criminal history factors indicative of a high risk of re-offense, including:

106 Whether the violent offender has a mental abnormality;

107 Whether the violent offender's conduct is characterized by repetitive and compulsive
108 behavior;

109 Whether the violent offender committed a violent offense as a child;

110 Whether the violent offender has committed any sexual offenses as an adult or a child;

111 The age of the violent offender at the time of the commission of the first violent offense;

112 Whether the violent offender served the maximum term of incarceration;

113 The relationship between the violent offender and the victim;

114 Whether the offense involved the use of a weapon, threats of violence, attempts to murder
115 others, violence or inflection of bodily injury;

116 The number, date, and nature of prior offenses;

117 Conditions of release that minimize risk of re-offense, including whether the violent
118 offender is under probation or parole supervision, whether the offender is receiving counseling,
119 therapy, medication or treatment; whether the offender is residing in a home situation that
120 provides guidance and supervision, including violent offender-specific treatment in a community
121 based residential program;

Physical factors/conditions that minimize risk of re-offense, including, but not limited to, debilitating illness;

Whether the violent offender was a juvenile when he committed the offense, his response to treatment and subsequent criminal history;

Whether psychological or psychiatric profiles indicate the level of risk of recidivism;

The violent offender's history of alcohol and drug dependence/abuse and substance abuse treatment history;

The violent offender's participation in violent offender treatment and counseling while incarcerated or while on probation or parole and his response to such treatment or counseling;

Recent behavior, including behavior while incarcerated or while supervised while on probation or parole;

Recent threats against persons or expressions of intent to commit additional offenses;

Review of any victim impact statement;

The guidelines shall provide for three levels of notification depending on the degree or risk of re-offense by the violent offender:

If the risk of re-offense is low, a level one designation shall be given to the violent offender. In such case, the board shall transmit the registration data to the police departments where the violent offender intends to live and work and where the offense was committed. The public shall have access to information regarding a level one violent offender in accordance with the provisions of commonwealth law.

If the risk of re-offense is moderate, a level two designation shall be given to the violent offender. In such case, the board shall transmit the registration data to the police departments where the violent offender intends to live and work and where the offense was committed. A level two community notification plan shall require the police department to notify the organizations in the community which are likely to encounter the offender including, but not limited to, schools, former companies he worked for if even briefly, former partners, family members, colleges he may have attended, mental health centers, day care centers, and other hospitals or places where he received treatment. The police shall disseminate: the name of the offender, home address, work address, the offense for which he was convicted or adjudicated, the offender's age, sex, race, height, weight, eye and hair color, and the most recent photograph of the offender if available. However, the police shall not release information identifying the victim by name, address, or relation to the offender. All notices to the community shall include a warning regarding the criminal penalties for use of the violent 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 the provisions of commonwealth law.

If the risk of re-offense is high, a level three designation shall be given to the violent offender. In such case, the board shall transmit the registration data to the police departments where the violent offender intends to, live and work and where the offense was committed. A level three community notification plan shall require the police departments to notify organizations in the community which are likely to encounter the offender, including but not limited to the following: schools, former companies that he worked for if even briefly, former partners, family members, colleges that he may have attended, mental health centers, day care centers, and other hospitals and places where he received treatment. The police shall disseminate the following information about the offender: the name of the offender, home address, work address, the offense for which he was convicted or adjudicated, the date of the conviction or adjudication, the offender's age, sex, race, height, weight, eye and hair color, and the most recent photograph of the offender that is available; however, the police shall not release information identifying the victim's name, address, or relation to the offender.

All notices to the community shall include a warning regarding the criminal penalties for use of violent 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 the provisions of commonwealth law. All reports to persons making inquiries shall include a warning regarding the criminal penalties for use of violent offender registry information to commit a crime or engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under the provisions of commonwealth law.

There shall be a violent offender registry board which shall exist as a subdivision of the board and shall share staff and resources with board. The violent offender registry board shall promulgate guidelines for determining the level of risk of re-offense of violent offenders, apply the guidelines to assess the risk level of particular offenders, develop guidelines for use by city and town police departments for disseminating violent offender registry information, and make recommendations to the superior court regarding risk levels and community notification plans in the cases where the offender has a right for judicial review and has requested a hearing as provided by commonwealth law.

The violent offender registry board shall consist of five members appointed by the governor: one of whom shall be the secretary of the executive office of public safety or his designee, who shall also act as chair of the board; one of whom shall be a licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of violent offenders and who has knowledge of the forensic mental health system; one of whom shall be a licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of violent offenders, including juvenile violent offenders, and who has knowledge of the forensic mental

health system; one of whom shall be a person who has at least five years of training and experience in probation, parole or corrections; and one of whom shall be a person who has expertise and experience with victims of violence. The term of each office of each member of the violent offender registry board shall be for six years.

The violent offender registry board shall make a determination regarding the level of risk or re-offense of each violent offender listed in the violent offender registry, beginning with offenders who have been released from incarceration within the past twelve months, are currently on parole or probation supervision or are scheduled to be released from incarceration within six months. All criminal justice agencies and the department of mental health shall cooperate in providing files to the violent offender registry board and any information the violent offender registry board deems useful in assessing the risk of re-offense by a violent offender.

An offender who has been given a level two or level three violent offender designation may petition the superior court where the offender resides or intends to reside to challenge his risk designation. Such offender may request an opportunity to appear and be heard.

Police officials and other public employees acting in good faith shall not be liable in any civil or criminal proceeding for providing or failing to provide violent offender registry information pursuant to commonwealth law.

The courts, judicial officers, committee for public counsel services, department of corrections and department of parole, and violent offender registry personnel shall establish, supervise, and maintain a system for a violent offender registry classification system to protect the public.

Section 2

If a person who has been charged with a violent offense has been found incompetent to stand trial and his commitment is sought and probable cause has been determined to exist prior to his violent act, the court shall hear evidence and determine whether the person did commit the acts or acts charged. The offender shall have a mental health competency evaluation by a licensed psychiatrist or licensed psychologist who specializes in violent offender assessments and competency evaluations.