

Protect Our Communities

Ms. Clark and Ms. Donoghue and Messrs. Finegold, Joyce and Petruccelli moved that the proposed new text be amended by inserting after section 6 the following 2 sections:-

“SECTION 6A. Said section 178K of said chapter 6, as so appearing, is hereby further amended by inserting after the word “families”, in line 112, the following words:- , the department of early education and care

SECTION 6B. Section 178F½ of chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following 3 sentences:-

An incarcerated sex offender finally classified by the board as a level 2 or a level 3 sex offender who is required to register pursuant to sections 178C to 178P, inclusive, shall appear in person within 2 days of release from the custody of an agency, including the department of correction, the department of youth services or any of the houses of correction, at the local police department in the city or town in which such sex offender lives, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender has a secondary address, works or attends an institution of higher learning, to register. The sex offender shall be informed by, and shall acknowledge in writing to, the agency which has custody of the sex offender of the duty to appear in person at said local police department within 2 days of said release from custody. A sex offender finally classified by the board as a level 2 or a level 3 sex offender who is required to register pursuant to sections 178C to 178P, inclusive, shall appear in person annually at the local police department in the city or town in which such sex offender lives, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender has a secondary address, works or attends an institution of higher learning, to verify that the registration data on file remains true and accurate.”; and

inserting after section 7 the following 4 sections:-

“SECTION 7A. Said section 178K of said chapter 6, as so appearing, is hereby further amended by adding the following 2 subsections:-

(4) The sex offender registry board, in cooperation with the executive office of public safety and security, and with the consultation of the offices of the district attorneys, the department of probation, the department of children and families and the Massachusetts Chiefs of Police Association, shall establish and maintain a system of procedures for the ongoing sharing of information among the board, the offices of the district attorneys and any department, agency or office of the commonwealth that reports, investigates or otherwise has access to potentially relevant information including, but not limited to, the department of youth services, the department of children and families, the department of mental health, the department of developmental services, the department of correction, the department of probation, the department of early education and care, the department of public health and the office of the child advocate, of any information that may be relevant to the board’s determination or reevaluation of a sex offender’s level designation.

The board shall promulgate any rules or regulations necessary to establish, update and maintain this system including, but not limited, the frequency of updates, measures to ensure the comprehensiveness, clarity and effectiveness of information, and metrics to determine what information may be relevant. When sharing information through this system, all members shall have discretion to delay sharing information where it is reasonably believed that disclosure would compromise or impede an investigation or prosecution or would cause harm to a victim.

(5) The sex offender registry board shall have access to any information that is determined to be relevant to the board's determination or reevaluation of a sex offender's level designation, as defined under subsection (4), through the system of procedures established under said subsection (4).

SECTION 7B. Section 178L of said chapter 6, as so appearing, is hereby amended by adding the following subsection:-

(3) The board may, on its own initiative or upon written request by a police department or district attorney, seek to reclassify any registered and finally classified sex offender in the event that new information, which is relevant to a determination of a risk of re-offense or degree of dangerousness, is received. The board shall promulgate regulations defining such new information and establishing the procedures relative to a reclassification hearing held for this purpose, provided that the hearing is conducted according to the standard rules of adjudicatory procedure or other rules which the board may promulgate, the hearing is conducted in a reasonable time, and the sex offender is provided prompt notice of the hearing, which includes: the new information that led the board to seek reclassification of the offender; the offender's right to challenge such reclassification; the offender's right to submit to the board documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to the public; the offender's right to retain counsel to represent him at such hearing; and the right of the offender to have counsel appointed for him if he or she is found to be indigent as determined by the board, using the standards under chapter 211D. An indigent offender may also apply for and the board may grant payment of fees for an expert witness in any case where the board in its reclassification proceeding intends to rely on the testimony or report of an expert witness prepared specifically for the purposes of the reclassification proceeding. The failure of the offender to attend such hearing may result in a waiver of such rights and the board's recommended reclassification becoming final.

All offenders who are juveniles at the time of notification shall be represented by counsel at the hearing and notification shall also be mailed to such sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal guardian and his most recent attorney of record.

SECTION 7C. Section 178M of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- An offender may seek judicial review, in accordance with section 14 of chapter 30A, of the board's final classification, reclassification and registration requirements.

SECTION 7D. Section 178P of said chapter 6, as so appearing, is hereby amended by adding the following paragraph:-

Whenever a police officer, district attorney, or agent, employee or representative of the executive office of health and human services has information that may be relevant to the assessment of a sex offender's risk to reoffend or degree of dangerousness, the police department, district attorney, or executive health and human services agent, employee or representative shall forward to the board the information the basis of which said reasonable suspicion is based; provided, however, that a police department or district attorney shall not forward information to the board that the police department or district attorney believes will compromise an ongoing investigation.”; and

By inserting after section 139 the following section:-

“SECTION XX. There shall be a special commission to investigate and study the most reliable protocols for assessing and managing the risk of recidivism of sex offenders. The commission shall develop the Massachusetts authorized risk assessment protocols for sexual offenders including, but limited to, any special assessment protocols for juveniles, female offenders and persons with developmental, intellectual, psychiatric or other disabilities. The commission shall assess the effectiveness and necessity of sections 178C to 178P, inclusive, of chapter 6 of the General Laws and the guidelines promulgated by the sex offender registry board, under section 178K of said chapter 6, as those sections relate to: determining a sex offender's risk of re-offense; degree of dangerousness posed to the public; and the general public's access to information based upon the offender's risk of re-offense and the degree of dangerousness.

The commission shall consist of: 2 members of the senate, 1 of whom shall serve as co-chair; 2 members of the house of representatives, 1 of whom shall serve as co-chair; the chairman of the sex offender registry board or a designee; the commissioner of probation or a designee; the commissioner of mental health or a designee; the secretary of public safety and security or a designee; the secretary of health and human services or a designee; and 6 persons to be appointed by the governor, 3 of whom shall have expertise in the assessment, treatment and risk management of adult sex offenders and familiarity with the research on recidivism of sex offenders, 1 of whom shall have experience in the assessment, treatment, and risk management of juvenile sex offenders and familiarity with the research on recidivism of juvenile sex offenders, 1 of whom shall be a representative of the Massachusetts District Attorneys Association, and 1 of whom shall be a representative of the committee for public counsel services. The commission shall convene not later than 60 days after the effective date of this act.

The board shall submit a report, detailing the results of its investigation and study, any recommended legislative or regulatory action and a timeline for implementation to the governor, the president of the senate, the speaker of the house of representatives and the clerks of the house of representatives and senate not later than 180 days after the effective date of this act.”