

**SENATE . . . . . No. 656**

The Commonwealth of Massachusetts

PRESENTED BY:

***Katherine M. Clark***

*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 to protect our communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Anthony W. Petrucci</i>	<i>First Suffolk and Middlesex</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>

<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Middlesex District Attorney Gerry Leone</i>	<i>15 Commonwealth Ave. Woburn, MA 01801</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Linda Campbell</i>	<i>15th Essex</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>

**SENATE . . . . . No. 656**

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By Ms. Clark, a petition (accompanied by bill, Senate, No. 656) of Katherine M. Clark, Paul Brodeur, Donald H. Wong, Michael J. Rodrigues and other members of the General Court for legislation to protect our communities. The Judiciary.

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Thirteen**

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An Act to protect our communities.

*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 178C of chapter 6 of the General Laws, as appearing in the 2010  
2 Official Edition, is hereby amended by striking the definition of “Secondary addresses” and  
3 inserting in place thereof the following definition:-

4 "Secondary addresses", the addresses of all places where a sex offender lives, abides,  
5 lodges, works or resides for a period of 14 or more days in the aggregate during any calendar  
6 year and which is not a sex offender's primary address; or a place where a sex offender routinely  
7 lives, abides, lodges, works or resides for a period of 4 or more consecutive or nonconsecutive  
8 days in any month and which is not a sex offender's permanent address, including any out-of-  
9 state address.

10 SECTION 2. Section 178C of chapter 6 of the General Laws, as most recently amended  
11 by section 2 of chapter 178 of the Acts of 2011, is hereby amended by striking the definition of  
12 “Sex offense involving a child” and inserting in place thereof the following definition:-

13 "Sex offense involving a child", an indecent assault and battery on a child under 14 under  
14 section 13B of chapter 265; aggravated indecent assault and battery on a child under the age of  
15 14 under section 13B1/2 of said chapter 265; a repeat offense under section 13B3/4 of said  
16 chapter 265; rape of a child under 16 with force under section 22A of said chapter 265;  
17 aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat  
18 offense under section 22C of said chapter 265; rape and abuse of a child under section 23 of said  
19 chapter 265; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat  
20 offense under section 23B of said chapter 265; assault of a child with intent to commit rape

21 under section 24B of said chapter 265; kidnapping of a child under the age of 16 under section  
22 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a  
23 crime under section 26C of said chapter 265; enticing a child under 18 via electronic  
24 communication to engage in prostitution, human trafficking or commercial sexual activity under  
25 section 26D of said chapter 265; trafficking of persons for sexual servitude upon a person under  
26 18 years of age under subsection (b) of section 50 of said chapter 265; inducing a minor into  
27 prostitution under section 4A of chapter 272; living off or sharing earnings of a minor prostitute  
28 under section 4B of said chapter 272; disseminating to a minor matter harmful to a minor under  
29 section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A  
30 of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual  
31 conduct under section 29B of said chapter 272; possession of child pornography under section  
32 29C of chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of  
33 said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a  
34 violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like  
35 violation of the laws of another state, the United States or a military, territorial or Indian tribal  
36 authority.

37 SECTION 3. Section 178D of chapter 6 of the General Laws, as appearing in the 2010  
38 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place  
39 thereof the following paragraph:-

40 The board shall develop standardized registration and verification forms, which shall  
41 include registration data as required pursuant to sections 178C to 178P. The board shall make  
42 blank copies of such forms available to all agencies having custody of sex offenders and all city  
43 and town police departments; provided, however, that the board shall determine the format for  
44 the collection and dissemination of registration data, which may include the electronic  
45 transmission of data. Records maintained in the sex offender registry shall be open to any law  
46 enforcement agency in the commonwealth, the United States or any other state, as well as the  
47 department of youth services, the department of children and families, the department of early  
48 education and care, the parole board, the department of probation and the department of mental  
49 health. The board shall promulgate rules and regulations to implement the provisions of sections  
50 178C to 178P, inclusive. Such rules and regulations shall include provisions which may permit  
51 police departments located in a city or town that is divided into more than one zip code to  
52 disseminate information pursuant to the provisions of section 178J categorized by zip code and  
53 to disseminate such information limited to one or more zip codes if the request for such  
54 dissemination is so qualified; provided, however, that for the city of Boston dissemination of  
55 information may be limited to one or more police districts.

56 SECTION 4. Section 178E of said chapter 6, as so appearing, is hereby amended by  
57 inserting, after the word “inclusive” in subsection (f) the following words:-

58 , but the court may terminate the order of relief based on new information that arises  
59 during the pendency of any probationary term imposed on the sex offense, and the order of relief  
60 will automatically terminate if the sex offender's probation is revoked and a committed sentence  
61 is imposed on the sex offense.

62 SECTION 5. Section 178F of said chapter 6, as so appearing, is hereby amended by  
63 striking out, in line 27, the word "subsequent".

64 SECTION 6. Section 178F1/2 of said chapter 6, as so appearing, is hereby amended by  
65 striking out, in line 25, the word "subsequent".

66 SECTION 7. Section 178J of said chapter 6, as so appearing, is hereby amended by  
67 inserting after subsection (c) the following subsection:-

68 (d) If the search of the sex offender registry conducted pursuant to clause (1) of  
69 subsection (b) results in the identification of a sex offender required to register pursuant to this  
70 chapter who has yet to be classified or has been finally classified by the board as a level 1  
71 offender under section 178K, the police shall disseminate to the person making the inquiry:

72 (1) the name of the sex offender;

73 (2) the sex offender's classification level; and

74 (3) the offense for which he was convicted or adjudicated and the dates of such  
75 conviction or adjudication.

76 Information about an offender who has yet to be classified or has been finally classified  
77 by the board as a level 1 offender shall not be released pursuant to an inquiry described in  
78 clauses (2) and (3) of subsection (b).

79 SECTION 8. Section 178K of said chapter 6, as so appearing, is hereby amended by  
80 inserting after clause (l) of subsection (1) the following clause:-

81 (m) conviction of a crime constituting a sex offense involving a child as that term is  
82 defined in section 178C shall create a rebuttable presumption of classification no lower than  
83 level 2.

84 SECTION 9. Section 178K of said chapter 6, as so appearing, is hereby amended by  
85 striking out, in line 91, the word "and".

86 SECTION 10. Section 178K of said chapter 6, as so appearing, is hereby amended by  
87 striking out, in line 93, the punctuation mark "." and inserting after the word "offender" the  
88 following:-

89 ; and

90 SECTION 11. Subsection (2) of section 178K of said chapter 6, as so appearing, is  
91 hereby amended by striking out paragraph (a) and inserting in place thereof the following  
92 paragraph:-

93 (a) Where the board determines that the risk of reoffense is low and the degree of  
94 dangerousness posed to the public is not such that a public safety interest is served by general  
95 public availability of registration information but only upon request pursuant to subsections (a)  
96 and (b)(1) of section 178J, it shall give a level 1 designation to the sex offender. In such case, the  
97 board shall transmit the registration data and designation to the police departments in the  
98 municipalities where such sex offender lives and works and attends an institution of higher  
99 learning upon release and where the offense was committed and to the Federal Bureau of  
100 Investigation. The public shall have access to the information regarding a level 1 offender in  
101 accordance with the provisions of section 178J. The police and board may also release such  
102 information identifying such sex offender to the department of correction, any county  
103 correctional facility, the department of youth services, the department of children and families,  
104 the department of early education and care, the parole board, the department of probation and the  
105 department of mental health, all city and town police departments and the Federal Bureau of  
106 Investigation.

107 SECTION 12. Section 178K of said chapter 6, as so appearing, is hereby amended by  
108 inserting after subsection (3) the following subsections:-

109 (4) The sex offender registry board, in cooperation with the executive office of public  
110 safety and security, and with the consultation of the offices of the district attorneys, the  
111 department of probation, the department of children and families and the Massachusetts Chiefs  
112 of Police Association, shall establish and maintain a system of procedures for the ongoing  
113 sharing of information between the board, the offices of the district attorneys, and any  
114 department, agency or office of the Commonwealth that reports, investigates or otherwise has  
115 access to potentially relevant information, including but not limited to, the department of youth  
116 services, the department of children and families, the department of mental health, the  
117 department of developmental services, the department of correction, the department of probation,  
118 the department of early education and care and the office of the child advocate, of any  
119 information that may be relevant to the board's determination or reevaluation of a sex offender's  
120 level designation. The board shall promulgate any rules and regulations necessary to establish,  
121 update and maintain this system, ensure its comprehensiveness, clarity, and effectiveness, and  
122 define what information may be relevant. When sharing information through this system, the  
123 offices of the district attorneys shall have discretion to delay sharing information where it is  
124 reasonably believed that disclosure would compromise or impede a prosecution.

125 (5) Notwithstanding any general or special law to the contrary, the sex offender registry  
126 board shall have access to any information that is determined be relevant to the board's

127 determination or reevaluation of a sex offender’s level designation as defined pursuant to  
128 subsection (4) of this section through the system of procedures established by that subsection.

129 SECTION 13. Section 178L of said chapter 6, as so appearing, is hereby amended by  
130 inserting after subsection (2) the following subsection:-

131 (3) The board may, on its own initiative or upon written request by a police department or  
132 district attorney, seek to reclassify any registered and finally classified sex offender in the event  
133 that new information that is relevant to a determination of a risk of reoffense or degree of  
134 dangerousness is received. The board shall promulgate regulations defining such new  
135 information and establishing the procedures relative to a reclassification hearing held for this  
136 purpose.

137 SECTION 14. Section 51A of chapter 119 of the General Laws, as most recently  
138 amended by section 10 of chapter 178 of the Acts of 2011, is hereby amended by striking the  
139 first paragraph of subsection (a) and inserting in place thereof the following paragraph:-

140 (a) A mandated reporter who, in his professional capacity, has reasonable cause to  
141 believe that a child is suffering: (i) physical or sexual abuse; (ii) neglect, including malnutrition;  
142 (iii) physical dependence upon an addictive drug at birth; (iv) being a sexually exploited child; or  
143 (v) being a human trafficking victim as defined by section 20M of chapter 233, shall  
144 immediately communicate with the department orally and, within 48 hours, shall file a written  
145 report with the department detailing the suspected abuse or neglect.

146 SECTION 15. Section 21 of said chapter 119, as appearing in the 2010 Official Edition,  
147 is hereby amended by inserting after the definition of “Mandated reporter” the following  
148 definition:-

149 “Neglect”, the failure, either deliberately or through negligence or inability, to take those  
150 actions necessary to provide a child with minimally adequate food, clothing, shelter, medical  
151 care, supervision, emotional stability and growth, or other essential care when there is a duty to  
152 do so; provided, however, that such inability is not due solely to inadequate economic resources  
153 or the existence of a disabling condition. Actual emotional or physical injury is not required.  
154 Neglect also includes exposure to domestic violence, which may include, but is not limited to,  
155 conduct where: the alleged perpetrator made threats to kill the domestic partner, child or self and  
156 the domestic partner fears for their safety; a child in the home was physically injured in an  
157 incident where the domestic partner was the target; the child was coerced to participate in or  
158 witness abuse of the domestic partner; or the incident involved the use or threatened use of a  
159 weapon and the domestic partner believes the alleged perpetrator intended to or has the ability to  
160 cause harm.

161 SECTION 16. Section 21 of said chapter 119, as so appearing, is hereby amended by  
162 inserting after the definition of “Parent” the following definition:-

163           “Physical abuse”, a non-accidental act, with or without a weapon, that causes or creates a  
164 substantial risk of physical injury to a child, including: death; abusive head trauma; fracture of  
165 any bone; any burn; loss or impairment of any organ or limb; addiction to a drug or drugs at  
166 birth; failure to thrive; and soft tissue swelling, cuts, or bruising depending on such factors as the  
167 child’s age, circumstances under which the injury occurred, and the number and location of the  
168 injuries.

169           SECTION 17. Section 21 of said chapter 119, as so appearing, is hereby amended by  
170 inserting after the definition of “Serious bodily injury” the following definition:-

171           “Sexual abuse”, any sexual contact between a person and a child in that person’s care or  
172 the commission or attempted commission of a sexual offense as defined by section 1 of chapter  
173 123A.

174           SECTION 18. Notwithstanding any general or special law to the contrary, there shall be a  
175 special commission for the purposes of making an investigation and study relative to the  
176 determination of the most reliable protocols for predicting the risk of recidivism of sex offenders  
177 and development of a Massachusetts Authorized Risk Assessment Tool for Sexual Offenders,  
178 including but not limited to any special assessment tools for juveniles and female offenders. The  
179 commission shall consist of: 2 members of the senate, 1 of whom shall be the senate president or  
180 a designee who will serve as co-chair; 2 members of the house of representatives, 1 of whom  
181 shall be the speaker or a designee who shall serve as co-chair; the chairman of the sex offender  
182 registry board or a designee; the commissioner of probation or a designee; the commissioner of  
183 mental health or a designee; the secretary of the executive office of public safety and security or  
184 designee; the commissioner of the Executive Office of Health and Human Services or designee;  
185 and 5 persons to be appointed by the governor, 2 of whom shall have expertise in treatment of  
186 sex offenders and knowledge of the research on recidivism of sex offenders, 1 of whom shall  
187 have experience in the treatment of juvenile sex offenders, 1 of whom shall be a representative of  
188 the Massachusetts District Attorneys Association, and 1 of whom shall be a representative of the  
189 Massachusetts Chiefs of Police Association.

190           All appointments shall be made not later than 30 days after the effective date of this Act.  
191 The chairpersons shall meet with the commission not later than 60 days after the effective date of  
192 this Act.

193           The Commission shall report to the Governor, Senate President, Speaker of the House of  
194 Representatives, and the general court no later than 180 days after the effective date of this Act.  
195 The commission shall report the result of its investigation and study and any recommended  
196 legislative or regulatory action, along with a timeline for implementation.

197           SECTION 19. Section 6 of chapter 15D of the General Laws, as appearing in the 2010  
198 Official Edition, is hereby amended by inserting after subsection (e) the following subsection:-



199 (f) The department shall promulgate rules and regulations for the purposes of publishing  
200 the licensing history of any its licensees through its website, which shall include defining the  
201 extent, nature, and manner of availability of the information to be provided to the public pursuant  
202 to this section.