

HOUSE No. 3125

The Commonwealth of Massachusetts

PRESENTED BY:

José F. Tosado

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 restrictions on sex offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/18/2017</i>
<i>Bud Williams</i>	<i>11th Hampden</i>	<i>1/19/2017</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/1/2017</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>	<i>1/18/2017</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/18/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/18/2017</i>

HOUSE No. 3125

By Mr. Tosado of Springfield, a petition (accompanied by bill, House, No. 3125) of Jose F. Tosado and others relative to certain restrictions on sex offenders. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to restrictions on 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. Chapter 6 of the General Laws is hereby amended by inserting after section
2 178Q, as appearing in the 2014 Official Edition, the following section:-

3 Section 178R. (a) For purposes of this section and section 178S, the following words
4 shall, unless the context clearly requires otherwise, have the following meanings:

5 “Child” or “children”, persons under 18 years of age.

6 “Establishing a residence”, to set up or bring into being a dwelling place or an abode
7 where a person sleeps, which may include more than 1 location, and may be mobile or transitory,
8 or by means of purchasing real property or entering into a lease or rental agreement for real
9 property, including a renewal or extension of a prior agreement whether through written
10 execution or automatic renewal.

11 “Loiter”, to enter or remain on property while having no legitimate purpose therefor or, if
12 a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that
13 purpose.

14 “Park”, active and passive public land designated for use of the public for recreational or
15 athletic use.

16 “Permanent residence”, a place where a person lives, abides, lodges, or resides for 14 or
17 more consecutive days.

18 “Recreational facility”, a playground, a forest preserve, conservation area, jogging trail or
19 running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football
20 field, basketball court or skating rink.

21 “Register sex offender”, any person required to register as a sex offender pursuant to
22 section 178C to 178P, inclusive, who is finally classified as a level 2 or level 3 sex offender and
23 who has committed a sex offense against a child.

24 “School”, any public or private educational facility that provides educational instruction
25 to children in grades kindergarten through 12.

26 “Sex offense”, as defined in section 178C.

27 “Temporary residence”, a place where a person lives, abides, lodges, or resides for a
28 period of less than 14 consecutive days or 14 days in the aggregate during any calendar year,
29 which is not the person's permanent address or place where the person routinely lives, abides,
30 lodges, or resides and which is not the person's permanent residence; but "temporary residence"

31 shall not include residence at a hospital or other health-care or medical facility for fewer than 14
32 consecutive days or 14 days in the aggregate during any calendar year.

33 (b) A registered sex offender who is 18 years of age or older shall not establish a
34 permanent residence or temporary residence within 500 feet of any school; provided, however,
35 that this prohibition shall not apply if the school within 500 feet of the registered sex offender's
36 permanent residence was opened after the registered sex offender established the permanent
37 residence or if the registered sex offender is incarcerated in any jail, correctional facility or state
38 or federal prison. For purposes of determining the minimum distance separation, the distance
39 shall be measured by following a straight line from the outer property line of the permanent or
40 temporary residence to the nearest outer property line of any school.

41 (c) If the sex offender registry board determines that a registered sex offender resides on
42 a permanent or temporary basis within 500 feet of any school in violation of this section it shall
43 send written notice to the registered sex offender notifying the registered sex offender that he or
44 she is in violation of subsection (b). Within 30 days of receipt of such notice, the registered sex
45 offender shall relocate to a new residence that is not within 500 feet of any school. If, after said
46 30 days, the registered sex offender has not relocated, he or she shall be subject to a civil fine
47 not exceeding \$300 for each day that he or she remains and the sex offender registry board shall
48 send written notice to the offender's landlord, parole officer and probation officer.

49 Section 178S. (a) A registered sex offender shall not enter upon the premises of a school
50 unless previously authorized specifically in writing by the school's principal or superintendent.

51 (b) A registered sex offender shall not enter a park or any other private or public
52 recreational facility when children are present and approach, contact, or communicate with any

53 child present, unless the registered sex offender is a parent or guardian of a child present in such
54 park or private or public recreational facility.

55 (c) A registered sex offender shall not loiter on or within 500 feet of any property on
56 which there is a school, park or any other private or public recreational facility after he or she has
57 been asked to leave such property by a person authorized to exclude the registered sex offender
58 from the premises. An authorized person includes, but is not limited to, any law enforcement
59 officer, any owner or manager of the premises, or principal or teacher, if the property is a school.

60 (d) The prohibitions set forth in this section shall not: (1) be construed or enforced to
61 prohibit or prevent a registered sex offender from exercising his or her right to vote in any
62 federal, state or municipal election, or from attending any religious service; (2) apply to a
63 registered sex offender's place of residence; or (3) apply to registered sex offenders who are
64 incarcerated in any jail, correctional facility or state or federal prison.

65 (e) A violation of subsection (a), (b) or (c) shall result in a civil fine not exceeding \$300
66 for each violation.

67 SECTION 2. This act shall not apply to a permanent residence that has been established
68 by a registered sex offender, as defined in section 178R of chapter 6 of the General laws, prior to
69 the effective date of this act if: (1) the permanent residence was established by purchasing the
70 real property where the residence was established; or (2) the permanent residence was
71 established through a valid, fixed-term, written lease or rental agreement, executed prior to the
72 effective date of this act, the term of which has not yet expired.