

HOUSE No. 3157

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Vallee

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 sex offenders.

PETITION OF:

NAME:

James E. Vallee

DISTRICT/ADDRESS:

10th Norfolk

HOUSE No. 3157

By Mr. Vallee of Franklin, a petition (accompanied by bill, House, No. 3157) of James E. Vallee for legislation to further regulate the registration of sex offenders. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1768 OF 2009-2010.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act relative to 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. Clause twenty-six of section 7 of chapter 4 of the General Laws, as
2 appearing in the 2008 Official Edition, is hereby amended adding the following subclause: -

3 (m) the contents of the child sex abuse civil judgment and settlement database maintained
4 by the attorney general pursuant to section 11M of chapter 12.

5 SECTION 2. Section 171 of Chapter 6 of the Massachusetts General Laws as appearing
6 in the 2008 Official Edition is hereby amended by adding at the end thereof, the following:-

7 The board shall promulgate regulations requiring sexual offender registry information to
8 be included on the criminal offender record information.

9 SECTION 3. Section 178C of chapter 6 of the General Laws, as amended by chapter 77
10 of the acts of 2003, is hereby amended by striking out after the word “part-time” the following

11 words:- “for a period of time exceeding 14 days or for an aggregate period of time exceeding 30
12 days during any calendar year”

13 SECTION 4. Section 178C of chapter 6 of the General Laws, as most recently amended
14 by chapter 77 of the acts of 2003, is hereby further amended by inserting after the definition of
15 "Predatory" the following 2 definitions:-

16 "Primary address", the one legal address of the place where a sex offender lives, abides,
17 lodges or resides for 14 or more consecutive days in the commonwealth including the address a
18 sex offender provides to the Registry of Motor Vehicles, the Department of Revenue, the
19 Department of Transitional Assistance, or any other state agency a sex offender must legally
20 provide an address to receive services, permits, licenses, or benefits.

21 "Secondary addresses", all the addresses of the places where a sex offender lives, abides,
22 lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and
23 which is not a sex offender’s primary address; or a place where a sex offender routinely lives,
24 abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any
25 month and which is not a sex offender’s permanent address, including any out-of-state address.

26 SECTION 5. Said section 178C of chapter 6, is hereby further amended by striking the
27 following words "a person who resides" from the definition of "sex offender" and inserting in
28 place thereof the following:- a person who has a primary address or secondary addresses.

29 SECTION 6. Section 178D of chapter 6, as most recently amended by section 5 of
30 chapter 140 of the acts of 2003, is hereby further amended by striking out in clause (a) of the first
31 paragraph the words "home address" and inserting in place thereof the following:- primary
32 address, secondary addresses.

33 SECTION 7. Said section 178D of chapter 6 is further amended by striking out in clause
34 (ii) of the second paragraph the words "home address" and inserting in place thereof the
35 following:– primary address and secondary addresses.

36 SECTION 8. Section 178D of chapter 6, as appearing in the 2008 Official Edition, is
37 hereby amended by striking out in lines 30-31 the words “or level 2”.

38 SECTION 9. Said section 178D of chapter 6, as appearing in the 2008 Official Edition,
39 is hereby amended by deleting the language after the word “offender” in line 43.

40 SECTION 10. Section 178D of chapter 6, as appearing in the 2008 Official Edition, is
41 hereby amended by striking out the following phrase:– “, to ensure the prompt and, complete
42 removal of registration data for persons whose duty to register has terminated or expired under
43 sections 178G, 178L or 178M or any other law”

44 SECTION 11. Section 178D of chapter 6 of the General Laws, as appearing in the 2008
45 Official Edition, is amended by striking out the following phrase:– “, the eligibility of sex
46 offenders to be relieved of the obligation to register, including but not limited to, regulations
47 limiting motions under subsection (e) of section 178E, section 178G and relief from registration
48 pursuant to paragraph (d) of subsection (2) of section 178K”

49 SECTION 12. Section 178E of said chapter 6, as most recently amended by chapter 140
50 of the acts of 2003, is hereby further amended by striking out in paragraphs (a), (b), (c), (g), (h),
51 (l), and (o) the words "home address or intended home address" each time they appear and
52 inserting in place thereof the following:– primary address and secondary addresses or intended
53 primary address and intended secondary addresses.

54 SECTION 13. Said section 178E subsection (a), as amended by Chapter 77 of the Acts
55 of 2003 and as further amended by Chapter 140 of the Acts of 2003, is hereby further amended
56 by striking out said subsection and inserting in place thereof the following text:

57 “(a) Within five days of receiving upon sentence any sex offender required to register
58 pursuant to sections 178C to 17Q, inclusive, who shall serve an actual sentence of more than
59 one year of incarceration, the agency which has custody of the sex offender, including the
60 department of correction, the department of youth services and each of the houses of correction,
61 shall transmit to the board said sex offender's registration data, which for purposes of this
62 paragraph shall include identifying factors, anticipated future residence, offense history,
63 documentation of any treatment received for a mental abnormality, the official version of any sex
64 offenses, the mittimus, and any prior incarceration history. The custodial agency shall also
65 provide to the board within five days of assuming custody the projected maximum release date
66 and the earliest possible release date for the sex offender. All custodial agencies shall comply
67 with the transmission of said data identified in this section within five days of receiving custody
68 of the sex offender. All custodial agencies shall inform the board immediately of any transfers
69 of sex offenders so that there may be contact with the offender throughout the classification
70 process. The board shall promptly transmit the registration data to the police departments in the
71 municipalities where the sex offender intends to live and work and where the offense was
72 committed and to the Federal Bureau of Investigation. The sex offender shall be informed by,
73 and shall acknowledge in writing to, the agency which has custody of the sex offender of the
74 duty to register in the commonwealth and in any state where he resides, is employed, carries on a
75 vocation or is a student, to verify registration information, to give notice of change of address or
76 intended change of address within the commonwealth or in another state and the penalties for

77 failure to do so and for giving false registration information, and of his right to submit to the
78 board, according to section 178L, documentary evidence relative to his risk of reoffense, the
79 degree of dangerousness posed to the public and of his duty to register under this section. If such
80 sex offender is a juvenile at the time of such notification, notification shall also be mailed to such
81 sex offender's legal guardian or agency having custody of the juvenile in the absence of a legal
82 guardian and his most recent attorney of record. The agency shall transmit such acknowledgment
83 to the board within ten days of receipt of such acknowledgment. Not later than ten days before
84 his release from custody, a sex offender shall register by mailing to the board on a form approved
85 by the board and signed under the pains and penalties of perjury, the sex offender's name, date of
86 birth, home address or intended home address, work address or intended work address and, if the
87 sex offender is or intends to become a part-time or full-time employee of an institution of higher
88 learning, the name and address of the institution, and, if the sex offender is or intends to become
89 a part-time or full-time student of an institution of higher learning, the name and address of the
90 institution. No sex offender shall be released from custody unless such registration has been
91 filled out, signed and mailed to the board.”

92 SECTION 14. Section 178E, as appearing in the 2008 Official Edition, is amended by
93 striking out subsections (e) and (f).

94 SECTION 15. Said section 178E of chapter 6 is further amended by striking out in
95 paragraph (h) the words "who intends to move to a different city or town within the
96 commonwealth" and inserting in place thereof the following:– who intends to change his primary
97 address or change or establish a secondary address in a different city or town within the
98 commonwealth.

99 SECTION 16. Said section 178E of chapter 6 is further amended by striking out in
100 paragraph (h) the words "his address within a city or town shall notify the board in writing not
101 later than ten days prior to establishing such new residence" and inserting in place thereof the
102 following:– his primary address and/or secondary addresses within a city or town shall notify the
103 board in writing not later than ten days prior to establishing such new primary address and/or
104 secondary addresses.

105 SECTION 17. Said section 178E of chapter 6 is further amended by striking out in
106 paragraph (q) the words "home address" and inserting in place thereof the following:– primary
107 address and secondary addresses.

108 SECTION 18. Section 178F of said chapter 6, as most recently amended by chapter 77
109 of the acts of 2003, is hereby further amended by striking out in the first paragraph the words
110 "home address or intended home address" and inserting in place thereof the following:– primary
111 address and secondary addresses or intended primary address and intended secondary addresses.

112 SECTION 19. Said section 178F of chapter 6 is further amended by striking out the
113 second sentence in the first paragraph and inserting in place thereof the following:– A sex
114 offender who lists homeless shelters as his primary address or secondary addresses shall verify
115 registration data every 90 days with the board by mailing to the board on a form approved by the
116 board and signed under the pains and penalties of perjury the sex offender's name, date of birth,
117 primary address, secondary addresses and work address.

118 SECTION 20. Said section 178F of chapter 6 is further amended by striking out the
119 following words in the first paragraph "the board shall mail a nonforwardable verification form
120 to the last reported address of such sex offender" and inserting in place thereof the following:–

121 the board shall mail a nonforwardable verification form to the last reported primary address of
122 such sex offender.

123 SECTION 21. Section 178F½ of said chapter 6, as most recently amended by chapter
124 140 of the acts of 2003, is hereby further amended by striking out the first sentence of the first
125 paragraph and inserting in place thereof the following:– "A sex offender finally classified by the
126 board as a level 2 or a level 3 sex offender who is required to register pursuant to sections 178C
127 to 178P, inclusive, shall appear in person annually at the local police department in the city or
128 town in which such sex offender has his primary address, or if such sex offender does not have a
129 primary address in the commonwealth, in the city or town in which such sex offender has a
130 secondary address, works, or attends an institution of higher learning to verify that the
131 registration data on file remains true and accurate."

132 SECTION 22. Said section 178F½ of chapter 6 is further amended by striking out the
133 fourth sentence in the first paragraph and inserting in place thereof the following:– Such sex
134 offender who lists a homeless shelter as his primary address shall appear in person at such local
135 police department every 90 days to verify that the registration data on file remains true and
136 accurate.

137 SECTION 23. Said section 178F½ of chapter 6 is further amended by striking out the
138 following words in the first paragraph "the board shall mail a nonforwardable verification form
139 to the last reported address of such sex offender" and inserting in place thereof the following:–
140 the board shall mail a nonforwardable verification form to the last reported primary address of
141 such sex offender.

142 SECTION 24. Said section 178F½ of chapter 6 is further amended by striking out the
143 ninth sentence of the first paragraph and inserting in place thereof the following:– Such sex
144 offender shall, within five days of receipt, sign the verification form under the penalties of
145 perjury and register in person at the police department in the municipality in which such sex
146 offender has his primary address, or if such sex offender does not have a primary address in the
147 commonwealth, in the city or town in which such sex offender has a secondary address, works or
148 attends an institution of higher learning.

149 SECTION 25. Said section 178F½ of chapter 6 is further amended by striking out the
150 last sentence of the first paragraph and inserting in place thereof the following:– A sex offender
151 finally classified as a level 2 or level 3 offender shall also comply with the provisions of
152 paragraphs (g) to (j) and (o) to (q), inclusive, of section 178E, but the offender shall give the
153 required notice in person at the police department in the city or town where such sex offender
154 has his primary address, or if such sex offender does not have a primary address in the
155 commonwealth, in the city or town in which such sex offender has a secondary address, works or
156 attends an institution of higher learning.

157 SECTION 26. Section 178G of chapter 6 of the General Laws, as appearing in the 2008
158 official edition, is hereby amended by striking out all from the word “The” in line 1 through the
159 word “others.” in line 19, inclusive.

160 SECTION 27. Section 178H of said chapter 6, as so appearing, is hereby amended by
161 inserting at the end of paragraph (a) the following sentence:– “This includes any previous
162 convictions by a court of the commonwealth or any other jurisdiction because of a like
163 violation.”

164 SECTION 28. Section 178H of said chapter 6, as so appearing, is hereby amended by
165 striking out, in line 7, the words “six months” and inserting in place thereof the following
166 words:— one year.

167 SECTION 29. Section 178H of chapter 6 of the General Laws, as appearing in the 2002
168 Official Edition, is hereby amended by inserting after paragraph 2 the following paragraph:-

169 (3) A sex offender required to register pursuant to this chapter who has been convicted
170 for a violation under this section and has been classified as a level 3 sex offender by the sex
171 offender registry board pursuant to sections 178C to 178P, inclusive, of chapter 6, shall, in
172 addition to the term of imprisonment authorized by this section, be punished by a term of
173 community parole supervision for life to be served under the jurisdiction of the parole board, as
174 set forth in section 133C of chapter 127. The sentence of community parole supervision for life
175 shall commence immediately upon the expiration of the term of imprisonment imposed upon
176 such person by the court or upon such person’s release from probation supervision or upon
177 discharge from commitment to the treatment center pursuant to section 9 of chapter 123A,
178 whichever first occurs.

179 SECTION 30. Section 178J of chapter 6, as most recently amended by chapter 77 of the
180 acts of 2003, is hereby further amended by striking out the clause (2) of subsection (c) and
181 inserting in place thereof the following:– (2) the primary address and/or secondary addresses if
182 located in the areas described in clause (2) or (3) of subsection (b).

183 SECTION 31. Section 178K(1) of chapter 6 of the Massachusetts General Laws, as
184 appearing in the 2008 Official Edition, is hereby amended by striking out in line 35 the phrase
185 “or for relief from the obligation to register”.

186 SECTION 32. Section 178(K)(2) of chapter 6 of the Massachusetts General Laws, as
187 appearing in the 2002 official edition, is hereby amended by striking out in lines 96-97 the
188 phrase: “or for relief from the obligation to register”

189 SECTION 33. Paragraph (b) of subsection (2) of section 178K of chapter 6 of the
190 General Laws, as most recently amended by section 20 of chapter 77 of the acts of 2003, is
191 hereby further amended by inserting after the first sentence the following 2 sentences:-- If an
192 offender designated as a level 2 offender was convicted of a sex offense involving a child, such
193 offender shall be given a level 2(a) designation and shall be subject to the level 3 community
194 notification plan. If an offender designated as a level 2 offender committed any offense other
195 than a sex offense involving a child, such offender shall be given a level 2(b) designation and
196 shall be subject to the requirements of a level 2 offender.

197 SECTION 34. Section 178K of chapter 6, as appearing in the 2008 Official Edition, is
198 hereby amended by inserting after the word “of” the first time it appears in line 143 the
199 following:- “level 2 and”.

200 SECTION 35. Section 178K of chapter 6, as most recently amended by section 13 of
201 chapter 149 of the acts of 2004, is hereby further amended by striking out the paragraph (ii) of
202 clause (c) of subsection (2) and inserting in place thereof the following:– (ii) the offender's
203 primary address and secondary addresses.

204 SECTION 36. Section 178K of chapter 6, as appearing in the 2008 Official Edition, is
205 hereby amended by inserting after the word “a” in line 168 the words “level 2 and”.

206 SECTION 37. Section 178(K)(2) of chapter 6 of the Massachusetts General Laws, as
207 appearing in the 2002 official edition, is hereby amended by striking out subsection (d) in its
208 entirety.

209 SECTION 38. Section 178L(1)(a) of chapter 6 of the Massachusetts General Laws, as
210 appearing in the 2002 official edition, is hereby amended by striking subsection (a) and inserting
211 in place thereof the following text:

212 “(a) Within ten days of receipt from the department of correction, the department of
213 youth services and each of the houses of correction all of the information obtained pursuant to
214 section 178E(a) that pertains to an individual who shall serve an actual sentence of more than
215 one year of incarceration, the board shall notify the sex offender of his right to submit to the
216 board documentary evidence relative to his risk of reoffense and the degree of dangerousness
217 posed to the public and his duty to register according to the provisions of section 178E. If the sex
218 offender is a juvenile at the time of such notification, notification shall also be mailed to the sex
219 offender's legal guardian or agency having custody of the juvenile in the absence of a legal
220 guardian and his most recent attorney of record. Such sex offender may submit such evidence to
221 the board within 30 days of receiving such notice from the board. Upon a reasonable showing,
222 the board may extend the time in which such sex offender may submit such documentary
223 evidence. Upon reviewing such evidence, the board shall promptly notify the sex offender of the
224 board's recommended sex offender classification, his duty to register, if any, his right to petition
225 the board to request an evidentiary hearing to challenge such classification and duty, his right to
226 retain counsel to represent him at such hearing and his right to have counsel appointed for him if
227 he is found to be indigent as determined by the board using the standards under chapter 211D;
228 provided, however, that such indigent offender may also apply for and the board may grant

229 payment of fees for an expert witness in any case where the board in its classification proceeding
230 intends to rely on the testimony or report of an expert witness prepared specifically for the
231 purposes of the classification proceeding. Such sex offender shall petition the board for such
232 hearing within 20 days of receiving such notice. The board shall conduct such hearing in a
233 reasonable time according to the provisions of subsection (2). A secured hearing facility shall be
234 provided by the custodial agency. The board shall issue its final classification decision prior to
235 the offender's release from custody. The failure timely to petition the board for such hearing
236 shall result in a waiver of such right and the registration requirements, if any, and the board's
237 recommended classification shall become final.”

238 SECTION 39. . Chapter 6, Section 178(L)(1) of the Massachusetts General Laws, as
239 appearing in the 2008 official edition, is hereby amended in subsection (c) by striking out in
240 lines 54 and 55 the phrase:– “and his duty to register, if any, according to section 178E”

241 SECTION 40. Section 178(L) of chapter 6 of the Massachusetts General Laws, as
242 appearing in the 2008 Official Edition, is hereby amended by adding the following section after
243 section 2:

244 “(3) Sex Offenders recommended to be a level 1 pursuant to section 178L(1) shall be
245 exempt from the opportunity to request a hearing, as this is the minimum classification
246 permissible by operation of law. Level 1 recommendations shall be final classification
247 determinations, and not subject to judicial review pursuant to section 178M.”

248 SECTION 41. Section 178Q of chapter 6, as established by Chapter 26 of the Acts of
249 2003, is hereby amended by striking the following sentence:–

250 “A sex offender's duty to pay the fee established by this section shall only terminate upon
251 the termination of said offender's duty to register as a sex offender as set forth in section 178G.”

252 SECTION 42. Said chapter 6 is hereby amended by adding the following section:-

253 Section 178R. (a) No sex offender designated as a level 2(a) or level 3 offender
254 convicted of a sex offense involving a child shall knowingly establish a home address or
255 intended home address or any other living accommodation within 1000 feet of the property on
256 which any public or private school, licensed day care center, or any other child care facility is
257 located. Nor shall any level 2(a) or level 3 sex offender knowingly establish a home address or
258 intended home address or any other living accommodation within 1000 feet of the property on
259 which the offender’s former victim or victims, or said victim’s immediate family members
260 reside, nor shall such offender knowingly and willfully come within 100 feet of any of the
261 offender’s former victims. Violations of this paragraph shall be punished in accordance with a
262 violation of the conditions of probation or parole.

263 (b) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex
264 offense involving a child shall knowingly accept employment within 1000 feet of the property on
265 which any public or private school, licensed day care center or any other child care facility is
266 located. No sex offender designated as a level 2(a) or level 3 sex offender shall knowingly
267 accept employment within 1000 feet of the property on which the offender’s former victim or
268 victims, or the victim’s immediate family members reside. Violations of the provisions of this
269 paragraph shall be punished in accordance with a violation of the conditions of probation or
270 parole.

271 (c) No sex offender designated as a level 2(a) or level 3 offender convicted of a sex
272 offense involving a child shall establish living conditions within, be placed in, or be transferred
273 to any state-owned, operated or funded housing or any facility contracted with the state within 1
274 ½ miles of the property on which any public or private school, licensed day care center, or any
275 other child care facility is located, or any residence occupied by at least one minor.

276 SECTION 43 Section 7 of Chapter 188 of the Acts of 1992 is hereby amended by adding
277 at the end of the second sentence, the following words:- “And sex offender criminal offender
278 record information pursuant to Chapter 6 of the General Laws.”

279 SECTION 44. The Sex Offender Registry Board shall establish an annual public service
280 campaign, subject to appropriation, to raise awareness about the sex offender registry and to
281 encourage citizens to utilize the state’s internet based information services and to visit their local
282 police departments to identify sex offenders in their cities or towns.

283 SECTION 45. Chapter 12 of the General Laws is hereby amended by inserting after
284 section 11L, as appearing in the 2000 Official Edition, the following section:-

285 Section 11M. The attorney general shall maintain a computer database of all civil
286 judgments and settlements of cases involving allegations of sexual abuse of a person aged 17 or
287 under, which judgments and settlements have been forwarded to him by the chief justice for
288 administration and management of the trial court department pursuant to clause (xxxx) of section
289 9 of chapter 211B. Contents of the database shall not be subject to subpoena and shall not be
290 considered public records pursuant to clause twenty-sixth of section 7 of chapter 4. If the
291 database identifies 2 or more settlements or judgments against a defendant or a combination of 2
292 or more thereof involving the same defendant, the attorney general shall conduct a criminal

293 investigation of such defendant. As a result of the investigation, the attorney general may initiate
294 criminal proceedings against the defendant or refer the matter to the appropriate district attorney
295 or district attorneys for prosecution.

296 SECTION 46. Chapter 27 of the Massachusetts General Laws as appearing in the 2008
297 Official Edition is hereby amended by adding the following new section 4A after section 4:—

298 Section 4A. The Parole Board shall establish in each region an intensive parole sex
299 offenders program. Such programs shall be established subject to appropriation, and shall be
300 modeled upon the current program operated by the parole board in Middlesex County, and shall
301 include unannounced visits, counseling, electronic monitoring, random drug testing, polygraph
302 testing and other aspects of intensive supervision.

303 SECTION 47. The third paragraph of section 9 of chapter 211B of the General Laws, as
304 so appearing, is hereby amended by adding the following clause:-

305 (xxxx) the responsibility to report to the attorney general any civil judgment against a
306 defendant or any civil settlement of cases involving allegations of sexual abuse of a person aged
307 17 or under, which abuse would constitute a violation of section 13B, 22A, 23, 24B of chapter
308 265 or section 4A, 4B, 28, 29A, 29B, 35A of chapter 272 or any attempt to commit a violation
309 of any of the aforementioned sections or a like violation of the laws of another state, the United
310 States or a military, territorial or Indian tribal authority. The report shall contain only identifying
311 data of the defendant, including name, address, date of birth and social security number, the date
312 or dates of incidents giving rise to the action and the date of judgment or settlement.

313 SECTION 48. Section 4 of chapter 211D of the General Laws, as appearing in the 2008
314 Official Edition, is hereby amended by striking out the first sentence.

315 SECTION 49. Section 5 of said chapter 211D, as so appearing, is hereby amended by
316 striking the first sentence and inserting in place thereof the foregoing sentence:— Said
317 committee shall establish, supervise and maintain a system for the appointment or assignment of
318 counsel at any stage of a proceeding, criminal in nature, provided, however, that the laws of the
319 commonwealth or the rules of the supreme judicial court require that a person in such proceeding
320 be represented by counsel; and, provided further, that such person is unable to obtain counsel by
321 reason of his indigency.

322 SECTION 50. Section 6 of said chapter 211D, as so appearing, is hereby amended by
323 inserting after the word “necessary”, in line 58, the following words:— as long as it does not
324 conflict with the law.

325 SECTION 51. Section 9 of said chapter 211D, as so appearing, is hereby amended by
326 striking out, in line 5, the words “whenever possible”.

327 SECTION 52. Said section 9 of said chapter 211D, as so appearing, is hereby amended
328 by striking out clause (d).

329 SECTION 53. Section 13 of said chapter 211D, as so appearing, is hereby amended by
330 inserting after the word “committee” in line 4, the following words:— ; provided, however, that
331 the duties do not conflict with the law.

332 SECTION 54. Section 14 of said chapter 211D, as so appearing, is hereby amended by
333 striking out the first sentence and inserting in place thereof the following sentence:— The public
334 counsel division, except in cases of conflict of interest, shall represent indigent defendants.

335 SECTION 55. Section 16 of said chapter 211D, as so appearing, is hereby amended by
336 adding the following two sentences:— Counsel shall not participate in any other proceeding,
337 unless said proceeding originates from the indigent defendant’s case. Counsel shall not solicit
338 plaintiffs, in particular in actions where the commonwealth is a defendant.

339 SECTION 56. Section 1 of chapter 258B of the General Laws, as appearing in the 2008
340 Official Edition, is hereby amended by inserting, after the word “delinquency”, in line 10, the
341 following words:- or conviction as a youthful offender

342 SECTION 57. Said section 1 of said chapter 258B, as so appearing, is hereby further
343 amended by striking, in lines 12-14, the words “or found delinquent or against whom a finding of
344 sufficient facts for conviction or finding of delinquency is made” and inserting, in place thereof,
345 the following words:- adjudicated as a delinquent or convicted as a youthful offender, or against
346 whom a finding of sufficient facts is made

347 SECTION 58. Said section 1 of said chapter 258B, as so appearing, is hereby further
348 amended by inserting, after the word “prosecution”, in line 41, the following words:- or family
349 member or guardian if such person is a minor, incompetent or deceased,

350 SECTION 59. Section 3 of said chapter 258B, as appearing in the 2002 Official Edition,
351 is hereby amended by inserting, after the word “resources”, in line 5, the following words:-
352 except in regard to subsection (i) of this section as it applies to newly constructed or substantially
353 renovated courthouses

354 SECTION 60. Subsection (b) of said section 3 of said chapter 258B, as so appearing, is
355 hereby amended by inserting, in line 16, after the word “all”, the following words:- adult and
356 juvenile

357 SECTION 61. Subsection (d) of said section 3 of said chapter 258B, as so appearing, is
358 hereby amended by striking, in lines 31-34, the words “protection from local law enforcement
359 agencies from harm and threats of harm arising out of their cooperation with law enforcement
360 and prosecution efforts” and inserting, in place thereof, the following words:- assistance in
361 developing safety plans and appropriate referrals

362 SECTION 62. Said section 3 of said chapter 258B, as so appearing, is hereby amended
363 by striking out subsection (i) in its entirety and replacing it with the following new subsection:-

364 (i) for victims, family members, and witnesses, to be provided, by the prosecutor,
365 in any courthouse that is either newly constructed or substantially renovated, if the construction
366 or renovation was performed under a building permit issued six months after passage of this act,
367 with a secure waiting area or room which is separate from the waiting area of the defendant or
368 the defendant’s family, friends, attorneys or witnesses, and separate from any district attorney’s
369 office, during court proceedings. The court shall designate a waiting area at each courthouse and
370 develop any reasonable safeguards to minimize contact between victims and the defendant, or
371 the defendant’s family, friends, attorneys or witnesses.

372 SECTION 63. Subsection (m) of said section 3 of said chapter 258B, as so appearing, is
373 hereby amended by inserting, at the end thereof, the following:- ; provided further, defense
374 counsel may not seek to interview a victim or witness under the age of majority without the
375 permission of an adult family member, parent or guardian other than the defendant

376 SECTION 64. Subsection (p) of said section 3 of said chapter 258B, as so appearing, is
377 hereby amended by striking, in line 111, the word “at” and inserting, in place thereof, the
378 following words:- before sentence or disposition is imposed

379 SECTION 65. Said subsection (p) of said section 3 of said chapter 258B, as so
380 appearing, is hereby further amended by inserting after the word “defendant”, in line 112, the
381 following words:- , even if there is admission to sufficient facts, the sentence is mandatory, or
382 there is an agreed upon plea,

383 SECTION 66. Said subsection (p) of said chapter 3 of said chapter 258B, as so
384 appearing, is hereby further amended by inserting, at the end thereof, the following:- ; provided
385 further, upon showing by the prosecutor that a personal appearance by the victim will cause an
386 unreasonable hardship on the victim, the court shall permit the victim to exercise the right to be
387 heard by submitting a statement through audio tape or videotape to be heard or viewed before
388 sentence or disposition is imposed

389 SECTION 67. Said section 3 of said chapter 258B, as so appearing, is hereby amended
390 by striking out subsection (t) in its entirety and replacing it with the following new subsection:-

391 (t) for victims and witnesses, to be informed by the prosecutor about notification
392 rights and the certification process required to access the criminal offender record information
393 files pursuant to sections 172(c) and 178A of chapter 6. Individuals certified by the criminal
394 history systems board, or, in the case of a juvenile defendant, certified by the department of
395 youth services, will be informed by the appropriate custodial authority if the offender escapes
396 from custody, receive advance notification when the offender receives a temporary, provisional
397 or final release from custody or is transferred from a secure facility to a less-secure facility.
398 Certified individuals shall provide the criminal history systems board, or the department of youth
399 services in the case of a juvenile defendant, with current contact information;

400 SECTION 68. Said section 3 of said chapter 258B, as so appearing, is hereby further
401 amended by inserting, at the end thereof, the following new subsections:-

402 (w) for child victims and witnesses, notwithstanding any law to the contrary, to
403 have parents, a counselor, friend or other person having a supportive relationship with the child,
404 in addition to the victim witness advocate, remain in the courtroom during the child's testimony
405 unless, in written findings made and entered, the court finds that the defendant's constitutional
406 right to a fair trial will be prejudiced;

407 (x) for child victims and witnesses, for prosecutors to familiarize the victim and
408 witness with the courtroom setting, court personnel, and rules of the court, to the extent
409 practicable under the circumstances. This right may be applied to victims and witnesses with
410 physical, mental, developmental or other disabilities;

411 (y) for victims and witnesses, to have a summary of the rights afforded under this
412 section conspicuously posted in any courthouse and in any police station. The victim and
413 witness assistance board, pursuant to section 4 of this chapter, shall devise and provide posters to
414 satisfy this requirement to any court and any police station, and, upon request and at the
415 discretion of the office and board, to any other institution or organization. The board shall
416 develop the posters in a variety of languages as determined by the Massachusetts office for
417 victim assistance. Upon request, the board will respond, to the extent possible, to any requests
418 for additional language translations of the posters;

419 (z) for victims, to confer with the prosecution prior to the acceptance of a plea of
420 guilty or admission to sufficient facts. Before the judge accepts a plea of guilty, an admission to
421 sufficient facts, a disposition, or an agreed-upon sentence recommendation, the judge shall ask

422 the prosecutor if the victim has been consulted regarding plea discussions, whether or not the
423 victim agrees or disagrees with the plea discussions and agreement, if the victim was notified of
424 the court date and is present, and if the victim would like to assert their right to offer a victim
425 impact statement;

426 (aa) for victims, to be notified by the prosecutor that they have the right to provide
427 the sex offender registry board with a written impact statement for inclusion in the convicted sex
428 offender's classification determination pursuant to section 178K(1)(k) of chapter 6. Upon the
429 specific request of the victim to the sex offender registry board, the board shall inform the victim
430 of the sex offender's (i) registration and classification status and (ii) the addresses of where the
431 sex offender lives, works, and attends an institution of higher learning regardless of the
432 classification level and registration status of the offender;

433 (bb) for victims and witnesses, to be informed by the court at the daily
434 commencement of the regular criminal docket at which accused persons are arraigned, that a
435 summary of their rights is posted within the courthouse;

436 SECTION 69. Section 8 of said chapter 258B, as so appearing, is hereby amended by
437 striking out, in lines 4 and 5, the words, “. The court shall impose an assessment of \$50” and
438 inserting, in place thereof, the following word:- , and

439 SECTION 70. Said section 8 of said chapter 258B, as so appearing, is hereby further
440 amended by striking out, in lines 21-31, the words “In the discretion of the court or the clerk
441 magistrate in the case of a civil motor vehicle infraction that has not been heard by or brought
442 before a justice, a civil motor vehicle assessment imposed pursuant to this section which would
443 cause the person against whom the assessment is imposed severe financial hardship, may be

444 reduced or waived. An assessment other than for a civil motor vehicle infraction imposed
445 pursuant to this section may be reduced or waived only upon a written finding of fact that such
446 payment would cause the person against whom the assessment is imposed severe financial
447 hardship. Such a finding shall be made independently of a finding of indigency for purposes of
448 appointing counsel” and inserting, in place thereof, the following sentence:- Any assessment
449 made pursuant to this section shall not be subject to waiver by any court for any reason

450 SECTION 71. Chapter 260 of the General Laws is hereby amended by striking out
451 section 4C, as appearing in the 2002 Official Edition.

452 SECTION 72. Section 26C of chapter 265 of the General Laws, as appearing in the 2002
453 Official Edition, is hereby amended in subdivision (a) by striking in line two the word “lure” and
454 inserting in place thereof the following:- groom, lure,

455 SECTION 73. Section 26C of chapter 265 of the General Laws, as appearing in the 2002
456 Official Edition, is hereby amended by inserting after subdivision (b) the following subdivision:-

457 (c) Any one who entices a child under 16, or a person believed to be under 16,
458 electronically via telephone, cell phone, electronic mail, internet chat room or “instant
459 messenger” with any comment, solicitation, request, suggestion, proposal, image, or other
460 communication verbal or otherwise which is obscene, lewd, lascivious, filthy, or indecent, where
461 sexual grooming, sexual abuse or sexual exploitation was intended, shall be punished by
462 imprisonment in the state prison for not more than 5 years, or in the house of correction for not
463 more than 2 1/2 years, or by a fine of not more than \$5,000, or by both imprisonment and fine.

464 SECTION 74. Chapter 272 of the General Laws is hereby amended by striking out
465 Section 53A, as appearing in the 2002 Official Edition, and inserting in place thereof the
466 following section:—

467 Section 53A. (a) Whoever engages, agrees to engage, or offers to engage in sexual
468 conduct with another person in return for a fee paid or to be paid by another or to a third person,
469 or whoever pays, agrees to pay, or offers to pay any person to engage in sexual conduct with that
470 person or with another, shall be punished by imprisonment in jail for not more than one year or
471 by a fine of not more than 500 dollars or by both such imprisonment and fine, whether such
472 sexual conduct occurs or not.

473 (b) Whoever pays, agrees to pay, or offers to pay any person with the intent to engage in
474 sexual conduct with a child under the age of eighteen, or whoever is paid, agrees to pay, or
475 agrees that a third person be paid in return for aiding a person who intends to engage in sexual
476 conduct with a child under the age of eighteen, shall be punished by imprisonment in the state
477 prison for not more than ten years or in jail for not more than two and one half years, whether
478 such sexual conduct occurs or not.

479 SECTION 75. Section 100A of chapter 276 of the General Laws, as so appearing, is
480 hereby amended by inserting after the word “court,” in line 69, the following words:- a victim
481 seeking information on a sex offense, as defined in section 178C of chapter 6, committed against
482 the victim when the victim was a minor and the offender an adult.

483 SECTION 76. Section 63 of chapter 277 of the General Laws, as so appearing, is hereby
484 amended by inserting after the word “five”, in line 5, the following words:- may be found at any
485 time.

486 SECTION 77. Said section 63 of said chapter 277, as so appearing, is hereby further
487 amended by striking out, in lines 19 and 20, the words “, twenty-two, twenty-two A, twenty-
488 three, twenty-four B”.

489 SECTION 78. Notwithstanding any special or general law to the contrary, nursing home
490 and assisted living facilities administrators shall conduct background checks of all potential
491 residents to promote a safe living environment and for the protection of all current residents.

492 SECTION 79. Be it resolved that all staff who work with individuals served by the
493 Department of Developmental Services are required to have national criminal background
494 checks. Criminal background verification will be determined by cross-referencing fingerprints
495 with the National Instant Criminal Background Check System (NICS). The Department of
496 Developmental Services will work cooperatively with the Disabled Persons Protection
497 Commission (DPPC) and The Massachusetts State Police to implement national background
498 checks.

499 Staff will be subject to said criminal background checks when seeking
500 employment with those agencies that provide services such as, but not limited to the following:
501 residential, day and transportation. It shall be the responsibility of the Commonwealth to ensure
502 that said criminal background checks are processed for review prior to such a time that an
503 individual begins unsupervised work with any person served by the Department of
504 Developmental Services

505 Any employer who recklessly hires, retains or supervises an employee whom the
506 employer knows or should know will interact with individuals served by the Department of
507 Developmental Services and poses a probable risk of harm to an adult with mental retardation

508 and by such hiring, retention or supervision permits the employee to criminally harm an adult
509 with mental retardation. These incidents of harm include but are not limited to the following
510 criminal acts: sexually exploit, commit sexual assault, kidnap, stalk, or commit an assault and
511 battery on an adult with mental retardation that causes bodily injury. Knowingly hiring
512 dangerous individuals shall be punishable by a fine of not less than \$1000 nor more than \$10,000
513 or by imprisonment for not less than one year nor more than ten years.

514 SECTION 80. Notwithstanding any special or general law to the contrary, a notification
515 advisory council shall be established. Said council shall consist of 13 persons who, by
516 experience or training, have a personal interest or professional expertise in law enforcement,
517 crime prevention, victim advocacy, criminology, psychology, parole, education or community
518 relations. The members of said council shall be appointed in the following manner: 3 shall be
519 appointed by the Governor, of whom no more than two shall be of the same political party; 3
520 shall be appointed by the Senate President, of whom no more than 2 shall be of the same political
521 party; and 4 shall be appointed by the Speaker of the House of Representatives, of whom no
522 more than 3 shall be of the same political party. The remaining 3 spots shall consist of 2 victim's
523 advocates and 1 member of the Sex Offender Registry Board. Any vacancies occurring in the
524 membership shall be filled in the same manner as the original appointments.

525 One year after the effective date of this act, the Attorney General and the council shall
526 conduct a comprehensive review of the guidelines to determine whether any changes or revisions
527 should be promulgated. Upon completion of that review and the submission of any
528 recommendations thereon, that council shall expire.