

HOUSE No. 2497

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

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 creating a statewide gun offender registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>

HOUSE No. 2497

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 2497) of Aaron Michlewitz, Joseph A. Boncore and Michelle M. DuBois for legislation to establish a statewide gun offender registry. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2159 OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act creating a statewide gun 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. The General Laws are hereby amended by inserting after chapter 28A the
2 following chapter:-

3 CHAPTER 28B

4 MASSACHUSETTS GUN OFFENDER REGISTRY

5 Section 1. Definitions. The following words shall have the following meanings for the
6 purposes of this section only:

7 “Conviction”, a finding or verdict of guilty or a plea of guilty, whether or not final
8 sentence is imposed.

9 “Gun Offender or Offender”, any person who received a conviction or adjudication for a
10 gun offense that is subject to the provisions of this chapter.

11 “Gun Offense”, a criminal conviction of an offense for an unlawful use of a weapon that
12 includes a firearm under section 18B of chapter 265 of the General Laws or criminal possession
13 of a firearm in violation of any federal, state, or local law.

14 Section 2. Universal Notice Provisions

15 Whenever these provisions provide for notice of any kind to be given to a gun offender
16 and that offender is a juvenile at the time of such notification, then notification shall also be
17 mailed to such gun offender’s legal guardian or agency having custody of the juvenile in the
18 absence of a legal guardian and the gun offender’s most recent attorney of record.

19 Section 3. The Gun Offender Registry

20 (1) The gun offender registry board, known as the board, in cooperation with the
21 executive office of public safety and security, shall establish and maintain a centralized
22 computerized registry of all gun offenders required to register pursuant this section, known as the
23 gun offender registry. The gun offender registry shall be updated on information made available
24 to the board, including information acquired pursuant to registration provisions of this section.

25 (2) The file on each gun offender required to register pursuant this chapter shall
26 include the following information, the registration data:

27 (a) the gun offender’s name, aliases used, date and place of birth, sex, race, height,
28 weight, eye and hair color, social security number, home address, any secondary address, and
29 work address;

30 (b) a photograph and a set of fingerprints;

31 (c) for each and every gun offense for which the gun offender was convicted or
32 adjudicated: a description of the offense, the city or town where the offense occurred, the date of
33 conviction or adjudication, and the sentence imposed;

34 (d) anticipated future home, which shall include residential and work address, if any;

35 (e) documentation of treatment received for any mental health illness, if any;

36 (3) The board shall develop standardized registration and verification forms, which
37 shall include registration data as required by this section. The board shall make blank copies of
38 such forms available to all agencies having custody of gun offenders and all city and town police
39 departments; provided, however, that the board shall determine the format for the collection and
40 dissemination of registration data which may include the electronic transmission of data.

41 (4) The board shall make the gun offender information contained in the gun offender
42 registry available for inspection by the general public in the form of a comprehensive database
43 published on the internet, known as the “gun offender internet database”; provided, however, that
44 any public dissemination of registration information, on the gun offender internet database or
45 otherwise, is in accordance with sections 8 and 9 of this chapter; and providing further, that the
46 board shall keep confidential and shall not publish in the gun offender internet database any
47 information relating to requests for registration data under section 8 of this chapter:

48 (a) the name of the gun offender;

49 (b) the offender’s home address and any secondary addresses;

50 (c) the offender’s work address;

51 (d) the offense for which the offender was convicted or adjudicated and the date of
52 conviction or adjudication;

53 (e) the offender's age, sex, race, height, weight, eye and hair color;

54 (f) a photograph of the offender; and

55 (g) whether the offender is in compliance with the registration obligations of these
56 provisions.

57 (5) All information provided to the general public through the gun offender internet
58 database shall include a warning regarding the criminal penalties for use of gun offender registry
59 information to commit a crime or engage in illegal discrimination or harassment of an offender
60 and the punishment for threatening to commit a crime under section 4 of chapter 275. The gun
61 offender internet database shall be updated regularly, based on information available to the board
62 and shall be open to searches by the public at any time without charge or subscription. The board
63 shall promulgate rules and regulations to implement, update and maintain such a gun offender
64 internet database, to ensure the accuracy, integrity and security of information contained therein,
65 to ensure the prompt and complete removal of registration data for persons whose duty to
66 register has terminated or expired under section 5 of this chapter or any other law and to protect
67 against the inaccurate, improper or inadvertent publication of registration data on the internet.

68 (6) Records maintained in the gun offender registry shall be open to any law
69 enforcement agency in the commonwealth, the United States, or any other state.

70 (7) The board shall promulgate rules and regulations to implement the provisions of
71 this chapter. Such rules and regulations shall include provisions which may permit police

72 departments located in a city or town that has divided into more than one zip code to disseminate
73 information pursuant to section 8 of this chapter categorized by zip code and to disseminate such
74 information limited to one or more zip codes if the request for such dissemination is so qualified;
75 provided, however, that for the City of Boston dissemination of information may be limited to
76 one or more police districts.

77 Section 4. Transmission of Registration Data

78 (1) Within 10 days of receiving sentencing any gun offender required to register
79 pursuant to this chapter, the agency which has custody of the gun offender, including the
80 department of correction, the department of youth services and each of the houses of correction,
81 or the gun offender himself shall transmit to the board said gun offender's registration data. All
82 custodial agencies shall inform the board immediately of any transfers of gun offenders so that
83 there may be contact with the offender throughout the classification process. The board shall
84 classify such gun offenders before their earliest possible release date. The board shall promptly
85 transmit the registration data to the police departments in the municipalities where the gun
86 offender intends to live, maintain any secondary address and work and where the offense was
87 committed. The gun offender shall be informed by, and shall acknowledge in writing to, the
88 agency which has custody of the offender of the duty to register in the commonwealth, to verify
89 information, to give notice of change of address or intended change of address within the
90 commonwealth or in another state and the penalties for failure to do so and for giving false
91 registration information, and of his right to submit to the board, according to section 10 of this
92 chapter, documentary evidence relative to his risk of reoffense, the degree of dangerousness
93 posed to the public and of his duty to register under this section. The agency shall transmit such
94 acknowledgement to the board within 10 days of receipt of such acknowledgement. No later than

95 two days before his release from custody, a gun offender shall register by mailing to the board on
96 a form approved by the board and signed under the pains and penalties of perjury, the gun
97 offender's name, date of birth, home address or intended home address, any secondary address or
98 intended secondary address, and work address or intended work address. No gun offender shall
99 be released from custody unless such registration has been filled out, signed and mailed to the
100 board.

101 (2) An agency that has supervision of a gun offender required to register pursuant this
102 chapter on probation or parole shall, within 30 days of assuming supervision of such gun
103 offender, transmit to the board said gun offender's registration data. The agency shall also report
104 any changes of address of any gun offender required to register pursuant to this chapter within its
105 jurisdiction to this board. The board shall promptly transmit the registration data to the police
106 departments in the municipalities where the gun offender intends to live, maintain any secondary
107 address and work address and where the offense was committed. The gun offender shall be
108 informed by, and shall acknowledge in writing to, the agency which has custody of the of the
109 offender of the duty to register in the commonwealth, to verify information, to give notice of
110 change of address or intended change of address within the commonwealth or in another state
111 and the penalties for failure to do so and for giving false registration information, and of his right
112 to submit to the board, according to section 10 of this chapter, documentary evidence relative to
113 his risk of reoffense, the degree of dangerousness posed to the public and of his duty to register
114 under this section. A gun offender shall, within two days of receiving such notice register by
115 mailing to the board on a form approved by the board and signed under the pains and penalties of
116 perjury; the gun offender's name, date of birth, home address or intended home address, any
117 secondary address or intended secondary address, and work address or intended work address.

118 (3) Any court which enters a conviction for a gun offense or adjudication as a
119 youthful offender or as a delinquent juvenile by reason of a gun offense, but does not impose a
120 sentence of confinement of 60 days or more to be served immediately shall inform the gun
121 offender and require the offender to acknowledge, in writing, his duty to register in the
122 commonwealth, to verify information, to give notice of change of address or intended change of
123 address within the commonwealth or in another state and the penalties for failure to do so and for
124 giving false registration information, and of his right to submit to the board, according to section
125 10 of this chapter, documentary evidence relative to his risk of reoffense, the degree of
126 dangerousness posed to the public and of his duty to register under this section. The court shall
127 cause such gun offender's registration data to be transmitted to the board within 10 days of
128 sentencing. The board shall promptly transmit the registration data to the police departments in
129 the municipalities where the gun offender intends to live, maintain any secondary address and
130 work address and where the offense was committed. A gun offender shall, within two days of
131 receiving such notice or of release from confinement, whichever is later, register by mailing to
132 the board on a form approved by the board and signed under the pains and penalties of perjury,
133 the gun offender's name, date of birth, home address or intended home address, any secondary
134 address or intended secondary address, and work address or intended work address.

135 (4) Any court which accepts a plea for a gun offense shall inform the offender prior
136 to acceptance and require the gun offender to acknowledge, in writing, that such a plea may
137 result in such gun offender being subject to the provisions of this chapter. Failure to so inform an
138 offender shall not be grounds to vacate or invalidate the plea.

139 (5) Upon written motion of the commonwealth, a court which enters a conviction or
140 adjudication of delinquent or as a youthful offender may, at the time of sentencing, having

141 determined that the circumstances of the offense in conjunction with the offender's criminal
142 history does not indicate a risk of reoffense or a danger to the public, find that a gun offender
143 shall not be required to register under this chapter. Such motion shall state the reasoning for such
144 a finding with specificity. The court may not make such a finding in cases of homicide,
145 attempted homicide and where the defendant has more than 1 conviction for violent crime
146 involving a firearm.

147 (6) In the case of a gun offender who has been convicted of a gun offense or
148 adjudicated as a youthful offender or as a delinquent juvenile by reason of a gun offense and who
149 has not been sentenced to immediate confinement, the court shall, within 10 days of sentencing,
150 determine whether the circumstances of the offense in conjunction with the offender's criminal
151 history indicate that the gun offender does not pose a risk of reoffense or a danger to the public.
152 If the court so determines, the court shall relieve such gun offender of the obligation to register.
153 The court may not make such determination in cases of homicide, attempted homicide, and
154 where the offender has more than one conviction for violent crime involving a firearm.

155 (7) Except as hereinbefore provided, a gun offender residing or working in the
156 commonwealth shall, within 90 days of the effective date of this section, register by mailing to
157 the board on a form approved by the board and signed under the pains and penalties of perjury,
158 the gun offender's name, date of birth, home address, any secondary or intended secondary
159 address, and work address or intended work address. The board shall promptly transmit the
160 registration data to the police departments where the gun offender intends to live and work and
161 where the offense has been committed. The board shall send written notification of the
162 requirements of this chapter to the last known address of all known gun offenders residing in the

163 commonwealth who, prior to the effective date of this section, have been released from all
164 custody and supervision.

165 (8) Upon registering and verifying registration information or giving notice of change
166 of address or intended change of address under this section, a gun offender shall provide
167 independent written verification of the address at which he is registered or, if changing address,
168 will be registered.

169 (9) Registration data received by the board and disseminated to law enforcement
170 pursuant this section shall not be disseminated to the public except in accordance with the
171 sections of this chapter.

172 Section 5. Duty to Report

173 (1) A gun offender required to register pursuant this chapter who intends to move to a
174 different city or town within the commonwealth shall, not later than 10 days prior to establishing
175 such new residence, register by mailing to the board on a form approved by the board and signed
176 under the pains and penalties of perjury, the gun offender's name, date of birth, home address or
177 intended home address, any secondary addresses or intended secondary addresses, and work
178 address or intended work address. The board shall transmit notice of such change of address to
179 all the police departments in the municipalities where the offense was committed, where the gun
180 offender last registered and where the gun offender intends to live. A gun offender required to
181 register under this chapter who intends to change his address within a city or town shall notify
182 the board in writing not later than 10 days prior to establishing such new residence. The board
183 shall transmit notice of the change of address to the police departments within such city or town,
184 in the municipality where the offense was committed.

185 (2) A gun offender required to register pursuant this chapter who intends to move
186 outside of the commonwealth shall notify the board not later than 10 days before leaving the
187 commonwealth. The board shall transmit notice of the change of address to the police
188 departments in the municipalities where such gun offender last registered and where the offense
189 was committed. The board shall notify such gun offender of their continued obligation to verify
190 their registration data under section 5 of this act.

191 (3) A gun offender required to register pursuant this act who intends to change his
192 work address shall notify the board in writing not later than 10 days prior to establishing the new
193 work address. The board shall transmit notice of the change of address to the police departments
194 in the municipalities where such gun offender has previously worked, where such offender
195 intends to work, where such offender resides or intends to reside and where the offense was
196 committed.

197 Section 6. Annual Verification of Registration Data and Duration of Registration

198 (1) Except as provided for a gun offender finally classified as a level 2 or a level 3
199 gun offender as determined by the board, a gun offender required to register shall annually mail
200 to the board, on a form approved by the board and signed under the pains and penalties of
201 perjury, the gun offender's registration data. A homeless gun offender shall verify registration
202 data every 180 days with the board by mailing to the board a form approved by the board and
203 signed under the pains and penalties of perjury the gun offender's registration data. A homeless
204 shelter receiving state funding shall cooperate in providing information in the possession of or
205 known to such shelter, when a request for information is made to such shelter by the board. A
206 shelter that violates the provisions of this paragraph shall be punished by a fine of \$300 a day for

207 each day that the shelter continues to violate the provisions of this paragraph. In addition, in each
208 subsequent year during the month of birth of any gun offender required to register, the board
209 shall mail a non-forwardable verification form to the last reported address of such gun offender.
210 Such gun offender shall, within 10 days of receipt, sign the verification form under the pains and
211 penalties of perjury and mail it back to the board. The board shall periodically, and at least
212 annually, send written notice to a city or town police department regarding any gun offender
213 required to register whose last known address was in such city or town or who gave notice of his
214 intent to move to or is otherwise believed to live or work in such city or town, but who has failed
215 to register or verify registration information as required.

216 (2) A gun offender finally classified by the board as a level 2 or level 3 gun offender
217 as determined by the board, who is required to register pursuant this chapter shall annually
218 appear in person at the local police department in the city or town in which such gun offender
219 lives to verify that the registration data on file remains true and accurate. At such time, the gun
220 offender's photograph and fingerprints shall be updated. A homeless gun offender shall appear in
221 person at such police department every 180 days to verify, under the pains and penalties of
222 perjury, that the registration data on file remains true and accurate. A homeless shelter receiving
223 state funding shall cooperate in providing information in the possession of or known to such
224 shelter, when a request for information is made to such shelter by the board. A shelter that
225 violates the provisions of this paragraph shall be punished by a fine of \$300 a day for each day
226 that the shelter continues to violate the provisions of this paragraph. In addition, in each
227 subsequent year during the month of birth of any gun offender required to register, the board
228 shall mail a non-forwardable verification form to the last reported address of such gun offender.
229 Such gun offender shall, within 10 days of receipt, sign the verification form under the pains and

230 penalties of perjury and mail it back to the board. The board shall periodically, and at least
231 annually, send written notice to a city or town police department regarding any gun offender
232 required to register whose last known address was in such city or town or who gave notice of his
233 intent to move to or is otherwise believed to live or work in such city or town, but who has failed
234 to register or verify registration information as required. The public shall have access to
235 information regarding a level 3 gun offender in accordance with sections 3 and 8 of this chapter.

236 (3) The board shall examine through electronic transfer of information the tax returns,
237 wage reports, child support enforcement records, papers or other documents on file with the
238 commissioner of revenue or any other entity within the executive branch when there is reason to
239 believe the gun offender required to register in accordance with this act or where the address of
240 such gun offender cannot be verified through other means; provided, however, that nothing
241 herein shall be construed to authorize the disclosure, directly or indirectly, of any information
242 other than the address of such gun offender, except as otherwise provided in the sections of this
243 chapter.

244 (4) The duty of a gun offender required to register pursuant to this chapter and to
245 comply with the requirements herein shall end 3 years after such gun offender has been
246 convicted or adjudicated or has been released from all custody or supervision, whichever last
247 occurs. A person required to register with the gun offender registry board may make an
248 application to said board to terminate the obligation upon proof, by clear and convincing
249 evidence, that the person has not committed a gun offense within 3 years following conviction,
250 adjudication or release from all custody or supervision, whichever is later, and is not likely to
251 pose a danger to the safety of others. For so long as such gun offender is under a duty to register
252 in the commonwealth or in any other state where the offender resides or would be under such a

253 duty if residing in the commonwealth, such gun offender shall not be entitled to relief under the
254 provisions of section 100A or 100B of chapter 276.

255 Section 7. Prohibited Conduct and Penalties

256 (1) A gun offender required to register pursuant to this act who knowingly:

257 (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice
258 of change of address; or (iv) provides false information shall be punished in accordance with this
259 section.

260 (2) Violations of this section may be prosecuted and punished in any county where
261 the offender knowingly:

262 (i) fails to register; (ii) fails to verify registration information; (iii) fails to provide notice
263 of change of address; or (iv) provides false information.

264 (3) A conviction under this section shall be punished by imprisonment for not more
265 than 1 year in a house of correction or by a fine of not more than \$1000 or both.

266 Section 8. Request for Gun Offender Information; Notice of Penalty for Misuse; Data
267 Required to Receive Reports

268 (1) A person who requests gun offender registry information shall:

269 (a) be 18 years of age or older;

270 (b) appear in person at a city or town police station and present proper identification;

271 (c) require gun offender registry information for his own protection or for the
272 protection of a child under the age of 18 or for another person for whom such inquirer has
273 responsibility, care, or custody, and so state; and

274 (d) complete and sign a record of inquiry, designed by the board, which shall include
275 the following information: the name and address of the person making the inquiry, the person,
276 geographic area, or street which is the subject of the inquiry, the reason for the inquiry and the
277 date and time of the inquiry.

278 (2) The person making the inquiry may either:

279 (a) identify a specific individual by name or provide personal identifying information
280 sufficient to allow the police to identify the subject of the inquiry; or

281 (b) inquire whether any gun offenders live or work within the same or different city
282 or town at a specific address or street upon a reasonable showing that the gun offender registry
283 information is requested for his own protection or for the protection of a child under the age of
284 18 or another person for whom the inquirer has responsibility, care, or custody.

285 (3) If the search of the gun offender registry results in the identification of a gun
286 offender required to register pursuant to this chapter who has been finally classified by the board
287 as a level 2 or level 3 offender, the police shall disseminate to the person making the inquiry:

288 (a) the name of the gun offender;

289 (b) the home address, if located in the areas described in clause a or b of subsection 2;

290 (c) the work address, if located in the areas described in clause a or b of subsection 2;

291 (d) the offense for which the gun offender was convicted or adjudicated and the dates
292 of such conviction or adjudication;

293 (e) the gun offender's age, sex, race, height, weight, eye and hair color; and

294 (f) photograph of the gun offender

295 (4) All reports to persons making inquiries shall include a warning regarding the
296 criminal penalties for use of gun offender registry information to commit a crime or engage in
297 illegal discrimination or harassment of an offender and the punishment for threatening to commit
298 a crime under section 4 of chapter 275.

299 Section 9. The Gun Offender Registry Board

300 (1) There shall be, in the executive office of public safety and security, a gun offender
301 registry board which shall consist of seven members who shall be appointed by the governor for
302 terms of four years. The board shall include one person with experience and knowledge in the
303 field of criminal justice who shall act as chairman; at least two persons having at least ten years
304 of training and experience in probation, parole or corrections; and at least one person who has
305 expertise or experience with victims of gun violence. Any member not serving under the
306 foregoing criteria shall be appointed by the governor at his discretion. Members shall be
307 compensated at a reasonable rate subject to the approval of the secretary of administration and
308 finance.

309 (2) The chairman shall be appointed by and serve at the pleasure of the governor and
310 shall be the executive and administrative head of the gun offender registry board. In the case of

311 the absence or disability of the chairman, the governor may designate one of the members to act
312 as chairman during such absence or disability.

313 (3) The gun offender registry board shall promulgate guidelines for determining the
314 level of risk of reoffense and the degree of dangerousness posed to the public or for relief from
315 the obligation to register and shall provide for three levels of notification; develop guidelines for
316 use by the city and town police departments in disseminating gun offender registry information;
317 devise a plan, in cooperation with state and local law enforcement authorities and other
318 appropriate agencies, to locate and verify the current address of gun offenders including, subject
319 to appropriation, entering into contracts with interagency agreements for such purposes; and
320 conduct hearings as provided under section 10. The board may not relieve the gun offender from
321 the duty to register in cases of homicide, attempted homicide, or where the defendant has more
322 than 1 conviction for violent crime involving a firearm. Factors relevant to the risk of reoffense
323 shall include, but not be limited to, the following:

324 (a) Criminal history factors indicative of a high risk of reoffense and degree of
325 dangerousness posed to the public, including:

326 (i) whether the gun offender has a mental illness;

327 (ii) whether the gun offender's conduct is characterized by repetitive and compulsive
328 behavior;

329 (iii) whether the gun offender committed other, non-gun related crimes while in
330 possession of a gun;

331 (iv) the age of the gun offender at the time of the commission of the first gun offense;

- 332 (v) whether the gun offender served the maximum time of incarceration;
- 333 (b) Other criminal history factors to be considered in determining risk and degree of
334 dangerousness, including:
- 335 (i) whether the offense involved violence or infliction of bodily injury;
- 336 (ii) the number, date and nature of prior offenses;
- 337 (c) Conditions of release that minimize risk of reoffense and degree of dangerousness
338 posed to the public, including whether the gun offender is under probation or parole supervision,
339 whether such gun offender is receiving counseling, therapy or treatment, and whether such gun
340 offender is residing in a home situation that provides guidance and supervision;
- 341 (d) Physical conditions that minimize the risk of reoffense including, but not limited to,
342 debilitating illness;
- 343 (e) Whether the gun offender was a juvenile when he committed the offense, his
344 response to treatment, and subsequent criminal history;
- 345 (f) Whether psychological or psychiatric profiles indicate a risk of recidivism;
- 346 (g) The gun offender's history of alcohol or substance abuse;
- 347 (h) Recent behavior, including behavior while incarcerated or while supervised on
348 probation or parole;
- 349 (i) Recent threats against persons or expressions of intent to commit additional
350 offenses; and

351 (j) Review of any materials submitted by the gun offender, his attorney or others on
352 behalf of such offender.

353 (4) The guidelines shall provide for three levels of notification depending on the
354 degree of risk of reoffense and the degree of dangerousness posed to the public by the gun
355 offender:

356 (a) Where the board determines that the risk of reoffense is low and the degree of
357 dangerousness posed to the public is not such that a public safety interest is served by public
358 availability, it shall assign a level 1 designation to the gun offender. In such case, the board shall
359 transmit the registration data and designation to the police departments in the municipalities
360 where such gun offender lives or, if in custody, intends to live and work upon release and where
361 the offense was committed. The police shall not disseminate information to the general public
362 identifying the gun offender where the board has classified the individual as a level 1 gun
363 offender. The police and the board may, however, release such information identifying such gun
364 offender to the department of correction, any county correctional facility, the department of
365 youth services, the department of social services, the parole board, the department of probation,
366 the department of mental health, and all city and town police departments.

367 (b) Where the board determines that the risk of reoffense is moderate and the degree of
368 dangerousness posed to the public is such that a public safety interest is served by public
369 availability of registration information, it shall assign a level 2 designation to the gun offender.
370 In such case, the board shall transmit the registration data and designation to the police
371 departments in the municipalities where the gun offender lives and works or, if in custody,
372 intends to live and work upon release and where the offense was committed. The public shall

373 have access to the information in accordance with subsection 3 of section 8 of these provisions.
374 The gun offender shall be required to register and verify registration information pursuant to
375 sections 4 and 6 of this chapter.

376 (c) Where the board determines that the risk of reoffense is high and the degree of
377 dangerousness posed to the public is such that a substantial public safety interest is served by
378 active dissemination, it shall assign a level 3 designation to the gun offender. In such case, the
379 board shall transmit registration data and designation to the police departments in the
380 municipalities where the gun offender lives and works or, if in custody, intends to live and work
381 upon release and where the offense was committed. A level 3 community notification plan shall
382 require the police department to notify organizations in the community which are likely to
383 encounter such gun offender and individual members of the public who are likely to encounter
384 such gun offender. Neighboring police districts shall share the gun offender registration
385 information of level 3 gun offenders and may inform the residents that of their municipality of a
386 gun offender they are likely to encounter who resides in an adjacent city or town. The police or
387 board shall actively disseminate in such time and manner as such police department or board
388 deems reasonably necessary a report pursuant to subsection 3 of section 8 of these provisions.
389 Such active dissemination may include publication of such information on the internet by the
390 police department in such time or manner as the police or board deem reasonably necessary; and,
391 provided, that the police or board shall not release information identifying the victim by name,
392 address, or relation to the offender. All notices to the community shall include a warning
393 regarding the criminal penalties of use of gun offender registry information to commit a crime or
394 to engage in illegal discrimination or harassment of an offender and the punishment for
395 threatening to commit a crime under section 4 of chapter 275.

396 (d) The board may relieve such gun offender of any further obligation to register, shall
397 remove such gun offender's registration information from the registry and shall so notify the
398 police departments where said gun offender lives and works or if in custody intends to live and
399 work upon release, and where the offense was committed.

400 (5) The gun offender registry board shall give immediate priority for rating hearings
401 to those offenders who have not been sentenced to incarceration for at least 60 days, followed, in
402 order of priority, by those gun offenders who (a) have been released from incarceration within
403 the last 12 months, (b) are currently on parole or probation supervision, and (c) are scheduled to
404 be released from incarceration within 2 months. All agencies shall cooperate with providing files
405 to the gun offender registry board and any information the gun offender registry board deems
406 useful. Failure to comply in good faith with such a request within 10 days shall be punishable by
407 a fine of not more than \$300 per day.

408 Section 10. Hearings and Right to Counsel

409 (1) Upon review of any information useful in assessing the risk of reoffense and the
410 degree of dangerousness posed to the public by the gun offender, the board shall prepare a
411 recommended classification of each offender. Such recommendation may be made by board staff
412 members upon written approval by one board member.

413 Not less than 60 days prior to the release or parole of a gun offender from custody or
414 incarceration, and in the case of any gun offender not in custody, the board shall notify the gun
415 offender of his right to submit to the board documentary evidence relative to his risk of reoffense
416 and the degree of dangerousness posed to the public and his duty to register according to the
417 provisions of section 9. Such gun offender may submit such evidence to the board within 30 days

418 of receiving such notice from the board. Upon reviewing such evidence, the board shall promptly
419 notify the gun offender of the board's recommended gun offender classification, his duty to
420 register, if any, his right to petition the board to request an evidentiary hearing to challenge such
421 classification and duty, his right to retain counsel to represent him at such hearing, and his right
422 to have counsel appointed for him if he is found to be indigent as determined by the board using
423 the standards under chapter 211D of the general laws. Such gun offender shall petition the board
424 for such hearing within 30 days of receiving such notice. The board shall conduct such hearing in
425 a reasonable time according to the provisions of subsection 2. The failure to timely petition the
426 board for such hearing shall result in a waiver of such right and the registration requirements, if
427 any, and the board's recommended classification shall become final.

428 (2) If an offender requests a hearing in accordance with subsection 1, the chair may
429 appoint a member, panel of three board members, or a hearing officer to conduct the hearing,
430 according to the standard rules of adjudicatory procedure or other rules which the board may
431 promulgate, and to determine by a preponderance of evidence such gun offender's duty to
432 register and final classification. The board shall inform offenders requesting a hearing of the
433 right to have counsel appointed under the provisions of subsection 1 if a gun offender is deemed
434 to be indigent as determined by the board using the standards under chapter 211D of the general
435 laws. If the gun offender does not so request a hearing, the recommended classification and
436 determination of duty to register shall become the board's final classification and determination
437 and shall not be subject to judicial review. All offenders who are juveniles at the time of
438 notifications shall be represented by counsel at the hearings.

439 Section 11. Judicial Review of Final Classification

440 (1) If an offender has requested and participated in a hearing in accordance with
441 section 10, then the offender may seek judicial review, in accordance with section 14 of chapter
442 30A, of the board's final classification and registration requirements. The court shall, if
443 requested, appoint counsel to represent the gun offender in the proceedings if such gun offender
444 is deemed indigent in accordance with section 2 of chapter 211D. An attorney employed or
445 retained by the board may make an appearance, subject to section 3 of chapter 12, to defend the
446 board's decision. The court shall reach its final decision within 180 days of such gun offender's
447 petition for review. The court shall keep proceedings conducted pursuant to this paragraph and
448 records from such proceedings confidential and such proceedings and records shall be
449 impounded, but the filing of an action under this section shall not stay the effect of the board's
450 final classification.

451 Section 12. Misuse of Information and Penalties

452 (1) Information contained in the gun offender registry shall not be used to commit a
453 crime against a gun offender or to engage in illegal discrimination or harassment of an offender.
454 Any person who uses information disclosed pursuant to the provisions of these sections for such
455 purpose shall be punished by not more than 12 months in a house of correction or by a fine of not
456 more than \$5000 or by both such imprisonment and fine. All requests for gun offender registry
457 information, reports issued and websites must notify the user, requester or recipient of
458 information that they shall not use the gun offender registry to commit a crime against a gun
459 offender or to engage in illegal discrimination or harassment of an offender and require the user
460 or recipient to sign or otherwise acknowledge that they shall be subject to penalties under this
461 paragraph..

462 Section 13. Liability of Public Officials and Employees for Gun Offender Registry
463 Information

464 (1) Police officials and other public employees acting in good faith shall not be liable
465 in a civil or criminal proceeding for any publication on the internet under section 3 or other
466 dissemination of gun offender registry information or for any act or omission pursuant to the
467 provisions of these sections.

468 Section 14. Gun Offender Registry Fee; Waiver

469 (1) The gun offender registry board shall assess a registration fee of \$75 upon every
470 gun offender, hereinafter referred to as the gun offender registry fee. Said offender will pay the
471 gun offender registry fee upon his initial registration as a gun offender and annually thereafter
472 upon the anniversary of said registration. No such fee shall be assessed and collected until the
473 offender has either:

474 (a) Waived his right to petition for an evidentiary hearing to challenge his duty to
475 register as a gun offender under section 10; or

476 (b) Has completely exhausted the legal remedies made available to him to so
477 challenge said duty to register pursuant sections 10 and 11 and has not prevailed in his attempt to
478 eliminate said duty.

479 (2) The gun offender registry board may waive payment of said gun offender registry
480 fee if it determines that such payment would constitute an undue hardship on said person. Said
481 gun offender registry fee shall be collected by the gun offender registry board and shall be
482 transmitted to the office of the state treasurer.

483 Section 15. Severability

484 If any provision of this chapter or the application of such provision to any person or
485 circumstance shall be held invalid, the validity of the remainder of this chapter and the
486 applicability of such provision to other persons or circumstances shall not be affected thereby.