

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F.D. Cabral

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 passage of the accompanying bill:

An Act to protect children against sex offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F.D. Cabral	13th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROTECT CHILDREN AGAINST 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.** Section 13B of chapter 265 of the general laws, as appearing in the 2006 official edition, is
2 hereby amended by adding the following:

3 For the first offense, the convicted will be subject to probation for a term of no less than five
4 years upon release or parole from jail or house of correction, and for the second or subsequent
5 offense be subject to probation for a term of no less than ten years upon release or parole from
6 jail or house of correction; provided, however, that a prosecution commenced under the
7 provisions of this section shall not be placed on file or continued without a finding.

8 **Section 2.** Section 13H of chapter 265 of the general laws, as appearing in the 2006 official edition, is
9 hereby amended by adding the following:

10 For the first offense, the convicted will be subject to probation for a term of no less than five
11 years upon release or parole from jail or house of correction, and for the second or subsequent
12 offense be subject to probation for a term of no less than ten years upon release or parole from

13 jail or house of correction; provided, however, that a prosecution commenced under the
14 provisions of this section shall not be placed on file or continued without a finding.

15 **Section 3.** Section 22 of chapter 265 of the general laws, as appearing in the 2006 official edition, is
16 hereby amended by adding the following:

17 For the first offense, the convicted will be subject to probation for a term of no less than five
18 years upon release or parole from jail or house of correction, and for the second or subsequent
19 offense be subject to probation for a term of no less than ten years upon release or parole from
20 jail or house of correction; provided, however, that a prosecution commenced under the
21 provisions of this section shall not be placed on file or continued without a finding.

22 **Section 4.** Section 22A of chapter 265 of the general laws, as appearing in the 2006 official
23 edition, is hereby amended by adding the following:

24 For the first offense, the convicted will be subject to probation for a term of no less than five
25 years upon release or parole from jail or house of correction, and for the second or subsequent
26 offense be subject to probation for a term of no less than ten years upon release or parole from
27 jail or house of correction; provided, however, that a prosecution commenced under the
28 provisions of this section shall not be placed on file or continued without a finding.

29 **Section 5.** Section 23 of chapter 265 of the general laws, as appearing in the 2006 official edition, is
30 hereby amended by adding the following:

31 For the first offense, the convicted will be subject to probation for a term of no less than five
32 years upon release or parole from jail or house of correction, and for the second or subsequent
33 offense be subject to probation for a term of no less than ten years upon release or parole from

34 jail or house of correction; provided, however, that a prosecution commenced under the
35 provisions of this section shall not be placed on file or continued without a finding.

36 **Section 6.** Section 24 of chapter 265 of the general laws, as appearing in the 2006 official edition, is
37 hereby amended by adding the following:

38 For the first offense, the convicted will be subject to probation for a term of no less than five
39 years upon release or parole from jail or house of correction, and for the second or subsequent
40 offense be subject to probation for a term of no less than ten years upon release or parole from
41 jail or house of correction; provided, however, that a prosecution commenced under the
42 provisions of this section shall not be placed on file or continued without a finding.

43 **Section 7.** Section 24B of chapter 265 of the general laws, as appearing in the 2006 official edition, is
44 hereby amended by adding the following:

45 For the first offense, the convicted will be subject to probation for a term of no less than five
46 years upon release or parole from jail or house of correction, and for the second or subsequent
47 offense be subject to probation for a term of no less than ten years upon release or parole from
48 jail or house of correction; provided, however, that a prosecution commenced under the
49 provisions of this section shall not be placed on file or continued without a finding.

50 **Section 8.** Section 27 of chapter 265 of the general laws, as appearing in the 2006 official edition, is
51 hereby amended by adding the following:

52 For the first offense, the convicted will be subject to probation for a term of no less than five
53 years upon release or parole from jail or house of correction, and for the second or subsequent
54 offense be subject to probation for a term of no less than ten years upon release or parole from

55 jail or house of correction; provided, however, that a prosecution commenced under the
56 provisions of this section shall not be placed on file or continued without a finding.

57 **Section 9.** Section 4A of chapter 272 of the general laws, as appearing in the 2006 official edition, is
58 hereby amended by adding the following:

59 For the first offense, the convicted will be subject to probation for a term of no less than five
60 years upon release or parole from jail or house of correction, and for the second or subsequent
61 offense be subject to probation for a term of no less than ten years upon release or parole from
62 jail or house of correction; provided, however, that a prosecution commenced under the
63 provisions of this section shall not be placed on file or continued without a finding.

64 **Section 10.** Section 35A of chapter 272 of the general laws, as appearing in the 2006 official edition, is
65 hereby amended by adding the following:

66 For the first offense, the convicted will be subject to probation for a term of no less than five years upon
67 release or parole from jail or house of correction, and for the second or subsequent offense be subject
68 to probation for a term of no less than ten years upon release or parole from jail or house of correction;
69 provided, however, that a prosecution commenced under the provisions of this section shall not be
70 placed on file or continued without a finding.

71

72 **Section 11.** Section 47 of chapter 265 of the general laws, as appearing in the 2006 official edition, is
73 hereby amended by replacing the second sentence with the following:

74 The commissioner of probation, in addition to any other conditions, shall establish defined
75 geographic inclusion zones and exclusion zones to minimize the probationer's contact with
76 children. The defined exclusion zones shall include, but not be limited to, playgrounds, libraries,

77 schools, day care centers, the parking area and land surrounding any of the aforementioned
78 facilities, and any other locale deemed worthy by a probation officer to minimize the
79 probationer's contact with children.

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81 **Section 12.** Section 178L of chapter 6 of the general laws, as appearing in the 2006 official edition, is
82 hereby amended by replacing section 1(a) with the following:

83 Section 178L of chapter 6 of the general laws, as appearing in the 2006 official edition, is hereby
84 amended by replacing section 1(a) with the following:

85 Not less than 180 days prior to the release or parole of a sex offender from custody or
86 incarceration, the board shall notify the sex offender of his right to submit to the board
87 documentary evidence relative to his risk of reoffense and the degree of dangerousness
88 posed to the public and his duty to register according to the provisions of section 178E.
89 If the sex offender is a juvenile at the time of such notification, notification shall also be
90 mailed to the sex offender's legal guardian and his most recent attorney of record.
91 Such sex offender may submit such evidence to the board within 30 days of receiving
92 such notice from the board. Upon a reasonable showing, the board may extend the
93 time in which such sex offender may submit such documentary evidence by no more
94 than 30 days. The board may extend the time which such sex offender may submit such
95 documentary evidence after the 30 days, but only after additional reasonable showing
96 and not more than 30 days at a time. Upon reviewing such evidence, the board shall
97 notify the sex offender within 30 days of the board's recommended sex offender
98 classification, his duty to register, if any, his right to petition the board to request an
99 evidentiary hearing to challenge such classification and duty, his right to retain counsel

100 to represent him at such hearing and his right to have counsel appointed for him if he is
101 found to be indigent as determined by the board using the standards under chapter
102 211D; provided, however, that such indigent offender may also apply for and the board
103 may grant payment of fees for an expert witness in any case where the board in its
104 classification proceeding intends to rely on the testimony or report of an expert witness
105 prepared specifically for the purposes of the classification proceeding. If the offender is
106 found to be indigent as determined by the board using the standards under chapter
107 211D, counsel shall be appointed within 20 days. Such sex offender shall petition the
108 board for such hearing within 20 days of receiving such notice. The board shall conduct
109 such hearing within 60 days from the latter of petition from the sex offender or
110 appointment of counsel. The failure timely to petition the board for such hearing shall
111 result in a waiver of such right and the registration requirements, if any, and the board's
112 recommended classification shall become final.

113 **Section 13.** Section 178L of chapter 6 of the general laws, as appearing in the 2006 official edition, is
114 hereby amended by replacing section 1(c) with the following:

115 In the case of any sex offender not in custody, upon receiving registration data from the
116 agency, the police department at which the sex offender registered, the sentencing
117 court or by any other means, the board shall promptly notify the sex offender of his
118 right to submit to the board documentary evidence relative to his risk of reoffense and
119 the degree of dangerousness posed to the public and his duty to register, if any,
120 according to the provisions of section 178E. If such sex offender is a juvenile at the time
121 of such notification, notification shall also be mailed to the sex offender's legal guardian
122 and his most recent attorney of record. Such sex offender may submit such evidence to

123 the board within 30 days of receiving such notice from the board. Upon a reasonable
124 showing, the board may extend the time in which such sex offender may submit such
125 documentary evidence by no more than 30 days. The board may extend the time which
126 such sex offender may submit such documentary evidence after the 30 days, but only
127 after additional reasonable showing and not more than 30 days at a time. Upon
128 reviewing such evidence, the board shall notify the sex offender within 30 days of the
129 board's recommended sex offender classification, his duty to register, if any, his right to
130 petition the board to request an evidentiary hearing to challenge such classification and
131 duty, his right to retain counsel to represent him at such hearing and his right to have
132 counsel appointed for him if he is found to be indigent as determined by the board using
133 the standards under chapter 211D; provided, however, that such indigent offender may
134 also apply for and the board may grant payment of fees for an expert witness in any
135 case where the board in its classification proceeding intends to rely on the testimony or
136 report of an expert witness prepared specifically for the purposes of the classification
137 proceeding. If the offender is found to be indigent as determined by the board using
138 the standards under chapter 211D, counsel shall be appointed within 20 days. Such sex
139 offender shall petition the board for such hearing within 20 days of receiving such
140 notice. The board shall conduct such hearing within 60 days from the latter of petition
141 from the sex offender or appointment of counsel. The failure timely to petition the
142 board for such hearing shall result in a waiver of such right and the registration
143 requirements, if any, and the board's recommended classification shall become final.

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