HOUSE DOCKET, NO. 829 FILED ON: 1/19/2011

HOUSE . . . . . No. 400

The Commonwealth of Massachusetts

PRESENTED BY:

Demetrius J. Atsalis

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:

An Act to create a narcotics offender registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Demetrius J. Atsalis	*2nd Barnstable*
Thomas A. Golden, Jr.	*16th Middlesex*
Bruce E. Tarr	
	☐ *[District]*
	☐

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By Mr. Atsalis of Barnstable, a petition (accompanied by bill, House, No. 400) of Demetrius J. Atsalis, Thomas A. Golden, Jr. and Bruce E. Tarr for legislation to create a narcotics offender registry. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *4372* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act to create a narcotics 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:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting, after section 178, the following sections:

Section 178 ½(A). A narcotics offender shall be any person who has been convicted of any of the following crimes contained in chapter 94C:

- Possession with intent to distribute any drug which falls into Class A, Class B, Class C, Class D or Class E.

- Distribution of any drug which falls into Class A, Class B, Class C, Class D, or Class E.

- Trafficking any drug which falls into Class A, Class B, Class C, Class D, or Class E.

- Creation or distribution of counterfeit substances.

- Inducing a minor to distribute drugs

13 - Any attempt to commit a violation of any of the aforementioned sections, or a like
14 violation of the laws of another state, the United States, or a military, territorial or Indian tribal
15 authority.

16 Section 178 ½ (B). There shall be a narcotics offenders' registry which shall contain the
17 collected information and data that is received by the criminal history systems board.

18 Section 178 ½ (C). There shall be a narcotics offender registry board, known as "the
19 board", in cooperation with the criminal history systems board, which shall establish and
20 maintain a central computerized registry of all narcotics offenders required to register , known as
21 the narcotics offender registry. The narcotics offender registry shall be updated based on
22 information made available to the board, including information acquired pursuant to registration
23 provisions. The file on each narcotics offender required to register shall include the following
24 information, hereinafter referred to as registration data:

25 (a) the narcotics offender's name, aliases used, date and place of birth, sex, race, height,
26 weight, eye and hair color, social security number, home address, any secondary addresses and
27 work address and, if the narcotics offender works at or attends an institution of higher learning,
28 the name and address of the institution;

29 (b) a photograph of the offender and a set of fingerprints;

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

33 (d) any other information which may be useful in assessing the risk of the narcotics
34 offender to reoffend; and

35 (e) any other information which may be useful in identifying the narcotics offender.

36 Notwithstanding any general or special law to the contrary and in addition to any
37 responsibility otherwise imposed upon the board, the board shall make the narcotics offender
38 information contained in the narcotics offender registry, delineated below in subsections (i) to
39 (viii), inclusive, available for inspection by the general public in the form of a comprehensive
40 database published on the internet, known as the "Narcotics Offender Internet Database";
41 provided, however, that no registration data relating to a narcotics offender given a Level 1 or
42 Level 2 designation by the board under section E shall be published in the narcotics offender
43 internet database but may be disseminated by the board as otherwise permitted by said section E;
44 and provided further, that the board shall keep confidential and shall not publish in the narcotics
45 offender internet database any information relating to requests for registration data .

46 (i) the name of the narcotic offender and/or any aliases;

47 (ii) the offender's home address and any secondary addresses;

48 (iii) the offender's work address;

49 (iv) the offense for which the offender was convicted or adjudicated and the date of the
50 conviction or adjudication;

51 (v) the narcotics offender's age, sex, race, height, weight, eye and hair color;

52 (vi) a photograph of the narcotics offender, if available;

53 (vii) whether the offender is in compliance with the registration obligations.

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

66 The board shall develop standardized registration and verification forms, which shall
67 include registration data as required. The board shall make blank copies of such forms available
68 to all city and town police departments; provided, however, that the board shall determine the
69 format for the collection and dissemination of registration data, which may include the electronic
70 transmission of data. Records maintained in the narcotics offender registry shall be open to any
71 law enforcement agency in the commonwealth, the United States or any other state. The board
72 shall promulgate rules and regulations to implement the provisions of this chapter. Such rules
73 and regulations shall include provisions which may permit police departments located in a city or
74 town that is divided into more than one zip code to disseminate information pursuant to
75 categorized by zip code and to disseminate such information limited to one or more zip codes if
76 the request for such dissemination is so qualified; provided, however, that for the city of Boston
77 dissemination of information may be limited to one or more police districts.

78 Section 178 ½(D). The following persons are required to register as narcotics offenders if
79 they live or work in the commonwealth and were:

80 - Convicted on or after August 1, 2009.

81 - Adjudicated a delinquent juvenile on or after August 1, 2009

82 - Adjudicated a youthful offender on or after August 1, 2009

83 - Released from incarceration on or after August 1, 2009

84 - Released from parole or probation supervision on or after August 1, 2009

85 - Released from civil commitment on or after August 1, 2009.

86 Section 178 1/2(E). The following guidelines shall be used by the narcotics offender
87 registry;

88 (i) Level I shall be low risk of re-offense and level 1 offender information shall not
89 be made available to the public. This information, as well as the information contained in the
90 narcotics offender registry data base, shall be available to police departments solely for law
91 enforcement purposes.

92 (ii) Level 2 shall be moderate risk of re-offending individuals and information about
93 these offenders will be available only to members of the public who request it. There is to be no
94 community notification.

95 (iii) Level 3 shall be composed of high risk of re-offense. In each police department
96 the Chief of Police or designee in the records division shall disseminate posters of level 3
97 offenders to organizations in the town that are likely to encounter these offenders, and who wish
98 to receive this information, in accordance the board's guidelines.

99 For a level 3 offender community notification must include, but not be limited to,
100 publication of the information in local newspapers and public announcements via local cable
101 television. Community notification fliers must be posted in town hall, libraries and similar
102 publicly accessible areas. Notification must be made to all schools in the town. Information
103 about the offender must be available to members of the public who request it. Police departments
104 shall post all level 3 offenders on their websites. If that offender does not re-offend within five
105 years that person will automatically moved to the next classification Level.

106 Section 178 ½(F) The narcotics offenders registry board shall consist of 5 members, who
107 shall be appointed by the governor for terms of 6 years, with the exception of the chairman,
108 whose term shall be coterminous with the governor, and who shall devote their full time during
109 business hours to their official duties. The board shall include one person with experience and
110 knowledge in the field of criminal justice, who shall act as chair; one psychologist, one person
111 from the office of public safety; one law enforcement officer with experience in the activities of
112 narcotics users and suppliers; and one former drug user or distributor who has demonstrated
113 rehabilitation and presently works in the area of drug abuse and prevention. The board shall be

114 responsible for the classification of offenders in section (E) and establish rules and regulations
115 for the implementation of this section.

116 Section 178 ½(G). A narcotics offender, as defined in section (A), who has been
117 convicted or adjudicated for a narcotics offense, shall register in person at the police department
118 in the community in which he resides. If a narcotics offender resides in another state but works in
119 the commonwealth, he is required to register in the town in which he works. Certain
120 governmental agencies including the board, the department of corrections, parole boards and
121 probation departments shall notify the offender in writing of his obligation to register with his
122 local police department. An offender must register annually in the month of his birth. A
123 processing fee to be determined by the legislature shall be charged annually.

124 Failure to register or verify information shall be grounds for revocation of probation or
125 parole. Failure to register or verify information will also be grounds for revocation of a
126 Massachusetts driver's license. A narcotics offender may be prosecuted for violating this chapter
127 if he knowingly fails to register, fails to verify registration notice, fails to provide notice of
128 change of address or place of employment or provides false information. Such a violation may
129 result in a fine not to exceed $5000 and imprisonment in the house of correction for a period not
130 to exceed 2 and ½ years

131 Level 1, 2 and 3 offenders living in a town or city must register with the board
132 immediately upon establishing residence within the town or city. All offenders must report
133 changes of address in either home or work via US mail to the board 10 days prior to a move.
134 Upon verifying registration data or giving notice of a change of address or intended change of
135 address, the narcotics offender shall provide independent written verification of the address at
136 which he is registered or, if changing an address, will be registered.

137 Section 178 ½(H) Whenever a police officer has probable cause to believe that a
138 narcotics offender has failed to comply with the registration requirements of section G, such
139 officer shall have the right to arrest such narcotics offender without a warrant and to keep such
140 narcotics offender in custody for the next sitting of court. Such circumstances include a narcotics
141 offender who knowingly (i) Fails to register (ii) fails to verify registration information (iii) fails
142 to provide notice of a change of address or (iv) provides false information.