

**2014 -- H 7766 SUBSTITUTE A**

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LC004279/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2014**

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A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN

Introduced By: Representatives Mattiello, Silva, Johnston, O'Brien, and Ackerman

Date Introduced: February 27, 2014

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 11-37.1-2 of the General Laws in Chapter 11-37.1 entitled "Sexual  
2 Offender Registration and Community Notification" is hereby amended to read as follows:

3           **11-37.1-2. Definitions.** -- (a) "Aggravated offense" means, and includes offenses  
4 involving sexual penetration of victims of any age through the use of force, or the threat of use of  
5 force or offenses involving sexual penetration of victims who are fourteen (14) years of age or  
6 under.

7           (b) "Board", "board of review", or "sex offender board of review" means the sex  
8 offender board of review appointed by governor pursuant to ~~section~~ §11-37.1-6.

9           (c) (1) "Conviction" or "convicted" means, and includes, any instance where:

10           (i) A judgment of conviction has been entered against any person for any offense  
11 specified in subsection (e) or (k) of this section, regardless of whether an appeal is pending; or

12           (ii) There has been a finding of guilty for any offense specified in subsection (e) or (k) of  
13 this section, regardless of whether an appeal is pending; or

14           (iii) There has been a plea of guilty or nolo contendere for any offense specified in  
15 subsection (e) or (k) of this section, regardless of whether an appeal is pending; or

16           (iv) There has been an admission of sufficient facts or a finding of delinquency for any  
17 offense specified in subsection (e) or (k) of this section, regardless of whether or not an appeal is  
18 pending.

19           (2) Provided, in the event that a conviction, as defined in this subsection, has been

1 overturned, reversed, or otherwise vacated, the person who was the subject of the conviction shall  
2 no longer be required to register as required by this chapter and any records of a registration shall  
3 be destroyed. Provided, further that nothing in this section shall be construed to eliminate a  
4 registration requirement of a person who is again convicted of an offense for which registration is  
5 required by this chapter.

6 (d) [Deleted by P.L. 2003, ch. 162, [section §1](#) and by P.L. 2003, ch. 170, [section §1](#).

7 (e) "Criminal offense against a victim who is a minor" means and includes any of the  
8 following offenses or any offense in another jurisdiction ~~which~~ [that](#) is substantially the equivalent  
9 of the following or for which the person is or would be required to register under 42 U.S.C.  
10 [section §14071](#) or 18 U.S.C. [section § 4042\(c\)](#):

11 (1) Kidnapping or false imprisonment of a minor, in violation of [section §§11-26-1.4,](#)  
12 [11-26-1](#) or [11-26-2](#), where the victim of the offense is sixteen (16) years of age or older and under  
13 the age of eighteen (18) years;

14 (2) Enticement of a child in violation of [section §11-26-1.5](#) with the intent to violate  
15 [sections §§11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3](#);

16 (3) Any violation of [section §11-37-6, 11-37-8, 11-37-8.1, or 11-37-8.3](#);

17 (4) Any violation of [section §11-1-10](#), where the underlying offense is a violation of,  
18 chapter 34 of this title and the victim, or person solicited to commit the offense, is under the age  
19 of eighteen (18) years;

20 (5) Any violation of [section §11-9-1\(b\) or \(c\)](#); or

21 (6) Any violation of [section §11-9-1.3](#);

22 [\(7\) Any violation of § 11-9-1.5;](#)

23 ~~(7)~~[\(8\)](#) Any violation of [section §11-37.1-10](#);

24 ~~(8)~~[\(9\)](#) Any violation of [section §11-37-8.8](#);

25 ~~(9)~~[\(10\)](#) Any violation of section 11-64-2 where the victim is under the age of eighteen  
26 (18) years; or

27 ~~(10)~~[\(11\)](#) Murder in violation of [section §11-23-1](#) where the murder was committed in the  
28 perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is  
29 under eighteen (18) years of age.

30 (f) "Designated state law enforcement agency" means the attorney general or his or her  
31 designee.

32 (g) "Employed, carries on a vocation" means and includes the definition of "employed,  
33 carries on a vocation" under 42 U.S.C. [section §14071](#).

34 (h) "Institutions of higher education" means any university, two (2)-or four (4)-year

1 college or community college.

2 (i) "Mental abnormality" means a congenital or acquired condition of a person that  
3 affects the emotional or volitional capacity of the person in a manner that predisposes that person  
4 to the commission of criminal sexual acts to a degree that makes the person a menace to the  
5 health and safety of other persons.

6 (j) "Predator" means a person whose act(s) is (are) or was (were) directed at a stranger,  
7 or at a person with whom a relationship has been established or promoted for the primary purpose  
8 of victimization.

9 (k) "Sexually violent offense" means, and includes, any violation of ~~section~~ §§11-37-2,  
10 11-37-4, 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, or 11-5-1 where the specified felony is sexual  
11 assault, or ~~section~~ §11-23-1 where the murder was committed in the perpetration of, or attempted  
12 perpetration of, rape or any degree of sexual assault or child molestation, or any offense in  
13 another jurisdiction ~~which~~ that is substantially the equivalent of any offense listed in this  
14 subsection or for which the person is or would be required to register under 42 U.S.C. section  
15 14071 or 18 U.S.C. section 4042(c).

16 (l) "Sexually violent predator" means a person who has been convicted of a sexually  
17 violent offense and who has a mental abnormality or personality disorder that makes the person  
18 likely to engage in predatory sexually violent offenses.

19 (m) "Student" means, and includes, the definition of "student" under 42 U.S.C. ~~section~~  
20 §14071.

21 (n) "Parole board" means the parole board or its designee.

22 SECTION 2. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by  
23 adding thereto the following section:

24 **11-9-1.5. Electronically disseminating indecent material to minors prohibited. -- (a)**

25 Definitions as used in this section:

26 (1) "Minor" means any person not having reached eighteen (18) years of age.

27 (2) "Computer" has the meaning given to that term in § 11-52-1.

28 (3) "Telecommunication device" means an analog or digital electronic device that  
29 processes data, telephone, video, or sound transmission as part of any system involved in the  
30 sending and/or receiving at a distance of voice, sound, data, and/or video transmissions.

31 (4) "Indecent visual depiction" means any digital image or digital video depicting one or  
32 more persons engaging in sexually explicit conduct, is obscene as defined in § 11-31-1(b), and  
33 includes:

34 (i) Data stored on any computer, telecommunication device, or other electronic storage

1 media that is capable of conversion into a visual image; or

2 (ii) Digital video depicting sexually explicit conduct transmitted live over a computer  
3 online service, internet service, or local electronic bulletin board service. If a digital image or  
4 digital video is part of a larger work, that larger work shall be the subject for the purpose of § 11-  
5 31-1(b) analysis.

6 (5) "Sexually explicit conduct" means actual:

7 (i) Graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or  
8 oral-anal, or lascivious sexual intercourse where the genitals or pubic area of any person is  
9 exhibited;

10 (ii) Bestiality;

11 (iii) Masturbation;

12 (iv) Sadistic or masochistic abuse; or

13 (v) Graphic or lascivious exhibition of the genitals or pubic area of any person.

14 (b) No person shall knowingly and intentionally use a computer or telecommunication  
15 device to transmit an indecent visual depiction to a person he or she knows is, or believes to be, a  
16 minor.

17 (c) No minor shall be charged under this section if his or her conduct falls within §11-9-  
18 1.4, "Minor Electronically Disseminating Indecent Material to Another Person - "Sexting"  
19 Prohibited."

20 (d) No person shall be charged under this section if the minor to whom the indecent  
21 visual depiction was transmitted was fifteen (15) years of age or older and the person transmitting  
22 the indecent visual depiction was not more than four (4) years older than the minor.

23 (e) The fact that an undercover operative or law enforcement officer was involved in the  
24 detection and investigation of an offense under this section shall not constitute a defense to a  
25 prosecution under this section.

26 (f) Those in violation of this section shall be guilty of a felony and subject to  
27 imprisonment for not more than five (5) years, a fine of not more than five thousand dollars  
28 (\$5,000), or both.

29 (g) Those in violation of this section shall be subject to sex offender registration  
30 requirements set forth in §11-37.1-1 et seq., entitled "Sexual Offender Registration and  
31 Community Notification Act."

32 (h) Nothing in this section shall be construed to impose liability upon the following  
33 entities as a result of content or information provided by another person:

34 (1) An interactive computer service;

- 1 [\(2\) A provider of public or private mobile service; or](#)
- 2 [\(3\) A telecommunications network provider.](#)

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES -- CHILDREN

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1           This act would make it a felony to knowingly disseminate the electronic transmission of  
2   indecent materials to minors and would subject those offenders to the Sexual Offender  
3   Registration and Community Notification Act.

4           This act would take effect upon passage.

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