

2019 -- H 5755

LC000157

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO CRIMINAL OFFENSES -- SEXUAL OFFENDER REGISTRATION AND
COMMUNITY NOTIFICATION

Introduced By: Representatives Solomon, Johnston, Casey, Vella-Wilkinson, and
O'Brien

Date Introduced: February 27, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-37.1-13 and 11-37.1-16 of the General Laws in Chapter 11-
2 37.1 entitled "Sexual Offender Registration and Community Notification" are hereby amended to
3 read as follows:

4 **11-37.1-13. Notification procedures for tiers two (2) and three (3).**

5 If after review of the evidence pertaining to a person required to register according to the
6 criteria set forth in § 11-37.1-12, the board is satisfied that risk of re-offense by the person
7 required to register is either moderate or high, the sex offender community notification unit of the
8 parole board shall notify the person, in writing, by letter or other documentation:

9 (1) That community notification will be made not less than ten (10) business days from
10 the date of the letter or other document evidencing an intent to promulgate a community notice in
11 accordance with § 11-37.1-12(b), together with the level, form and nature that the notification
12 will take;

13 (2) That unless an application for review of the action is filed within the time specified by
14 the letter or other documentation, which in any case shall not be less than ten (10) business days,
15 by the adult offender subject to community notification, with the criminal calendar judge of the
16 superior court for the county in which the adult offender who is the subject of notification resides
17 or intends to reside upon release, or by the juvenile offender subject to community notification
18 over whom the family court exercises jurisdiction, with the clerk of the family court for the

1 county in which the juvenile offender resides or intends to reside upon release, whose name shall
2 be specified in the letter or other document, requesting a review of the determination to
3 promulgate a community notification, that notification will take place;

4 (3) That the person has a right to be represented by counsel of their own choosing or by
5 an attorney appointed by the court, if the court determines that he or she cannot afford counsel;

6 ~~and~~

7 (4) That the filing of an application for review may be accomplished, in the absence of
8 counsel, by delivering a letter objecting to the notification and/or its level, form or nature,
9 together with a copy of the letter or other documentation describing the proposed community
10 notification, addressed to the judge described in the communication to the clerk of the superior
11 court in the county in which the adult offender resides or intends to reside upon release, or in the
12 case of juvenile offenders over whom the family court exercises jurisdiction, addressed to the
13 judge described in the communication to the clerk of the family court in the county in which the
14 juvenile offender resides or intends to reside upon release- ; and

15 (5) That if, after a hearing on an application for review, the superior court or the family
16 court finds by a preponderance of the evidence that the board's determination of the level and
17 nature of the community notification was not in compliance with this chapter, it may raise or
18 lower the offender's level. Notice that the level may be raised or lowered shall be given to the
19 offender in writing by the board at the time its decision is rendered.

20 **11-37.1-16. Application review -- Burden of production and persuasion.**

21 (a) In any proceeding under this chapter, the state shall have the burden of going forward,
22 which burden shall be satisfied by the presentation of a prima facie case that justifies the
23 proposed level of and manner of notification.

24 (b) For purposes of this section, "prima facie case" means:

25 (1) A validated risk assessment tool has been used to determine the risk of re-offense;

26 (2) Reasonable means have been used to collect the information used in the validated
27 assessment tool.

28 (c) Upon presentation of a prima facie case, the court shall affirm the determination of the
29 level and nature of the community notification, unless it is persuaded by a preponderance of the
30 evidence that the determination on either the level of notification or the manner in which it is
31 proposed to be accomplished is not in compliance with this chapter or the guidelines adopted
32 pursuant to this chapter.

33 (d) If after a hearing, the court finds by a preponderance of the evidence that the board's
34 determination of the level and nature of community notification was not in compliance with this

1 [chapter, it may raise or lower the offender's level.](#)

2 Nothing in this section shall be construed to prohibit the release of information pertaining
3 to a person who has been convicted of any of the violations of any offense listed in § 11-37.1-2,
4 so long as the information has been gathered or obtained through sources other than the
5 registration process provided by this chapter. Provided further, that nothing in this section shall be
6 deemed to authorize the release of any information pertaining to any victim of any offense listed
7 in § 11-37.1-2.

8 SECTION 2. 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 -- SEXUAL OFFENDER REGISTRATION AND
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1 This act would allow the superior court or the family court in reviewing sex offender
2 level determination by the sex offender board of review, to raise or lower the offender's
3 community notification level. The board must give the offender notice at the time it renders its
4 decision that upon review, the court has the power to raise or lower the offender's community
5 notification level.

6 This act would take effect upon passage.

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