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LC001089

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 Diaz, Almeida, Slater, Edwards, and Mendez

Date Introduced: February 27, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-37.1-2 and 11-37.1-10 of the General Laws in Chapter 11-37.1
2 entitled "Sexual Offender Registration and Community Notification" are hereby amended to read
3 as follows:

4 **11-37.1-2. Definitions. [Effective July 1, 2019.]**

5 (a) "Abscond" means to not register as required, or to relocate to some unknown place
6 other than the registered place of residence, or to conceal himself or herself in an attempt to avoid
7 registration or verification of registration.

8 (b) "Aggravated offense" means, and includes, offenses involving sexual penetration of
9 victims of any age through the use of force, or the threat of use of force, or offenses involving
10 sexual penetration of victims who are fourteen (14) years of age or under.

11 (c) "Board", "board of review", or "sex offender board of review" means the sex offender
12 board of review appointed by the governor pursuant to § 11-37.1-6.

13 (d)(1) "Conviction" or "convicted" means, and includes, any instance where:

14 (i) A judgment of conviction has been entered against any person for any offense
15 specified in subsection (f) or (v), or a federal offense, a foreign offense, or a military offense,
16 regardless of whether an appeal is pending; or

17 (ii) There has been a finding of guilty for any offense specified in subsection (f) or (v), or
18 a federal offense, a foreign offense, or a military offense, regardless of whether an appeal is

1 pending; or

2 (iii) There has been a plea of guilty or nolo contendere for any offense specified in
3 subsection (f) or (v), or a federal offense, a foreign offense, or a military offense, regardless of
4 whether an appeal is pending; or

5 (iv) There has been an admission of sufficient facts or a finding of delinquency for any
6 offense specified in subsection (f) or (v), or a federal offense, a foreign offense, or a military
7 offense, regardless of whether or not an appeal is pending.

8 (2) Provided, in the event that a conviction, as defined in this subsection, has been
9 overturned, reversed, or otherwise vacated, the person who was the subject of the conviction shall
10 no longer be required to register as required by this chapter and any records of a registration shall
11 be destroyed. Provided, further, that nothing in this section shall be construed to eliminate a
12 registration requirement of a person who is again convicted of an offense for which registration is
13 required by this chapter.

14 (e) [Deleted by P.L. 2003, ch. 162, § 1 and by P.L. 2003, ch. 170, § 1].

15 (f) "Criminal offense against a victim who is a minor" means, and includes, any of the
16 following offenses or any offense in another jurisdiction that is substantially the equivalent of the
17 following or for which the person is or would be required to register under 34 U.S.C. § 20911 as
18 amended:

19 (1) Kidnapping or false imprisonment of a minor, in violation of §§ 11-26-1.4, 11-26-1 or
20 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under the age of
21 eighteen (18) years;

22 (2) Enticement of a child in violation of § 11-26-1.5 with the intent to violate §§ 11-37-6,
23 11-37-8, 11-37-8.1, 11-37-8.3;

24 (3) Any violation of §§ 11-37-6, 11-37-8, 11-37-8.1, or 11-37-8.3;

25 (4) Any violation of § 11-1-10, where the underlying offense is a violation of chapter 34
26 of this title and the victim, or person solicited to commit the offense, is under the age of eighteen
27 (18) years;

28 (5) Any violation of § 11-9-1(b) or (c);

29 (6) Any violation of § 11-9-1.3;

30 (7) Any violation of § 11-9-1.5;

31 (8) [Deleted by P.L. 2018, ch. 157, § 1 and by P.L. 2018, ch. 259, § 1].

32 (9) Any violation of § 11-37-8.8;

33 (10) Any violation of § 11-64-2, where the victim is under the age of eighteen (18) years;

34 (11) Murder in violation of § 11-23-1, where the murder was committed in the

1 perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is
2 under eighteen (18) years of age;

3 (12) Any violation of §§ 11-67-6, 11-67.1-3(b), 11-67.1-4(b), 11-67.1-5(c), 11-67.1-6(b),
4 or 11-67.1-7(b); or

5 (13) Any conviction for an attempt or conspiracy to commit an offense enumerated in this
6 subsection.

7 (g) "Designated state law enforcement agency" means the attorney general, or his or her
8 designee.

9 (h) "Employed, carries on a vocation" means and includes the definition of "employed,
10 carries on a vocation" under 34 U.S.C. § 20911.

11 (i) "Federal offense" means, and includes, any conviction for an offense that was obtained
12 under federal law which, if committed within the jurisdiction of this state, would require the
13 person to register, any conviction for an offense under 34 U.S.C. § 20911 as amended, or any
14 conviction for an attempt or conspiracy to commit an offense requiring registration under this
15 subsection.

16 (j) "Foreign offense" means, and includes, any conviction for an offense which, if
17 committed within the jurisdiction of this state, would require the person to register that was
18 obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the
19 laws of any foreign country when the United States state department in its country reports on
20 human rights practices has concluded that an independent judiciary generally or vigorously
21 enforced the right to a fair trial in that country during the year in which the conviction occurred,
22 or any conviction for an attempt or conspiracy to commit an offense enumerated in this
23 subsection.

24 (k) "Habitually lives or sleeps" means living in a place with some regularity, and with
25 reference to where a person required to be registered under this chapter actually lives, which
26 could be some place other than a mailing address or primary address but would entail a place
27 where the person lives on an intermittent basis regardless of whether it pertains to a location
28 otherwise identifiable by street or address.

29 (l) "Homeless" means a person required to be registered under this chapter who lacks a
30 fixed, regular, and adequate nighttime residence; has a primary nighttime residence that is a
31 public or private place not designed for or ordinarily used as a regular sleeping accommodation
32 for human beings, including a car, park, abandoned building, bus or train station, airport, or
33 camping ground; living in a supervised publicly or privately operated shelter designated to
34 provide temporary living arrangements (including hotels and motels paid for by federal, state, or

1 local government programs for low-income individuals or by charitable organizations, congregate
2 shelters, and transitional housing); or who resided in a shelter or place not meant for human
3 habitation and who is exiting an institution where he or she temporarily resided.

4 (m) "Immediate" or "Immediately" means upon receipt of information provided by or
5 regarding a person required to register under this chapter but not later than three (3) business
6 days.

7 (n) "Institutions of higher education" means any university, two- or four-year (2 or 4)
8 college or community college.

9 (o) "Jurisdiction" means any of the fifty (50) states, the District of Columbia, the
10 Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern
11 Mariana Islands, the United States Virgin Islands, and any Indian tribe that has elected to function
12 as a registration and notification jurisdiction pursuant to 34 U.S.C. § 20929.

13 (p) "Mental abnormality" means a congenital or acquired condition of a person that
14 affects the emotional or volitional capacity of the person in a manner that predisposes that person
15 to the commission of criminal sexual acts to a degree that makes the person a menace to the
16 health and safety of other persons.

17 (q) "Military offense" means, and includes, any conviction for any military offense
18 specified by the secretary of defense under § 115(a)(8)(C)(i) of Pub. L. 105-119, codified at 10
19 U.S.C. § 951 note, or any conviction for an attempt or conspiracy to commit an offense
20 enumerated in this subsection.

21 (r) "Neighborhood" shall mean one quarter mile (.25 mi.) from the site of any offense
22 chargeable under this chapter.

23 ~~(s)~~ "Parole board" means the parole board or its designee.

24 ~~(t)~~ "Predator" means a person whose act(s) is (are) or was (were) directed at a stranger,
25 or at a person with whom a relationship has been established or promoted for the primary purpose
26 of victimization.

27 ~~(u)~~ "Public or private educational institution" means early childhood facilities (nursery
28 school, pre-kindergarten and kindergarten), elementary, middle, secondary, institutions of higher
29 education, and postsecondary educational institutions authorized or licensed by the State of
30 Rhode Island.

31 (v) "Recreational grounds" shall include any public park or other place where children
32 gather.

33 ~~(w)~~ "School" means the buildings and real property of kindergarten, elementary,
34 middle, and secondary institutions, whether public or private.

1 ~~(w)~~(x) "Sexually violent offense" means, and includes, any violation of §§ 11-37-2, 11-
2 37-4, 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, 11-67-2 (where the victim was subject to
3 commercial sexual activity), 11-67-3(a), 11-67-3(b) (where the victim was subject to commercial
4 sexual activity), 11-67.1-3(c) (where the victim was subject to sexual servitude), 11-67.1-5(d),
5 11-67.1-6(c); or 11-5-1, where the specified felony is sexual assault; or § 11-23-1, where the
6 murder was committed in the perpetration of, or attempted perpetration of, rape or any degree of
7 sexual assault or child molestation; or any offense in another jurisdiction that is substantially the
8 equivalent of any offense listed in this subsection or for which the person is or would be required
9 to register under 34 U.S.C. § 20911 as amended, or any conviction for an attempt or conspiracy to
10 commit an offense enumerated in this subsection.

11 ~~(w)~~(y) "Sexually violent predator" means a person who has been convicted of a sexually
12 violent offense and who has a mental abnormality or personality disorder that makes the person
13 likely to engage in predatory sexually violent offenses.

14 ~~(w)~~(z) "Student" means, and includes, the definition of "student" under 34 U.S.C. §
15 20911.

16 **11-37.1-10. Penalties. [Effective until July 1, 2019.]**

17 (a) Any person who is required to register or verify his or her address or give notice of a
18 change of address or residence who knowingly fails to do so shall be guilty of a felony and, upon
19 conviction, be imprisoned not more than ten (10) years, or fined not more than ten thousand
20 dollars (\$10,000), or both.

21 (b) Any person who is required to register or verify his or her address or give notice of a
22 change of address or residence who knowingly fails to do so shall be in violation of the terms of
23 his or her release, regardless of whether or not the term was a special condition of his or her
24 release on probation, parole, home confinement or other form of supervised release.

25 (c) Except in the case of a level-three (3) sex offender, any person who is required to
26 register or verify his or her address, who knowingly resides within three hundred feet (300') of
27 any school, public or private, shall be guilty of a felony and, upon conviction, may be imprisoned
28 not more than five (5) years, or fined not more than five thousand dollars (\$5,000), or both.

29 (d) Any level-three (3) sex offender who knowingly resides within ~~one thousand feet~~
30 ~~(1,000')~~ one thousand five hundred feet (1,500') of any school, public or private, or recreational
31 grounds, shall be guilty of a felony and, upon conviction, may be imprisoned for not more than
32 five (5) years, or fined not more than five thousand dollars (\$5,000), or both.

33 (e) It shall be unlawful for any level-three (3) sex offender, upon disposition of any
34 charges or upon release from imprisonment as a result of any conviction under this chapter, from

1 [residing in the neighborhood where the offense occurred.](#)

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO CRIMINAL OFFENSES - SEXUAL OFFENDER REGISTRATION AND
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1 This act would amend the definition of public and private educational institutions to
2 include licensed day care facilities and child care centers and would define neighborhood. It
3 would prohibit a level 3 sex offender from living within 1500 feet from a school, private or public
4 and would prohibit a level 3 offender from moving back into the neighborhood where the offense
5 was committed.

6 This act would take effect upon passage.

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