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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

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

Introduced By: Representative Robert B. Jacquard

Date Introduced: January 22, 2020

Referred To: House Judiciary

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. [Effective July 1, 2020.]**

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

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

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

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

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

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

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

4 (iv) There has been an admission of sufficient facts or a finding of delinquency for any
5 offense specified in subsection (f) or (v), or a federal offense, a foreign offense, or a military
6 offense, regardless of whether or not an appeal is pending but only if the offender is fourteen (14)
7 years of age or older at the time of the offense, and the offense adjudicated was comparable to or
8 more severe than aggravated sexual abuse as described in 18 U.S.C. § 2241, or was an attempt or
9 conspiracy to commit such an offense.

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

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

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

21 (1) Kidnapping or false imprisonment of a minor, in violation of §§ 11-26-1.4, 11-26-1 or
22 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under the age of
23 eighteen (18) years;

24 (2) Enticement of a child in violation of § 11-26-1.5 with the intent to violate §§ 11-37-6,
25 11-37-8, 11-37-8.1, 11-37-8.3;

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

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

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

31 (6) Any violation of § 11-9-1.3;

32 (7) Any violation of § 11-9-1.5;

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

34 (9) Any violation of § 11-37-8.8;

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

2 (11) Murder in violation of § 11-23-1, where the murder was committed in the
3 perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is
4 under eighteen (18) years of age;

5 (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),
6 or 11-67.1-7(b); or

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

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

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

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

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

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

31 (l) "Homeless" means a person required to be registered under this chapter who lacks a
32 fixed, regular, and adequate nighttime residence; has a primary nighttime residence that is a
33 public or private place not designed for or ordinarily used as a regular sleeping accommodation
34 for human beings, including a car, park, abandoned building, bus or train station, airport, or

1 camping ground; living in a supervised publicly or privately operated shelter designated to
2 provide temporary living arrangements (including hotels and motels paid for by federal, state, or
3 local government programs for low-income individuals or by charitable organizations, congregate
4 shelters, and transitional housing); or who resided in a shelter or place not meant for human
5 habitation and who is exiting an institution where he or she temporarily resided.

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

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

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

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

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

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

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

27 (t) "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 (u) "School" means the buildings and real property of kindergarten, elementary, middle,
32 and secondary institutions, whether public or private.

33 (v) "Sexually violent offense" means, and includes, any violation of §§ 11-37-2, 11-37-4,
34 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, 11-67-2 (where the victim was subject to commercial

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

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

12 (x) "Student" means, and includes, the definition of "student" under 34 U.S.C. § 20911.

13 SECTION 2. This act shall take effect on July 1, 2020.

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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 require delinquent juveniles that are fourteen (14) years old or older to
2 register as sex offenders only if their underlying adjudicated offense is comparable or more
3 severe than aggravated sexual abuse as federally defined in 18 U.S.C. § 2241.

4 This act would take effect on July 1, 2020.

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