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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINAL OFFENSES -- SEXUAL OFFENDER REGISTRATION

Introduced By: Senators Doyle, Hodgson, Maher, Tassoni, and Gallo

Date Introduced: February 16, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-37.1-16 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 ~~11-37.1-16. Application review -- Burden of production and persuasion Appeal of~~
4 ~~sex offender board of review. -- Appeal process of board determinations. -- (a) In any~~
5 ~~proceeding under this chapter, the state shall have the burden of going forward, which burden~~
6 ~~shall be satisfied by the presentation of a prima facie case that justifies the proposed level of and~~
7 ~~manner of notification.~~ (a) For purposes of this chapter, the determination of level and nature of
8 community notification are premised upon a validated risk assessment tool having been used to
9 determine the risk of re-offense and that reasonable means have been used to collect the
10 information used in the validated assessment tool.

11 (b) The court shall affirm the determination of the level and nature of the community
12 notification, or it may reverse or modify the decision if substantial rights of the appellant have
13 been prejudiced because the board of review's administrative findings, inferences, conclusions, or
14 decisions are:

15 (1) In violation of constitutional or statutory provisions;

16 (2) In excess of the statutory authority of the agency;

17 (3) Made upon unlawful procedure;

18 (4) Affected by other error of law;

19 (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the

1 whole record; or

2 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
3 exercise of discretion.

4 The court shall not substitute its judgment for that of the board as to the weight of the
5 evidence on questions of fact.

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

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

8 ~~(2) Reasonable means have been used to collect the information used in the validated~~
9 ~~assessment tool.~~

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

15 (c) Unless agreed upon through mutual stipulation by the parties, the attorney general
16 shall appeal all determinations of the level and nature of community notification not affirmed by
17 a magistrate of the court under this chapter to the presiding justice of the court who shall review
18 the ruling pursuant to Supreme Court Rules, Article IX, Rule 2.

19 Nothing in this section shall be construed to prohibit the release of information pertaining
20 to a person who has been convicted of any of the violations of any offense listed in section 11-
21 37.1-2, so long as the information has been gathered or obtained through sources other than the
22 registration process provided by this chapter. Provided further, that nothing in this section shall be
23 deemed to authorize the release of any information pertaining to any victim of any offense listed
24 in section 11-37.1-2.

25 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

- 1 This act would alter the procedure for review of sex offender registration.
- 2 This act would take effect upon passage.

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