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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO CRIMINAL OFFENSES - SEXUAL OFFENDER REGISTRATION AND
COMMUNITY NOTIFICATION

Introduced By: Senator Harold M. Metts

Date Introduced: January 31, 2019

Referred To: Senate 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 until July 1, 2019.]**

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

7 (b) "Board", "board of review", or "sex offender board of review" means the sex offender
8 board of review appointed by the governor pursuant to § 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), 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),
13 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), 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), regardless of whether or not an appeal is pending, but
18 only if the offender is fourteen (14) years of age or older at the time of the offense, and the

1 [offense adjudicated was comparable to, or more severe than, aggravated sexual abuse as](#)
2 [described in 18 U.S.C. § 2241, or was an attempt or conspiracy to commit such an offense.](#)

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

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

10 (e) "Criminal offense against a victim who is a minor" means, and includes, any of the
11 following offenses or any offense in another jurisdiction that is substantially the equivalent of the
12 following or for which the person is or would be required to register under 42 U.S.C. § 14071 or
13 18 U.S.C. § 4042(c):

14 (1) Kidnapping or false imprisonment of a minor, in violation of §§ 11-26-1.4, 11-26-1 or
15 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under the age of
16 eighteen (18) years;

17 (2) Enticement of a child in violation of § 11-26-1.5 with the intent to violate §§ 11-37-6,
18 11-37-8, 11-37-8.1, 11-37-8.3;

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

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

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

24 (6) Any violation of § 11-9-1.3;

25 (7) Any violation of § 11-9-1.5;

26 (8) Any violation of § 11-37.1-10;

27 (9) Any violation of § 11-37-8.8;

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

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

32 (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),
33 or 11-67.1-7(b).

34 (f) "Designated state law enforcement agency" means the attorney general, or his or her

1 designee.

2 (g) "Employed, carries on a vocation" means and includes the definition of "employed,
3 carries on a vocation" under 42 U.S.C. § 14071.

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

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

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

13 (k) "Sexually violent offense" means, and includes, any violation of §§ 11-37-2, 11-37-4,
14 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, 11-67-2 (where the victim was subject to commercial
15 sexual activity), 11-67-3(a), 11-67-3(b) (where the victim was subject to commercial sexual
16 activity), 11-67.1-3(c) (where the victim was subject to sexual servitude), 11-67.1-5(d), 11-67.1-
17 6(c); or 11-5-1, where the specified felony is sexual assault; or § 11-23-1, where the murder was
18 committed in the perpetration of, or attempted perpetration of, rape or any degree of sexual
19 assault or child molestation; or any offense in another jurisdiction that is substantially the
20 equivalent of any offense listed in this subsection or for which the person is or would be required
21 to register under 42 U.S.C. § 14071 or 18 U.S.C. § 4042(c).

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

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

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

27 **11-37.1-2. Definitions. [Effective July 1, 2019.]**

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

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

34 (c) "Board", "board of review", or "sex offender board of review" means the sex offender

1 board of review appointed by the governor pursuant to § 11-37.1-6.

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

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

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

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

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

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

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

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

29 (1) Kidnapping or false imprisonment of a minor, in violation of §§ 11-26-1.4, 11-26-1 or
30 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under the age of
31 eighteen (18) years;

32 (2) Enticement of a child in violation of § 11-26-1.5 with the intent to violate §§ 11-37-6,
33 11-37-8, 11-37-8.1, 11-37-8.3;

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

- 1 (4) Any violation of § 11-1-10, where the underlying offense is a violation of chapter 34
2 of this title and the victim, or person solicited to commit the offense, is under the age of eighteen
3 (18) years;
- 4 (5) Any violation of § 11-9-1(b) or (c);
- 5 (6) Any violation of § 11-9-1.3;
- 6 (7) Any violation of § 11-9-1.5;
- 7 (8) [Deleted by P.L. 2018, ch. 157, § 1 and by P.L. 2018, ch. 259, § 1].
- 8 (9) Any violation of § 11-37-8.8;
- 9 (10) Any violation of § 11-64-2, where the victim is under the age of eighteen (18) years;
- 10 (11) Murder in violation of § 11-23-1, where the murder was committed in the
11 perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is
12 under eighteen (18) years of age;
- 13 (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),
14 or 11-67.1-7(b); or
- 15 (13) Any conviction for an attempt or conspiracy to commit an offense enumerated in this
16 subsection.
- 17 (g) "Designated state law enforcement agency" means the attorney general, or his or her
18 designee.
- 19 (h) "Employed, carries on a vocation" means and includes the definition of "employed,
20 carries on a vocation" under 34 U.S.C. § 20911.
- 21 (i) "Federal offense" means, and includes, any conviction for an offense that was obtained
22 under federal law which, if committed within the jurisdiction of this state, would require the
23 person to register, any conviction for an offense under 34 U.S.C. § 20911 as amended, or any
24 conviction for an attempt or conspiracy to commit an offense requiring registration under this
25 subsection.
- 26 (j) "Foreign offense" means, and includes, any conviction for an offense which, if
27 committed within the jurisdiction of this state, would require the person to register that was
28 obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the
29 laws of any foreign country when the United States state department in its country reports on
30 human rights practices has concluded that an independent judiciary generally or vigorously
31 enforced the right to a fair trial in that country during the year in which the conviction occurred,
32 or any conviction for an attempt or conspiracy to commit an offense enumerated in this
33 subsection.
- 34 (k) "Habitually lives or sleeps" means living in a place with some regularity, and with

1 reference to where a person required to be registered under this chapter actually lives, which
2 could be some place other than a mailing address or primary address but would entail a place
3 where the person lives on an intermittent basis regardless of whether it pertains to a location
4 otherwise identifiable by street or address.

5 (l) "Homeless" means a person required to be registered under this chapter who lacks a
6 fixed, regular, and adequate nighttime residence; has a primary nighttime residence that is a
7 public or private place not designed for or ordinarily used as a regular sleeping accommodation
8 for human beings, including a car, park, abandoned building, bus or train station, airport, or
9 camping ground; living in a supervised publicly or privately operated shelter designated to
10 provide temporary living arrangements (including hotels and motels paid for by federal, state, or
11 local government programs for low-income individuals or by charitable organizations, congregate
12 shelters, and transitional housing); or who resided in a shelter or place not meant for human
13 habitation and who is exiting an institution where he or she temporarily resided.

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

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

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

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

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

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

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

1 (t) "Public or private educational institution" means early childhood facilities (nursery
2 school, pre-kindergarten and kindergarten), elementary, middle, secondary, institutions of higher
3 education, and postsecondary educational institutions authorized or licensed by the State of
4 Rhode Island.

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

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

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

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

21 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
COMMUNITY NOTIFICATION

1 This act would provide that only those juveniles over the age of fourteen (14) be required
2 to register as sex offenders and that the offense be comparable or more severe than those defined
3 in 18 U.S.C. § 2241.

4 This act would take effect upon passage.

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