

2024 -- S 2826

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

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

Introduced By: Senator F. Lombardi

Date Introduced: March 22, 2024

Referred To: Senate Judiciary

(Parole Board)

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 11-37.1-6 and 11-37.1-16 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           **11-37.1-6. Community notification.**

5           (1)(a) Sex Offender Board of Review. The governor shall appoint eight (8) persons  
6 including experts in the field of the behavior and treatment of sexual offenders by reason of training  
7 and experience, victim's rights advocates, and law enforcement representatives to the sex offender  
8 board of review. At least one member of the sex offender board of review shall be a qualified  
9 child/adolescent sex offender treatment specialist. These persons shall serve at the pleasure of the  
10 governor or until their successor has been duly qualified and appointed.

11           (b) Duties of the board. Upon passage of this legislation, the sex offender board of review  
12 will utilize a validated risk assessment instrument, [where available](#) and other material approved by  
13 the parole board to determine the level of risk an offender poses to the community and to assist the  
14 sentencing court in determining if that person is a sexually violent predator. If the offender is a  
15 juvenile, the Department of Children, Youth and Families shall select and administer a risk  
16 instrument appropriate for juveniles and shall submit the results to the sex offender board of review.  
17 [In cases where an accepted validated risk assessment instrument does not exist, the sex offender](#)  
18 [board of review shall use a structured professional judgment \(SPJ\) approach, in which the board](#)

1 shall evaluate the presence or absence of commonly employed risk variables (both static and  
2 dynamic), together with all other information available to the board, to make a determination  
3 concerning the level of risk.

4 (c) Duties of other state agencies. Six (6) months prior to release of any person having a  
5 duty to register under § 11-37.1-3, or upon sentencing of a person having a duty to register under  
6 § 11-37.1-3, if the offender is not incarcerated, the agency having supervisory responsibility and  
7 the Interstate Compact Unit of the Rhode Island department of corrections upon acceptance of  
8 supervision of a sexual offender from the sending jurisdiction shall refer the person to the sex  
9 offender board of review, together with any reports and documentation that may be helpful to the  
10 board, for a determination as to the level of risk an offender poses to the community and to assist  
11 the sentencing court in determining if that person is a sexually violent predator.

12 (2)(i) The board shall within thirty (30) days of a referral of a person shall conduct the  
13 validated risk assessment, review other material provided by the agency having supervisory  
14 responsibility and assign a risk of re-offense level to the offender. In addition, the board may find  
15 that, based on the assessment score and other material, that the person may possess a mental  
16 abnormality or personality disorder that makes the person likely to engage in sexually violent  
17 predatory offenses. In these cases, the committee shall ask the parole board psychiatrist or if the  
18 offender is a juvenile, a DCYF psychiatrist to conduct a sex offender evaluation to determine if the  
19 offender possesses a mental abnormality or personality disorder that affects the emotional or  
20 volitional capacity of the person in a manner that predisposes that person to the commission of  
21 criminal sexual acts to a degree that makes the person a menace to the health and safety of other  
22 persons.

23 (ii) Upon receipt of a sex offender evaluation that suggests there is sufficient evidence and  
24 documentation to suggest that a person may be a sexually violent predator, the sex offender board  
25 of review shall forward a report to the attorney general for consideration by the court.

26 (iii) Upon receipt of a report from the attorney general, the court, after notice to the offender  
27 and his or her counsel, shall upon consideration of the report and other materials, make a  
28 determination as to whether or not a person is a sexually violent predator.

29 (iv) Effect of determination. In the event that a determination is made by the court that a  
30 person is a sexually violent predator, that person shall be required to register and verify his or her  
31 address in accordance with §§ 11-37.1-3, 11-37.1-4 and 11-37.1-8(b).

32 (3) No cause of action or liability shall arise or exist against the committee or any member  
33 or agent of the board as a result of the failure of the board to make any findings required by this  
34 section within the time period specified by subsection (2) of this section.

1 (4) Notwithstanding any other provision of law, the board shall have access to all relevant  
2 records and information in the possession of any state official or agency having a duty under § 11-  
3 37.1-5(a)(1) through (6), relating to the juvenile and adult offenders under review by the board,  
4 including, but not limited to, police reports; prosecutor's statements of probable cause, presentence  
5 investigations and reports, complete judgments and sentences, current classification referrals,  
6 juvenile and adult criminal history records, violation and disciplinary reports, all psychological  
7 evaluations and psychiatric evaluations, psychiatric hospital records, sex offender evaluations and  
8 treatment reports, substance abuse evaluations and treatment reports to the extent allowed by  
9 federal law. Records and information obtained by the board of review under this subsection shall  
10 remain confidential, provided that the board of review may disclose the records and information to  
11 the sentencing court in accordance with the provisions of this chapter.

12 (5) Duties of the director of the department of corrections/director of the department of  
13 children, youth and families. Not less than sixty (60) days prior to release of any person subject to  
14 this chapter, the director of the department of corrections or, in the event the person is a juvenile,  
15 the director of the department of children, youth and families, or their respective designees, shall  
16 seek verification that the duties of the sex offender board of review and any other state agency have  
17 been fulfilled as specified in § 11-37.1-6 et seq. In the event that the director of the department of  
18 corrections or, in the event the person is a juvenile, the director of the department of children, youth  
19 and families, cannot obtain verification, he or she shall, no less than thirty (30) days prior to the  
20 release of a person subject to this chapter, file with the presiding judge of the superior court or, in  
21 the case of a juvenile, the chief judge of the family court, a petition in the nature of mandamus,  
22 seeking compliance with this chapter. The court shall promptly, but no less than ten (10) days from  
23 the filing of the petition, hold a hearing on the petition. The court may, in its discretion, enter any  
24 orders consistent with this chapter to compel compliance, however, the court may not delay the  
25 release of any person subject to this chapter for the failure of the sex offender board of review or  
26 any state agency to fulfill its obligations under this chapter.

27 **11-37.1-16. Application review — Burden of production and persuasion.**

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

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

32 (1) ~~A validated risk assessment tool has been used to determine the risk of re-offense~~ [The](#)  
33 [sex offender board of review has engaged in a review and assessment of risk using materials](#)  
34 [approved by the parole board as provided by 11-37.1-6;](#)

1 (2) Reasonable means have been used to collect the information used in the ~~validated~~  
2 ~~assessment tool~~ review and assessment.

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

8 Nothing in this section shall be construed to prohibit the release of information pertaining  
9 to a person who has been convicted of any of the violations of any offense listed in § 11-37.1-2,  
10 so long as the information has been gathered or obtained through sources other than the registration  
11 process provided by this chapter. Provided further, that nothing in this section shall be deemed to  
12 authorize the release of any information pertaining to any victim of any offense listed in § 11-37.1-  
13 2.

14 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 allow the sexual offender board of review to use, in addition to applicable  
2 validated risk assessment tools, a structured professional judgment approach to determine the level  
3 of risk a registered sex offender poses to the community consistent with industry standards.

4           This act would take effect upon passage.

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