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ACLU OF RI POSITION: AMEND

TESTIMONY ON 24-H 7832,
RELATING TO SEXUAL OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
April 24, 2024

This bill would allow "allow the sexual offender board of review to use, in addition to applicable validated risk assessment tools, a structured professional judgment approach to determine the level of risk a registered sex offender poses to the community" when a validated test is not available. The legislation responds to a recent R.I. Supreme Court decision, *State v. Dicredico*, 291 A.3d 544 (R.I. 2023), which rejected the Parole Board's use of a risk assessment test that was not validated for certain offenders.

The ACLU of Rhode Island supports this clarification of the sex offender community notification statute (SOCN) to address the Court's ruling. However, we also believe that, in clarifying the law for this purpose, it would be an opportune time for the General Assembly to address two other troublesome aspects of the SOCN law that unduly and unnecessarily hamper the rights of individuals subject to sex offender notification requirements that we believe are, in the court's words, also "serious and long-lasting." *Id.* at 551.

First, the current law provides that offenders can be forced to file an appeal to have their notification risk level reviewed in as little as ten days after receiving notice of their designation. R.I.G.L. § 11-37.1-13. In other words, the Board can send a letter requiring an offender to appeal within 10 days or else lose all rights to appeal. Ten days is simply not enough time for many individuals to decide whether to file an appeal, much less to find and meet with an attorney to evaluate whether to seek review of the risk level. We urge the committee to revise the law to give individuals at least a 30-day window for appealing a notification ruling.

A second source of great concern has been the absence in the statute of any mechanism for an offender to *ever* seek a change in their risk level. Just as the availability of parole after a period of time of incarceration gives offenders the opportunity to show evidence of rehabilitation, there should be a mechanism in place for a sex offender to be able to come back to the board after a specified period to seek review of their risk level. Rhode Island could follow Massachusetts' model, which has such a process. *See* C.M.R. § 1.37C(2)(c).

We urge the committee to consider these suggestions which will promote greater due process in these proceedings, something that we believe is more than appropriate in light of all the serious consequences that flow from the risk level an offender is assigned. We also believe these amendments comport with this bill's goal of addressing due process concerns in the current review process.

Thank you for considering our views.