

**STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS**

RHODE ISLAND FAMILY COURT

Administrative Order 99-9

Pursuant to the Sexual Offender Registration and Community Notification Act (RIGL ch. 11-37.1), as amended, the following procedures shall apply to juvenile sexually violent predator determinations and applications for review filed by juveniles concerning community notification:

Sexually Violent Predator Determinations

The office of Attorney General, on behalf of the state, shall file a petition with the Juvenile Clerk's Office seeking a review and determination of respondent's sexually violent predator status in accordance with RIGL section 11-37.1-6. The Attorney General's department will provide notice to the juvenile and his or her parents or guardian at their last known address as well as to the juvenile's attorney of record. The Attorney General's office will also request a hearing date from the Juvenile Clerk's Office and will inform the juvenile, his or her parents and attorney of record of the date and time of the hearing.

At the time set for the initial hearing, if not already done so, the Court will refer the matter to the board of review of sexually violent predatory behavior ("the board of review"). The board of review within thirty (30) days of referral shall forward a report to the court indicating the evidence or documentation considered by the board and the board's findings. Upon receipt of the report, the court will hold a hearing to determine the juvenile's sexually violent predator status within the meaning of RIGL section 11-37.1-2. The board of review's report will be made available to the parties.

In the event that the motion of the Attorney General is accompanied by a report of the board of review concerning respondent's sexually violent predator status, the court shall hold a hearing to determine whether or not the respondent is a sexually violent predator as aforesaid.

Throughout all sexually violent predator status proceedings, the juvenile has a right to be represented by counsel of his or her own choosing or by an attorney appointed by the court, if he or she cannot afford counsel. The juvenile also has the right to call witnesses, including experts, to testify on his or her behalf, and to cross-examine opposing witnesses. The state as the movant bears the burden of persuasion. The juvenile may rebut the evidence produced by the state.

After the conclusion of the hearing, the Court will render a decision whether or not the juvenile has been found to be a sexually violent predator. The Court will provide notice of its determination to the Attorney General's office, the juvenile and his or her attorney, as well as to the board of review and the parole board.

Applications for Review by Juveniles of Community Notification

In accordance with RIGL sections 11-37.1-13 to 11-37.1-16, a juvenile seeking a review of the parole board's intent to promulgate a community notice that a juvenile's risk of re-offense is either moderate or high, shall file an application for review not less than ten (10) business days from the date of the parole board's letter. Pursuant to RIGL section 11-37.1-12, the application for review shall be filed in the county where the juvenile resides or intends to reside. The county clerk will forward such application to the Juvenile Clerk's Office in Providence. The filing of an application for review operates as a stay of community notification by the parole board.

Upon receipt of the application for review, the Juvenile Clerk's Office will set a date for a hearing and will provide notice of such date to the juvenile, his or her parents, the juvenile's attorney of record and to the Attorney General's office.

At the time set for the initial hearing, the Court will appoint counsel for the juvenile, if unrepresented and unable to afford an attorney. The Court will also direct that the Attorney General's department promptly provide copies of all papers, documents and other materials which formed the basis for the parole board's determination of the level and manner of community notification to the Court and to the juvenile and his/her counsel.

After receipt of the materials from the Attorney General's office, the court will review such materials in camera and determine whether and to what extent the production of witnesses and cross examination shall be permitted given the complexities of the matter, the extent of doubt concerning the correctness of the level, nature and extent of the notification proposed and the need for a prompt determination.

The Court will conduct a hearing on the application for review. As set forth in RIGL section 11-37.1-15, the rules of evidence do not apply to such proceedings and the court may rely on documentary presentations. The state shall have the burden of going forward with a prima facie case which justifies the proposed level and manner of notification. The juvenile may rebut the evidence produced by the state. The juvenile has the right to call witnesses, including experts, to testify on his or her behalf, and to cross examine opposing witnesses.

Consistent with RIGL section 11-37.1-16, the court will affirm the parole board's determination of the level and nature of the community notification unless it is persuaded by a preponderance of the evidence that the level or manner of notification is not in compliance with chapter 37.1 of Title 11, or the guidelines adopted thereunder.

No community notification will take place unless and until affirmed by the court, or if reversed, until such time as and in such manner as the court orders notification.

12/2/99

Date

Jeremiah S. Jeremiah, Jr.
Chief Judge