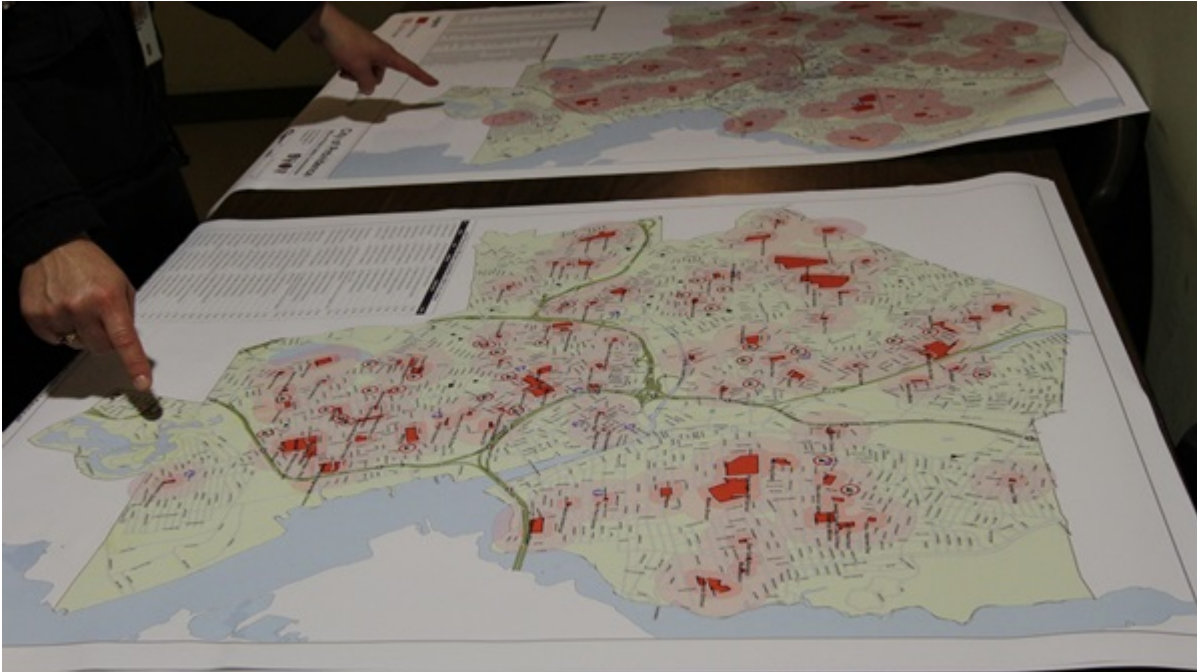


Rhode Island residency restrictions update

written by admin | May 14, 2019



By Larry . . . In 2015 Rhode Island extended residency restrictions from 300 to 1000 feet for level 3 offenders and retroactively applied the increased restriction to those already living within the expanded buffer zone. In response, the ACLU of Rhode Island filed *Freitas v. Kilmartin* on October 29, 2015 against the Attorney General and director of the Department of Corrections, each in his official capacity. In recognition of the imminent danger that other states might follow Rhode Island's lead, NARSOL has provided significant funding to the ACLU for case related costs such as experts.

The suit was brought as a class action on behalf of all "level 3" sex offenders to challenge the constitutionality of a statute, effective July 1, 2015, which prohibited them from living within 1000 feet of a "school, public or private" and made violation of the law a felony. A temporary restraining order enjoining enforcement was granted October 30, 2015 and provided that the order would remain in effect until the court issued its decision after trial, which was then scheduled to

begin January 19, 2016. Trial was postponed while the parties engaged in discovery. The court denied class action status as unnecessary to grant full relief. A protracted discovery issue concerning identifying every "school" covered by the statute caused substantial delay in moving forward and, among other things, delayed the ability of plaintiffs' mapping expert to complete his analysis and report on the law's impact on housing opportunities for those affected by the law. The statute contained no definition of "school," leading to conflicting interpretations of what entities it applied to.

In 2018, the state amended the statute, providing a definition of "school, public or private" and purporting to set forth how the 1000 feet should be measured, but made the amendment effective July 1, 2019. The amendment requires a new analysis by plaintiffs' mapping expert. That same legislation made other amendments to the state's SORNA law. There is pending legislation, proposed by the State's Attorney General, to postpone the effective date of the amended statute to July 1, 2020, and this postponement bill is expected to pass. The court has indicated (as plaintiffs requested) that the case be tried on the amended statute, rather than both versions. However, no new trial date has yet been set because the court directed the parties to explore the possibility of a settlement. At the court's direction, plaintiffs have presented a confidential set of proposals to the State. The State's confidential response is due May 24, 2019. Thereafter, the parties are scheduled to report to the court on June 13, 2019. We expect that, at that time, depending on the parties' settlement positions, the court will either set up a mediation to attempt to resolve the matter or establish a schedule to complete pretrial matters and for trial date.