

2022 -- S 2716

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL OFFENSES -- COMMERCIAL SEXUAL ACTIVITY

Introduced By: Senators Mack, Anderson, Acosta, and Calkin

Date Introduced: March 17, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-34.1-2, 11-34.1-3, 11-34.1-4, 11-34.1-5, 11-34.1-6, 11-34.1-11  
2 and 11-34.1-13 of the General Laws in Chapter 11-34.1 entitled "Commercial Sexual Activity" are  
3 hereby amended to read as follows:

4 **11-34.1-2. Prostitution.**

5 (a) A person is guilty of prostitution when such person engages, or agrees, or offers to  
6 engage in sexual conduct with another person in return for a fee. Any person found guilty under  
7 this section shall be deemed guilty of a ~~misdemeanor~~ civil violation and shall be subject ~~to~~  
8 ~~imprisonment for a term not exceeding six (6) months, or~~ to a fine of up to ~~not less than~~ two hundred  
9 fifty dollars (\$250) ~~nor more than one thousand dollars (\$1,000), or both.~~ The district court of the  
10 state of Rhode Island shall have jurisdiction over any violation of this section.

11 (b) Any person found guilty of a subsequent offense under this section shall be subject to  
12 ~~imprisonment for a term of not more than one year, or~~ a civil fine of two hundred fifty dollars  
13 (\$250) ~~not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or~~  
14 ~~both.~~

15 (c) In any prosecution for a violation under this section, it shall be an affirmative defense  
16 if the accused was forced to commit a commercial sexual activity by:

- 17 (1) Being threatened or subjected to physical harm;  
18 (2) Being physically restrained or threatened to be physically restrained;  
19 (3) Being subject to threats of abuse of law or legal process;

1 (4) Being subject to destruction, concealment, removal, or confiscation, of any passport or  
2 other immigration document or any other actual or purported governmental identification  
3 document; or

4 (5) Being subject to intimidation in which the accused's physical well being was perceived  
5 as threatened.

6 **11-34.1-3. Procurement of sexual conduct for a fee.**

7 (a) A person is guilty of procuring or attempting to procure sexual conduct for the payment  
8 of a fee if they engage or seek to engage in sexual conduct for any type of fee and/or pay or agree  
9 to pay any type of fee for sexual conduct, regardless of the time, place or location of the  
10 procurement, attempted procurement, payment, attempted payment or conduct. Any person found  
11 guilty under this section shall be deemed guilty of a ~~misdemeanor and shall be subject to~~  
12 ~~imprisonment for a term not exceeding one year, or~~ civil violation and shall be subject to a civil  
13 fine of ~~not less than~~ up to two hundred fifty dollars (\$250) ~~nor more than one thousand dollars~~  
14 ~~(\$1,000), or both.~~

15 (b) Any person found guilty of a subsequent offense under this section shall be subject to  
16 ~~imprisonment for a term not exceeding one year, or~~ a civil fine of two hundred fifty dollars (\$250)  
17 ~~not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.~~

18 (c) The district court of the state of Rhode Island shall have jurisdiction over any violation  
19 of this section.

20 **11-34.1-4. Loitering for prostitution.**

21 (a) It shall be unlawful for any person to stand or wander in or near any public highway or  
22 street, or any public or private place, and attempt to engage passersby in conversation, or stop or  
23 attempt to stop motor vehicles, for the purpose of prostitution or other commercial sexual activity.  
24 Any person found guilty of ~~the crime~~ a civil violation of loitering for prostitution shall be subject  
25 to ~~a sentence of up to six (6) months incarceration or by~~ a civil fine of ~~not less than~~ up to  
26 hundred fifty dollars (\$250) ~~nor more than one thousand dollars (\$1,000), or both.~~

27 (b) Any person found guilty of a subsequent offense under this section shall be subject to  
28 ~~imprisonment for a term not exceeding one year, or~~ a civil fine of two hundred fifty dollars (\$250)  
29 ~~not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.~~

30 (c) The district court of the state of Rhode Island shall have jurisdiction over any violation  
31 of this section.

32 **11-34.1-5. Expungement of certain criminal records.**

33 (a) Records defined in § 12-1.3-1 of any person convicted, placed on probation, or whose  
34 case was filed pursuant to § 12-10-12, for a violation of § 11-34.1-2 or § 11-34.1-4 may be

1 expunged one year after completion of that person's sentence.

2 (b) The motion shall be filed in accordance with a chapter 12-1.3 and ~~may~~ shall be granted  
3 in the court's discretion regardless of the person's first offender status.

4 **11-34.1-6. Soliciting from motor vehicles for indecent purposes -- Forfeiture of motor**  
5 **vehicle.**

6 (a) It shall be unlawful for any person, while an operator or passenger in a motor vehicle  
7 to stop, or attempt to stop another vehicle or pedestrian, or to engage or attempt to engage persons  
8 in another vehicle or pedestrians in conversation, for the purposes of prostitution or other indecent  
9 act, or to patronize, induce, or otherwise secure another person to commit any commercial sexual  
10 activity. Any person found guilty under this section shall be guilty of a civil violation and shall be  
11 subject to ~~a sentence of up to six (6) months incarceration or~~ a civil fine of up to two hundred fifty  
12 dollars (\$250) ~~not less than five hundred dollars (\$500) nor more than one thousand dollars~~  
13 ~~(\$1,000), or both.~~

14 (b) Any person found guilty of a subsequent offense under this section shall be subject to  
15 ~~imprisonment for a term of not more than one year and~~ a civil fine of two hundred fifty dollars  
16 (\$250) ~~not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000).~~  
17 ~~No fine imposed under this section may be suspended.~~

18 (c) ~~The motor vehicle being unlawfully operated as defined in this chapter by a person~~  
19 ~~convicted of a second or subsequent offense of soliciting from a motor vehicle for indecent~~  
20 ~~purposes pursuant to this chapter which vehicle is owned by the operator, may be seized by the law~~  
21 ~~enforcement agency and forfeited at the discretion of the court. Any funds received from the~~  
22 ~~forfeiture shall be deposited in the victim's of crimes indemnity fund (VCIF).~~

23 (d) The district court of the state of Rhode Island shall have jurisdiction over any violation  
24 of this section.

25 **11-34.1-11. Examination and treatment for venereal disease.**

26 (a) Any person convicted for any violation of this chapter or of any other statute relating  
27 to lewd or lascivious behavior or unlawful sexual intercourse, ~~and who shall be confined or~~  
28 ~~imprisoned in any correctional institution for more than ten (10) days,~~ may be examined by the  
29 department of health for venereal disease, through duly appointed, licensed physicians as agents.  
30 Any person that is examined ~~may be detained until the result of the examination is duly reported.~~  
31 ~~If and~~ found with to have venereal disease in an infectious stage, ~~the person~~ shall be treated, and if  
32 a menace to the public, quarantined, in accordance with rules and regulations, not inconsistent with  
33 law, of the director of health, who is authorized to formulate and issue them. Refusal to comply  
34 with or obey the rules or regulations shall constitute a ~~misdemeanor~~ civil violation and be

1 punishable by a civil fine not to exceed two hundred fifty dollars (\$250), ~~or a sentence of~~  
2 ~~incarceration of up to three (3) months, or both.~~

3 (b) The district court of the state of Rhode Island shall have jurisdiction over any violation  
4 of this section.

5 **11-34.1-13. Reporting.**

6 On or before January 15, 2010, and semi-annually thereafter, each law enforcement agency  
7 in this state shall file with the Governor, the Attorney General, the Speaker of the House of  
8 Representatives and the President of the Senate a report concerning the agency's enforcement of  
9 this chapter during the preceding six (6) month period. Each semi-annual report shall contain, but  
10 need not be limited to, the following information:

11 (1) The number of persons ~~arrested~~ cited with a violation pursuant to subsection 11-34.1-  
12 2(a), subsection 11-34.1-2(b), § 11-34.1-3, § 11-34.1-4, subsection 11-34.1-6(a), subsection 11-  
13 34.1-6(b) and subsection 11-34.1-7 of this chapter;

14 (2) ~~Of those arrested, the number of persons convicted, placed on probation, whose case is~~  
15 ~~filed pursuant to § 12-10-12, whether those persons pled guilty or nolo contendere or were found~~  
16 ~~guilty after trial by judge or jury;~~

17 (3) The fines ~~and/or sentences~~ of those persons identified pursuant to subdivision ~~(2)~~(1) of  
18 this section; and

19 (4) A summary of the amounts of fines levied ~~and the lengths of sentences~~ identified  
20 pursuant to subdivision (3) of this section.

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 -- COMMERCIAL SEXUAL ACTIVITY

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1           This act would decriminalize certain commercial sexual activity to a civil violation  
2 punishable with a fine and repeal the authority to detain a defendant unless they test positive for  
3 venereal disease in an infectious stage.

4           This act would take effect upon passage.

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