

2007 -- S 0745

LC01896

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO CRIMINAL OFFENSES -- TRAFFICKING IN PERSONS

Introduced By: Senators Perry, Gallo, Sosnowski, Goodwin, and Gibbs

Date Introduced: February 15, 2007

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 67

4 TRAFFICKING IN PERSONS

5 **11-67-1. Definitions.** -- (a) As used in this chapter:

6 (1) "Commercial sex act" means any sex act on account of which anything of value is
7 given, promised to, or received, directly or indirectly, by any person.

8 (2) "Debt coercion" means exploitation of the status or condition of a debtor arising from
9 a pledge by the debtor of his or her personal services or those of a person under his or her control
10 as a security or payment for debt, if the value of those services as reasonably assessed is not
11 applied toward the liquidation of the debt or the length and nature of those services are not
12 respectively limited and defined or if the principal amount of the debt does not reasonably reflect
13 the value of the items or services for which the debt was incurred.

14 (3) "Extortion" is to be defined as in section 11-42-2.

15 (4) "Financial harm" includes credit extortion as defined by [refer to state extortionate
16 credit statute, if any,] criminal usury as defined by section 6-26-3, or employment contracts that
17 violate relevant Statutes of Frauds.

18 (5) "Labor" means work of economic or financial value.

19 (6) "Minor" refers to any natural person under eighteen (18) years of age.

1 (7) "Person" includes an individual, corporation, partnership, association, a government
2 body, a municipal corporation, or any other legal entity.

3 (8) "Services" means any act committed at the behest of, under the supervision of, or for
4 the benefit of another.

5 (9) "Sex act" means any touching of the sexual or other intimate parts of another person
6 for the purpose of gratifying sexual desire of any person. It includes touching of the person as
7 well as touching by the person, whether directly or through clothing.

8 (10) "Sexually-explicit performance" means an act or show, intended to arouse, satisfy
9 the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or
10 private, live, photographed, recorded, or videotaped.

11 (11) "Victim of trafficking in persons" means any person, whether a U.S. citizen or
12 foreign national, who has been subjected to the crime of trafficking in persons, sexual servitude
13 of a minor, or involuntary servitude.

14 **11-67-2. Criminal provisions. -- (a) Trafficking in persons for servitude. (1) Any person**
15 **who knowingly: (a) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or**
16 **so attempts, another person knowing that the person will be subjected to sexual servitude of a**
17 **minor or involuntary servitude; or**

18 (2) subject to paragraph (5), benefits, financially or by receiving anything of value, from
19 participation in a venture which has engaged in an act described in paragraph (a), shall be
20 punished by imprisonment of not more than twenty (20) years, a fine not exceeding twenty
21 thousand dollars (\$20,000), or both.

22 (b) Involuntary servitude. Any person who knowingly subject, or attempts to subject,
23 another person to:

24 (1) commercial sex acts or sexually explicit performance; or

25 (2) labor or services through use of any of the following means:

26 (i) causing or threatening to cause serious harm to any person;

27 (ii) physically restraining or threatening to physically restrain another person;

28 (iii) abusing or threatening to abuse the law or legal process;

29 (iv) knowingly destroying, concealing, removing, confiscating or possessing any actual
30 or purported passport or other immigration document, or any other actual or purported
31 government identification document, of another person;

32 (v) extortion or blackmail;

33 (vi) deception or fraud;

34 (vii) debt coercion;

1 (viii) causing or threatening to cause unlawful financial harm to any person;
2 (ix) facilitating or controlling a victim's access to an addictive controlled substance; or
3 (x) using any scheme, plan, or pattern, whether overt or subtle, intended to cause any
4 person to believe that, if the person did not perform such labor, services, acts or performances,
5 that person or another person would suffer serious harm or physical restraint, shall be punished by
6 imprisonment of not fewer than ten (10) years and not more than twenty (20) years, a fine not
7 exceeding twenty thousand dollars (\$20,000), or both.

8 (3) Sexual servitude of a minor. Any person who knowingly:

9 (a) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so
10 attempts, any minor for the purposes of commercial sex acts or sexually explicit performance
11 through any means; or

12 (b) subject to paragraph (5), benefits, financially or by receiving anything of value, from
13 participation in a venture which has engaged in an act described in paragraph (a), shall be
14 punished by imprisonment of not fewer than ten (10) years and not more than twenty (20) years, a
15 fine not exceeding twenty thousand dollars (\$20,000), or both. Any reasonable or unreasonable
16 mistake as to age shall not be a defense to a prosecution under his paragraph.

17 (4) Sex trafficking. Any person knowingly:

18 (a) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so
19 attempts, any person not a minor for the purposes of commercial sex acts through any means; or

20 (b) subject to paragraph (5), benefits, financially or by receiving anything of value, from
21 participation in a venture which has engaged in an act described in paragraph (a), shall be
22 punished by imprisonment of not fewer than five (5) years and not more than twenty (20) years
23 and a fine not less than five thousand dollars (\$5,000) nor more than twenty thousand dollars
24 (\$20,000).

25 (5) Non-applicability to victims. Paragraph (1)(b) shall not apply to any person who is the
26 victim of involuntary servitude or sexual servitude of a minor, referred to in paragraph (1)(a).
27 Paragraphs (3)(b) and (4)(b) shall not apply to any person who has carried out the commercial sex
28 or sexually explicit performance referred to in paragraphs 3(a) and (4)(a), respectively.

29 **11-67-3. Guilty pleas.** -- Any plea of guilty entered under any provision of this chapter
30 by an offender shall automatically entitle the victim of trafficking in persons to all benefits,
31 rights, and compensation granted under state law to such victim, notwithstanding any existing
32 law.

33 **11-67-4. Victim immunity from prosecution.** -- (a) In any prosecution of a person who
34 is a victim of trafficking in persons, it shall be an affirmative defense that he or she was under

1 duress or coerced into committing the offenses for which he or she is being subject to
2 prosecution.

3 (b) A victim of trafficking in persons is not criminally liable for any commercial sex act
4 or illegal sexually-explicit performance committed as a direct result of, or incident or related to,
5 being trafficked.

6 **11-67-5. Non-defenses to trafficking in persons.** -- Evidence of the following facts or
7 conditions shall not constitute a defense in a prosecution for violations of section 11-67-2, nor
8 shall such evidence preclude a finding of a violation:

9 (a) a trafficking victim's sexual history or history of commercial sexual activity;

10 (b) a trafficking victim's connection by blood or marriage to a defendant in the case or to
11 anyone involved in the victim's trafficking;

12 (c) consent of or permission by a trafficking victim or anyone else on the trafficking
13 victim's behalf to any commercial sex act or sexually explicit performance;

14 (d) age of consent to sex, legal age of marriage, or other discretionary age;

15 (e) mistake as to the victim's age, even if the mistake is reasonable.

16 **11-67-6. Criminal liability of business entities.** -- (a) Any business entity, including a
17 corporation, partnership, association, government body, municipal corporation or any other legal
18 entity, that aids or participates in any crime defined in section 11-67-2 shall be criminally liable
19 for the offense and shall be subject to a fine or loss of business license in the state, or both.

20 (b) If a business entity is convicted of violating any section of this chapter, the court may
21 when appropriate:

22 (1) order its dissolution or reorganization;

23 (2) order the suspension or revocation of any license, permit, or prior approval granted to
24 it by a state or local government agency; or

25 (3) order the surrender of its charter if it is organized under Rhode Island law or the
26 revocation of its certificate to conduct business in Rhode Island if it is not organized under Rhode
27 Island law.

28 **11-67-7. Restitution.** -- (A) a person convicted of violations of this chapter shall be
29 ordered to pay mandatory restitution to the victim as provided in paragraph (c) of this subsection.

30 (b) If the victim of trafficking dies as a result of being trafficked, a surviving spouse of
31 the victim of trafficking is eligible for restitution. If no surviving spouse exists, restitution shall
32 be paid to the victim's issue or their descendants per stirpes. If no surviving spouse, issue or
33 descendants exist, restitution shall be paid to the victim's estate. Any person named in this
34 provision may not receive any funds from restitution if he or she benefited or engaged in conduct

1 described in criminal provisions of [chapter 11-67].

2 (c) Restitution under this section shall include the following items:

3 (1) costs of medical and psychological treatment, including physical and occupational
4 therapy and rehabilitation, at the court's discretion;

5 (2) costs of necessary transportation, temporary housing, and child care, at the court's
6 discretion;

7 (3) attorneys' fees and other court-related costs such as victim advocate fees;

8 (4) the greater of: (i) the gross income or value to the defendant of the trafficking victim's
9 commercial sex acts or sexually-explicit performances, or labor or services; (ii) the value of the
10 trafficking victim's labor as guaranteed under the minimum wage and overtime provisions of the
11 Fair Labor Standards Act (FLSA); or (iii) the value of the trafficking victim's labor as guaranteed
12 under the minimum wage and overtime provisions of chapter 28-12 of the general laws;

13 (5) return of property, costs of damage to property, or full value of property if destroyed
14 or damaged beyond repair;

15 (6) compensation for emotional distress, pain and suffering;

16 (7) expenses incurred by a victim and any household members or other family members
17 in relocating away from the defendant or his/her associates, including, but not limited to, deposits
18 for utilities and telephone service, deposits for rental housing, temporary lodging and food
19 expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be
20 verified by law enforcement to be necessary for the personal safety of the victim or household or
21 family members, or by a mental health treatment provider to be necessary for the emotional well-
22 being of the victim; and

23 (8) any and all other losses suffered by the victim as a result of violations of [chapter 11-
24 67].

25 (d) Restitution shall be paid to the victim promptly upon the conviction of the defendant,
26 with the proceeds from property forfeited under this subsection applied first to payment of
27 restitution. The return of the victim to his or her home country or other absence of the victim
28 from the jurisdiction shall not prevent the victim from receiving restitution.

29 **11-67-8. Asset forfeiture.** -- (a) All offenses under this section shall qualify as offenses
30 for forfeiture and thereby subject to the provisions of chapter 12-21.

31 (b) Overseas assets of persons convicted of trafficking in persons shall also be subject to
32 forfeiture to the extent they can be retrieved by the government.

33 (c) Any assets seized shall first be used to pay restitution to trafficking victims and
34 subsequently to pay any damages awarded to victims in a civil action. Any remaining assets shall

1 go toward funding [services for victims of trafficking, or state crime victims' fund].

2 **11-67-9. Statute of limitations.** -- (a) An action for trafficking in persons where the
3 victim is not a minor shall be brought within ten (10) years from the date the victim escaped from
4 the trafficking situation.

5 (b) Any statute of limitations that would otherwise preclude prosecution for an offense
6 involving the trafficking of a minor, or the physical or sexual abuse of a minor, shall be tolled
7 until such time as the victim has reached the age of eighteen (18) years.

8 (c) The running of the statute of limitations may be suspended where a person entitled to
9 bring a claim of trafficking in persons could not have reasonably discovered the cause of action
10 due to circumstances resulting from the trafficking situation, such as psychological trauma,
11 cultural and linguistic isolation, and the inability to access services.

12 **11-67-10. Sentencing enhancements.** -- (a) Sentencing considerations in cases involving
13 rape, extreme violence, or death. If a violation of [chapter 11-67] involves kidnapping or an
14 attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or
15 an attempt to kill, or if death results, the sentencing court shall take this into account in setting the
16 period of imprisonment.

17 (b) Additional sentencing considerations.

18 (1) Bodily injury. If, pursuant to a violation of [chapter 11-67], a victim suffered bodily
19 injury, the sentence may be enhanced as follows: (i) bodily injury, an additional five (5) years of
20 imprisonment; (ii) serious bodily injury, an additional ten (10) years of imprisonment; (iii)
21 permanent or life-threatening bodily injury, an additional fifteen (15) years of imprisonment; (iv)
22 if death results, defendant shall be sentenced in accordance with the homicide statute relevant for
23 level of criminal intent.

24 (2) Time in servitude. In determining sentences within statutory maximums, the
25 sentencing court should take into account the time in which the victim was held in servitude, with
26 increased penalties for cases in which the victim was held for between one hundred eighty days
27 (180) and one year, and further increased penalties for cases in which the victim was held for
28 more than one year.

29 (3) Number of victims. In determining sentences within statutory maximums, the
30 sentencing court should take into account the number of victims, and may provide for
31 substantially increased sentences in cases involving more than two (2) victims.

32 **11-67-11. Venue of trafficking prosecutions.** -- It shall not be a defense to any
33 prosecution of any of the offenses described in [section 11-67-2] that the offense or any part of
34 the offense shall have been committed outside the state and any offense described in section 11-

1 67-2 may be alleged to have been committed. The offender may be prosecuted and punished in
2 any county in which the offender or the person upon or against whom the offense was committed
3 may be found, or in which the offense was consummated, or in which any overt acts in
4 furtherance of the offenses shall have been committed.

5 **11-67-12. Spouse as witness in trafficking prosecution.** -- In any prosecution for any
6 offense under section 11-34-1, any person shall be a competent witness against the offender in
7 relation to any pandering offense committed by the offender upon or against him or her, or by the
8 offender against or upon another person or persons in his or her presence, notwithstanding that
9 person may have been married to the offender before or after the commission of the offense, and
10 notwithstanding that person may be called as a witness during the existence of the marriage or
11 after its dissolution.

12 **11-67-13. Reputation testimony as evidence.** -- In the trial of any person charged with a
13 violation of [section 11-67-2], paragraphs (1) or (2) with respect to commercial sex acts or
14 sexually explicit performance, or paragraphs (3) or (4), testimony concerning the reputation of the
15 place where the violation occurred or of persons who frequent or reside in it shall be admissible
16 in evidence in support of the charge.

17 **11-67-14. State task force for prevention of trafficking.** -- (a) The governor shall
18 establish an inter-agency task force to develop and implement a state plan for the prevention of
19 trafficking in persons (the "State Plan"). Such a task force shall meet at least annually and should
20 include all aspects of trafficking, including sex trafficking and labor trafficking of both U.S.
21 citizens and foreign nationals.

22 (b) "Trafficking" as used in this section refers to the crimes defined in [chapter 11-67].

23 (c) Members of the task force shall include, at a minimum:

24 (1) two (2) members from the house of representatives, one from each party to be
25 appointed by the speaker of the house;

26 (2) two (2) members from the senate, one from each party to be appointed by the
27 president of the senate;

28 (3) one member from the attorney general's office to be appointed by the attorney
29 general;

30 (4) one member of a local law enforcement agency to be appointed by the attorney
31 general;

32 (5) one member from the state police to be appointed by the superintendent of the state
33 police;

34 (6) one member from the department of health to be appointed by director of the

1 department of health;

2 (7) one member from the Rhode Island police chief's association to be appointed by
3 president of the Rhode Island police chief's association;

4 (8) one member from the department of human services to be appointed by the director of
5 the department of human services;

6 (9) one member from the governor's office to be appointed by the governor; and

7 (10) six (6) members from nongovernmental organizations and academic institutions,
8 especially those specializing in trafficking in persons, those representing diverse communities
9 disproportionately affected by trafficking, and those devoted to child services, runaway services,
10 and services to victims of trafficking, to be appointed by the governor, who must invite Day One,
11 The International Institute of Rhode Island and Polaris Project Rhode Island.

12 (d) The attorney general in coordination with the chair of the task force shall invite
13 representatives of the U.S. attorneys' offices and of federal law enforcement agencies' offices
14 within the state, including the Federal Bureau of Investigation and U.S. Immigration and Customs
15 Enforcement, to be members of the task force.

16 (e) The task force shall carry out the following activities either directly or via one or more
17 of its constituent agencies:

18 (1) Develop the state plan.

19 (2) Coordinate the implementation of the state plan.

20 (3) Coordinate the collection and sharing of trafficking data among government agencies,
21 which data collection shall respect the privacy of victims of trafficking in persons.

22 (4) Coordinate the sharing of information between agencies for the purposes of detecting
23 criminal groups engaged in trafficking.

24 (5) Explore the establishment of state policies for time limits for the issuance of law
25 enforcement agency (LEA) endorsements as described in section 214.11(f)(1) of chapter 8 of the
26 code of federal regulations.

27 (6) Establish policies to enable state government to work with nongovernmental
28 organizations and other elements of civil society to prevent trafficking and provide assistance to
29 U.S. citizen and foreign national victims.

30 (7) Review the existing services and facilities to meet trafficking victims' needs and
31 recommend a system that would coordinate such services, including, but not limited to: health
32 services, including mental health; housing; education and job training; English as a second
33 language classes; interpreting services; legal and immigration services; and victim compensation.

34 (8) Evaluate various approaches used by state and local governments to increase public

1 awareness of the trafficking in persons, including U.S. citizen and foreign national victims of
2 trafficking in persons.

3 (9) Submit an annual report of its findings and recommendations to the governor, the
4 speaker of the house of representatives and the president of the senate on or before December 31
5 of each calendar year.

6 **11-67-15. Data collection and dissemination.** -- (a) The state shall, in cooperation with
7 other appropriate authorities, collect and periodically publish statistical data on trafficking.

8 (b) The state shall elicit the cooperation and assistance of other government agencies,
9 nongovernmental organizations, and other elements of civil society as appropriate to assist in the
10 data collection required under paragraph (a) of this subsection.

11 (c) The appropriate authorities in each agency that play a vital role in addressing
12 trafficking shall make best efforts to collect information relevant to tracking progress on
13 trafficking, including, but not limited to:

14 (1) numbers of investigations, arrests, prosecutions, and successful convictions of
15 traffickers and those committing trafficking related crimes (pimping, pandering, procuring,
16 maintaining a brothel, child pornography, visa fraud, document fraud, and other crimes related to
17 trafficking);

18 (2) the estimated number and demographic characteristics of persons engaged in
19 violations of the criminal provisions defined in [chapter 11-67] as well as persons who purchase
20 or receive commercial sex acts or sexually-explicit performances, or labor or services, performed
21 by victims of trafficking in persons;

22 (3) statistics on the number of victims, including nationality, age, method of recruitment,
23 and city, state and country of origin;

24 (4) trafficking routes and patterns (states or countries of origin, transit states or countries,
25 and destination states or countries);

26 (5) methods of transportation (car, boat, plane, foot), if any transportation took place; and

27 (6) social and economic factors that contribute to and foster the demand for all forms of
28 exploitation of persons that lead to trafficking.

29 **11-67-16. Training.** – (a) The state shall provide mandatory training for law enforcement
30 agencies, prosecutors, and other relevant officials in addressing trafficking in persons.

31 (b) Such training shall focus on:

32 (1) the new crimes and other provisions created by this article;

33 (2) methods used in identifying U.S. citizen and foreign national victims of trafficking in
34 persons, including preliminary interview techniques and appropriate questioning methods;

- 1 (3) methods for prosecuting traffickers;
2 (4) methods of increasing effective collaboration with nongovernmental organizations
3 and other relevant social service organizations in the course of investigating and prosecuting a
4 trafficking case;
5 (5) methods for protecting the rights of victims, taking into account the need to consider
6 human rights and special needs of women and minors victims, and that victims should be treated
7 as victims rather than criminals; and
8 (6) methods for promoting the safety of victims.

9 (c) The state shall seek the input and participation of appropriate nongovernmental
10 organizations and other relevant organizations in the preparation and presentation of training
11 called for in this subsection.

12 **11-67-17. Public awareness.** -- (a) The state in cooperation with appropriate
13 nongovernmental organizations shall prepare public awareness programs designed to educate
14 potential victims of trafficking in persons and their families on the risks of victimization. Such
15 public awareness programs shall include, but shall not be limited to:

- 16 (1) information about the risks of becoming a victim, including information about
17 common recruitment techniques, use of debt bondage, and other coercive tactics, risk of
18 maltreatment, rape, exposure to HIV/AIDS and other sexually transmitted diseases, and
19 psychological harm related to victimization in trafficking cases;
20 (2) information about the risks of engaging in commercial sex and possible punishment;
21 (3) information about victims' rights in Rhode Island;
22 (4) methods for reporting suspected recruitment activities; and
23 (5) information on hotlines and available victims' services.

24 (b) The state in cooperation with other appropriate government agencies and appropriate
25 nongovernmental organizations or other elements of civil society shall prepare and disseminate
26 general public awareness materials to educate the public on the extent of trafficking in persons,
27 both U.S. citizens and foreign nationals, within the United States; and to discourage the demand
28 that fosters the exploitation of persons and that leads to trafficking.

29 (c) General public awareness materials may include information on the impact of
30 trafficking on individual victims, whether U.S. citizens or foreign nationals; aggregate
31 information on trafficking worldwide and domestically; and warnings of the criminal
32 consequences of engaging in trafficking. Such materials may include pamphlets, brochures,
33 posters, advertisements in mass media, and any other appropriate media.

34 (d) Materials described in this section may include information on the impact of

1 trafficking on individual victims. However, any information on the experiences of individual
2 victims shall preserve the privacy of the victim and the victim's family.

3 (e) All public awareness programs shall be evaluated periodically to ensure their
4 effectiveness.

5 **11-67-18. Grants. --** Subject to the availability of appropriations, the state shall make
6 grants to units of local government, Indian tribes, and nonprofit, nongovernmental victims'
7 service organizations to develop, expand, or strengthen victim service programs for victims of
8 trafficking in persons, whether U.S. citizens or foreign nationals; to carry out the purposes of
9 section 2 for the prevention of trafficking; and to carry out the purposes of section 3 for victim
10 protection.

11 **11-67-19. Role of nongovernmental organizations. --** For each state initiative for the
12 prevention of trafficking, including, but not limited to, those listed above (state task force; data
13 collection and dissemination; training; and public awareness), the state shall seek out and enlist
14 the cooperation and assistance of nongovernmental organizations, especially those specializing in
15 trafficking in persons, those representing diverse communities disproportionately affected by
16 trafficking, agencies devoted to child services and runaway services, and academic researchers
17 dedicated to the subject of trafficking.

18 **11-67-20. Civil action - Victim protection. --** (a) An individual who is a victim of
19 trafficking may bring a civil action in the appropriate state court. The court may award actual
20 damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate
21 relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall
22 be awarded on proof of actual damages where defendant's acts were willful and malicious.

23 (b) Any statute of limitation imposed for the filing of a civil suit will not start to run until
24 any minor plaintiff has reached the age of majority.

25 (c) If a person entitled to sue in under a disability at the time the cause of action accrues,
26 so that it is impossible or impracticable for him or her to bring an action, then the time of the
27 disability is not part of the time limited for the commencement of the action. Disability includes,
28 but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

29 (d) The running of the statute of limitations may be suspended where a person entitled to
30 sue could not have reasonably discovered the cause of action due to circumstances resulting from
31 the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the
32 inability to access services.

33 (e) A defendant is stopped to assert a defense of the statute of limitations when the
34 expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the

1 filing of the action or placing the plaintiff under duress.

2 **11-67-21. Applicability of labor standards.** -- (a) Standards for working conditions
3 specified in title 28 shall apply equally to all persons regardless of authorization to work in the
4 United States.

5 (b) The state shall investigate complaints of unlawful working conditions without regard
6 to the immigration status of complainants and without regard to the nature of the work or services
7 involved.

8 **11-67-22. Protection of victims.** -- Investigative, prosecutorial, and other appropriate
9 authorities shall interview all persons arrested on charges of prostitution, and take all other steps
10 necessary to identify victims of trafficking in persons, including U.S. citizens and foreign
11 nationals. Once victims are identified, these authorities shall provide reasonable protection to
12 victims of trafficking in persons to prevent recapture by the traffickers and their associates, secure
13 the victim and the victim's family from threats, reprisals or intimidation by the traffickers and
14 their associates, and ensure the victim has an opportunity to consult with a victim advocate or
15 other appropriate person to develop a safety plan.

16 **11-67-23. Witness protection.** -- Victims of trafficking in persons and their family
17 members, whether U.S. citizens or foreign nationals, who are witnesses or potential witnesses are
18 eligible for applicable witness relocation and protection programs for victims of organized
19 criminal activity or other serious offenses, if it is determined that an offense involving a crime of
20 violence directed at the witness or potential witness is likely to be committed. The programs may
21 include:

- 22 (1) relocation;
23 (2) new identity and documents establishing such identity;
24 (3) new residence;
25 (4) employment and work authorization; and
26 (5) protection of confidentiality of identity and location.

27 **11-67-24. Access to the crime victim compensation program.** -- Section 12-25-20 is
28 amended to entitle victims of trafficking in persons to compensation under the Rhode Island
29 crime victim compensation program.

30 **11-67-25. Protection of the privacy of victims.** -- In a prosecution for violations of the
31 criminal provisions of [chapter 11-67], the identity of the victim and the victim's family should be
32 kept confidential by ensuring that names and identifying information of the victim and victim's
33 family are not released to the public, including by the defendant.

34 **11-67-26. Information for victims.** -- (a) In addition to the information the state must

1 provide to victims under chapter 12-28, the state shall inform victims of trafficking in persons
2 who are foreign nationals of the procedure for repatriating a victim to his or her country of
3 citizenship or lawful residence. The state shall also provide victims with a directory of local
4 victim service organizations, including legal services organizations that can assist victims in
5 obtaining or maintaining legal immigration status. All information must be provided in a
6 language the victim can understand.

7 (b) The administrator of the crime victim compensation program shall inform victims of
8 trafficking in persons of benefits they may receive under federal laws, and assist victims in
9 obtaining such benefits.

10 **11-67-27. Opportunity for presentation of victims views and concerns.** – If necessary,
11 an interpreter who speaks a language the victim understands should be made available to the
12 victim to assist the victim in the exercise of rights set forth in chapter 12-28.

13 **11-67-28. Support for victims.** – (a) Within one hundred eighty days (180) of the
14 enactment of this legislation, the state shall develop plans, in consultation with nongovernmental
15 organizations and other elements of civil society, for the provision of appropriate services, from
16 governmental and nongovernmental sources, for victims of trafficking in persons, whether U.S.
17 citizens or foreign nationals, and any dependents accompanying the victims, or parents or
18 guardians of minor victims, including, but not limited to:

19 (1) appropriate housing, taking into account the person's status as a victim of crime and
20 including safe conditions for sleeping, food and personal hygiene;

21 (2) psychological counseling in a language the victim can understand;

22 (3) medical assistance in a language the victim can understand;

23 (4) child care;

24 (5) other material assistance as appropriate;

25 (6) employment, education, language, and training opportunities; and

26 (7) legal assistance in a language the victim understands.

27 (b) Foreign national victims of trafficking in persons and their accompanying dependent
28 children shall be entitled to receive social benefits in the same manner as refugees.

29 (c) Whenever possible, victims of trafficking in persons shall not be given shelter in
30 prisons or other detention facilities for accused or convicted criminals. Child victims of
31 trafficking in persons shall not be housed in prisons or other detention facilities for accused or
32 convicted criminals or juvenile delinquents under any circumstances.

33 (d) Residence in shelters or other facilities established under this section shall be
34 voluntary, and victims may decline to stay in shelters or other facilities.

1 (e) Victims in shelters or other facilities shall have the option to communicate with and
2 receive visits from family, friends, attorneys, and advocates.

3 (f) The governmental service providers described in paragraph (a) shall take into account
4 the age, gender, and special needs of victims and accompanying dependent children in
5 formulating plans to provide services to them and in delivering such services.

6 (g) Plans developed in accordance with paragraph (a) shall be submitted for approval to
7 appropriate state authorities, which shall also undertake periodic reviews of the plans and their
8 implementation to ensure compliance with the requirements of this act and to ensure that all
9 victims are treated with respect for their human rights and dignity.

10 **11-67-29. Appropriate implementation for child victims.** – The provisions of this act
11 shall be provided to trafficking victims who are minors in a manner that is in the minor's best
12 interests and appropriate to their situation. Minor trafficking victims shall be provided with
13 appropriate services, which may include an explanation of their rights, privacy, housing, care, and
14 age appropriate support and rights specified in section 3. Special programs should be developed
15 to accommodate minor witnesses including, but not limited to:

16 (1) testimony of minor conducted outside court setting or by video;

17 (2) all testimony and court proceedings take place with parent, legal guardian or foster
18 parent present, if it is in the best interests of the minor;

19 (3) whenever safe and possible, minors should be reunited with family members, whether
20 within or outside the United States;

21 (4) special mental and physical medical care tailored to the minor's needs; and

22 (5) upon resettlement in a new country, minor victims of trafficking in persons should be
23 guaranteed education that matches or exceeds the general standard of education in the country.

24 **11-67-30. Human trafficking victim-caseworker privilege.** -- (a) A trafficking victim,
25 whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another
26 from disclosing, a confidential communication between the victim and a human trafficking
27 caseworker if the privilege is claimed by any of the following persons:

28 (1) the holder of the privilege;

29 (2) a person who is authorized to claim the privilege by the holder of the privilege; or

30 (3) the person who was the human trafficking caseworker at the time of the confidential
31 communication. However, that person may not claim the privilege if there is no holder of the
32 privilege in existence or if he or she is otherwise instructed by a person authorized to permit
33 disclosure. The human trafficking caseworker who received or made a communication subject to
34 the privilege granted by this article shall claim the privilege whenever he or she is present when

1 the communication is sought to be disclosed and he or she is authorized to claim the privilege
2 under this section.

3 (b) A human trafficking caseworker shall inform a trafficking victim of any applicable
4 limitations on confidentiality of communications between the victim and the caseworker. This
5 information may be given orally.

6 (c) As used in this article, "human trafficking caseworker" means a person who is
7 employed by any organization whether financially compensated or not, for the purpose of
8 rendering advice or assistance to victims of human trafficking, who has received specialized
9 training in the counseling of victims of trafficking in persons, and who meets one of the following
10 requirements:

11 (i) holds a master's degree or higher in counseling or a related field; or has one year of
12 counseling experience, at least six (6) months of which is in the counseling of victims of
13 trafficking in persons; or

14 (ii) has at least forty (40) hours of training as specified in this paragraph and is
15 supervised by an individual who qualifies as a counselor under subparagraph (i) or by a
16 psychotherapist. The training, supervised by a person qualified under subparagraph (i), shall
17 include, but need not be limited to, the following areas: history of human trafficking, civil and
18 criminal law as it relates to human trafficking, societal attitudes towards human trafficking, peer
19 counseling techniques, housing, public assistance and other financial resources available to meet
20 the financial needs of trafficking victims, and referral services available to trafficking victims. A
21 portion of this training must include an explanation of privileged communication.

22 (d) As used in this article, "confidential communication" means information transmitted
23 between the victim and the caseworker in the course of their relationship and in confidence by a
24 means which, so far as the victim is aware, discloses the information to no third persons other
25 than those who are present to further the interests of the victim in the consultation or those to
26 whom disclosures are reasonably necessary for the transmission of the information or an
27 accomplishment of the purposes for which the human trafficking counselor is consulted. It
28 includes all information regarding the facts and circumstances involving all incidences of human
29 trafficking.

30 (e) As used in this article, "holder of the privilege" means the victim when he or she has
31 no guardian or conservator, or a guardian or conservator of the victim when the victim has a
32 guardian or conservator.

33 **11-67-31. Protection of trafficking and domestic violence shelters. -- (a) Any person**
34 **who maliciously or with criminal negligence publishes, disseminates, or otherwise discloses the**

1 location of any trafficking victim, any trafficking shelter or domestic violence shelter or any place
2 designated as a trafficking shelter or domestic violence shelter, without the authorization of that
3 trafficking victim, trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.

4 (b) For purposes of this section, "domestic violence shelter" means a confidential location
5 which provides emergency housing for victims of sexual assault, spousal abuse, or both, and their
6 families. For purposes of this section, "trafficking shelter" means a confidential location, which
7 provides emergency housing for victims of human trafficking.

8 SECTION 2. Sections 11-34-1, 11-34-2, 11-34-3, 11-34-5, 11-34-5.1 and 11-34-6 of the
9 General Laws in Chapter 11-34 entitled "Prostitution and Lewdness" are hereby repealed.

10 ~~**11-34-1. Pandering.**--- (a) It shall be unlawful for any person to secure a person for a~~
11 ~~house of ill fame, or to procure for a person a place as inmate of a house of ill fame; or by any~~
12 ~~promise, threat, by abuse of person, or by any other device or scheme, to cause, induce, persuade,~~
13 ~~or encourage a person to become a prostitute, to enter upon or lead a wanton or dissolute life, to~~
14 ~~become an inmate of a house of ill fame, to enter a place in which prostitution is encouraged or~~
15 ~~allowed, or remain in it as an inmate, or to come into this state or leave this state for the purpose~~
16 ~~of prostitution. It shall be unlawful for any person to receive or give, or agree to receive or give,~~
17 ~~any money or thing of value for procuring or attempting to procure any person to become a~~
18 ~~prostitute, to enter upon or lead a wanton or dissolute life, or to become an inmate of a house of~~
19 ~~ill fame, either within or without this state, or come into this state or leave this state for the~~
20 ~~purpose of prostitution. It shall be unlawful for any person by any means to keep, hold, or detain~~
21 ~~against his or her will or restrain any person in any place for the purpose of prostitution, or in a~~
22 ~~house of ill fame or other place where prostitution is practiced or allowed for any purpose; or to~~
23 ~~directly or indirectly keep, hold, detain, or restrain, or attempt to keep, hold, detain, or restrain in~~
24 ~~any house of ill fame or other place where prostitution is allowed or practiced, any person by any~~
25 ~~means for the purpose of compelling that person, directly or indirectly, to pay, liquidate, or cancel~~
26 ~~any debt, dues, or obligations incurred or said to have been incurred by that person.~~

27 ~~-(b) Every person who commits any of the offenses described in subsection (a) of this~~
28 ~~section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of~~
29 ~~pandering. For the first offense that person shall be punished by imprisonment for not less than~~
30 ~~one year and not more than five (5) years and a fine of not less than two thousand dollars~~
31 ~~(\$2,000), nor more than five thousand dollars (\$5,000). For every subsequent offense that person~~
32 ~~shall be punished by imprisonment for not less than three (3) years and not more than ten (10)~~
33 ~~years and a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand~~
34 ~~dollars (\$10,000).~~

1 ~~**11-34-2. Venue of pandering prosecutions.** -- It shall not be a defense to any~~
2 ~~prosecution for any of the offenses described in section 11-34-1 that the offense or any part of the~~
3 ~~offense shall have been committed outside the state, and any offense described in section 11-34-1~~
4 ~~may be alleged to have been committed. The offender may be prosecuted and punished in any~~
5 ~~county in which the offender or the person upon or against whom the offense was committed may~~
6 ~~be found, or in which the offense was consummated, or in which any overt acts in furtherance of~~
7 ~~the offenses shall have been committed.~~

8 ~~**11-34-3. Spouse as witness in pandering prosecution.** -- In any prosecution for any~~
9 ~~offense under section 11-34-1, any person shall be a competent witness against the offender in~~
10 ~~relation to any pandering offense committed by the offender upon or against him or her, or by the~~
11 ~~offender against or upon another person or persons in his or her presence, notwithstanding that~~
12 ~~person may have been married to the offender before or after the commission of the offense, and~~
13 ~~notwithstanding that person may be called as a witness during the existence of the marriage or~~
14 ~~after its dissolution.~~

15 ~~**11-34-5. Transportation for indecent purposes -- Harboring prostitution.** -- (a) It~~
16 ~~shall be unlawful for any person, for pecuniary gain, to secure, direct, or transport, or offer to~~
17 ~~secure, direct, or transport another for the purpose of prostitution, or for any other lewd or~~
18 ~~indecent act; or to receive or offer or agree to receive any person into any place, structure, house,~~
19 ~~building, room, or conveyance for the purpose of committing any such acts, or knowingly permit~~
20 ~~any person to remain in the premises for those purposes, or to, in any way, aid or abet or~~
21 ~~participate in any of the acts or things enumerated in this chapter.~~

22 ~~(b) Any person found guilty under this section shall be subject to imprisonment in the~~
23 ~~adult correctional institutions for not less than one year and not more than five (5) years, and a~~
24 ~~fine of not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000).~~
25 ~~For every subsequent offense that person shall be punished by imprisonment for not less than~~
26 ~~three (3) years and for not more than ten (10) years and a fine of not less than five thousand~~
27 ~~dollars (\$5,000) nor more than ten thousand dollars (\$10,000).~~

28 ~~**11-34-5.1. Deriving support or maintenance from prostitution.** -- Any person,~~
29 ~~knowing a person to be a prostitute, who shall live or derive support or maintenance, in whole or~~
30 ~~in part, from the earnings or proceeds of prostitution, from moneys loaned, advanced to, or~~
31 ~~charged against the prostitute by any keeper, manager, or inmate of a house of ill fame or other~~
32 ~~place where prostitution is practiced or allowed, or who shall share in the earnings, proceeds or~~
33 ~~moneys, shall be punished by imprisonment in the adult correctional institutions for not less than~~
34 ~~one year nor more than five (5) years, or by a fine of not less than two thousand dollars (\$2,000)~~

1 ~~and not more than five thousand dollars (\$5,000), or both, and for every subsequent offense shall~~
2 ~~be punished by imprisonment for not less three (3) years and not more than ten (10) years, and by~~
3 ~~a fine of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars~~
4 ~~(\$10,000), or both. However, nothing in this section shall apply to a minor dependent of the~~
5 ~~prostitute.~~

6 ~~**11-34-6. Reputation testimony as evidence.** -- In the trial of any person charged with a~~
7 ~~violation of section 11-34-5, testimony concerning the reputation of the place where the violation~~
8 ~~occurred or of persons who frequent or reside in it shall be admissible in evidence in support of~~
9 ~~the charge.~~

10 SECTION 3. Section 7-15-1 of the General Laws in Chapter 7-15 entitled "Racketeer
11 Influenced and Corrupt Organizations" is hereby amended to read as follows:

12 **7-15-1. Definitions.** -- (a) "Enterprise" includes any sole proprietorship, partnership,
13 corporation, association, or other legal entity, and any union or group of individuals associated
14 for a particular purpose although not a legal entity.

15 (b) "Person" includes any individual or entity capable of holding a legal or beneficial
16 interest in property.

17 (c) "Racketeering activity" means any act or threat involving murder, kidnapping,
18 gambling, arson in the first, second, or third degree, robbery, bribery, extortion, larceny or
19 prostitution, or any dealing in narcotic or dangerous drugs which is chargeable as a crime under
20 state law and punishable by imprisonment for more than one year, or child exploitations for
21 commercial or immoral purposes in violation of section 11-9-1(b) or (c) or section 11-9-1.1: or
22 trafficking in persons in violation of section 11-67-1 et seq.

23 (d) "Unlawful debt" means a debt incurred or contracted in an illegal gambling activity
24 or business or which is unenforceable under state law in whole or in part as to principal or interest
25 because of the law relating to usury.

26 SECTION 4. 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 -- TRAFFICKING IN PERSONS

- 1 This act would prohibit trafficking in persons.
- 2 This act would take effect upon passage.

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LC01896
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