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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO CRIMINAL OFFENSES - SEXUAL ASSAULT

Introduced By: Senators Bell, Quezada, Nesselbush, Seveney, and Cano

Date Introduced: February 13, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 11-37 of the General Laws entitled "Sexual Assault" is hereby  
2 amended by adding thereto the following section:

3           **11-37-18. Custodial sexual assault.**

4           (a) A person is guilty of custodial sexual assault if:

5           (1) He or she engages in sexual penetration with another person; and

6           (2) The accused is a peace officer as defined in § 12-7-21 and the victim is detained, in  
7 custody, under arrest, confined in a correctional or law enforcement facility, in a work release  
8 program, or on probation, parole or other form of conditional or supervised release; and

9           (3) The peace officer:

10           (i) Is responsible for effecting the detention, custody, arrest, or confinement of the victim  
11 or maintaining the victim in custody, detention, arrest, confinement, or a work release program,  
12 or knows, or reasonably should know, that the victim is under such custody, detention, arrest,  
13 confinement, or in a work release program; or

14           (ii) Has supervisory authority over the victim's probation, parole, or other form of  
15 conditional or supervised release; or

16           (iii) Is not married to the victim and has the authority to influence the terms, conditions,  
17 length of or fact of probation, parole or other form of conditional or supervised release; and

18           (4) None of the circumstances set forth in §§ 11-37-2 or 11-37-4 exist.

19           (b) Any person who shall be convicted of custodial sexual assault shall be subject to

1 imprisonment for a period not to exceed three (3) years.

2 (c) Any person convicted under this section shall not be subject to the provisions of  
3 chapter 37.1 of this title.

4 (d) It shall be an affirmative defense, to be proven by the accused by a preponderance of  
5 the evidence, that the act of sexual penetration resulted from force or coercion by the other  
6 person.

7 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would establish criteria for the criminal offense of sexual assault when the victim  
2 is in the custody of a peace officer. The act would also provide that a person convicted of  
3 custodial sexual assault would face imprisonment for not more than three (3) years.

4           This act would take effect upon passage.

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