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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING CRIMINAL OFFENSES - UNIFORM ACT ON THE PREVENTION OF AND
REMEDIES FOR HUMAN TRAFFICKING

Introduced By: Representatives Maldonado, McEntee, Amore, Hearn, and Knight

Date Introduced: February 01, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-67 of the General Laws entitled "Trafficking of Persons and
2 Involuntary Servitude" is hereby repealed in its entirety.

~~CHAPTER 11-67~~

~~Trafficking of Persons and Involuntary Servitude~~

~~**11-67-1. Definitions.**~~

~~As used herein:~~

7 ~~(1) "Intimidation" means an intentional written, verbal or physical act or threat of a~~
8 ~~physical act that, under the totality of circumstances a reasonable person should know will have~~
9 ~~the effect of: physically harming, or damaging a person's property, placing a person in reasonable~~
10 ~~fear of harm to his or her person or to his or her family, or placing a person in reasonable fear of~~
11 ~~damage to his or her property.~~

12 ~~(2) "Commercial sexual activity" means any sex act which is performed or promised in~~
13 ~~return for payment of money.~~

14 ~~(3) "Forced labor" means labor performed or provided by another person that is obtained~~
15 ~~or maintained through:~~

16 ~~(i) Any scheme, plan, or pattern intending to cause or threatening to cause physical harm~~
17 ~~to any person;~~

18 ~~(ii) An actor's physically restraining or threatening to physically restrain another person;~~

- 1 ~~(iii) An actor's abusing or threatening to abuse the law or legal process;~~
- 2 ~~(iv) An actor's knowingly destroying, concealing, removing, confiscating, or possessing~~
- 3 ~~without a person's consent any actual or purported passport or other immigration document, or~~
- 4 ~~any other actual or purported government identification document, of another person;~~
- 5 ~~(v) An actor's blackmail; or~~
- 6 ~~(vi) An actor's intimidation.~~
- 7 ~~(4) "Labor" means work of economic or financial value.~~
- 8 ~~(5) "Maintain" means, in relation to labor, to secure continued performance thereof,~~
- 9 ~~regardless of any initial agreement on the part of the victim to perform such type of labor.~~
- 10 ~~(6) "Obtain" means in relation to labor, to secure continued performance thereof.~~
- 11 ~~(7) "Sex act" means any sexual contact or sexual penetration of a person, as defined in §~~
- 12 ~~11-37-1.~~
- 13 ~~(8) "Victim" means a person subject to the practices set forth in § 11-67-2 or 11-67-3.~~

14 ~~**11-67-2. Involuntary servitude.**~~

15 ~~Whoever knowingly subjects, attempts to subject, or engages in a conspiracy to subject~~

16 ~~another person to forced labor or commercial sexual activity either by:~~

- 17 ~~(1) Causing or threatening to cause physical harm to any person;~~
- 18 ~~(2) Physically restraining or threatening to physically restrain another person;~~
- 19 ~~(3) Abusing or threatening to abuse the law or legal process;~~
- 20 ~~(4) Knowingly destroying, concealing, removing, confiscating or possessing without that~~
- 21 ~~person's consent any actual or purported passport or other immigration document, or any other~~
- 22 ~~actual or purported government identification document, of another person; or~~
- 23 ~~(5) By using intimidation; shall be guilty of a felony and subject to not more than twenty~~
- 24 ~~(20) years imprisonment or a fine of not more than twenty thousand dollars (\$20,000) or both.~~

25 ~~**11-67-3. Trafficking of persons for forced labor or commercial sexual activity.**~~

26 ~~Whoever knowingly:~~

- 27 ~~(a) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts~~
- 28 ~~to recruit, entice, harbor, transport provide, or obtain by any means, another person, intending or~~
- 29 ~~knowing that the person will be subjected to forced labor in order to commit a commercial sexual~~
- 30 ~~activity; or~~
- 31 ~~(b) Benefits, financially or by receiving anything of value, from knowing participation in~~
- 32 ~~a venture which has engaged in an act described in violation of § 11-67-2, or 11-67-3, is guilty of~~
- 33 ~~a felony and subject to not more than twenty (20) years imprisonment or a fine of not more than~~
- 34 ~~twenty thousand dollars (\$20,000), or both; provided, however, that this subsection shall not~~

1 apply to a "victim" as defined in this chapter.

2 **11-67-4. Restitution.**

3 In addition to any other amount of loss identified, the court shall order restitution
4 including the greater of:

5 (a) The gross income or value to the defendant of the victim's labor or commercial sexual
6 activity; or

7 (b) The value of the victim's labor as guaranteed under the minimum wage law and
8 overtime provisions of the Fair Labor Standards Act (FLSA) or the minimum wage law,
9 whichever is greater.

10 **11-67-5. Forfeitures.**

11 (a) A person who is found in a criminal proceeding to be in violation of § 11-67-2 or 11-
12 67-3 shall forfeit to the state of Rhode Island any profits or proceeds and any interest or property
13 he or she has acquired or maintained in violation of this act, that the sentencing court determines,
14 after a forfeiture hearing, to have been acquired or maintained as a result of maintaining a person
15 in involuntary servitude or participating in trafficking in persons for forced labor in order to
16 commit a criminal sexual activity.

17 (b) The court shall upon petition by the attorney general at any time following
18 sentencing, conduct a hearing to determine whether any property or property interest is subject to
19 forfeiture under this section. At the forfeiture hearing the state shall have the burden of
20 establishing by a preponderance of the evidence that property or property interests are subject to
21 forfeiture under this section.

22 (c) In any action brought by the state of Rhode Island under this section, wherein any
23 restraining order, injunction, or prohibition or any other action in connection with any property or
24 interest subject to forfeiture under this section is sought, the court shall first determine whether
25 there is probable cause to believe that the person or persons so charged have committed the
26 offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for
27 forced labor or commercial sexual activity and whether the property or property interest is subject
28 to forfeiture pursuant to this section.

29 (d) All monies forfeited and the sale proceeds of all other property forfeited and seized
30 under this section shall be deposited in the general fund.

31 **11-67-6. Sex trafficking of a minor.**

32 (a) Definitions. As used in this section:

33 (1) "Commercial sex act" means any sex act or sexually explicit performance on account
34 of which anything of value is given, promised to, or received, directly or indirectly, by any

1 ~~person.~~

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

3 ~~(3) "Person" includes an individual, corporation, partnership, association, a government~~
4 ~~body, a municipal corporation, or any other legal entity.~~

5 ~~(4) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital~~
6 ~~intrusion or intrusion by any object into the genital opening or anal opening of another person's~~
7 ~~body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the~~
8 ~~sexual desire of either person.~~

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

12 ~~(b) Any person who:~~

13 ~~(1) Recruits, employs, entices, solicits, isolates, harbors, transports, provides, persuades,~~
14 ~~obtains, or maintains, or so attempts, any minor for the purposes of commercial sex acts; or~~

15 ~~(2) Sells or purchases a minor for the purposes of commercial sex acts; or~~

16 ~~(3) Benefits, financially or by receiving anything of value, from participation in a venture~~
17 ~~which has engaged in an act described in subdivision (1) or (2); or~~

18 ~~(c) Every person who shall commit sex trafficking of a minor shall be guilty of a felony~~
19 ~~and subject to not more than fifty (50) years imprisonment or a fine of up to forty thousand~~
20 ~~dollars (\$40,000), or both.~~

21 ~~(d) Obstructs, or attempts to obstruct, or in any way interferes with or prevents the~~
22 ~~enforcement of this section shall be guilty of a felony and subject to not more than thirty five (35)~~
23 ~~years imprisonment, or a fine of up to forty thousand dollars (\$40,000), or both.~~

24 ~~(e) In a prosecution under this section, the government need not prove that the defendant~~
25 ~~knew the victim's age.~~

26 ~~**11-67-7. Interagency task force on trafficking in persons created -- Composition --**~~
27 ~~**Duties and responsibilities.**~~

28 ~~(a) There is hereby created an interagency human trafficking of persons task force which~~
29 ~~will examine and report upon the extent of the existence of human trafficking for commercial~~
30 ~~sexual activity within the State of Rhode Island. The task force shall consist of the attorney~~
31 ~~general or his or her designee; the superintendent of the Rhode Island State Police or his or her~~
32 ~~designee; the director of the Municipal Police Training Academy or his or her designee; the Chief~~
33 ~~of Police of the City of Providence or his or her designee; the President of the Rhode Island~~
34 ~~Police Chief's Association or his or designee; the public defender or his or her designee; and the~~

1 ~~director of the Rhode Island Commission on Women or his or her designee.~~

2 ~~(b) Additionally, the governor, the president of the senate and the speaker of the house~~
3 ~~shall each appoint three (3) members of the public who have a special expertise dealing with~~
4 ~~victims of crimes; the behavioral needs of women and children; social welfare issues such as the~~
5 ~~financial, healthcare, housing and literacy needs of women, children and low income individuals;~~
6 ~~social justice and human rights issues; issues facing immigrants and non citizens, civil rights;~~
7 ~~and/or specialized training in human trafficking and the needs of victims of human trafficking.~~

8 ~~(c) A quorum of the committee shall consist of at least eight (8) of its members. The task~~
9 ~~force shall elect a chairperson.~~

10 ~~(d) On or before December 31, 2010, the task force shall submit to the Governor, the~~
11 ~~Attorney General, the Speaker of the House of Representatives and the President of the Senate a~~
12 ~~report setting forth its findings as to the extent to which human trafficking for commercial sexual~~
13 ~~activity is occurring in this State and making such recommendations as it deems appropriate for~~
14 ~~legislative and executive action relating to the enforcement of this chapter and the provision of~~
15 ~~social services to victims of human trafficking.~~

16 **11-67-8. Reporting.**

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

22 ~~(1) The number of persons arrested pursuant to § 11-67-2, § 11-67-3, subsection 11-67-~~
23 ~~6(b), and subsection 11-67-6(d).~~

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

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

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

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

33 CHAPTER 67.1

34 UNIFORM ACT ON THE PREVENTION OF AND REMEDIES FOR HUMAN

1 TRAFFICKING

2 **11-67.1-1. Short title.**

3 This chapter shall be known and cited as the "Uniform Act on the Prevention of and
4 Remedies for Human Trafficking."

5 **11-67.1-2. Definitions.**

6 (a) For purposes of this chapter:

7 (1) "Adult" means an individual eighteen (18) years of age or older.

8 (2) "Coercion" means:

9 (i) The use or threat of force against, abduction of, serious harm to, or physical restraint
10 of, an individual;

11 (ii) The use of a plan, pattern, or statement with intent to cause an individual to believe
12 that failure to perform an act will result in the use of force against, abduction of, serious harm to,
13 or physical restraint of, an individual;

14 (iii) The abuse or threatened abuse of law or legal process;

15 (iv) Controlling or threatening to control an individual's access to a controlled substance
16 as defined in §21-28-1.02;

17 (v) The destruction or taking of or a threatened destruction or taking of an individual's
18 identification document or other property;

19 (vi) The use of debt bondage;

20 (vii) The use of an individual's physical or mental impairment when the impairment has a
21 substantial adverse effect on the individual's cognitive or volitional function; or

22 (viii) The commission of civil or criminal fraud.

23 (3) "Commercial sexual activity" means sexual activity for which anything of value is
24 given to, promised to, or received, by a person.

25 (4) "Debt bondage" means inducing an individual to provide:

26 (i) Commercial sexual activity in payment toward or satisfaction of a real or purported
27 debt; or

28 (ii) Labor or services in payment toward or satisfaction of a real or purported debt if:

29 (A) The reasonable value of the labor or services is not applied toward the liquidation of
30 the debt; or

31 (B) The length of the labor or services is not limited and the nature of the labor or
32 services is not defined.

33 (5) "Human trafficking" means the commission of an offense created by §§11-67.1-3
34 through 11-67.1-7.

1 (6) "Identification document" means a passport, driver's license, immigration document,
2 travel document, or other government-issued identification document, including a document
3 issued by a foreign government.

4 (7) "Labor or services" means activity having economic value.

5 (8) "Minor" means an individual less than eighteen (18) years of age.

6 (9) "Person" means an individual, estate, business or nonprofit entity, or other legal
7 entity. The term does not include a public corporation or government or governmental
8 subdivision, agency, or instrumentality.

9 (10) "Serious harm" means harm, whether physical or nonphysical, including
10 psychological, economic, or reputational, to an individual which would compel a reasonable
11 individual of the same background and in the same circumstances to perform or continue to
12 perform labor or services or sexual activity to avoid incurring the harm.

13 (11) "Sexual activity" means sexual intercourse, cunnilingus, fellatio, anal intercourse or
14 the intentional touching of the victim's or accused's intimate body parts, clothed or unclothed, if
15 the touching is for the purpose of sexual arousal, gratification, or assault. The term includes a
16 sexually-explicit performance.

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

20 (13) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
21 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
22 the United States. The term includes an Indian tribe or band recognized by federal law or
23 formally acknowledged by a state.

24 (14) "Victim" means an individual who is subjected to human trafficking or to conduct
25 that would have constituted human trafficking had this chapter been in effect when the conduct
26 occurred, regardless of whether the perpetrator is identified, apprehended, prosecuted, or
27 convicted.

28 **11-67.1-3. Trafficking an individual.**

29 (a) A person commits the offense of trafficking an individual if the person knowingly
30 recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices
31 an individual in furtherance of:

32 (1) Forced labor in violation of §11-67.1-4; or

33 (2) Sexual servitude in violation of §11-67.1-5.

34 (b) Every person who shall commit trafficking of a minor shall be guilty of a felony,

1 subject to not more than fifty (50) years imprisonment, a fine of up to forty thousand dollars
2 (\$40,000), or both.

3 (c) Every person who shall commit trafficking of an adult shall be guilty of a felony,
4 subject to not more than twenty (20) years imprisonment, a fine of up to twenty thousand dollars
5 (\$20,000), or both.

6 **11-67.1-4. Forced labor.**

7 (a) A person commits the offense of forced labor if the person knowingly uses coercion
8 to compel an individual to provide labor or services, except when such conduct is permissible
9 under federal law or law of this state other than this chapter.

10 (b) Every person who shall commit forced labor of a minor shall be guilty of a felony,
11 subject to not more than fifty (50) years imprisonment, a fine of up to forty thousand dollars
12 (\$40,000), or both.

13 (c) Every person who shall commit forced labor of an adult shall be guilty of a felony,
14 subject to not more than twenty (20) years imprisonment, a fine of up to twenty thousand dollars
15 (\$20,000), or both.

16 **11-67.1-5 Sexual servitude.**

17 (a) A person commits the offense of sexual servitude if the person knowingly:

18 (1) Maintains or makes available a minor for the purpose of engaging the minor in
19 commercial sexual activity; or

20 (2) Uses coercion or deception to compel an adult to engage in commercial sexual
21 activity.

22 (b) It is not a defense in a prosecution under subsection (a)(1) of this section that the
23 minor consented to engage in commercial sexual activity or that the defendant believed the minor
24 was an adult.

25 (c) Every person who shall commit sexual servitude of a minor shall be guilty of a felony,
26 subject to not more than fifty (50) years imprisonment, a fine of up to forty thousand dollars
27 (\$40,000), or both.

28 (d) Every person who shall commit sexual servitude of an adult shall be guilty of a
29 felony, subject to not more than twenty (20) years imprisonment, a fine of up to twenty thousand
30 dollars (\$20,000), or both.

31 **11-67.1-6. Patronizing a victim of sexual servitude.**

32 (a) A person commits the offense of patronizing a victim of sexual servitude if the person
33 knowingly gives, agrees to give or offers to give anything of value so that an individual may
34 engage in commercial sexual activity with another individual and the person knows that the other

1 individual is a victim of sexual servitude.

2 (b) Every person who shall patronize a minor for purposes of sexual servitude of a minor
3 shall be guilty of a felony, subject to not more than twenty (20) years imprisonment, a fine of up
4 to twenty thousand dollars (\$20,000), or both.

5 (c) Every person who shall patronize an adult for purposes of sexual servitude of an adult
6 shall be guilty of a felony, subject to not more than ten (10) years imprisonment, a fine of up to
7 ten thousand dollars (\$10,000), or both.

8 **11-67.1-7. Patronizing a minor for commercial sexual activity.**

9 (a) A person commits the offense of patronizing a minor for commercial sexual activity
10 if:

11 (1) With the intent that an individual engage in commercial sexual activity with a minor,
12 the person gives, agrees to give, or offers to give anything of value to a minor or another person
13 so that the individual may engage in commercial sexual activity with a minor; or

14 (2) The person gives, agrees to give, or offers to give anything of value to a minor or
15 another person so that an individual may engage in commercial sexual activity with a minor.

16 (b) Every person who shall patronize a minor for purposes of commercial sexual activity
17 with a minor shall be guilty of a felony, subject to not more than ten (10) years imprisonment, a
18 fine of up to twenty thousand dollars (\$20,000), or both.

19 **11-67.1-8. Business entity liability.**

20 (a) A person that is a business entity may be prosecuted for an offense under §§11-67.1-3
21 through 11-67.1-7 of this chapter only if:

22 (1) The entity knowingly engages in conduct that constitutes human trafficking; or

23 (2) An employee or nonemployee agent of the entity engages in conduct that constitutes
24 human trafficking and the conduct is part of a pattern of activity in violation of this chapter for
25 the benefit of the entity, which the entity knew was occurring and failed to take effective action to
26 stop.

27 (b) When a person that is a business entity is prosecuted for an offense under §§11-67.1-3
28 through 11-67.1-7, the court may consider the severity of the entity's conduct and order penalties
29 in addition to those otherwise provided for the offense, including:

30 (1) A fine of not more than fifty thousand dollars (\$50,000) per offense;

31 (2) Disgorgement of profit from activity in violation of this chapter; and

32 (3) Debarment from state and local government contracts.

33 **11-67.1-9. Aggravating circumstance.**

34 (a) An aggravating circumstance during the commission of an offense under §§11-67.1-3,

1 11-67.1-4, or 11-67.1-5 occurs when:

2 (1) The defendant recruited, enticed, or obtained the victim of the offense from a shelter
3 that serves individuals subjected to human trafficking, domestic violence, or sexual assault,
4 runaway youth, foster children, or the homeless; or

5 (2) Kidnaps, holds hostage or otherwise keeps the victim against their will.

6 (b) Whenever it appears that a person may be subject to the enhanced sentence pursuant
7 to this section, the attorney general, in no case later than the first pretrial conference, shall file
8 with the court a notice specifying that the defendant, upon conviction, is subject to the imposition
9 of sentencing in accordance with this section.

10 (c) Upon any plea of guilt or nolo contendere, or verdict or finding of guilt of the
11 defendant, the court shall conduct a sentencing hearing to determine if evidence of aggravating
12 circumstances exist. At the hearing, the court shall permit the attorney general and the defense
13 counsel to present additional evidence to the jury relevant to the determination of whether
14 aggravating circumstances exist. If the jury at the hearing, or in the case of a plea of guilty or nolo
15 contendere, the court at sentencing, determines beyond a reasonable doubt that aggravating
16 circumstances exist, they shall be sentenced as provided in subsection (d) of this section.

17 (d) If the trier of fact finds that an aggravating circumstance occurred during the
18 commission of an offense under §§11-67.1-3, 11-67.1-4, or 11-67.1-5, the defendant may be
19 imprisoned for up to five (5) years in addition to the period of imprisonment prescribed for the
20 offense. Any such sentence may run consecutively to any other sentence imposed.

21 **11-67.1-10. Restitution.**

22 (a) The court shall order a person convicted of an offense under §§11-67.1-3, 11-67.1-4,
23 or 11-67.-5 to pay restitution to the victim of the offense for:

24 (1) Expenses incurred or reasonably certain to be incurred by the victim as a result of the
25 offense, including reasonable attorneys' fees and costs; and

26 (2) An amount equal to the greatest of the following, with no reduction for expenses the
27 defendant incurred to maintain the victim:

28 (i) The gross income to the defendant for, or the value to the defendant of, the victim's
29 labor or services or sexual activity;

30 (ii) The amount the defendant contracted to pay the victim; or

31 (iii) The value of the victim's labor or services or sexual activity, calculated under the
32 minimum-wage and overtime provisions of the "Fair Labor Standards Act", 29 U.S.C. §201 et
33 seq., or subsection (a)(2) of this section, whichever is greater, even if the provisions do not apply
34 to the victim's labor or services or sexual activity.

1 (b) The court shall order restitution under subsection (a) of this section even if the victim
2 is unavailable to accept payment of restitution.

3 (c) If the victim does not claim restitution ordered under subsection (a) of this section for
4 five (5) years after entry of the order, the restitution must be paid to the criminal injuries
5 compensation fund, as established in chapter 25 of title 12.

6 **11-67.1-11. Forfeiture.**

7 (a) On motion, the court shall order a person convicted of an offense under §§11-67.1-3,
8 11-67.1-4, or 11-67.1-5 to forfeit any interest in real or personal property that:

9 (1) Was used or intended to be used to commit or facilitate the commission of the
10 offense; or

11 (2) Constitutes proceeds or was derived from proceeds that the person obtained, directly
12 or indirectly, as a result of the offense.

13 (b) In a proceeding against real or personal property under this section, the person
14 convicted of the offense may assert a defense that the forfeiture is manifestly disproportional to
15 the seriousness of the offense. The person has the burden to establish the defense by a
16 preponderance of the evidence.

17 (c) Proceeds from the public sale or auction of property forfeited under subsection (a) of
18 this section must be distributed in the manner provided for the distribution of the proceeds of
19 criminal forfeitures act pursuant to §§21-28-5.04.1 and 21-28-5.04.2.

20 **11-67.1-12. Statute of limitations.**

21 A prosecution for an offense under this chapter must be commenced not later than ten
22 (10) years after commission of the offense.

23 **11-67.1-13. Victim confidentiality.**

24 In an investigation of or a prosecution for an offense under this chapter, every agency of
25 state or local government shall keep confidential the identity, pictures, and images of the alleged
26 victim and the family of the alleged victim, except to the extent that disclosure is:

27 (1) Necessary for the purpose of investigation or prosecution;

28 (2) Required by law or court order; or

29 (3) Necessary to ensure provision of services or benefits to the victim or the victim's
30 family.

31 **11-67.1-14. Past sexual behavior of victim.**

32 In a prosecution for an offense under this chapter or a civil action under §11-67.1-18,
33 evidence of a specific instance of the alleged victim's past sexual behavior or reputation or
34 opinion evidence of past sexual behavior of the alleged victim is not admissible unless the

1 evidence is:

2 (1) Admitted in accordance with §11-37-13; or

3 (2) Offered by the prosecution to prove a pattern of human trafficking by the defendant.

4 **11-67.1-15. Immunity of minor.**

5 (a) An individual is not criminally liable or subject to a delinquency proceeding in the
6 family court for prostitution or solicitation to commit a sexual act if the individual was a minor at
7 the time of the offense and committed the offense as a direct result of being a victim.

8 (b) An individual who has engaged in commercial sexual activity is not criminally liable
9 or subject to a delinquency proceeding in the family court for prostitution or solicitation to
10 commit a sexual act if the individual was a minor at the time of the offense.

11 (c) A minor who under subsection (a) or (b) of this section is not subject to criminal
12 liability or a delinquency proceeding in family court is presumed to be an abused and/or
13 neglected child as defined in §40-11-2.

14 (d) This section does not apply in a prosecution or a delinquency proceeding for
15 patronizing a prostitute.

16 **11-67.1-16. Affirmative defense of victim.**

17 An individual charged with prostitution or solicitation to commit a sexual act, committed
18 as a direct result of being a victim may assert an affirmative defense that the individual is a
19 victim.

20 **11-67.1-17. Motion to vacate and expunge conviction.**

21 (a) An individual convicted of prostitution or solicitation to commit a sexual act,
22 committed as a direct result of being a victim may apply by motion to the court having
23 jurisdiction over the offense, to vacate the conviction and seal or expunge the record of
24 conviction. The court may grant the motion after a hearing and upon a finding that the
25 individual's participation in the offense was a direct result of being a victim.

26 (b) An official determination or documentation from a federal, state, local, or tribal
27 agency that the individual was a victim at the time of the offense creates a presumption that the
28 individual's participation was a direct result of being a victim.

29 (c) A motion filed under subsection (a) of this section, any hearing conducted on the
30 motion, and any relief granted shall be conducted in accordance with the provisions of §§12-1-12,
31 12-1-12.1, and 12-1-12.2, of title 12 or chapter 1.3 of title 12.

32 **11-67.1-18. Civil action.**

33 (a) A victim may bring a civil action against a person that commits an offense against the
34 victim under §§11-67.1-3, 11-67.1-4, or 11-67.1-5 of this chapter for compensatory damages,

1 punitive damages, injunctive relief, and any other appropriate relief.

2 (b) If a victim prevails in an action under this section, the court shall award the victim
3 reasonable attorneys' fees and costs.

4 (c) An action under this section must be commenced not later than ten (10) years after the
5 later of the date on which the victim:

6 (1) No longer was subject to human trafficking; or
7 (2) Attained eighteen (18) years of age.

8 (d) Damages awarded to a victim under this section for an item must be offset by any
9 restitution paid to the victim pursuant to §11-67.1-10.

10 (e) This section does not preclude any other remedy available to a victim under federal
11 law or other general or public law of this state other than this chapter.

12 **11-67.1-19. Council on human trafficking.**

13 (a) The council on human trafficking is created in the executive branch. The governor
14 shall appoint the chair and members of the council. Members must include representatives of:

15 (1) Department of the attorney general, the department of health, the department of
16 children, youth and families, the department of behavioral healthcare, developmental disabilities
17 and hospitals, and law enforcement, that have contact with victims or perpetrators;

18 (2) Nongovernmental organizations that represent, advocate for, or provide services to
19 victims; and

20 (3) Other organizations and individuals, including victims, whose expertise would benefit
21 the council.

22 (b) The state agencies represented on the council created under this section shall provide
23 staff to the council.

24 (c) The council created under this section shall meet on a regular basis and:

25 (1) Develop a coordinated and comprehensive plan to provide victims with services;
26 (2) Collect and evaluate data on human trafficking in this state and submit an annual
27 report to the governor and legislature;

28 (3) Promote public awareness about human trafficking, victim remedies and services, and
29 trafficking prevention;

30 (4) Create a public awareness sign that contains the state and national human trafficking
31 resource center hotline information.

32 (5) Coordinate training on human trafficking prevention and victim services for state and
33 local employees who may have recurring contact with victims or perpetrators; and

34 (6) Conduct other appropriate activities.

1 **11-67.1-20. Display of public awareness sign; Penalty for failure to display.**

2 (a) Any public or quasi-public transportation agency shall display a public awareness sign
3 that contains the state and national human trafficking resource center hotline information in every
4 transportation station, rest area, and welcome center in the state which is open to the public.

5 (b) An employer shall display the public awareness sign described in subsection (a) of
6 this section in a place that is clearly conspicuous and visible to employees and the public at each
7 of the following locations in this state at which the employer has employees:

8 (1) A strip club or other sexually-oriented business;

9 (2) A business entity previously found to be a nuisance for prostitution;

10 (3) A job-recruitment center;

11 (4) A hospital; or

12 (5) An emergency-care provider.

13 (c) The department of labor and training shall impose a fine of three hundred dollars
14 (\$300) per violation on an employer that knowingly fails to comply with subsection (b) of this
15 section. The fine shall be the exclusive remedy for failure to comply.

16 **11-67.1-21. Eligibility for benefit or service.**

17 (a) A victim is eligible for a benefit or service available through the state in any plan
18 established by the council on human trafficking [and identified in the plan developed under §11-
19 67.1-19(c)(1)], including compensation under the criminal injuries compensation act pursuant to
20 chapter 25 of title 12, regardless of immigration status.

21 (b) A minor who has engaged in commercial sexual activity is eligible for a benefit or
22 service available through the state in any plan established by the council on human trafficking,
23 regardless of immigration status.

24 (c) As soon as practicable after a first encounter with an individual who reasonably
25 appears to any state or local agency, to be a victim or a minor who has engaged in commercial
26 sexual activity, the agency shall notify the department of attorney general, a state or local law
27 enforcement agency or the department of health that the individual may be eligible for a benefit
28 or service pursuant to this chapter.

29 **11-67.1-22. Law enforcement protocol.**

30 (a) On request from an individual whom a law enforcement officer or agent thereof,
31 reasonably believes is a victim who is or has been subjected to a severe form of trafficking or
32 criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8
33 U.S.C. §1101(a)(15)(T), or 8 U.S.C. §1101(a)(15)(U), or for continued presence under 22 U.S.C.
34 §7105(c)(3), the law enforcement officer, as soon as practicable after receiving the request, shall

1 complete, sign, and give to the individual the Form I-914B or Form I-918B provided by the
2 United States Citizenship and Immigration Services on its Internet website and request assistance
3 from the local Immigration and Naturalization office.

4 (b) If the law enforcement agency or officer determines that an individual does not meet
5 the requirements for the agency to comply with subsection (a) of this section, the agency shall
6 inform the individual of the reason and that the individual may make another request under
7 subsection (a) of this section and submit additional evidence satisfying the requirements.

8 **11-67.1-23. Grant to or contract with service provider.**

9 (a) To the extent that funds are appropriated for this purpose, the council on human
10 trafficking may make a grant to or contract with a unit of state or local government, or
11 nongovernmental victim's service organization to develop or expand service programs for
12 victims.

13 (b) A recipient of a grant or contract under subsection (a) of this section shall report
14 annually to the council on human trafficking the number and demographic information of all
15 victims receiving services under the grant or contract.

16 **11-67.1-24. Uniformity of application and construction.**

17 In applying and construing this uniform act, consideration must be given to the need to
18 promote uniformity of the law with respect to its subject matter among states that enact it.

19 **11-67.1-25. Severability.**

20 If any provision of this chapter or its application to any person or circumstance is held
21 invalid, the invalidity does not affect other provisions or applications of this chapter which can be
22 given effect without the invalid provision or application, and to this end the provisions of this
23 chapter are severable.

24 **11-67.1-26. Effect of repeal on criminal prosecutions.**

25 (a) For the purposes of this chapter, the term "event" means and includes any conduct,
26 investigation, suit, prosecution, complaint, information, or indictment related to violations
27 committed before the date of repeal of chapter 67 of title 11.

28 (b) No event occurring or committed under chapter 67 of title 11, as repealed, shall in any
29 case be affected by the repeal.

30 (c) All of the events may be proceeded with pursuant to chapter 67 of title 11, which shall
31 be deemed to be in force for the purpose of prosecuting any of the events to final judgment and
32 execution or sentence, as the case may be.

33 SECTION 3. Section 11-37.1-2 of the General Laws in Chapter 11-37.1 entitled "Sexual
34 Offender Registration and Community Notification" is hereby amended to read as follows:

1 **11-37.1-2. Definitions.**

2 (a) "Aggravated offense" means, and includes, offenses involving sexual penetration of
3 victims of any age through the use of force, or the threat of use of force, or offenses involving
4 sexual penetration of victims who are fourteen (14) years of age or under.

5 (b) "Board", "board of review", or "sex offender board of review" means the sex offender
6 board of review appointed by the governor pursuant to § 11-37.1-6.

7 (c) (1) "Conviction" or "convicted" means, and includes, any instance where:

8 (i) A judgment of conviction has been entered against any person for any offense
9 specified in subsection (e) or (k), regardless of whether an appeal is pending; or

10 (ii) There has been a finding of guilty for any offense specified in subsection (e) or (k),
11 regardless of whether an appeal is pending; or

12 (iii) There has been a plea of guilty or nolo contendere for any offense specified in
13 subsection (e) or (k), regardless of whether an appeal is pending; or

14 (iv) There has been an admission of sufficient facts or a finding of delinquency for any
15 offense specified in subsection (e) or (k), regardless of whether or not an appeal is pending.

16 (2) Provided, in the event that a conviction, as defined in this subsection, has been
17 overturned, reversed, or otherwise vacated, the person who was the subject of the conviction shall
18 no longer be required to register as required by this chapter and any records of a registration shall
19 be destroyed. Provided, further, that nothing in this section shall be construed to eliminate a
20 registration requirement of a person who is again convicted of an offense for which registration is
21 required by this chapter.

22 (d) [Deleted by P.L. 2003, ch. 162, § 1 and by P.L. 2003, ch. 170, § 1].

23 (e) "Criminal offense against a victim who is a minor" means, and includes, any of the
24 following offenses or any offense in another jurisdiction that is substantially the equivalent of the
25 following or for which the person is or would be required to register under 42 U.S.C. § 14071 or
26 18 U.S.C. § 4042(c):

27 (1) Kidnapping or false imprisonment of a minor, in violation of §§ 11-26-1.4, 11-26-1 or
28 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under the age of
29 eighteen (18) years;

30 (2) Enticement of a child in violation of § 11-26-1.5 with the intent to violate §§ 11-37-6,
31 11-37-8, 11-37-8.1, 11-37-8.3;

32 (3) Any violation of §§ 11-37-6, 11-37-8, 11-37-8.1, or 11-37-8.3;

33 (4) Any violation of § 11-1-10, where the underlying offense is a violation of chapter 34
34 of this title and the victim, or person solicited to commit the offense, is under the age of eighteen

- 1 (18) years;
- 2 (5) Any violation of § 11-9-1(b) or (c);
- 3 (6) Any violation of § 11-9-1.3;
- 4 (7) Any violation of § 11-9-1.5;
- 5 (8) Any violation of § 11-37.1-10;
- 6 (9) Any violation of § 11-37-8.8;
- 7 (10) Any violation of § 11-64-2, where the victim is under the age of eighteen (18) years;
- 8 (11) Murder in violation of § 11-23-1, where the murder was committed in the
- 9 perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is
- 10 under eighteen (18) years of age; or
- 11 (12) ~~Any violation of § 11-67-6~~ [Any violation of §§11-67-6, 11-67.1-3\(b\), 11-67.1-4\(b\),](#)
- 12 [11-67.1-5\(c\), 11-67.1-6\(b\), or 11-67.1-7\(b\).](#)
- 13 (f) "Designated state law enforcement agency" means the attorney general or his or her
- 14 designee.
- 15 (g) "Employed, carries on a vocation" means and includes the definition of "employed,
- 16 carries on a vocation" under 42 U.S.C. § 14071.
- 17 (h) "Institutions of higher education" means any university, two- or four-year (2 or 4)
- 18 college or community college.
- 19 (i) "Mental abnormality" means a congenital or acquired condition of a person that affects
- 20 the emotional or volitional capacity of the person in a manner that predisposes that person to the
- 21 commission of criminal sexual acts to a degree that makes the person a menace to the health and
- 22 safety of other persons.
- 23 (j) "Predator" means a person whose act(s) is (are) or was (were) directed at a stranger, or
- 24 at a person with whom a relationship has been established or promoted for the primary purpose of
- 25 victimization.
- 26 (k) "Sexually violent offense" means, and includes, any violation of §§ 11-37-2, 11-37-4,
- 27 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, 11-67-2 (where the victim was subject to commercial
- 28 sexual activity), 11-67-3(a), 11-67-3(b) (where the victim was subject to commercial sexual
- 29 activity) [11-67.1-3\(c\), \(where the victim was subject to sexual servitude\), 11-67.1-5\(d\), 11-67.1-](#)
- 30 [6\(c\)](#); or 11-5-1, where the specified felony is sexual assault; or § 11-23-1, where the murder was
- 31 committed in the perpetration of, or attempted perpetration of, rape or any degree of sexual
- 32 assault or child molestation; or any offense in another jurisdiction that is substantially the
- 33 equivalent of any offense listed in this subsection or for which the person is or would be required
- 34 to register under 42 U.S.C. § 14071 or 18 U.S.C. § 4042(c).

1 (l) "Sexually violent predator" means a person who has been convicted of a sexually
2 violent offense and who has a mental abnormality or personality disorder that makes the person
3 likely to engage in predatory sexually violent offenses.

4 (m) "Student" means, and includes, the definition of "student" under 42 U.S.C. § 14071.

5 (n) "Parole board" means the parole board or its designee.

6 SECTION 4. This act shall take effect upon passage.

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LC001152/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING CRIMINAL OFFENSES - UNIFORM ACT ON THE PREVENTION OF AND
REMEDIES FOR HUMAN TRAFFICKING

1 This act would repeal chapter 67 of title 11 entitled "Trafficking of persons and
2 involuntary servitude" and create the "Uniform Act on Prevention and Remedies for Human
3 Trafficking" which would establish penalties and remedies for human trafficking and would make
4 human trafficking and human trafficking for purposes of sexual servitude, forced labor and
5 commercial sexual activity, felonies punishable by imprisonment and fines. This act would also
6 establish a council on human trafficking for the prevention of such offenses and would establish
7 programs to assist victims and would make victims eligible for compensation under the criminal
8 injuries compensation act.

9 This act would take effect upon passage.

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LC001152/SUB A
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