

2021 -- S 0771

LC002525

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINAL OFFENSES -- COMMERCIAL SEXUAL ACTIVITY

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

Date Introduced: April 01, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

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

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

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

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

16 (1) Being threatened or subjected to physical harm;

17 (2) Being physically restrained or threatened to be physically restrained;

18 (3) Being subject to threats of abuse of law or legal process;

19 (4) Being subject to destruction, concealment, removal, or confiscation, of any passport or

1 other immigration document or any other actual or purported governmental identification  
2 document; or

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

5 **11-34.1-3. Procurement of sexual conduct for a fee.**

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

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

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

18 **11-34.1-4. Loitering for prostitution.**

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

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

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

30 **11-34.1-5. Expungement of certain criminal records.**

31 (a) Records defined in § 12-1.3-1 of any person convicted, placed on probation, or whose  
32 case was filed pursuant to § 12-10-12, for a violation of § 11-34.1-2 or § 11-34.1-4 may be  
33 expunged one year after completion of that person's sentence.

34 (b) The motion shall be filed in accordance with a chapter 12-1.3 and ~~may~~ shall be granted

1 in the court's discretion regardless of the person's first offender status.

2 **11-34.1-6. Soliciting from motor vehicles for indecent purposes -- Forfeiture of motor**  
3 **vehicle.**

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

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

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

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

23 **11-34.1-11. Examination and treatment for venereal disease.**

24 (a) Any person convicted for any violation of this chapter or of any other statute relating  
25 to lewd or lascivious behavior or unlawful sexual intercourse, ~~and who shall be confined or~~  
26 ~~imprisoned in any correctional institution for more than ten (10) days,~~ may be examined by the  
27 department of health for venereal disease, through duly appointed, licensed physicians as agents.  
28 Any person that is examined ~~may be detained until the result of the examination is duly reported.~~  
29 ~~If and~~ found with to have venereal disease in an infectious stage, ~~the person~~ shall be treated, and if  
30 a menace to the public, quarantined, in accordance with rules and regulations, not inconsistent with  
31 law, of the director of health, who is authorized to formulate and issue them. Refusal to comply  
32 with or obey the rules or regulations shall constitute a ~~misdemeanor~~ civil violation and be  
33 punishable by fine not to exceed two hundred fifty dollars (\$250), ~~or a sentence of incarceration of~~  
34 ~~up to three (3) months, or both.~~

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

3           **11-34.1-13. Reporting.**

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

9           (1) The number of persons ~~arrested~~ cited with a violation pursuant to subsection 11-34.1-  
10 2(a), subsection 11-34.1-2(b), § 11-34.1-3, § 11-34.1-4, subsection 11-34.1-6(a), subsection 11-  
11 34.1-6(b) and subsection 11-34.1-7 of this chapter;

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

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

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES -- COMMERCIAL SEXUAL ACTIVITY

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- 1           This act would decriminalize certain commercial sexual activity and repeal the authority
- 2   to detain a defendant in the event they test positive for venereal disease.
- 3           This act would take effect upon passage.

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