

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL OFFENSES -- COMMERCIAL SEXUAL ACTIVITY

Introduced By: Senator Tiara T. Mack

Date Introduced: March 30, 2023

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 and 11-34.1-6 of the General Laws
2 in Chapter 11-34.1 entitled "Commercial Sexual Activity" are hereby amended to read as follows:

3 **11-34.1-2. Prostitution.**

4 (a) A person is guilty of prostitution when such person engages, or agrees, or offers to
5 engage in sexual conduct with another person in return for a fee. Any person found guilty under
6 this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a
7 term not exceeding six (6) months, or to a fine of not less than two hundred fifty dollars (\$250) nor
8 more than one thousand dollars (\$1,000), or both.

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

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

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

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

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

17 (4) Being subject to destruction, concealment, removal, or confiscation, of any passport or
18 other immigration document or any other actual or purported governmental identification
19 document; or

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

3 (d) A person shall not be cited, arrested, or prosecuted under this section if the person
4 witnessed or was a victim of, and reported to law enforcement in good faith and in a timely manner,
5 one or more of the reported offenses listed in subsection (e) of this section.

6 (e) A reported offense covered by this chapter shall include any offense prohibited by the
7 following chapters of the general laws: chapter 5 of title 11, assaults; chapter 18 of title 11, fraud
8 and false dealing; chapter 23 of title 11, homicide, chapter 26 of title 11, kidnapping; chapter 37 of
9 title 11, sexual assault; chapter 39 of title 11, robbery; chapter 41 of title 11, theft, embezzlement,
10 false pretenses and misappropriation; chapter 42 of title 11, threats and extortion; chapter 57 of title
11 11, racketeer violence; chapter 59 of title 11, stalking; chapter 67.1 of title 11, human trafficking;
12 and § 11-9-1.3, child pornography.

13 **11-34.1-3. Procurement of sexual conduct for a fee.**

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

21 (b) Any person found guilty of a subsequent offense under this section shall be subject to
22 imprisonment for a term not exceeding one year, or a fine of not less than five hundred dollars
23 (\$500) nor more than one thousand dollars (\$1,000), or both.

24 (c) A person shall not be cited, arrested, or prosecuted under this section if the person
25 witnessed or was a victim of, and reported to law enforcement in good faith and in a timely manner,
26 one or more of the reported offenses listed in subsection (d) of this section.

27 (d) A reported offense covered by this chapter shall include any offense prohibited by the
28 following chapters of the general laws: chapter 5 of title 11, assaults; chapter 18 of title 11, fraud
29 and false dealing; chapter 23 of title 11, homicide, chapter 26 of title 11, kidnapping; chapter 37 of
30 title 11, sexual assault; chapter 39 of title 11, robbery; chapter 41 of title 11, theft, embezzlement,
31 false pretenses and misappropriation; chapter 42 of title 11, threats and extortion; chapter 57 of title
32 11, racketeer violence; chapter 59 of title 11, stalking; chapter 67.1 of title 11, human trafficking;
33 and § 11-9-1.3, child pornography.

34 **11-34.1-4. Loitering for prostitution.**

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

7 (b) Any person found guilty of a subsequent offense under this section shall be subject to
8 imprisonment for a term not exceeding one year, or a fine of not less than five hundred dollars
9 (\$500) nor more than one thousand dollars (\$1,000), or both.

10 (c) A person shall not be cited, arrested, or prosecuted under this section if the person
11 witnessed or was a victim of, and reported to law enforcement in good faith and in a timely manner,
12 one or more of the reported offenses listed in subsection (d) of this section.

13 (d) A reported offense covered by this chapter shall include any offense prohibited by the
14 following chapters of the general laws: chapter 5 of title 11, assaults; chapter 18 of title 11, fraud
15 and false dealing; chapter 23 of title 11, homicide, chapter 26 of title 11, kidnapping; chapter 37 of
16 title 11, sexual assault; chapter 39 of title 11, robbery; chapter 41 of title 11, theft, embezzlement,
17 false pretenses and misappropriation; chapter 42 of title 11, threats and extortion; chapter 57 of title
18 11, racketeer violence; chapter 59 of title 11, stalking; chapter 67.1 of title 11, human trafficking;
19 and § 11-9-1.3, child pornography.

20 **11-34.1-6. Soliciting from motor vehicles for indecent purposes — Forfeiture of motor**
21 **vehicle.**

22 (a) It shall be unlawful for any person, while an operator or passenger in a motor vehicle
23 to stop, or attempt to stop another vehicle or pedestrian, or to engage or attempt to engage persons
24 in another vehicle or pedestrians in conversation, for the purposes of prostitution or other indecent
25 act, or to patronize, induce, or otherwise secure another person to commit any commercial sexual
26 activity. Any person found guilty under this section shall be subject to a sentence of up to six (6)
27 months incarceration or a fine of not less than five hundred dollars (\$500) nor more than one
28 thousand dollars (\$1,000), or both.

29 (b) Any person found guilty of a subsequent offense under this section shall be subject to
30 imprisonment for a term of not more than one year and a fine of not less than seven hundred fifty
31 dollars (\$750) nor more than one thousand dollars (\$1,000). No fine imposed under this section
32 may be suspended.

33 (c) The motor vehicle being unlawfully operated as defined in this chapter by a person
34 convicted of a second or subsequent offense of soliciting from a motor vehicle for indecent

1 purposes pursuant to this chapter which vehicle is owned by the operator, may be seized by the law
2 enforcement agency and forfeited at the discretion of the court. Any funds received from the
3 forfeiture shall be deposited in the victim's of crimes indemnity fund (VCIF).

4 (d) A person shall not be cited, arrested, or prosecuted under this section if the person
5 witnessed or was a victim of, and reported to law enforcement in good faith and in a timely manner,
6 one or more of the reported offenses listed in subsection (e) of this section.

7 (e) A reported offense covered by this chapter shall include any offense prohibited by the
8 following chapters of the general laws: chapter 5 of title 11, assaults; chapter 18 of title 11, fraud
9 and false dealing; chapter 23 of title 11, homicide, chapter 26 of title 11, kidnapping; chapter 37 of
10 title 11, sexual assault; chapter 39 of title 11, robbery; chapter 41 of title 11, theft, embezzlement,
11 false pretenses and misappropriation; chapter 42 of title 11, threats and extortion; chapter 57 of title
12 11, racketeer violence; chapter 59 of title 11, stalking; chapter 67.1 of title 11, human trafficking;
13 and § 11-9-1.3, child pornography.

14 SECTION 2. Section 23-20.8-3 of the General Laws in Chapter 23-20.8 entitled "Licensing
15 of Massage Therapists" is hereby amended to read as follows:

16 **23-20.8-3. Practice of massage therapy — License required — Use of title limited —**
17 **Qualifications for licenses continuing education — Fees.**

18 (a) A person shall not practice, or hold himself or herself out to others as practicing massage
19 therapy, or as a massage therapist, without first receiving from the board a license to engage in that
20 practice.

21 (b) A person shall hold himself or herself out to others as a massage therapist when the
22 person adopts or uses any title or description, including: "massage therapist," "masseur,"
23 "masseuse," "massagist," "massotherapist," "myotherapist," "body therapist," "massage
24 technician," "massage practitioner," or any derivation of those terms that implies this practice.

25 (c) It shall be unlawful to advertise the practice of massage therapy using the term massage
26 therapy, or any other term that implies a massage technique or method, in any public or private
27 publication or communication by a person not licensed by the state of Rhode Island department of
28 health as a massage therapist. Any person who holds a license to practice as a massage therapist in
29 this state may use the title "licensed massage therapist" and the abbreviation "LMT." No other
30 persons may assume this title or use such abbreviation or any other word, letters, signs, or figures
31 to indicate that the person using the title is a licensed massage therapist. A massage therapist's
32 name and license number must conspicuously appear on all of the massage therapist's print and
33 electronic material. A massage therapist licensed under this chapter must have available his or her
34 license in all places of business practice.

1 (d)(1) The board shall, by rule, establish requirements for continuing education. The board
2 may establish such requirements to be completed and verified annually. The board shall require no
3 more than six (6) continuing education units annually.

4 (2) Applicants for annual licensure renewal shall meet continuing education requirements
5 as prescribed by the board. On application for renewal of license, massage therapists shall attest to
6 completion of six (6) continuing education units annually that may include, but not be limited to:

7 (i) Formal presentations;

8 (ii) Conferences;

9 (iii) Coursework from a massage school or program, accredited college/university; and/or

10 (iv) Self-study or online coursework.

11 The programs or offerings shall be approved or sponsored by a board-approved
12 organization.

13 (3) A licensee who fails to complete the continuing education requirements described
14 herein may be subject to disciplinary action pursuant to § 5-40-13.

15 (4) A license may be denied to any applicant who fails to provide satisfactory evidence of
16 completion of continuing education relevant to massage therapy as required herein.

17 (5) The board may waive the requirement for continuing education if the board is satisfied
18 that the applicant has suffered hardship that may have prevented meeting the educational
19 requirements.

20 (e) The fee for original application for licensure as a massage therapist and for annual
21 license renewal shall be as set forth in § 23-1-54. Fees for all other licenses under this chapter shall
22 be fixed in an amount necessary to cover the cost of administering this chapter.

23 (f) Any person applying for a license under this chapter shall undergo a national criminal
24 background check. Such persons shall apply to the bureau of criminal identification of the state
25 police or local police department for a national criminal background check. Fingerprinting shall be
26 required. Upon the discovery of any disqualifying information as defined in subsection (g), the
27 bureau of criminal identification of the state police or the local police department shall inform the
28 applicant, in writing, of the nature of the disqualifying information and, without disclosing the
29 nature of the disqualifying information, shall notify the board, in writing, that disqualifying
30 information has been found. In those situations in which no disqualifying information has been
31 found, the bureau of criminal identification shall inform the applicant and the board in writing of
32 this fact. An applicant against whom disqualifying information has been found may request that a
33 copy of the national criminal background report be sent to the board, which shall make a judgment
34 regarding the licensure of the applicant. The applicant shall be responsible for payment of the costs

1 of the national criminal background check.

2 (g) "Disqualifying information" means those offenses, including, but not limited to, those
3 defined in chapters 34, 34.1, and 37 of title 11, and § 23-17-37.

4 (h) Notwithstanding the above, any city or town may, by ordinance, regulate the opening,
5 the presence, the location, and the operation of any body-works business or any business providing
6 body-works services. Provided, however, no ordinance may impose additional qualifications
7 beyond those adopted by the department of health pursuant to this chapter respecting national
8 criminal background checks for persons applying for a license.

9 (i) A person shall not be cited, arrested, or prosecuted under this section if the person
10 witnessed or was a victim of, and reported to law enforcement in good faith and in a timely manner,
11 one or more of the reported offenses listed in subsection (j) of this section.

12 (j) A reported offense covered by this chapter shall include any offense prohibited by the
13 following chapters of the general laws: chapter 5 of title 11, assaults; chapter 18 of title 11, fraud
14 and false dealing; chapter 23 of title 11, homicide, chapter 26 of title 11, kidnapping; chapter 37 of
15 title 11, sexual assault; chapter 39 of title 11, robbery; chapter 41 of title 11, theft, embezzlement,
16 false pretenses and misappropriation; chapter 42 of title 11, threats and extortion; chapter 57 of title
17 11, racketeer violence; chapter 59 of title 11, stalking; chapter 67.1 of title 11, human trafficking;
18 and § 11-9-1.3, child pornography.

19 SECTION 3. This act shall take effect upon passage.

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LC002375
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO CRIMINAL OFFENSES -- COMMERCIAL SEXUAL ACTIVITY

1 This act would prohibit the arrest of any person who is engaged in commercial sexual
2 activity or practicing massage without a license if they were a witness or victim of and, in good
3 faith and in a timely manner, reported to law enforcement, the enumerated criminal offenses to
4 include assault, sexual assault, homicide, robbery, larceny and the like.

5 This act would take effect upon passage.

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