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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- DELINQUENT AND DEPENDENT
CHILDREN-- CRIMINAL INJURIES COMPENSATION-- SEXUALLY EXPLOITED
CHILDREN

Introduced By: Representatives Ackerman, Messier, Handy, Craven, and Amore

Date Introduced: March 03, 2017

Referred To: House Judiciary

(DCYF)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-25-20 of the General Laws in Chapter 12-25 entitled "Criminal
2 Injuries Compensation" is hereby amended to read as follows:

3 **12-25-20. Offenses to which chapter applies.**

4 The office may award compensation in accordance with the provisions of this chapter for
5 personal injury or death which resulted from offenses in the following categories:

- 6 (1) Assault with intent to commit murder, robbery, or rape;
7 (2) Assault with a dangerous weapon;
8 (3) Assault and battery;
9 (4) Mayhem;
10 (5) Indecent assault and battery on a child under thirteen (13) years of age;
11 (6) Arson or statutory burning;
12 (7) Kidnapping;
13 (8) Robbery or larceny from that person;
14 (9) Murder;
15 (10) Manslaughter;
16 (11) First or second degree sexual assault;
17 (12) Child molestation, first or second degree;
18 (13) The abominable and detestable crime against nature or assault with intent to commit

- 1 the abominable and detestable crime against nature;
- 2 (14) Driving under the influence of alcohol or drugs;
- 3 (15) Refusal by a driver to submit to a chemical test for alcohol or drugs in the immediate
4 aftermath of a collision;
- 5 (16) Driving so as to endanger, resulting in death, pursuant to § 31-27-1;
- 6 (17) Driving so as to endanger, resulting in personal injury, pursuant to § 31-27-1.1;
- 7 (18) Any other crime excluding motor vehicle offenses other than those enumerated in
8 this section which results in personal injury or death; ~~and~~
- 9 (19) Failure to stop by a driver in circumstances which result in the death of any person,
10 pursuant to § 31-26-1; and
- 11 (20) Sex trafficking of a minor pursuant to §11-67-6.

12 SECTION 2. Title 14 of the General Laws entitled "DELINQUENT AND DEPENDENT
13 CHILDREN" is hereby amended by adding thereto the following chapter:

14 CHAPTER 1.1

15 THE RHODE ISLAND SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN ACT

16 **14-1.1-1. Short title.**

17 This act shall be known and may be cited as "The Rhode Island Safe Harbor for Sexually
18 Exploited Children Act".

19 **14-1.1-2. Purposes.**

20 This act shall be construed so as to effectuate the following purposes:

21 (1) To ensure that minors who are victims of sex trafficking are treated as victims and not
22 criminals by providing for immunity to the child victim from prosecution for prostitution and
23 redirecting the child victim of sexual exploitation and sex trafficking away from the criminal or
24 juvenile justice systems and to refer the child victim to supportive services and programs;

25 (2) To preserve the unity of the family whenever possible and to provide for the care,
26 protection, and treatment of minors coming within the provisions of this act; and

27 (3) To provide child victims of sex trafficking and sexual exploitation access to the
28 criminal injuries compensation fund.

29 **14-1.1-3. Definitions.**

30 The following words and phrases when used in this chapter shall, unless the context
31 otherwise requires, be construed as follows:

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

1 (2) "Child or minor" means a person under the age of eighteen (18) years;

2 (3) "Child or minor victim of sex trafficking or sexual exploitation" means a minor as
3 defined in this chapter who has been recruited, employed, enticed, solicited, isolated, harbored,
4 transported, provided, persuaded, obtained, induced or maintained by force, fraud or coercion for
5 the purposed of performing commercial sex acts;

6 (4) "Criminal injuries compensation fund" means the financial compensation fund for
7 victims of violent crime enumerated in chapter 25 of title 12 and administered by the office of the
8 general treasurer;

9 (5) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital
10 intrusion or intrusion by any object into the genital opening or anal opening of another person's
11 body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the
12 sexual desire of either person; and

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

16 **14-1.1-4. Immunity from prosecution for prostitution.**

17 Child victims of sexual trafficking or sexual exploitation who are under the age of
18 eighteen (18) years or who are in the custody of the department of children, youth and families
19 and are under the age of twenty-one (21) years shall not be charged with nor adjudicated for the
20 crime of prostitution as enumerated in §11-34.1-2 or for the crime of loitering for prostitution as
21 enumerated in §11-34.1-4.

22 **14-1.1-5. Risk assessment and uniform response protocols.**

23 (a) When a child is alleged to be a victim of sex trafficking or sexual exploitation, the
24 department of children, youth and families for the law enforcement agency initially responding
25 shall conduct a screening and risk assessment to determine if the child should be considered to be
26 a victim of sex trafficking or sexual exploitation. Additionally, the responding agency(ies) shall
27 use a uniform set of protocols for responding to alleged incidents of child sex trafficking or
28 sexual exploitation.

29 (b) The department of children, youth and families, in collaboration with the office of the
30 attorney general, and the department of public safety shall identify a screening/risk assessment
31 tool(s) to be used for this purpose.

32 (c) The department of children, youth and families, in collaboration with the office of the
33 attorney general and the local law enforcement agencies shall implement uniform response
34 protocols for addressing sex trafficking and sexual exploitation of minors to be used by the

1 department of children, youth and families and other agency(ies) when responding to such
2 incidents.

3 **14-1.1-6. Reporting child victims of sex trafficking and sexual exploitation as victims**
4 **of child abuse.**

5 (a) Any child who is believed to be a victim of sex trafficking or sexual exploitation shall
6 be reported to the department of children, youth and families as an alleged victim of child abuse
7 or neglect in accordance with the provisions of chapter 11 of title 40.

8 (b) The department shall report all such allegations to the appropriate law enforcement
9 agency(ies) who shall investigate such allegations jointly with the department.

10 (c) A victim of sex trafficking or severe forms of trafficking as defined in §40-11-2 shall
11 be considered as a victim of child abuse and neglect and sexual abuse regardless of whether or
12 not the individual alleged to have perpetrated the sexual trafficking is a parent of the child or
13 other person responsible for the child's welfare.

14 (d) Should the department determine that the allegations of child abuse or neglect are
15 supported in accordance with evidentiary standards, the department shall provide, if needed,
16 appropriate services to the child and/or their family and may file a dependency, neglect, and/or
17 abuse petition in the family court.

18 **14-1.1-7. Access to crime injuries compensation fund.**

19 Any minor, or a person age eighteen (18) years but under the age of twenty-one (21)
20 years who is in the care and custody of the department of children, youth and families, and who is
21 identified as a victim of sex trafficking or sexual exploitation shall be eligible to apply to the
22 criminal injuries compensation fund in accordance with the provisions of chapter 25 of title 12
23 and the rules and regulations promulgated by the office of the general treasurer.

24 SECTION 3. Section 40-11-2 of the General Laws in Chapter 40-11 entitled "Abused and
25 Neglected Children" is hereby amended to read as follows:

26 **40-11-2. Definitions.**

27 When used in this chapter and unless the specific context indicates otherwise:

28 (1) "Abused and/or neglected child" means a child whose physical or mental health or
29 welfare is harmed, or threatened with harm, when his or her parent or other person responsible for
30 his or her welfare:

31 (i) Inflicts, or allows to be inflicted, upon the child physical or mental injury, including
32 excessive corporal punishment; or

33 (ii) Creates, or allows to be created, a substantial risk of physical or mental injury to the
34 child, including excessive corporal punishment; or

1 (iii) Commits, or allows to be committed, against the child, an act of sexual abuse; or

2 (iv) Fails to supply the child with adequate food, clothing, shelter, or medical care,
3 though financially able to do so or offered financial or other reasonable means to do so; or

4 (v) Fails to provide the child with a minimum degree of care or proper supervision or
5 guardianship because of his or her unwillingness or inability to do so by situations or conditions
6 such as, but not limited to: social problems, mental incompetency, or the use of a drug, drugs, or
7 alcohol to the extent that the parent or other person responsible for the child's welfare loses his or
8 her ability or is unwilling to properly care for the child; or

9 (vi) Abandons or deserts the child; or

10 (vii) Any child in need of services because another person:

11 ~~(vii)~~(A) Sexually exploits the child in that the person allows, permits, or encourages the
12 child to engage in prostitution, sex trafficking, or other sex acts as defined by the provisions in §
13 11-34.1-1 et seq., entitled "Commercial Sexual Activity" and §40-1.1-2; or

14 ~~(viii)~~(B) Sexually exploits the child in that the person allows, permits, encourages, or
15 engages in the obscene or pornographic photographing, filming, or depiction of the child in a
16 setting that taken as a whole, suggests to the average person that the child is about to engage in,
17 or has engaged in, any sexual act, or that depicts any such child under eighteen (18) years of age
18 performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or

19 ~~(ix)~~(C) Commits, or allows to be committed, any sexual offense against the child as such
20 sexual offenses are defined by the provisions of chapter 37 of title 11, entitled "Sexual Assault",
21 as amended; or

22 ~~(x)~~(D) Commits, or allows to be committed, against any child an act involving sexual
23 penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is fifteen
24 (15) years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator
25 knows, or has reason to know, that the victim is a severely impaired person as defined by the
26 provisions of § 11-5-11, or physically helpless as defined by the provisions of § 11-37-6.

27 (2) "Child" means a person under the age of eighteen (18).

28 (3) "Child protective investigator" means an employee of the department charged with
29 responsibility for investigating complaints and/or referrals of child abuse and/or neglect and
30 institutional child abuse and/or neglect.

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

34 ~~(4)~~(5) "Department" means department of children, youth and families.

1 ~~(5)~~(6) "Educational program" means any public or private school, including boarding
2 schools, or any home-schooling program.

3 ~~(6)~~(7) "Institution" means any private or public hospital or other facility providing
4 medical and/or psychiatric diagnosis, treatment, and care.

5 ~~(7)~~(8) "Institutional child abuse and neglect" means situations of known or suspected
6 child abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster
7 parent or the employee of a public or private residential child-care institution or agency; or any
8 staff person providing out-of-home care or situations where the suspected abuse or neglect occurs
9 as a result of the institution's practices, policies, or conditions.

10 ~~(8)~~(9) "Law-enforcement agency" means the police department in any city or town and/or
11 the state police.

12 ~~(9)~~(10) "Mental injury" includes a state of substantially diminished psychological or
13 intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability
14 to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior,
15 including incorrigibility, ungovernability, or habitual truancy; provided, however, that the injury
16 must be clearly attributable to the unwillingness or inability of the parent or other person
17 responsible for the child's welfare to exercise a minimum degree of care toward the child.

18 ~~(10)~~(11) "Person responsible for child's welfare" means the child's parent; guardian; any
19 individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian
20 and has unsupervised access to a child; foster parent; an employee of a public or private
21 residential home or facility; or any staff person providing out-of-home care (out-of-home care
22 means child day care to include family day care, group day care, and center-based day care).
23 Provided, further, that an individual, eighteen (18) years of age or older, who resides in the home
24 of a parent or guardian and has unsupervised access to the child, shall not have the right to
25 consent to the removal and examination of the child for the purposes of § 40-11-6.

26 ~~(11)~~(12) "Physician" means any licensed doctor of medicine, licensed osteopathic
27 physician, and any physician, intern, or resident of an institution as defined in subdivision (6).

28 ~~(12)~~(13) "Probable cause" means facts and circumstances based upon as accurate and
29 reliable information as possible that would justify a reasonable person to suspect that a child is
30 abused or neglected. The facts and circumstances may include evidence of an injury, or injuries,
31 and the statements of a person worthy of belief, even if there is no present evidence of injury.

32 (14) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and
33 digital intrusion or intrusion by any object into the genital opening or anal opening of another
34 person's body or the stimulation by hand of another's genitals for the purposes of arousing or

1 gratifying the sexual desire of either person.

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

5 ~~(13)~~(16) "Shaken-baby syndrome" means a form of abusive head trauma, characterized
6 by a constellation of symptoms caused by other than accidental traumatic injury resulting from
7 the violent shaking of and/or impact upon an infant or young child's head.

8 (17) "Victim of sex trafficking" means a minor, as defined in this chapter, who has been
9 recruited, employed, enticed, solicited, isolated, harbored, transported, provided, persuaded,
10 obtained, induced or maintained by force, fraud or coercion for the purposes of performing
11 commercial sex acts.

12 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 PROCEDURE -- DELINQUENT AND DEPENDENT
CHILDREN-- CRIMINAL INJURIES COMPENSATION-- SEXUALLY EXPLOITED
CHILDREN

1 This act would make sex trafficking victims eligible for benefits from the criminal
2 injuries compensation fund, establish "safe harbor" provisions for sexually exploited children and
3 designate them as abused and neglected children.

4 This act would take effect upon passage.

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