

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

2022

AN ACT

RELATING TO ANTI-PROSTITUTION LAWS AND PUBLIC SAFETY

SECTION 1. Sections 11-34.1-1, 11-34.1-2, 11-34.1-3, 1-4, 11-34.1-6, 11-34.1-7, 11-34.1-8, 11-34.1-9, 11-34.1-10, 11-34.1-11, 11-34.1-12, and 11-34.1-14 of the General Laws in Chapter 34.1 entitled "Commercial Sexual Activity" are hereby repealed.

~~Chapter 34.1~~
~~Commercial Sexual Activity~~

~~§ 11-34.1-1. Definitions.~~

~~The following words and phrases, when used in this chapter, have the following meanings:~~

~~(1) "Sexual conduct" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital intrusion or intrusion by any object into the genital opening or anal opening of another person's body, or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the sexual desire of either person.~~

~~(2) "Commercial sexual activity" means any sexual conduct which is performed or promised in return for a fee.~~

~~(3) "Fee" means any thing of monetary value, including but not limited to money, given as consideration for sexual conduct.~~

~~11-34.1-2. Prostitution.~~

~~(a) A person is guilty of prostitution when such person engages, or agrees, or offers to engage in sexual conduct with another person in return for a fee. Any person found guilty under this~~

~~section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not exceeding six (6) months, or to a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.~~

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

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

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

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

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

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

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

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

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

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

11-34.1-4. Loitering for prostitution.

~~(a) It shall be unlawful for any person to stand or wander in or near any public highway or street,~~

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

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

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

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

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

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

~~11-34.1-7. Pandering or permitting prostitution—Not allowed.~~

~~(a) It shall be unlawful for any person, by any promise or threat, by abuse of person, or by any other device or scheme, to cause, induce, persuade, or encourage a person to become a prostitute or to come into this state or leave this state for the purpose of prostitution. It shall be unlawful for any person to receive or give, or agree to receive or give, any money or thing of value for procuring or attempting to procure any person to become a prostitute or to come into this state or leave this state for the purpose of prostitution.~~

~~(b) It shall be unlawful for any person to knowingly permit, allow, transport, or offer or agree to receive any person into any place, structure, house, building, room, or business for the purpose of committing any commercial sexual activity, or knowingly permit any person to remain in the premises for those purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated in this chapter. Any person, knowing a person to be a prostitute, who shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of commercial sexual activity, from moneys loaned, advanced to, or charged against the prostitute by a landlord, manager, owner of a spa or business, or any other place where commercial sexual activity is practiced or allowed, or who shall share in the earnings, proceeds, or moneys shall be guilty of the crime of permitting prostitution.~~

~~(c) Every person who commits any of the offenses described in subsection (a) of this section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of pandering. For the first offense, that person shall be punished by imprisonment for not less than one year and not more than five (5) years and a fine of not less than two thousand dollars (\$2,000), nor more than five thousand dollars (\$5,000). For every subsequent offense, that person shall be punished by imprisonment for not less than three (3) years and not more than ten (10) years and a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000).~~

~~(d) Any proceeds derived directly from a violation of this section are subject to seizure and forfeiture and further proceedings shall be required for their forfeiture as is prescribed by law in chapter 21 of title 12.~~

~~11-34.1-8. Venue of pandering or permitting prostitution prosecutions.~~

~~It shall not be a defense to any prosecution of any of the offenses described in this chapter that the offense or any part of the offense shall have been committed outside the state, and any offense described in this chapter may be alleged to have been committed. The offender may be prosecuted and punished in any county in which the offender or the person upon or against whom the offense was committed may be found, or in which the offense was consummated, or in which any overt acts in furtherance of the offenses shall have been committed.~~

~~11-34.1-9. Spouse as witness in pandering or permitting prostitution.~~

~~In any prosecution for any offense under this chapter, any person shall be a competent witness against the offender in relation to any offense committed by the offender upon or against him or her, or by the offender against or upon another person or persons in his or her presence,~~

~~notwithstanding that person may have been married to the offender before or after the commission of the offense, and notwithstanding that person may be called as witness during the existence of the marriage or after its dissolution.~~

~~11-34.1-10. Reputation testimony as evidence.~~

~~In the trial of any person charged with a violation of this chapter, testimony concerning the reputation of the place where the violation occurred or of persons who frequent or reside in it shall be admissible in evidence in support of the charge.~~

~~11-34.1-11. Examination and treatment for venereal disease.~~

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

~~11-34.1-12. Human Immunodeficiency Virus (HIV).~~

~~(a) Any person convicted of a violation of any provisions of this chapter shall be required to be tested for Human Immunodeficiency Virus (HIV). No consent for the testing shall be required.~~

~~(b) The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.~~

~~(c) All persons tested under this section shall be provided pre-test and post-test counseling by~~

~~individuals trained by the department of health, as an HIV testing counselor, in accordance with regulations promulgated by the department of health; provided, that the counseling shall be in accordance with acceptable medical standards.~~

~~(d) All persons who are tested under this section, who are determined to be injecting drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV testing counselor and/or the attending practitioner as follows:~~

~~(1) Those persons who test positive for HIV infection shall be given priority for those outpatient substance abuse treatment programs that are sponsored or supported by the appropriate state agency responsible for these services.~~

~~(2) Those persons who are injecting drug users and test negative for HIV infection shall be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state agency responsible for these services for earliest possible evaluation and treatment.~~

~~11-34.1-14. Severability.~~

~~If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.~~

SECTION 2. Sections 11-34.1-5 and 11-34.1-13 of the General Laws in Chapter 34.1 entitled “Commercial Sexual Activity” are hereby amended to read as follows:

§ 11-34.1-5. Expungement of certain criminal records.

~~(a) Records defined in § 12-1.3-1 of any person convicted, placed on probation, or whose case was filed pursuant to § 12-10-12, for a violation of § 11-34.1-2, § 11-34.1-3, or § 11-34.1-4, §11-34.1-6, or §11-34-11 ~~may shall~~ be expunged at no cost upon petition of the person.~~

~~(b) The motion shall be filed in accordance with a chapter 12-1.3 and may be granted in the court's discretion regardless of the person's first offender status.~~

§ 11-34.1-13. Reporting.

On or before January 15, 2010, and semi-annually thereafter until January 15, 2023, each law

enforcement agency in this state shall file with the Governor, the Attorney General, the Speaker of the House of Representatives and the President of the Senate a report concerning the agency's enforcement of this chapter during the preceding six (6) month period. Each semi-annual report shall contain, but need not be limited to, the following information:

- (1) The number of persons arrested pursuant to subsection 11-34.1-2(a), subsection 11-34.1-2(b), § 11-34.1-3, § 11-34.1-4, subsection 11-34.1-6(a), subsection 11-34.1-6(b) and subsection 11-34.1-7 of this chapter;
- (2) Of those arrested, the number of persons convicted, placed on probation, whose case is filed pursuant to § 12-10-12, whether those persons pled guilty or nolo contendere or were found guilty after trial by judge or jury;
- (3) The fines and/or sentences of those persons identified pursuant to subdivision (2) of this section; and
- (4) A summary of the amounts of fines levied and the lengths of sentences identified pursuant to subdivision (3) of this section.

SECTION 3. Section 7-14-2 of the General Laws in Chapter 7-14 entitled "Suppression of Criminally Operated Businesses" is hereby amended to read as follows:

§ 7-14-2. Enjoining operations of a business.

The attorney general is authorized to institute civil proceedings in the superior court to enjoin the operation of any business other than a corporation, including a partnership, limited partnership, unincorporated association, joint venture, or sole proprietorship, when:

- (1) Any person in control of the business, who may be a partner in a partnership, a participant in a joint venture, the owner of a sole proprietorship, an employee or agent of the business, or a person who, in fact, exercises control over the operations of the business, has, in conducting its business affairs, purposely engaged in a persistent course of gambling, unlawful traffic in narcotics, extortion, embezzlement, intimidation, bribery, ~~prostitution~~, crimes against nature, or other illegal conduct with the intent to compel or induce other persons, firms, or corporations to deal with the business or engage in any illegal conduct; and
- (2) That for the prevention of future illegal conduct of the same character, the public interest requires the operation of the business to be enjoined.

SECTION 4. Section 7-15-1 of the General Laws in chapter 7-15 entitled "Racketeer Influenced and Corruption Organizations" is hereby amended to read as follows:

§ 7-15-1. Definitions.

(a) "Enterprise" includes any sole proprietorship, partnership, corporation, association, or other legal entity, and any union or group of individuals associated for a particular purpose although not a legal entity.

(b) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property.

(c) "Racketeering activity" means any act or threat involving murder, kidnapping, gambling, arson in the first, second, or third degree, robbery, bribery, extortion, larceny or [prostitution violations of chapter 67.1 of title 11](#), or any dealing in narcotic or dangerous drugs that is chargeable as a crime under state law and punishable by imprisonment for more than one year, or child exploitations for commercial or immoral purposes in violation of § 11-9-1(b) or (c) or § 11-9-1.1.

(d) "Unlawful debt" means a debt incurred or contracted in an illegal gambling activity or business or that is unenforceable under state law in whole or in part as to principal or interest because of the law relating to usury.

SECTION 5. Section 9-17-13 of the General Laws in chapter 9-17 entitled "Witnesses" is hereby amended to read as follows:

§ 9-17-13. Spouses of parties.

In the trial of every civil cause, the husband or wife of either party shall be deemed a competent witness; provided, that neither shall be permitted to give any testimony tending to criminate the other or to disclose any communication made to him or her, by the other, during their marriage, except on trials of petitions for divorce between them, or trials between them involving their respective property rights, ~~and under the provisions of § 11-34.1-9.~~

SECTION 6. Section 10-1-5 of the General Laws in chapter 10-1 entitled "Abatement of Nuisances" is hereby amended to read as follows:

§ 10-1-5. Evidence of reputation — Conviction of offenses against decency.

In any hearing in proceedings under this chapter, evidence of the general reputation of the place, or the conviction, whether by trial or plea, including a plea of nolo, of any person of the violation

of [chapter 67.1 of title 11 statutes against prostitution, lewdness, or assignation](#) committed in any such place shall be admissible for the purposes of proving the existence of the nuisance.

SECTION 7. Sections 11-30-1 and 11-30-8 of the General Laws in chapter 11-30 entitled "Nuisances" is hereby amended to read as follows:

§ 11-30-1. Definitions.

For the purpose of this chapter and chapter 1 of title 10, the terms "nuisance or common nuisance", "person", or "place" are defined as follows:

- (1) "Nuisance" or "common nuisance" means and includes any place as defined in this section in or upon which [lewdness, assignation, or prostitution a violation of chapter 67.1 of title 11](#) is conducted, permitted, continued, or exists, and the personal property used in conducting or maintaining any place for that purpose, and all buildings, places, or tenements used as houses of ill fame, for illegal gaming, or where intemperate, idle, dissolute, noisy, or disorderly persons are in the habit of resorting;
- (2) "Person" includes any individual, corporation, association, partnership, trustee, lessee, agent, or assignee; and
- (3) "Place" includes any building, structure, or tenement, or any separate part or portion of a building or structure, or the ground itself.

§ 11-30-8. Entry by police officers of premises — Commanding departure of persons found.

The sheriffs of the several counties and their deputies, and the town sergeants, constables, and chiefs of police of the several towns and cities may, within their respective towns and counties, enter any house or building that they have cause to suspect to be inhabited for purposes of [prostitution and lewdness violations of chapter 67.1 of title 11](#), to be resorted to by persons of ill fame or by persons of dissolute, idle, or disorderly character, or in which they have reasonable cause to believe intoxicating liquors are sold in violation of law, or unlawful games are carried on or permitted, or in which they have reasonable cause to believe a common nuisance is kept or maintained. Upon entering the house or building, they may command all persons assembled there to immediately depart from the house or building. In the event of the neglect or refusal of any person so commanded to leave, they may arrest that person and hold him or her for a period not exceeding twenty-four (24) hours for prosecution. Every person who shall so refuse or neglect shall be deemed guilty of a misdemeanor and shall be fined not exceeding twenty dollars (\$20.00) or be imprisoned not exceeding thirty (30) days.

SECTION 8. Sections 11-34-8.3 and 11-34-11 of the General Laws in chapter 11-34 entitled “Prostitution and Lewdness” are hereby repealed.

~~§ 11-34-8.3. Criminal forfeiture procedures.~~

~~(a) Any criminal complaint charging an offense under §§ 11-34-8.1 or 11-34-8.2 shall set forth with reasonable particularity:~~

~~(1) Whether the law enforcement agency seeks to have forfeited property pursuant to this section; and~~

~~(2) What property the law enforcement agency seeks to have forfeited.~~

~~(b) The court may, upon application of the law enforcement agency, enter a restraining order or injunction, require any person claiming any interest in the subject motor vehicle to execute a satisfactory performance bond to the state, or take any other action to preserve the availability of the motor vehicle subject to forfeiture described in § 11-34-8.2 whether prior to or subsequent to the filing of a complaint. Written notice and an opportunity for a hearing shall be afforded to persons appearing to have an interest in the motor vehicle. The hearing is limited to the issues of whether:~~

~~(1) There is a substantial probability that the law enforcement agency will prevail on the issue of forfeiture and that failure to enter the order will result in the motor vehicle being destroyed, conveyed, encumbered or further encumbered, removed from the jurisdiction of the court, or otherwise made unavailable for forfeitures; and~~

~~(2) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.~~

~~(c) (1) An order under this section may be entered upon application of the law enforcement agency without notice or opportunity for a hearing when a complaint has not yet been filed with respect to the property if the law enforcement agency demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under § 11-34-8.2 and that provision of notice will jeopardize the availability of the motor vehicle for forfeiture. The order shall expire within ten (10) days of the date on which it is entered unless for good cause shown or unless the party against whom it is entered consents to an extension for a longer period.~~

~~(2) A hearing requested by any party in interest concerning an order entered under this subsection shall be held at the earliest possible time and prior to the expiration of the temporary~~

order.

~~(3) The court may receive and consider, at the hearing held pursuant to this subsection, evidence and information that would be inadmissible in court.~~

~~(d) Upon conviction of a person for an offense under § 11-34-8.1, the court may enter a judgment of forfeiture of the property described in §§ 11-34-8.2 and 11-34-8.3 to the city or town and shall also authorize the law enforcement agency to seize the motor vehicle ordered forfeited upon any terms and conditions that the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the law enforcement agency, enter any appropriate orders, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the law enforcement agency in the motor vehicle ordered forfeited.~~

~~(e) All right, title, and interest in the motor vehicle described in § 11-34-8.1 vests in the city or town upon the commission of the act giving rise to forfeiture under this section subject to the limitations of § 11-34-8.2. Any such motor vehicle that is subsequently transferred to any person may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the state, unless the transferee establishes in a hearing that he or she is a bona fide purchaser for value of the motor vehicle who at the time of purchase was reasonably without cause to believe that the motor vehicle was subject for forfeiture.~~

~~§ 11-34-11. Loitering for indecent purposes in or near schools.~~

~~Any person who violates this section by attempting to engage a person for the purpose of prostitution or other indecent act, or to patronize or induce or otherwise secure a person to commit any indecent act in the building or on the grounds or within three hundred (300) yards of the grounds of a public or private elementary, vocational, or secondary school, shall be punished by a term of imprisonment of not more than one year and a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).~~

SECTION 9. Sections 11-67.1-15, 11-67.1-16 and 11-67.1-20 of the General Laws in chapter 11-67 entitled “Uniform Act on Prevention of and Remedies for Human Trafficking” are hereby amended to read as follows:

§ 11-67.1-15. Immunity of minor.

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

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

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

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

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

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

§ 11-67.1-20. Display of public-awareness sign — Penalty for failure to display.

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

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

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

(2) A business entity previously found to be a nuisance for ~~prostitution~~ violations of chapter 67.1 of title 11;

(3) A job-recruitment center;

(4) A hospital; or

(5) An emergency-care provider.

(c) The department of labor and training shall impose a fine of three hundred dollars (\$300) per

violation on an employer that knowingly fails to comply with subsection (b) of this section. The fine shall be the exclusive remedy for failure to comply.

SECTION 10. Sections 23-6.3-1 and 23-6.3-4 of the General Laws in chapter 23-6.3 entitled “Prevention and Suppression of Contagious Diseases — HIV/AIDS” are hereby amended to read as follows:

§ 23-6.3-1. Purpose.

The purpose of this chapter is to reduce vulnerability to HIV/AIDS transmission, protect persons who are infected with HIV from discrimination, ensure informed consent for testing, and to provide consistent terms and standards within this title and as applicable to chapters ~~34.1 and~~ 37 of title 11, chapter 28 of title 21, and chapter 24 of title 40.1.

§ 23-6.3-4. Exceptions to consent requirements.

(a) A healthcare provider may test for the presence of HIV without obtaining consent from the individual to be tested under the following conditions:

- (1) When the individual to be tested is under one year of age;
- (2) When a child between one and thirteen (13) years of age appears to be symptomatic for HIV;
- (3) When the individual to be tested is a minor under the care and authority of the department of children, youth and families, and the director of that department certifies that an HIV test is necessary to secure health or human services for that individual;
- (4) In a licensed healthcare facility or healthcare setting, in the event that an occupational health representative or physician, registered nurse practitioner, physician assistant, or nurse-midwife, not directly involved in the exposure, determines that an employee or emergency service worker, other than one in a supervisory position to the person making the determination, had a significant exposure to the blood and/or body fluids of a patient and the patient or the patient's guardian refuses to grant consent for an HIV test to determine whether the patient has HIV, then, if a sample of the patient's blood is available, that blood shall be tested for HIV.
 - (i) If a sample of the patient's blood is not otherwise available and the patient refuses to grant consent to draw blood, the employee or emergency service worker may petition the superior court for a court order mandating that the test be performed.
 - (ii) Before a patient or a sample of the patient's blood is required to undergo an HIV test, the

employee or emergency service worker must submit to a baseline HIV test within seventy-two (72) hours of the exposure.

(iii) No person who determines that an employee or emergency service worker has sustained a significant exposure and authorizes the HIV testing of a patient, nor any person or healthcare facility who acts in good faith and recommends the test be performed, shall have any liability as a result of their actions carried out under this chapter, unless those persons are proven to have acted in bad faith.

(iv) For the purposes of this section, "emergency service worker" means a worker responding on behalf of a licensed ambulance/rescue service, or a fire department or a law enforcement agency, who, in the course of his/her professional duties, has been exposed to bodily fluids in circumstances that present a significant risk of transmission of HIV, and has completed a pre-hospital exposure form in accordance with § 23-4.1-19.

(5) In an emergency, where due to a grave medical or psychiatric condition, and it is impossible to obtain consent from the patient or, if applicable under state law, the patient's parent, guardian, or agent.

(6) As permitted under § 23-1-38 entitled "HIV Antibody Testing-Sperm Collection or Donation."

~~(7) Any individual convicted of a violation of any provisions of chapter 34.1 of title 11 entitled "Commercial Sexual Activity," shall be required to be tested for HIV unless already documented HIV positive. All individuals tested under this section shall be informed of their test results. All individuals tested under this section who are determined to be injecting and/or intra-nasal drug users shall be referred to appropriate substance abuse treatment as outlined in § 23-6.3-3(e).~~

~~(8)~~ Any individual convicted of possession of any controlled substance as defined in chapter 28 of title 21 entitled "Uniform Controlled Substances Act," that has been administered with a hypodermic instrument, retractable hypodermic syringe, needle, intra-nasally, or any similar instrument adapted for the administration of drugs shall be required to be tested for HIV unless already documented HIV positive.

~~(9)~~ All individuals tested under this section shall be informed of their test results.

~~(10)~~ In accordance with the provisions of chapter 37 of title 11, entitled, "Sexual Assault," any individual who has admitted to or been convicted of or adjudicated wayward or delinquent by reason of having committed any sexual offense involving penetration whether or not a sentence or fine is imposed or probation granted, shall be ordered by the court upon petition of the victim, immediate family members of the victim or legal guardian of the victim, to submit to a blood test for the presence of a sexually transmitted disease including, but not limited to, HIV. All individuals tested under this section shall be informed of their test results.

(4110) In accordance with the provisions of § 42-56-37, entitled "HIV Testing," every individual who is committed to the adult correctional institutions to any criminal offense, after conviction, is required to be tested for HIV.

(b) It is unlawful for any person to disclose to a third party the results of an individual's HIV test without the prior written consent of that individual, except in accordance with § 23-6.3-7.

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

§ 40-11-2. Definitions.

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

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

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

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

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

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

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

(vi) Abandons or deserts the child; or

(vii) Sexually exploits the child in that the person allows, permits, or encourages the child to engage in prostitution as defined by the provisions in § 11-34.1-1 et seq., entitled "Commercial Sexual Activity" commercial sexual activity or other acts as defined in chapter 67.1 of title 11; or

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

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

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

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

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

(4) "Children's advocacy center (CAC)" means a community-based organization that is a member of the Rhode Island chapter of children advocacy centers and an accredited member (or working toward accreditation) of the National Children's Alliance.

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

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

(7) "Healthcare provider" means any provider of healthcare services involved in the delivery or care of infants or care of children.

(8) "Institution" means any private or public hospital or other facility providing medical or psychiatric diagnosis, treatment, and care.

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

(10) "Law enforcement agency" means the police department in any city or town or the state

police.

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

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

(13) "Physician" means any licensed doctor of medicine, licensed osteopathic physician, and any physician, intern, or resident of an institution as defined in subsection (8).

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

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

SECTION 12. Section 42-56-20.3 of the General Laws in chapter 42-56 entitled "Corrections Department" is hereby amended to read as follows:

§ 42-56-20.3. Community correctional program for women offenders.

(a) **Program established.** In addition to the provisions of § 42-56-20.2, there shall be established within the department of corrections a community correctional program for women offenders. Notwithstanding any provision to the contrary, the department of corrections may contract with private agencies to carry out the provisions of this section. The civil liability of these agencies and their employees, acting within the scope of their employment, and carrying out the provisions of this section, shall be limited in the same manner and dollar amount as if they were agencies or employees of the state.

(b) **Persons subject to this section.** Every person who is either sentenced to imprisonment in the women's division of the adult correctional institutions for a term of two (2) years or less or awaiting trial at the women's division of the adult correctional institutions shall be eligible to serve in the community confinement program for women offenders under the provisions of this section.

(c) **Terms of community correctional program.**

(1) The director, or his or her designee, shall refer persons eligible to serve in the community correctional program to the program director of the community correctional program. The program director shall be responsible for developing with each person an individualized plan, which shall be designed toward providing her an opportunity for rehabilitation and restitution. Each plan shall assess the need for, and provide for, employment, vocational or academic education, housing, restitution, community service, or any other social service or counseling need appropriate to the particular woman. Each plan shall be submitted to the director of the department of corrections, or his or her designee, for approval.

(2) Upon approval by the director, or his or her designee, of the plan, the plan shall be submitted to the sentencing judge for his or her approval. Upon the court's approval, the person shall be released from the adult correctional institutions for participation in the community correctional program. The supervision of persons so released shall be conducted by the director, or his or her designee. The director, or his or her designee, shall have the full power and authority set forth in § 42-56-20.2.

(d) **Violations.** Any person serving in the community correctional program who is found to be a violator of any of the terms and conditions imposed upon her according to her plan, this section or any rules, regulations, or restrictions issued pursuant hereto shall serve the balance of her sentence in a classification deemed appropriate by the director.

~~(e) **Costs.**~~

~~(1) **Assessment of additional penalty for prostitution related offenses.** There shall be assessed as a penalty, in addition to those provided by law, against all defendants charged under § 11-34.1-1 et seq., who plead nolo contendere or guilty, or who are found guilty of the commission of those crimes as follows:~~

~~(i) Where the offense charged is a felony, the assessment shall be in the amount of five hundred dollars (\$500), or ten percent (10%) of any fine imposed on the defendant by the court, whichever is greater;~~

~~(ii) Where the offense charged is a misdemeanor, the assessment shall be in the amount of three hundred and fifty dollars (\$350), or ten percent (10%) of any fine imposed on the defendant by~~

~~the court, whichever is greater;~~

~~(iii) Costs shall be assessed whether or not the defendant is sentenced to prison.~~

~~(2) When there are multiple counts or multiple charges to be disposed of simultaneously, the judge may, in his or her discretion, suspend the obligation of the defendant to pay on more than three (3) counts or charges.~~

~~(3) The assessment shall be deposited as general revenues.~~

SECTION 13. This act shall take effect on passage.