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LC01530/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

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A N A C T

RELATING TO CRIMINAL OFFENSES - TRAFFICKING OF PERSONS AND
INVOLUNTARY SERVITUDE

Introduced By: Senators Perry, Crowley, Gallo, Sosnowski, and Lanzi

Date Introduced: February 25, 2009

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-67-1, 11-67-2, and 11-67-3 of the General Laws in Chapter 11-
2 67 entitled "Trafficking of Persons and Involuntary Servitude" are hereby amended to read as
3 follows:

4 **11-67-1. Definitions.** -- As used herein:

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

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

12 (3) "Forced labor" means labor performed or provided by another person that is obtained
13 or maintained through:

14 (i) Any scheme, plan, or pattern intending to cause or threatening to cause physical harm
15 to any person;

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

17 (iii) An actor's abusing or threatening to abuse the law or legal process;

18 (iv) An actor's knowingly destroying, concealing, removing, confiscating, or possessing

1 without a person's consent any actual or purported passport or other immigration document, or
2 any other actual or purported government identification document, of another person;

3 (v) An actor's blackmail; or

4 (vi) An actor's intimidation.

5 (4) "Labor" means work of economic or financial value.

6 (5) "Maintain" means, in relation to labor, to secure continued performance thereof,
7 regardless of any initial agreement on the part of the victim to perform such type of labor.

8 (6) "Obtain" means in relation to labor, to secure continued performance thereof.

9 (7) "Sex act" means any sexual contact or sexual penetration of a person, as defined in
10 section 11-37-1.

11 (8) "Victim" means a person subject to the practices set forth in section 11-67-2 or 11-
12 67-3.

13 (9) "Mentally disabled" means a person who has a mental impairment which renders that
14 person incapable of appraising the nature of the act.

15 (10) "Mentally incapacitated" means a person who is rendered temporarily incapable of
16 appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other
17 substance administered to that person without his or her consent, or who is mentally unable to
18 communicate unwillingness to engage in the act.

19 (11) "Physically helpless" means a person who is unconscious, asleep, or for any other
20 reason is physically unable to communicate unwillingness to engage in the act.

21 (12) "Minor" means a person who is under the age of eighteen (18) years.

22 **11-67-2. Involuntary servitude.** -- (a) Whoever knowingly subjects, attempts to subject,
23 or engages in a conspiracy to subject another person to forced labor in order to commit a
24 commercial sexual activity either by:

25 (1) Causing or threatening to cause physical harm to any person;

26 (2) Physically restraining or threatening to physically restrain another person;

27 (3) Abusing or threatening to abuse the law or legal process;

28 (4) Knowingly destroying, concealing, removing, confiscating or possessing without that
29 person's consent any actual or purported passport or other immigration document, or any other
30 actual or purported government identification document, of another person; or

31 (5) By using intimidation; shall be guilty of a felony and subject to not more than twenty
32 (20) years imprisonment or a fine of not more than twenty thousand dollars (\$20,000) or both.

33 ~~(b) In cases involving a minor between the ages of seventeen (17) and eighteen (18)~~
34 ~~years, the defendant is guilty of a felony, and subject to not more than thirty (30) years~~

1 ~~imprisonment, or a fine of not more than thirty thousand dollars (\$30,000), or both;~~

2 ~~-(e) In cases in which the minor had not attained the age of seventeen (17) years,~~
3 ~~defendant is guilty of a felony, and subject to not more than forty (40) years imprisonment, or a~~
4 ~~fine of up to forty thousand dollars (\$40,000), or both.~~

5 **11-67-3. Trafficking of persons for forced labor or commercial sexual activity. --**

6 Whoever knowingly:

7 (a) Recruits, entices, harbors, transports, provides, maintains or obtains by any means, or
8 attempts to recruit, entice, harbor, transport provide, maintain or obtain by any means, another
9 person, intending or knowing that the person will be subjected to forced labor in order to commit
10 a commercial sexual activity; or

11 (b) Benefits, financially or by receiving anything of value, from knowing participation in
12 a venture which has engaged in an act described in violation of section 11-67-2, or 11-67-3, ~~is~~

13 (c) Subjects or attempts to subject a person who is mentally incapacitated, mentally
14 disabled or physically helpless to commit commercial sexual activity shall be guilty of a felony
15 and subject to not more than twenty (20) years imprisonment or a fine of not more than twenty
16 thousand dollars (\$20,000), or both; provided, however, that this ~~subsection~~ section shall not
17 apply to a "victim" as defined in this chapter.

18 SECTION 2. Chapter 11-67 of the General Laws entitled "Trafficking of Persons and
19 Involuntary Servitude" is hereby amended by adding thereto the following sections:

20 **11-67-3.1. Trafficking of minors for commercial sexual activity. –** (a) Whoever
21 knowingly:

22 (1) Recruits, entices, harbors, transports, provides, maintains or obtains by any means, or
23 attempts to recruit, entice, harbor, transport, provide, maintain or obtain by any means, a minor,
24 intending or knowing that the minor will be subjected to commit a commercial sexual activity;

25 (2) Benefits, financially or by receiving anything of value derived from participation in a
26 venture which includes an act described in sections 11-67-2 or 11-67-3 wherein the victim is a
27 minor shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a
28 fine of up to forty thousand dollars (\$40,000), or both; provided, however, that this section shall
29 not apply to a "victim" as defined in this chapter.

30 (b) In a prosecution under this section in which the defendant had a reasonable
31 opportunity to observe the minor so recruited, enticed, harbored, transported, provided,
32 maintained or obtained, the government need not prove that the defendant knew that the victim
33 was a minor.

34 (c) A person is guilty of violating this section if he or she is over the age of twenty-one

1 (21) and knowingly purchases and engages in commercial sexual activity as defined in this
2 section.

3 **11-67-6. Training.** – (a) The curriculum for new law enforcement officers presented at
4 the Providence police academy, the state police academy, and the municipal police academy shall
5 include at least eight (8) hours of training on human trafficking and involuntary servitude. That
6 training shall stress the enforcement of criminal law in human trafficking cases and shall include:

7 (1) The nature, extent, and consequences of human trafficking and involuntary servitude;

8 (2) Legal rights of and remedies available to victims of human trafficking and
9 involuntary servitude;

10 (3) Services and facilities available to victims of human trafficking and involuntary
11 servitude;

12 (4) Legal duties imposed on police officers to make arrests under this chapter and to offer
13 protection and assistance; and

14 (5) Techniques for handling incidents of human trafficking and involuntary servitude that
15 minimize the likelihood of injury to the officer and promote the safety of the victim.

16 (b) Each law enforcement agency shall provide four (4) hours of in-service training to its
17 officers on issues of human trafficking and involuntary servitude. This training shall stress the
18 enforcement of criminal law in human trafficking cases and shall include:

19 (1) The nature, extent, and consequences of human trafficking and involuntary servitude;

20 (2) Legal rights of and remedies available to victims of human trafficking and
21 involuntary servitude;

22 (3) Services and facilities available to victims of human trafficking and involuntary
23 servitude;

24 (4) Legal duties imposed on police officers to make arrests under this chapter and to offer
25 protection and assistance; and

26 (5) Techniques for handling incidents of human trafficking and involuntary servitude that
27 minimize the likelihood of injury to the officer and promote the safety of the victim.

28 **11-67-7. Oversight committee created – Composition – Duties and responsibilities.** –

29 (a) There is hereby created a trafficking of persons oversight committee which shall consist of
30 sixteen (16) members to be appointed as follows: the attorney general or his or her designee who
31 shall act as chairperson; the superintendent of the state police or his or her designee; the president
32 of the Rhode Island chiefs of police or his or her designee; the presiding justice of the superior
33 court or his or her designee; the chief justice of the district court or his or her designee; the public
34 defender or his or her designee; the director of the department of children, youth and family or his

1 or her designee; the director of the international institute or his or her designee; the director of
2 Day One or his or her designee; the director of the Rhode Island commission on women or his or
3 her designee; the director of the Rhode Island coalition against human trafficking or his or her
4 designee; the director of direct action for rights and equality (D.A.R.E.) or his or her designee; the
5 director of the urban league of Rhode Island or his or her designee; the director of the national
6 association of social workers, Rhode Island chapter, or his or her designee; the president of the
7 Rhode Island national organization for women or his or her designee; and a qualified elector of
8 this state appointed by the governor (preferably a former victim of trafficking).

9 (b) Each member of the committee may appoint a permanent designee to attend
10 committee meetings in his or her absence. A quorum of the committee shall consist of a majority
11 of its members.

12 (c) The committee shall meet no fewer than four (4) times per year at the call of the
13 chairperson or upon petition of a majority of the committee members.

14 (d) The committee may invite other non-government organizations that have vested
15 interest or special expertise in this area to participate in its deliberations. Such invitations shall be
16 made by a majority vote of the committee.

17 (e) The committee shall have the duties and responsibilities to:

18 (i) Develop and promulgate guidelines for a model policy for police response to
19 trafficking-in-persons investigations;

20 (ii) Develop and promulgate a uniform trafficking-in-persons report for use by the law
21 enforcement community;

22 (iii) Develop and promulgate an information packet on the rights of and the services
23 available to victims of trafficking-in-persons, which materials shall be made available in the
24 following languages: English, Portuguese, Spanish, Russian, Korean, Cambodian, Hmong,
25 Laotian, Vietnamese and French;

26 (iv) Develop and promulgate an assessment protocol for evaluating the effectiveness of
27 the enforcement of this chapter, the prosecution of cases under this chapter, and the provision of
28 services to victims of trafficking-in-persons cases under this chapter;

29 (v) Develop and promulgate an assessment protocol for identifying victims of trafficking-
30 in-persons which shall include, but not be limited to:

31 (A) Fraud and/or financial coercion assessments;

32 (B) Physical abuse assessments;

33 (C) Freedom of movement assessments;

34 (D) Psychological coercion assessments;

1 (E) Behavior indicators assessments;

2 (F) Substance addiction assessments; and

3 (G) Environmental indicators assessments.

4 (vi) No information obtained through the assessment protocol developed in accordance
5 with subsection (v) may be used in any legal or other proceeding against any victim or purported
6 victim so questioned unless ordered by a court following an in camera review of the records. Any
7 disclosure ordered by a court shall be subject to a protective order forbidding further disclosure to
8 anyone not a party to the relevant court action.

9 (vii) Evaluate the effectiveness of the enforcement of this chapter, the prosecution of
10 cases under this chapter, and the provision of services to victim of trafficking-in-persons cases
11 under this chapter and submit an annual report setting forth its findings and recommendations, if
12 any, to the governor, to the president of the senate and to the speaker of the house of
13 representatives. Said report shall include the number of arrests, prosecutions and convictions
14 under this chapter and the number and lengths of prison sentences and the number and amounts of
15 fines imposed under this chapter.

16 (f) Guidelines, reports and protocols required by this section shall be promulgated in
17 accordance with the rulemaking provisions of chapter 35 of title 42 of the general laws, not later
18 than one year after the effective date of this act.

19 (g) All guidelines, reports and protocols promulgated pursuant to this section shall be
20 implemented by all law enforcement agencies in this state not later than six (6) months after the
21 promulgation thereof. Law enforcement officials shall thereafter use and follow such guidelines,
22 reports and protocols in all situations involving trafficking-in-persons, prostitution, runaways
23 and/or sexual assault.

24 SECTION 3. 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 - TRAFFICKING OF PERSONS AND
INVOLUNTARY SERVITUDE

1 This act would amend the provisions regarding human trafficking by expanding the
2 definitions and actions which constitute a felony. The act would also increase the penalties for
3 forced labor and involuntary commercial sex acts.

4 This act would take effect upon passage.

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RELATING TO CRIMINAL OFFENSES - TRAFFICKING OF PERSONS AND INVOLUNTARY
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Presented by