

2007 -- H 5881

LC01747

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO CRIMINAL OFFENSES -- TRAFFICKING OF PERSONS AND
INVOLUNTARY SERVITUDE

Introduced By: Representatives Giannini, Kilmartin, Mattiello, Rice, and D Caprio

Date Introduced: March 01, 2007

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 67

4 TRAFFICKING OF PERSONS AND INVOLUNTARY SERVITUDE

5 **11-67-1. Definitions.** – As used herein:

6 (1) "Intimidation" means an intentional written, verbal or physical act or threat of a
7 physical act that, under the totality of circumstances:

8 (i) A reasonable person should know will have the effect of: physically harming,
9 damaging a person's property, placing a person in reasonable fear of harm to his or her person, or
10 placing a person in reasonable fear of damage to his or her property; or

11 (ii) Is sufficiently severe, persistent or pervasive that it creates a threatening or abusive
12 environment for the person.

13 (2) "Commercial sexual activity" means any sex act on account of which anything of
14 value is given, promised to, or received by any person.

15 (3) "Financial harm" includes intimidation that brings about financial loss, criminal
16 usury, or employment contracts.

17 (4) "Forced labor or services" means labor or services that are performed or provided by
18 another person and are obtained or maintained through:

1 (i) any scheme, plan, or pattern intending to cause or threatening to cause serious harm to
2 any person;

3 (ii) an actor's physically restraining or threatening to physically restrain another person;

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

5 (iv) an actor's knowingly destroying, concealing, removing, confiscating, or possessing
6 any actual or purported passport or other immigration document, or any other actual or purported
7 government identification document, of another person;

8 (v) an actor's blackmail; or

9 (vi) an actor's causing or threatening to cause financial harm to or exerting financial
10 control over any person.

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

12 (6) "Maintain" means, in relation to labor or services, to secure continued performance
13 thereof, regardless of any initial agreement on the part of the victim to perform such type of
14 service.

15 (7) "Obtain" means in relation to labor or services, to secure continued performance
16 thereof.

17 (8) "Services" means a relationship between a person and the actor in which the person
18 performs activities under the supervision of or for the benefit of the actor. Commercial sexual
19 activity and sexually-explicit performances are forms of "services" under this chapter.

20 (9) "Sexually-explicit performance" means a live, recorded, broadcast (including over the
21 Internet) or public act or show intended to arouse or satisfy the sexual desires or appeal to the
22 prurient interests of patrons.

23 (10) "Trafficking victim" means a person subjected to the practices set forth in sections
24 11-67-2 or 11-67-3.

25 **11-67-2. Criminal provisions -- Human trafficking.** – (a) Involuntary servitude.
26 Whoever knowingly subjects, attempts to subject, or engages in a conspiracy to subject another
27 person to forced labor services shall be punished as follows:

28 (1) by causing or threatening to cause physical harm to any person, is guilty of a felony;

29 (2) by physically restraining or threatening to physically restrain another person, is guilty
30 of a felony;

31 (3) by abusing or threatening to abuse the law or legal process, is guilty of a felony;

32 (4) by knowingly destroying, concealing, removing, confiscating or possessing any actual
33 or purported passport or other immigration document, or any other actual or purported
34 government identification document, of another person, is guilty of a felony;

1 (5) by using intimidation, or using or threatening to cause financial harm to or by exerting
2 financial control over any person, is guilty of a felony

3 (b) Involuntary servitude of a minor. Whoever knowingly recruits, entices, harbors,
4 transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or
5 obtain by any means, another person under eighteen (18) years of age, knowing that the minor
6 will engage in commercial sexual activity, a sexually-explicit performance, or the production of
7 pornography, or causes or attempts to cause a minor to engage in commercial sexual activity, a
8 sexually-explicit performance, or the production of pornography, shall be punished as follows:

9 (1) in cases involving a minor between the ages of seventeen (17) and eighteen (18)
10 years, not involving overt force or threat, the defendant is guilty of a felony;

11 (2) in cases in which the minor had not attained the age of seventeen (17) years, not
12 involving overt force or threat, the defendant is guilty of a felony; and

13 (3) in cases in which the violation involved overt force or threat, the defendant is guilty
14 of a felony.

15 **11-67-3. Trafficking of persons for forced labor or services.** – Whoever knowingly:

16 (1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to
17 recruit, entice, harbor, transport provide, or obtain by any means, another person, intending or
18 knowing that the person will be subjected to forced labor or services; or

19 (2) benefits, financially or by receiving anything of value, from participation in a venture
20 which has engaged in an act described in violation of section 11-67-2, or 11-67-3, is guilty of a
21 felony.

22 **11-67-4. Restitution.** – In addition to any other amount of loss identified, the court shall
23 order restitution including the greater of:

24 (1) the gross income or value to the defendant of the victim's labor or services; or

25 (2) the value of the victim's labor as guaranteed under the minimum wage law and
26 overtime provisions of the fair labor standards act (FLSA) or the minimum wage law, whichever
27 is greater.

28 **11-67-5. Forfeitures.** – (a) A person who commits the offense of involuntary servitude,
29 involuntary servitude of a minor, or trafficking of persons for forced labor or services under this
30 act shall forfeit to the state of Rhode Island any profits or proceeds and any interest or property he
31 or she has acquired or maintained in violation of this act, that the sentencing court determines,
32 after a forfeiture hearing, to have been acquired or maintained as a result of maintaining a person
33 in involuntary servitude or participating in trafficking in persons for forced labor or services.

34 (b) The court shall upon petition by the attorney general at any time following

1 sentencing, conduct a hearing to determine whether any property or property interest is subject to
2 forfeiture under this section. At the forfeiture hearing the state shall have the burden of
3 establishing by a preponderance of the evidence that property or property interests are subject to
4 forfeiture under this act.

5 (c) In any action brought by the state of Rhode Island under this section, wherein any
6 restraining order, injunction, or prohibition or any other action in connection with any property or
7 interest subject to forfeiture under this section is sought, the court shall first determine whether
8 there is probable cause to believe that the person or persons so charged have committed the
9 offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for
10 forced labor or services and whether the property or property interest is subject to forfeiture
11 pursuant to this section.

12 (d) All monies forfeited and the sale proceeds of all other property forfeited and seized
13 under this section shall be deposited in the general fund.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- TRAFFICKING OF PERSONS AND
INVOLUNTARY SERVITUDE

- 1 This act would establish and define the trafficking of persons and involuntary servitude
2 as a criminal offense.
3 This act would take effect upon passage.

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