

## Prostitution Laws of Rhode Island

Indoor prostitution became legal in 1980 as a result of an unintentional legal loophole created by legislators when enacting laws targeting street prostitution. The governor signed new legislation (H 5044/S 0596) to close this loophole on Nov. 3, 2009.

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

(d) 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.

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

(a) Records defined in section 12-1.3-1 of any person convicted, placed on probation, or whose case was filed pursuant to section 12-10-12, for a violation of section 11-34.1-2 or section 11-34.1-4 may be expunged one year after completion of that person's sentence.

(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.

§ 11-34.1-6. 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. It shall also be unlawful for 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).

§ 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.

§ 11-34.1-13. Reporting

On or before January 15, 2010, and semi-annually thereafter, 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), section 11-34.1-3, section 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 section 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.

§ 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.