

1 **ARTICLE 23**

2 RELATING TO SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN

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

5 **§ 12-25-20. Offenses to which chapter applies.** – The office may award compensation
6 in accordance with the provisions of this chapter for personal injury or death which resulted from
7 offenses in the following categories:

- 8 (1) Assault with intent to commit murder, robbery, or rape;
- 9 (2) Assault with a dangerous weapon;
- 10 (3) Assault and battery;
- 11 (4) Mayhem;
- 12 (5) Indecent assault and battery on a child under thirteen (13) years of age;
- 13 (6) Arson or statutory burning;
- 14 (7) Kidnapping;
- 15 (8) Robbery or larceny from that person;
- 16 (9) Murder;
- 17 (10) Manslaughter;
- 18 (11) First or second degree sexual assault;
- 19 (12) Child molestation, first or second degree;
- 20 (13) The abominable and detestable crime against nature or assault with intent to commit
21 the abominable and detestable crime against nature;
- 22 (14) Driving under the influence of alcohol or drugs;
- 23 (15) Refusal by a driver to submit to a chemical test for alcohol or drugs in the immediate
24 aftermath of a collision;
- 25 (16) Driving so as to endanger, resulting in death, pursuant to § 31-27-1;
- 26 (17) Driving so as to endanger, resulting in personal injury, pursuant to § 31-27-1.1;
- 27 (18) Any other crime excluding motor vehicle offenses other than those enumerated in
28 this section which results in personal injury or death; ~~and~~
- 29 (19) Failure to stop by a driver in circumstances which result in the death of any person,
30 pursuant to § 31-26-1-; and

1 [\(20\) Sex trafficking of a minor pursuant to § 11-67-6.](#)

2 SECTION 2. TITLE 14 of the General Laws entitled “Delinquent and Dependent
3 Children” is hereby amended by adding thereto the following chapter:

4 [CHAPTER 14-1.1](#)

5 [THE RHODE ISLAND SAFE HARBOR FOR](#)

6 [SEXUALLY EXPLOITED CHILDREN ACT](#)

7 [§ 14-1.1-1. Short Title.](#) - This act shall be known and may be designated as “The Rhode
8 Island Safe Harbor for Sexually Exploited Children Act”.

9 [§ 14-1.1-2. Purposes.](#) - This act shall be construed so as to effectuate the following
10 purposes:

11 [\(a\) To ensure that minors who are victims of sex trafficking are treated as victims and not](#)
12 [criminals by providing for immunity to the child victim from prosecution for prostitution and](#)
13 [redirecting the child victim of sexual exploitation and sex trafficking away from the criminal or](#)
14 [juvenile justice systems and to refer the child victim to supportive services and programs;](#)

15 [\(b\) To preserve the unity of the family whenever possible and to provide for the care,](#)
16 [protection, and treatment of minors coming within the provisions of this act; and](#)

17 [\(c\) To provide child victims of sex trafficking and sexual exploitation access to the](#)
18 [criminal injuries compensation fund;](#)

19 [§ 14-1.1-2. Definitions.](#) – The following words and phrases when used in this chapter
20 shall, unless the context otherwise requires, be construed as follows:

21 [\(a\) “Commercial sex act” means any sex act or sexually explicit performance on account](#)
22 [of which anything of value is given, promised to, or received, directly or indirectly, by any](#)
23 [person.](#)

24 [\(b\) "Child or minor" means a person under the age of eighteen \(18\);](#)

25 [\(c\) “Child or minor victim of sex trafficking or sexual exploitation” means a minor as](#)
26 [defined in this chapter who has been recruited, employed, enticed, solicited, isolated, harbored,](#)
27 [transported, provided, persuaded, obtained or maintained for the purposes of performing](#)
28 [commercial sex acts;](#)

29 [\(d\) “Child or minor victim of severe forms of trafficking” means a minor as defined in](#)
30 [this chapter who is induced by force, fraud or coercion to perform a commercial sex act;](#)

31 [\(e\) “Criminal injuries compensation fund” means the financial compensation fund for](#)
32 [victims of violent crime enumerated in Chapter 25 of Title 12 of the Rhode Island General laws](#)
33 [and administered by the Department of the General Treasurer;](#)

34 [\(f\) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital](#)

1 intrusion or intrusion by any object into the genital opening or anal opening of another person's
2 body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the
3 sexual desire of either person.

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

7 **§ 14-1.1-3. Immunity from Prosecution for Prostitution.** – The following provisions
8 shall apply to minors determined to be victims of sex trafficking or sexual exploitation:

9 (a) Child victims of sexual trafficking or sexual exploitation who are under the age of
10 sixteen (16) years shall not be charged with nor adjudicated for the crime of prostitution as
11 enumerated in §11-34.1-2 or for the crime of loitering for prostitution as enumerated in §11-34.1-
12 3;

13 (b) A person sixteen (16) years of age or older may be charged and adjudicated for the
14 crime of prostitution as enumerated in §11-34.1-2 or for the crime of loitering for prostitution as
15 enumerated in §11-34.1-3 when such a person directly engages or agrees to engage in sexual
16 conduct with another person for a fee and no third party benefits from that fee. However, in any
17 prosecution for an offense under this section:

18 (1) it shall be an affirmative defense that the person was coerced into committing such
19 offense by another person; and

20 (2) a minor child who is sixteen (16) or seventeen (17) years of age, there shall be a
21 presumption that the minor was coerced into committing such offense by another person.

22 **§ 14-1.1-4. Risk assessment and uniform response protocols.** – When a child is alleged
23 to be a victim of sex trafficking or sexual exploitation, the department of children youth and
24 families or the law enforcement agency initially responding shall conduct a screening and risk
25 assessment to determine if the child should be considered to be a victim of sex trafficking or
26 sexual exploitation. Additionally, the responding agency(ies) shall use a uniform set of protocols
27 for responding to alleged incidents of child sex trafficking or sexual exploitation.

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

31 (b) The department of children, youth and families, in collaboration with the office of the
32 attorney general and the department of public safety shall develop uniform response protocols for
33 addressing sex trafficking and sexual exploitation of minors to be used by the department of
34 children, youth and families and other agency(ies) when responding to such incidents.

1 **§ 14-1.1-5. Reporting child victims of sex trafficking and sexual exploitation as**
2 **victims of child abuse.** – Any child who is believed to be a victim of sex trafficking or sexual
3 exploitation shall be reported to the department of children, youth and families as an alleged
4 victim of child abuse or neglect in accordance with the provisions of Chapter 11 of Title 40.

5 (a) The department has the affirmative duty to report all such allegations to the
6 appropriate law enforcement agency(ies) who shall investigate such allegations jointly with the
7 department.

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

12 (c) Should the department determine that the allegations of child abuse or neglect are
13 supported in accordance with evidentiary standards, the department shall indicate the child as a
14 victim of child abuse or neglect and provide appropriate services to the child and/or his or her
15 family in accordance with normal child welfare practices;

16 **§ 14-1.1-6. Access to crime injuries compensation fund.** – Any minor, or a person age
17 18 but under the age of twenty-one who is in the care and custody of the department of children,
18 youth and families, and who is identified as a victim of sex trafficking or sexual exploitation shall
19 be eligible to apply to the criminal injuries compensation fund in accordance with the provisions
20 of Chapter 25 of Title 12 of the Rhode Island General laws and the rules and regulations
21 promulgated by the office of the general treasurer.

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

24 **§ 40-11-2. Definitions.** – When used in this chapter and unless the specific context
25 indicates otherwise:

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

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

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

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

34 (4) Fails to supply the child with adequate food, clothing, shelter, or medical care, though

1 financially able to do so or offered financial or other reasonable means to do so; or

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

7 (6) Abandons or deserts the child; or

8 (7) Sexually exploits the child in that the person allows, permits or encourages the child
9 to engage in prostitution as defined by the provisions in § 11-34.1-1 et seq., entitled "Commercial
10 Sexual Activity"; or

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

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

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

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

25 (c) "Child protective investigator" means an employee of the department charged with
26 responsibility for investigating complaints and/or referrals of child abuse and/or neglect and
27 institutional child abuse and/or neglect.

28 (d) "Commercial sex act" means any sex act or sexually explicit performance on account
29 of which anything of value is given, promised to, or received, directly or indirectly, by any
30 person.

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

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

34 (g) "Institutional child abuse and neglect" means situations of known or suspected child

1 abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster parent
2 or the employee of a public or private residential child care institution or agency; or any staff
3 person providing out-of-home care or situations where the suspected abuse or neglect occurs as a
4 result of the institution's practices, policies, or conditions.

5 (h) "Law enforcement agency" means the police department in any city or town and/or
6 the state police.

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

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

21 (k) "Physician" means any licensed doctor of medicine, licensed osteopathic physician,
22 and any physician, intern, or resident of an institution as defined in subdivision (5).

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

27 (m) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital
28 intrusion or intrusion by any object into the genital opening or anal opening of another person's
29 body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the
30 sexual desire of either person.

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

34 (o) "Shaken baby syndrome" means a form of abusive head trauma, characterized by a

1 constellation of symptoms caused by other than accidental traumatic injury resulting from the
2 violent shaking of and/or impact upon an infant or young child's head.

3 (p) A “victim of sex trafficking” is a minor as defined in this chapter who has been
4 recruited, employed, enticed, solicited, isolated, harbored, transported, provided, persuaded,
5 obtained or maintained for the purposes of performing commercial sex acts;

6 (q) A “victim of severe forms of trafficking” is a minor as defined in this chapter who is
7 induced by force, fraud or coercion to perform a commercial sex act;

8 SECTION 4. This article shall take effect upon passage.