

2024 -- S 2225

LC003946

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- CORRECTIONS DEPARTMENT

Introduced By: Senators Murray, Mack, Valverde, McKenney, Acosta, DiMario, Euer,
Kallman, and Lauria

Date Introduced: January 24, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Recommendation of Special Legislative Study Commission.

2 WHEREAS, The Rhode Island House of Representatives passed House Resolution 5250,
3 creating a "Special Legislative Study Commission Ensuring Racial Equity and Optimizing Health
4 and Safety Laws Affecting Marginalized Individuals" (hereinafter "the Commission") in 2021; and

5 WHEREAS, This thirteen (13) member Commission specifically sought to draw from and
6 expand upon the significant research on the health and safety implications of laws related to
7 violence, exploitation, stigma, human trafficking and sexual health; laws that disproportionately
8 impact women, transgender individuals, and people of color; and

9 WHEREAS, Members of the Commission met seven (7) times between November 2021
10 and April 2023 and heard testimony from a variety of experts and individuals with lived experience
11 in the sex trade; and

12 WHEREAS, The Commission issued a comprehensive final report on August 14, 2023,
13 calling for numerous recommendations. In relevant part, the report issues the following
14 recommendation on pages 7-8: "Based on the testimony and information presented to the
15 Commission, and given the varied nature of the Commission's findings, the Commission proposes
16 the following recommendations:

17 Recommend the General Assembly repeal § 42-56-20.3(e), which requires those convicted
18 of prostitution to pay extra court costs; and

19 Evaluate the "Loitering for prostitution" statute § 11-34.1-4(a) which provide that "it shall

1 be unlawful for any person to stand or wander in or near any public highway or street, or any public
2 or private place, and attempt to engage passersby in conversation, or stop or attempt to stop motor
3 vehicles, for the purpose of prostitution or other commercial sexual activity;" and

4 WHEREAS, Existing Rhode Island law assesses monetary penalties upon all criminal
5 defendants, and people who engage in prostitution currently face unnecessary additional fees that
6 could result in further economic marginalization and/or hardship; and

7 WHEREAS, There was only one arrest and conviction for §11-34.1-4 "Loitering for
8 prostitution" between 2009-2019 in the State of Rhode Island; and

9 WHEREAS, Other jurisdictions including New York, California, and Seattle, Washington
10 have repealed similar loitering for prostitution laws in recent years due to evidence that these
11 statutes are written vaguely such that they tend to be disproportionately enforced against
12 communities of color and transgender people.

13 SECTION 2. Section 42-56-20.3 of the General Laws in Chapter 42-56 entitled
14 "Corrections Department" is hereby amended to read as follows:

15 **42-56-20.3. Community correctional program for women offenders.**

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

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

27 (c) Terms of community correctional program.

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

1 corrections, or his or her designee, for approval.

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

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

12 ~~(e) Costs.~~

13 ~~(1) Assessment of additional penalty for prostitution related offenses. There shall be~~
14 ~~assessed as a penalty, in addition to those provided by law, against all defendants charged under §~~
15 ~~11-34.1-1 et seq., who plead nolo contendere or guilty, or who are found guilty of the commission~~
16 ~~of those crimes as follows:~~

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

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

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

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

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

28 SECTION 3. Section 11-34.1-4 of the General Laws in Chapter 11-34.1 entitled
29 "Commercial Sexual Activity" is hereby repealed.

30 ~~**11-34.1-4. Loitering for prostitution.**~~

31 ~~(a) It shall be unlawful for any person to stand or wander in or near any public highway or~~
32 ~~street, or any public or private place, and attempt to engage passersby in conversation, or stop or~~
33 ~~attempt to stop motor vehicles, for the purpose of prostitution or other commercial sexual activity.~~
34 ~~Any person found guilty of the crime of loitering for prostitution shall be subject to a sentence of~~

1 ~~up to six (6) months incarceration or by a fine of not less than two hundred fifty dollars (\$250) nor~~
2 ~~more than one thousand dollars (\$1,000), or both.~~

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

6 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO STATE AFFAIRS AND GOVERNMENT -- CORRECTIONS DEPARTMENT

- 1 This act would repeal provisions that assess costs for women in the community corrections
- 2 program for women offenders and would repeal the crime of loitering for prostitution.
- 3 This act would take effect upon passage.

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