

**2009 -- S 0596 SUBSTITUTE B AS AMENDED**

=====  
LC01591/SUB B  
=====

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2009**

-----  
A N A C T

RELATING TO CRIMINAL OFFENSES - PROSTITUTION AND LEWDNESS

Introduced By: Senators Jabour, E O`Neill, Lynch, Cote, and Picard

Date Introduced: February 25, 2009

Referred To: Senate 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 34.1

4 COMMERCIAL SEXUAL ACTIVITY

5 **11-34.1-1. Definitions.** -- The following words and phrases, when used in this chapter,  
6 have the following meanings:

7 (1) "Sexual conduct" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and  
8 digital intrusion or intrusion by any object into the genital opening or anal opening of another  
9 person's body, or the stimulation by hand of another's genitals for the purposes of arousing or  
10 gratifying the sexual desire of either person.

11 (2) "Commercial sexual activity" means any sexual conduct which is performed or  
12 promised in return for a fee.

13 (3) "Fee" means any thing of monetary value, including but not limited to money, given  
14 as consideration for sexual conduct.

15 **11-34.1-2. Prostitution.** -- (a) A person is guilty of prostitution when such person  
16 engages or agrees or offers to engage in sexual conduct with another person in return for a fee.  
17 Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be  
18 subject to imprisonment for a term not exceeding six (6) months, or to a fine of not less than two  
19 hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.

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

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

7           (d) In any prosecution for a violation under this section it shall be an affirmative defense  
8 if the accused was forced to commit a commercial sexual activity by:

9           (1) Being threatened or, subjected to physical harm;

10          (2) Being physically restrained or threatened to be physically restrained;

11          (3) Being subject to threats of abuse of law or legal process;

12          (4) Being subject to destruction, concealment, removal or confiscation, of any passport or  
13 other immigration document, or any other actual or purported governmental identification  
14 document; or

15          (5) Being subject to intimidation in which the accused's physical well being was  
16 perceived as threatened.

17          **11-34.1-3. Procurement of sexual conduct for a fee.** -- (a) A person is guilty of  
18 procuring or attempting to procure sexual conduct for the payment of a fee if they engage or seek  
19 to engage in sexual conduct for any type of fee and/or pay or agree to pay any type of fee for  
20 sexual conduct, regardless of the time, place or location of the procurement, attempted  
21 procurement, payment, attempted payment or conduct. Any person found guilty under this section  
22 shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not  
23 exceeding one year, or to a fine of not less than two hundred fifty dollars (\$250) nor more than  
24 one thousand dollars (\$1,000), or both.

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

28          **11-34.1-4. Loitering for prostitution.** -- (a) It shall be unlawful for any person to stand  
29 or wander in or near any public highway or street, or any public or private place, and attempt to  
30 engage passersby in conversation, or stop or attempt to stop motor vehicles, for the purpose of  
31 prostitution or other commercial sexual activity. Any person found guilty of the crime of loitering  
32 for prostitution shall be subject to a sentence of up to six (6) months incarceration or by a fine of  
33 not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or  
34 both.

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

4           SECTION 2. Sections 11-34-1, 11-34-2, 11-34-3, 11-34-4, 11-34-5, 11-34-5.1, 11-34-6,  
5 11-34-7, 11-34-8, 11-34-8.1, 11-34-8.2, 11-34-9 and 11-34-10 of the General Laws in Chapter  
6 11-34 entitled "Prostitution and Lewdness" are hereby repealed.

7           ~~**11-34-1. Pandering.** (a) It shall be unlawful for any person to secure a person for a~~  
8 ~~house of ill fame, or to procure for a person a place as inmate of a house of ill fame; or by any~~  
9 ~~promise, threat, by abuse of person, or by any other device or scheme, to cause, induce, persuade,~~  
10 ~~or encourage a person to become a prostitute, to enter upon or lead a wanton or dissolute life, to~~  
11 ~~become an inmate of a house of ill fame, to enter a place in which prostitution is encouraged or~~  
12 ~~allowed, or remain in it as an inmate, or to come into this state or leave this state for the purpose~~  
13 ~~of prostitution. It shall be unlawful for any person to receive or give, or agree to receive or give,~~  
14 ~~any money or thing of value for procuring or attempting to procure any person to become a~~  
15 ~~prostitute, to enter upon or lead a wanton or dissolute life, or to become an inmate of a house of~~  
16 ~~ill fame, either within or without this state, or come into this state or leave this state for the~~  
17 ~~purpose of prostitution. It shall be unlawful for any person by any means to keep, hold, or detain~~  
18 ~~against his or her will or restrain any person in any place for the purpose of prostitution, or in a~~  
19 ~~house of ill fame or other place where prostitution is practiced or allowed for any purpose; or to~~  
20 ~~directly or indirectly keep, hold, detain, or restrain, or attempt to keep, hold, detain, or restrain in~~  
21 ~~any house of ill fame or other place where prostitution is allowed or practiced, any person by any~~  
22 ~~means for the purpose of compelling that person, directly or indirectly, to pay, liquidate, or cancel~~  
23 ~~any debt, dues, or obligations incurred or said to have been incurred by that person.~~

24           ~~(b) Every person who commits any of the offenses described in subsection (a) of this~~  
25 ~~section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of~~  
26 ~~pandering. For the first offense that person shall be punished by imprisonment for not less than~~  
27 ~~one year and not more than five (5) years and a fine of not less than two thousand dollars~~  
28 ~~(\$2,000), nor more than five thousand dollars (\$5,000). For every subsequent offense that person~~  
29 ~~shall be punished by imprisonment for not less than three (3) years and not more than ten (10)~~  
30 ~~years and a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand~~

31           ~~**11-34-2. Venue of pandering prosecutions.** It shall not be a defense to any~~  
32 ~~prosecution for any of the offenses described in section 11-34-1 that the offense or any part of the~~  
33 ~~offense shall have been committed outside the state, and any offense described in section 11-34-1~~  
34 ~~may be alleged to have been committed. The offender may be prosecuted and punished in any~~

1 county in which the offender or the person upon or against whom the offense was committed may  
2 be found, or in which the offense was consummated, or in which any overt acts in furtherance of  
3 the offenses shall have been committed.

4 ~~**11-34-3. Spouse as witness in pandering prosecution.** --- In any prosecution for any  
5 offense under section 11-34-1, any person shall be a competent witness against the offender in  
6 relation to any pandering offense committed by the offender upon or against him or her, or by the  
7 offender against or upon another person or persons in his or her presence, notwithstanding that  
8 person may have been married to the offender before or after the commission of the offense, and  
9 notwithstanding that person may be called as a witness during the existence of the marriage or  
10 after its dissolution.~~

11 ~~**11-34-4. Search for and delivery of inmate of house of ill fame.** --- Whenever there is  
12 reason to believe that any person has been inveigled, enticed, induced, persuaded, or encouraged  
13 to enter a house of ill fame or other place where prostitution is allowed or practiced, or is being  
14 kept, held, detained, or restrained in any house of ill fame or other place where prostitution is  
15 allowed or practiced, upon complaint being made under oath by any director of human services,  
16 member of the division of state police, sheriff, deputy sheriff, chief of police, town sergeant, or  
17 constable, or by the parent, master, or guardian of the person, to any justice or clerk of a district  
18 court authorized to issue warrants, the justice or clerk may issue a warrant to enter by day or night  
19 the house of ill fame or other place, to search for the person, and to bring that person and the  
20 person in whose possession or keeping he or she may be found before the district court. The court  
21 may, on examination, order that person to be delivered to the director of human services, parent,  
22 master, or guardian, or to be placed in the charge of a probation officer, or to be discharged in  
23 accordance with law.~~

24 ~~**11-34-5. Transportation for indecent purposes -- Harboring prostitution.** --- (a) It  
25 shall be unlawful for any person, for pecuniary gain, to secure, direct, or transport, or offer to  
26 secure, direct, or transport another for the purpose of prostitution, or for any other lewd or  
27 indecent act; or to receive or offer or agree to receive any person into any place, structure, house,  
28 building, room, or conveyance for the purpose of committing any such acts, or knowingly permit  
29 any person to remain in the premises for those purposes, or to, in any way, aid or abet or  
30 participate in any of the acts or things enumerated in this chapter.~~

31 ~~(b) Any person found guilty under this section shall be subject to imprisonment in the  
32 adult correctional institutions for not less than one year and not more than five (5) years, and a  
33 fine of not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000).  
34 For every subsequent offense that person shall be punished by imprisonment for not less than~~

1 ~~three (3) years and for not more than ten (10) years and a fine of not less than five thousand~~  
2 ~~dollars (\$5,000) nor more than ten thousand dollars (\$10,000).~~

3 ~~**11-34-5.1. Deriving support or maintenance from prostitution.** -- Any person,~~  
4 ~~knowing a person to be a prostitute, who shall live or derive support or maintenance, in whole or~~  
5 ~~in part, from the earnings or proceeds of prostitution, from moneys loaned, advanced to, or~~  
6 ~~charged against the prostitute by any keeper, manager, or inmate of a house of ill fame or other~~  
7 ~~place where prostitution is practiced or allowed, or who shall share in the earnings, proceeds or~~  
8 ~~moneys, shall be punished by imprisonment in the adult correctional institutions for not less than~~  
9 ~~one year nor more than five (5) years, or by a fine of not less than two thousand dollars (\$2,000)~~  
10 ~~and not more than five thousand dollars (\$5,000), or both, and for every subsequent offense shall~~  
11 ~~be punished by imprisonment for not less three (3) years and not more than ten (10) years, and by~~  
12 ~~a fine of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars~~  
13 ~~(\$10,000), or both. However, nothing in this section shall apply to a minor dependent of the~~  
14 ~~prostitute.~~

15 ~~**11-34-6. Reputation testimony as evidence.** -- In the trial of any person charged with a~~  
16 ~~violation of section 11-34-5, testimony concerning the reputation of the place where the violation~~  
17 ~~occurred or of persons who frequent or reside in it shall be admissible in evidence in support of~~  
18 ~~the charge.~~

19 ~~**11-34-7. Examination and treatment for venereal disease.** -- Any person convicted for~~  
20 ~~any violation of section 11-34-5 or of any other statute relating to lewd or lascivious behavior or~~  
21 ~~unlawful sexual intercourse, and who shall be confined or imprisoned in any correctional~~  
22 ~~institution for more than ten (10) days, may be examined by the department of health for venereal~~  
23 ~~disease, through duly appointed, licensed physicians as agents. Any person that is examined may~~  
24 ~~be detained until the result of the examination is duly reported. If found with venereal disease in~~  
25 ~~an infectious stage, the person shall be treated, and if a menace to the public, quarantined, in~~  
26 ~~accordance with rules and regulations, not inconsistent with law, of the director of health, who is~~  
27 ~~authorized to formulate and issue them. Refusal to comply with or obey the rules or regulations~~  
28 ~~shall constitute a misdemeanor and be punishable by fine not to exceed two hundred fifty dollars~~  
29 ~~(\$250), or by imprisonment not to exceed three (3) months, or both.~~

30 ~~**11-34-8. Loitering for indecent purposes.** -- (a) It shall be unlawful for any person to~~  
31 ~~stand or wander in or near any public highway or street, or any public or private place, and~~  
32 ~~attempt to engage passersby in conversation, or stop or attempt to stop motor vehicles, for the~~  
33 ~~purpose of prostitution or other indecent act, or to patronize, induce, or otherwise secure a person~~  
34 ~~to commit any indecent act. Any person found guilty under this section shall be deemed guilty of~~

1 a misdemeanor and shall be subject to imprisonment for a term not exceeding six (6) months, or  
2 by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars  
3 (\$1,000), or both.

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

7 ~~**11-34-8.1. Soliciting from motor vehicles for indecent purposes.**~~ (a) It shall be  
8 unlawful for any person, while an operator or passenger in a motor vehicle to stop, or attempt to  
9 stop another vehicle or pedestrian, or to engage or attempt to engage persons in another vehicle or  
10 pedestrians in conversation, for the purposes of prostitution or other indecent act, or to patronize,  
11 induce, or otherwise secure another person to commit any indecent act. Any person found guilty  
12 under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment  
13 for a term not exceeding six (6) months and by a fine of not less than five hundred dollars (\$500)  
14 nor more than one thousand dollars (\$1,000).

15 (b) Any person found guilty of a subsequent offense under this section shall be subject to  
16 imprisonment for a term of not more than one year and a fine of not less than seven hundred fifty  
17 dollars (\$750) nor more than one thousand five hundred dollars (\$1,500). No fine imposed under  
18 this section may be suspended.

19 ~~**11-34-8.2. Forfeiture of motor vehicles.**~~ (a) The motor vehicle being unlawfully  
20 operated as defined in section 11-34-8.1 by a person convicted of a second or subsequent offense  
21 of soliciting from a motor vehicle for indecent purposes pursuant to section 11-34-8.1, which  
22 vehicle is owned by the operator, may be seized by the law enforcement agency and forfeited at  
23 the discretion of the court.

24 (b) Property taken or detained under this section shall not be repleviable, but shall be  
25 deemed to be in the custody of the law enforcement agency making the seizure. The seizing  
26 agency shall sell the vehicle and grant the proceeds to the governor's justice commission for the  
27 purposes of rehabilitation and job training of those found guilty of prostitution and who are  
28 imprisoned. The seizing agency may retain ten percent (10%) of the proceeds of the sale up to a  
29 maximum of one hundred dollars (\$100), for the purposes of the administration of the sale.

30 ~~**11-34-9. Severability.**~~ -- If any provision of this chapter or its application to any person  
31 or circumstances is held invalid, the invalidity does not affect other provisions or applications of  
32 the chapter which can be given effect without the invalid provision or application, and to this end  
33 the provisions of this chapter are declared to be severable.

34 ~~**11-34-10. Human Immunodeficiency Virus (HIV).**~~ (a) Any person convicted of a

1 ~~violation of any provisions of this chapter shall be required to be tested for Human~~  
2 ~~Immunodeficiency Virus (HIV). No consent for the testing shall be required.~~

3 ~~-(b) The department of health shall maintain sites for providing both anonymous and~~  
4 ~~confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of~~  
5 ~~health, shall offer free testing, counseling and referral for indigent parties and other individuals~~  
6 ~~without health insurance, offer a sliding scale for payment for all other individuals and, in the~~  
7 ~~case of confidential testing, screen for ability to pay through a third party insurer. In the case of~~  
8 ~~nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer~~  
9 ~~free testing, counseling and referral for indigent parties and other individuals without health~~  
10 ~~insurance.~~

11 ~~-(c) All persons tested under this section shall be provided pre test and post test~~  
12 ~~counseling by individuals trained by the department of health, as an HIV testing counselor, in~~  
13 ~~accordance with regulations promulgated by the department of health; provided, that the~~  
14 ~~counseling shall be in accordance with acceptable medical standards.~~

15 ~~-(d) All persons who are tested under this section, who are determined to be injecting~~  
16 ~~drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV~~  
17 ~~testing counselor and/or the attending practitioner as follows:~~

18 ~~-(1) Those persons who test positive for HIV infection shall be given priority for those~~  
19 ~~outpatient substance abuse treatment programs that are sponsored or supported by the appropriate~~  
20 ~~state agency responsible for these services.~~

21 ~~-(2) Those persons who are injecting drug users and test negative for HIV infection shall~~  
22 ~~be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state~~  
23 ~~agency responsible for these services for earliest possible evaluation and treatment.~~

24 SECTION 3. Chapter 34.1 of the General Laws entitled "Commercial Sexual Activity" as  
25 established in Section 1 of this act, is hereby further amended by adding thereto the following  
26 sections:

27 **11-34.1-5. Expungement of certain criminal records. -- (a) Records defined in section**  
28 **12-1.3-1 of any person convicted, placed on probation, or whose case was filed pursuant to**  
29 **section 12-10-12, for a violation of section 11-34.1-2 or section 11-34.1-4 may be expunged one**  
30 **year after completion of that person's sentence.**

31 **(b) The motion shall be filed in accordance with a chapter 12-1.3 and may be granted in**  
32 **the court's discretion regardless of the person's first offender status.**

33 **11-34.1-6. Soliciting from motor vehicles for indecent purposes – Forfeiture of**  
34 **motor vehicle. -- (a) It shall be unlawful for any person, while an operator or passenger in a**

1 motor vehicle to stop, or attempt to stop another vehicle or pedestrian, or to engage or attempt to  
2 engage persons in another vehicle or pedestrians in conversation, for the purposes of prostitution  
3 or other indecent act, or to patronize, induce, or otherwise secure another person to commit any  
4 commercial sexual activity. Any person found guilty under this section shall be subject to a  
5 sentence of up to six (6) months incarceration or a fine of not less than five hundred dollars  
6 (\$500) nor more than one thousand dollars (\$1,000), or both.

7 (b) Any person found guilty of a subsequent offense under this section shall be subject to  
8 imprisonment for a term of not more than one year and a fine of not less than seven hundred fifty  
9 dollars (\$750) nor more than one thousand dollars (\$1,000). No fine imposed under this section  
10 may be suspended.

11 (c) The motor vehicle being unlawfully operated as defined in this chapter by a person  
12 convicted of a second or subsequent offense of soliciting from a motor vehicle for indecent  
13 purposes pursuant to this chapter which vehicle is owned by the operator, may be seized by the  
14 law enforcement agency and forfeited at the discretion of the court. Any funds received from the  
15 forfeiture shall be deposited in the victim's of crimes indemnity fund (VCIF).

16 **11-34.1-7. Pandering or permitting prostitution – Not allowed. --** (a) It shall be  
17 unlawful for any person, by any promise or threat, by abuse of person, or by any other device or  
18 scheme, to cause, induce, persuade, or encourage a person to become a prostitute or to come into  
19 this state or leave this state for the purpose of prostitution. It shall be unlawful for any person to  
20 receive or give, or agree to receive or give, any money or thing of value for procuring or  
21 attempting to procure any person to become a prostitute or to come into this state or leave this  
22 state for the purpose of prostitution.

23 (b) It shall be unlawful for any person to knowingly permit, allow, transport or offer or  
24 agree to receive any person into any place, structure, house, building, room, or business for the  
25 purpose of committing any commercial sexual activity, or knowingly permit any person to remain  
26 in the premises for those purposes, or to, in any way, aid or abet or participate in any of the acts  
27 or things enumerated in this chapter. It shall also be unlawful for any person, knowing a person to  
28 be a prostitute, who shall live or derive support or maintenance, in whole or in part, from the  
29 earnings or proceeds of commercial sexual activity, from moneys loaned, advanced to, or charged  
30 against the prostitute by a landlord, manager, owner of a spa or business or any other place where  
31 commercial sexual activity is practiced or allowed, or who shall share in the earnings, proceeds or  
32 moneys shall be guilty of the crime of permitting prostitution.

33 (c) Every person who commits any of the offenses described in subsection (a) of this  
34 section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of



1 pandering. For the first offense that person shall be punished by imprisonment for not less than  
2 one year and not more than five (5) years and a fine of not less than two thousand dollars  
3 (\$2,000), nor more than five thousand dollars (\$5,000). For every subsequent offense that person  
4 shall be punished by imprisonment for not less than three (3) years and not more than ten (10)  
5 years and a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand  
6 dollars (\$10,000).

7 **11-34.1-8. Venue of pandering or permitting prostitution prosecutions. --** It shall not  
8 be a defense to any prosecution of any of the offenses described in this chapter that the offense or  
9 any part of the offense shall have been committed outside the state, and any offense described in  
10 this chapter may be alleged to have been committed. The offender may be prosecuted and  
11 punished in any county in which the offender or the person upon or against whom the offense was  
12 committed may be found, or in which the offense was consummated, or in which any overt acts in  
13 furtherance of the offenses shall have been committed.

14 **11-34.1-9. Spouse as witness in pandering or permitting prostitution. --** In any  
15 prosecution for any offense under this chapter, any person shall be a competent witness against  
16 the offender in relation to any offense committed by the offender upon or against him or her, or  
17 by the offender against or upon another person or persons in his or her presence, notwithstanding  
18 that person may have been married to the offender before or after the commission of the offense,  
19 and notwithstanding that person may be called as witness during the existence of the marriage or  
20 after its dissolution.

21 **11-34.1-10. Reputation testimony as evidence. --** In the trial of any person charged with  
22 a violation of this chapter, testimony concerning the reputation of the place where the violation  
23 occurred or of persons who frequent or reside in it shall be admissible in evidence in support of  
24 the charge.

25 **11-34.1-11. Examination and treatment for venereal disease. --** Any person convicted  
26 for any violation of this chapter or of any other statute relating to lewd or lascivious behavior or  
27 unlawful sexual intercourse, and who shall be confined or imprisoned in any correctional  
28 institution for more than ten (10) days, may be examined by the department of health for venereal  
29 disease, through duly appointed, licensed physicians as agents. Any person that is examined may  
30 be detained until the result of the examination is duly reported. If found with venereal disease in  
31 an infectious stage, the person shall be treated, and if a menace to the public, quarantined, in  
32 accordance with rules and regulations, not inconsistent with law, of the director of health, who is  
33 authorized to formulate and issue them. Refusal to comply with or obey the rules or regulations  
34 shall constitute a misdemeanor and be punishable by fine not to exceed two hundred fifty dollars

1 (\$250), or a sentence of incarceration of up to three (3) months, or both.

2 **11-34.1-12. Human Immunodeficiency Virus (HIV).** -- (a) Any person convicted of a  
3 violation of any provisions of this chapter shall be required to be tested for Human  
4 Immunodeficiency Virus (HIV). No consent for the testing shall be required.

5 (b) The department of health shall maintain sites for providing both anonymous and  
6 confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of  
7 health, shall offer free testing, counseling and referral for indigent parties and other individuals  
8 without health insurance, offer a sliding scale for payment for all other individuals and, in the  
9 case of confidential testing, screen for ability to pay through a third-party insurer. In the case of  
10 nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer  
11 free testing, counseling and referral for indigent parties and other individuals without health  
12 insurance.

13 (c) All persons tested under this section shall be provided pre-test and post-test  
14 counseling by individuals trained by the department of health, as an HIV testing counselor, in  
15 accordance with regulations promulgated by the department of health; provided, that the  
16 counseling shall be in accordance with acceptable medical standards.

17 (d) All persons who are tested under this section, who are determined to be injecting  
18 drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV  
19 testing counselor and/or the attending practitioner as follows:

20 (1) Those persons who test positive for HIV infection shall be given priority for those  
21 outpatient substance abuse treatment programs that are sponsored or supported by the appropriate  
22 state agency responsible for these services.

23 (2) Those persons who are injecting drug users and test negative for HIV infection shall  
24 be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state  
25 agency responsible for these services for earliest possible evaluation and treatment.

26 **11-34.1-13. Reporting.** -- On or before January 15, 2010, and semi-annually thereafter,  
27 each law enforcement agency in this state shall file with the Governor, the Attorney General, the  
28 Speaker of the House of Representatives and the President of the Senate a report concerning the  
29 agency's enforcement of this chapter during the preceding six (6) month period. Each semi-annual  
30 report shall contain, but need not be limited to, the following information:

31 (1) The number of persons arrested pursuant to subsection 11-34.1-2(a), subsection 11-  
32 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)  
33 and subsection 11-34.1-7 of this chapter;

34 (2) Of those arrested, the number of persons convicted, placed on probation, whose case

1 is filed pursuant to section 12-10-12, whether those persons pled guilty or nolo contendere or  
2 were found guilty after trial by judge or jury;

3 (3) The fines and/or sentences of those persons identified pursuant to subdivision (2) of  
4 this section; and

5 (4) A summary of the amounts of fines levied and the lengths of sentences identified  
6 pursuant to subdivision (3) of this section.

7 **11-34.1-14. Severability. --** If any provision of this chapter or its application to any  
8 person or circumstances is held invalid, the invalidity shall not affect other provisions or  
9 applications of the chapter which can be given effect without the invalid provision or application,  
10 and to this end the provisions of this chapter are declared to be severable.

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

=====  
LC01591/SUB B  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES - PROSTITUTION AND LEWDNESS

\*\*\*

- 1           This act would define the crime of prostitution to include any location, would create
- 2           punishments for individuals who would attempt to procure the services of a prostitute, would
- 3           define the crime of permitting prostitution within a premise.
- 4           This act would take effect upon passage.

=====  
LC01591/SUB B  
=====