

## CHAPTER 35

### SEX TRAFFICKING, PROSTITUTION AND PUBLIC INDECENCY

#### §851. Definitions

As used in this chapter: [PL 1975, c. 499, §1 (NEW).]

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person engaging in prostitution or a 3rd person; [PL 1995, c. 638, §1 (AMD).]

1-A. "Engages a prostitute" means providing or agreeing to provide, either to the person whose prostitution is sought or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251; [PL 1995, c. 638, §2 (AMD).]

2. "Promotes prostitution" means:

A. Causing or aiding another to commit or engage in prostitution, other than as a patron; [PL 1995, c. 638, §3 (AMD).]

B. Publicly soliciting patrons for prostitution. Publicly soliciting patrons for prostitution includes, but is not limited to, an offer, made in a public place, to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person making the offer or a 3rd person; [PL 1995, c. 638, §3 (AMD).]

C. Providing persons for purposes of prostitution; [PL 1995, c. 638, §3 (AMD).]

D. Leasing or otherwise permitting a place controlled by the defendant, alone or in association with others, to be regularly used for prostitution; [PL 1995, c. 638, §3 (AMD).]

E. Owning, controlling, managing, supervising or otherwise operating, in association with others, a house of prostitution or a prostitution business; [PL 1995, c. 638, §3 (AMD).]

F. Transporting a person into or within the State with the intent that such other person engage in prostitution; or [PL 1975, c. 499, §1 (NEW).]

G. Accepting or receiving, or agreeing to accept or receive, a pecuniary benefit pursuant to an agreement or understanding with any person, other than with a patron, whereby the person participates or the person is to participate in the proceeds of prostitution. [PL 1995, c. 638, §3 (AMD).]

[PL 1995, c. 638, §3 (AMD).]

#### SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 671, §§25-A (AMD). PL 1981, c. 611, §1 (AMD). PL 1989, c. 401, §§B3-5 (AMD). PL 1995, c. 638, §§1-3 (AMD).

#### §852. Aggravated sex trafficking

1. A person is guilty of aggravated sex trafficking if the person knowingly:

A. Promotes prostitution by compelling a person to enter into, engage in or remain in prostitution; [PL 2013, c. 407, §2 (AMD).]

B. Promotes prostitution of a person 15, 16 or 17 years of age; or [PL 2021, c. 469, §1 (AMD).]

C. Promotes prostitution of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved. [PL 2013, c. 407, §2 (NEW).]

Violation of this subsection is a Class B crime.  
[PL 2021, c. 469, §1 (AMD).]

**1-A.** A person is guilty of aggravated sex trafficking if the person knowingly promotes prostitution of a person 14 years of age or younger. Violation of this subsection is a Class A crime.  
[PL 2021, c. 469, §2 (NEW).]

**2.** As used in this section, "compelling" includes but is not limited to:

A. The use of a drug or intoxicating substance to render a person incapable of controlling that person's conduct or appreciating its nature; [PL 2011, c. 672, §1 (AMD).]

B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug or alcohol-dependent person. A "drug or alcohol-dependent person" is one who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence or both, arising from the use of the drug or alcohol on a continuing basis; [PL 2013, c. 407, §2 (AMD).]

C. Making material false statements, misstatements or omissions; [PL 2011, c. 672, §1 (NEW).]

D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement; [PL 2011, c. 672, §1 (NEW).]

E. Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and [PL 2011, c. 672, §1 (NEW).]

F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the actor or another person will:

(1) Cause physical injury or death to a person;

(2) Cause damage to property, other than property of the actor;

(3) Engage in other conduct constituting a Class A, B or C crime or criminal restraint;

(4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status. [PL 2013, c. 407, §2 (AMD).]

[PL 2013, c. 407, §2 (AMD).]

**3.**

[PL 2021, c. 469, §3 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1989, c. 431, §1 (AMD). PL 2011, c. 672, §1 (AMD). PL 2013, c. 407, §2 (AMD). PL 2021, c. 469, §§1-3 (AMD).

### **§853. Sex Trafficking**

1. A person is guilty of sex trafficking if:

A. The person knowingly promotes prostitution. Violation of this paragraph is a Class D crime; or [PL 2013, c. 407, §3 (NEW).]

B. The person violates paragraph A and has 2 or more prior convictions in this State for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are any violation of this section or section 852, 853-A, 853-B or 855 or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2015, c. 360, §1 (AMD).]

[PL 2015, c. 360, §1 (AMD).]

2.

[PL 2013, c. 407, §3 (RP).]

3. It is an affirmative defense to prosecution under this section that the person engaged in sex trafficking because the person was compelled to do so as described in section 852, subsection 2.

[PL 2017, c. 416, §3 (NEW).]

### **SECTION HISTORY**

PL 1975, c. 499, §1 (NEW). PL 2013, c. 407, §3 (AMD). PL 2015, c. 360, §1 (AMD). PL 2017, c. 416, §3 (AMD).

### **§853-A. Engaging in prostitution**

1. A person who has in fact attained 18 years of age is guilty of engaging in prostitution if:

A. The person engages in prostitution as defined in section 851. Violation of this paragraph is a Class E crime, except that the sentencing alternative may include only the penalties provided in section 1704, subsection 5 and section 1705, subsection 5; or [PL 2019, c. 113, Pt. C, §64 (AMD).]

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class E crime. [PL 2019, c. 316, §1 (AMD).]

[PL 2019, c. 113, Pt. C, §64 (AMD); PL 2019, c. 131, §1 (AMD); PL 2019, c. 316, §1 (AMD).]

2.

[PL 2001, c. 383, §100 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §101 (RP); PL 2001, c. 383, §156 (AFF).]

4. It is a defense to prosecution under this section that the person engaged in prostitution because the person was compelled to do so as described in section 852, subsection 2.

[PL 2021, c. 315, §1 (AMD).]

5. It is a defense to prosecution under this section that the person engaged in prostitution to prevent bodily injury, serious economic hardship or another threat to the person or another person.

[PL 2021, c. 315, §2 (NEW).]

## SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 245, §1 (AMD). PL 1987, c. 361, §2 (AMD). PL 1989, c. 431, §2 (AMD). PL 2001, c. 383, §§99,101 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §29 (AMD). PL 2013, c. 537, §5 (AMD). PL 2019, c. 113, Pt. C, §64 (AMD). PL 2019, c. 131, §1 (AMD). PL 2019, c. 316, §1 (AMD). PL 2021, c. 315, §§1, 2 (AMD).

**§853-B. Engaging a prostitute**

1. A person is guilty of engaging a prostitute if:

A. The person engages a prostitute within the meaning of section 851, subsection 1-A. Violation of this paragraph is a Class E crime; or [PL 2013, c. 407, §4 (AMD).]

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class D crime. [PL 2007, c. 476, §30 (AMD).]

[PL 2013, c. 407, §4 (AMD).]

2.

[PL 2001, c. 383, §103 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §104 (RP); PL 2001, c. 383, §156 (AFF).]

## SECTION HISTORY

PL 1981, c. 611, §2 (NEW). PL 1989, c. 431, §3 (AMD). PL 2001, c. 383, §§102-104 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §30 (AMD). PL 2013, c. 407, §4 (AMD).

**§854. Indecent conduct**

1. A person is guilty of indecent conduct if:

A. In a public place:

(1) The actor engages in a sexual act, as defined in section 251. Violation of this subparagraph is a Class E crime;

(2) The actor knowingly exposes the actor's genitals under circumstances that in fact are likely to cause affront or alarm. Violation of this subparagraph is a Class E crime;

(3) The actor violates subparagraph (1) and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class D crime; or

(4) The actor violates subparagraph (2) and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class D crime; [PL 2007, c. 476, §31 (AMD).]

B. In a private place, the actor exposes the actor's genitals with the intent that the actor be seen from a public place or from another private place. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §105 (AMD); PL 2001, c. 383, §156 (AFF).]

C. In a private place, the actor exposes the actor's genitals with the intent that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §105 (AMD); PL 2001, c. 383, §156 (AFF).]

D. The actor violates paragraph B and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class D crime; or [PL 2007, c. 476, §32 (AMD).]

E. The actor violates paragraph C and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class D crime. [PL 2007, c. 476, §33 (AMD).]

[PL 2007, c. 476, §§31-33 (AMD).]

2. For purposes of this section "public place" includes, but is not limited to, motor vehicles that are on a public way.

[PL 1995, c. 72, §2 (AMD).]

2-A. It is a defense to prosecution under subsection 1, paragraph C, that the other person previously lived or currently is living in the same household as the actor.

[PL 1995, c. 72, §2 (NEW).]

3.

[PL 2001, c. 383, §106 (RP); PL 2001, c. 383, §156 (AFF).]

#### SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §90 (AMD). PL 1989, c. 401, §§B6,B7 (AMD). PL 1995, c. 72, §2 (AMD). PL 1997, c. 256, §1 (AMD). PL 2001, c. 383, §§105,106 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §§31-33 (AMD).

#### §855. Patronizing prostitution of minor or person with mental disability

1. A person is guilty of patronizing prostitution of a minor if:

A. The person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought has not in fact attained 18 years of age or the person knows or believes that the person whose prostitution is sought has not attained 18 years of age. Violation of this paragraph is a Class C crime; or [PL 2021, c. 447, §2 (AMD).]

B. [PL 2021, c. 447, §3 (RP).]

[PL 2021, c. 447, §§2, 3 (AMD).]

2.

[PL 2005, c. 444, §1 (RP).]

3. A person is guilty of patronizing prostitution of a mentally disabled person if:

A. The person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct or conduct involved. Violation of this paragraph is a Class C crime. [PL 2013, c. 407, §5 (NEW).]

[PL 2013, c. 407, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 245, §2 (NEW). PL 2005, c. 444, §1 (RPR). PL 2013, c. 407, §5 (AMD). PL 2021, c. 447, §§2, 3 (AMD).

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