

Sec. 2. Minnesota Statutes 1992, section 469.091, is amended by adding a subdivision to read:

Subd. 3. UNPAID OFFICERS, DIRECTORS, AND AGENTS; LIABILITY. Section 317A.257 applies to an economic development authority or to a nonprofit corporation exercising the powers of an economic development authority.

Sec. 3. **REPEALER.**

Minnesota Statutes 1992, sections 31.50; 87.021; 87.0221; 87.023; 87.024; 87.025; 87.026; 87.03; 604.05; 604.08; 604.09; and 609.662, subdivision 5, are repealed.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 3:56 p.m.

CHAPTER 624—H.F.No. 2519

An act relating to prostitution; creating a civil cause of action for persons who are coerced into prostitution; proposing coding for new law in Minnesota Statutes, chapter 611A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[611A.80] DEFINITIONS.**

Subdivision 1. GENERAL. The definitions in this section apply to sections 1 to 9.

Subd. 2. COERCE. "Coerce" means to use or threaten to use any form of domination, restraint, or control for the purpose of causing an individual to engage in or remain in prostitution or to relinquish earnings derived from prostitution. Coercion exists if the totality of the circumstances establish the existence of domination, restraint, or control that would have the reasonably foreseeable effect of causing an individual to engage in or remain in prostitution or to relinquish earnings from prostitution. Evidence of coercion may include, but is not limited to:

- (1) physical force or actual or implied threats of physical force;
- (2) physical or mental torture;
- (3) implicitly or explicitly leading an individual to believe that the individual will be protected from violence or arrest;
- (4) kidnapping;

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(5) defining the terms of an individual's employment or working conditions in a manner that can foreseeably lead to the individual's use in prostitution;

(6) blackmail;

(7) extortion or claims of indebtedness;

(8) threat of legal complaint or report of delinquency;

(9) threat to interfere with parental rights or responsibilities, whether by judicial or administrative action or otherwise;

(10) promise of legal benefit, such as posting bail, procuring an attorney, protecting from arrest, or promising unionization;

(11) promise of financial rewards;

(12) promise of marriage;

(13) restraining speech or communication with others, such as exploiting a language difference, or interfering with the use of mail, telephone, or money;

(14) isolating an individual from others;

(15) exploiting a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency;

(16) taking advantage of lack of intervention by child protection;

(17) exploiting victimization by previous sexual abuse or battering;

(18) exploiting pornographic performance;

(19) interfering with opportunities for education or skills training;

(20) destroying property;

(21) restraining movement;

(22) exploiting HIV status, particularly where the defendant's previous coercion led to the HIV exposure; or

(23) exploiting needs for food, shelter, safety, affection, or intimate or marital relationships.

Subd. 3. PROMOTES THE PROSTITUTION OF AN INDIVIDUAL. "Promotes the prostitution of an individual" has the meaning given in section 609.321, subdivision 7.

Subd. 4. PROSTITUTION. "Prostitution" has the meaning given in section 609.321, subdivision 9.

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Sec. 2. **[611A.81] CAUSE OF ACTION FOR COERCION FOR USE IN PROSTITUTION.**

Subdivision 1. CAUSE OF ACTION CREATED. (a) An individual has a cause of action against a person who:

- (1) coerced the individual into prostitution;
- (2) coerced the individual to remain in prostitution;
- (3) used coercion to collect or receive any of the individual's earnings derived from prostitution; or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution, knowing or having reason to believe that the individual was coerced into or coerced to remain in prostitution by another person.

For purposes of clauses (1) and (2), money payment by a patron, as defined in section 609.321, subdivision 4, is not coercion under section 611A.80, subdivision 2, clause (5) or (11), or exploiting needs for food or shelter under section 611A.80, subdivision 2, clause (23).

Clause (3) does not apply to minor children who are dependent on the individual and who may have benefitted from or been supported by the individual's earnings derived from prostitution.

(b) An individual has a cause of action against a person who did the following while the individual was a minor:

- (1) solicited or induced the individual to practice prostitution;
 - (2) promoted the prostitution of the individual;
 - (3) collected or received the individual's earnings derived from prostitution;
- or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution.

Mistake as to age is not a defense to an action under this paragraph.

Subd. 2. DAMAGES. A person against whom a cause of action may be maintained under subdivision 1 is liable for the following damages that resulted from the plaintiff's being used in prostitution or to which the plaintiff's use in prostitution proximately contributed:

- (1) economic loss, including damage, destruction, or loss of use of personal property; loss of past or future income or earning capacity; and income, profits, or money owed to the plaintiff from contracts with the person; and
- (2) damages for death as may be allowed under section 573.02, personal

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injury, disease, and mental and emotional harm, including medical, rehabilitation, and burial expenses; and pain and suffering, including physical impairment.

Sec. 3. [611A.82] ACTS NOT DEFENSES.

None of the following shall alone or jointly be a sufficient defense to an action under section 2:

- (1) the plaintiff consented to engage in acts of prostitution;
- (2) the plaintiff was paid or otherwise compensated for acts of prostitution;
- (3) the plaintiff engaged in acts of prostitution prior to any involvement with the defendant;
- (4) the plaintiff apparently initiated involvement with the defendant;
- (5) the plaintiff made no attempt to escape, flee, or otherwise terminate contact with the defendant;
- (6) the defendant had not engaged in prior acts of prostitution with the plaintiff;
- (7) as a condition of employment, the defendant required the plaintiff to agree not to engage in prostitution; or
- (8) the defendant's place of business was posted with signs prohibiting prostitution or prostitution-related activities.

Sec. 4. [611A.83] EVIDENCE.

Subdivision 1. USE IN OTHER PROCEEDINGS. In the course of litigation under section 2, any transaction about which a plaintiff testifies or produces evidence does not subject the plaintiff to criminal prosecution or any penalty or forfeiture. Any testimony or evidence, documentary or otherwise, or information directly or indirectly derived from that testimony or evidence that is given or produced by a plaintiff or a witness for a plaintiff may not be used against that person in any other investigation or proceeding, other than a criminal investigation or proceeding for perjury committed while giving the testimony or producing the evidence.

Subd. 2. CONVICTIONS. Evidence of convictions for prostitution or prostitution-related offenses is inadmissible in a proceeding brought under section 2 for purposes of attacking the plaintiff's credibility. If the court admits evidence of prior convictions for purposes permitted under Minnesota Rules of Evidence, rule 404(b) with respect to motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, the fact finder may consider the evidence solely for those purposes and shall disregard details offered to prove any fact that is not relevant.

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Sec. 5. [611A.84] STATUTE OF LIMITATIONS.

An action for damages under section 2 must be commenced not later than six years after the cause of action arises, except that the running of the limitation period is suspended during the time that coercion as defined in section 1 continues, or as otherwise provided by section 541.13 or 541.15.

Sec. 6. [611A.85] OTHER REMEDIES PRESERVED.

Sections 1 to 9 do not affect the right of any person to bring an action or use any remedy available under other law, including common law, to recover damages arising out of the use of the individual in prostitution or the coercion incident to the individual being used in prostitution; nor do sections 1 to 9 limit or restrict the liability of any person under other law.

Sec. 7. [611A.86] DOUBLE RECOVERY PROHIBITED.

A person who recovers damages under sections 1 to 9 may not recover the same costs or damages under any other law. A person who recovers damages under any other law may not recover for the same costs or damages under sections 1 to 9.

Sec. 8. [611A.87] AWARD OF COSTS.

Upon motion of a prevailing party in an action under sections 1 to 9, the court may award costs, disbursements, and reasonable attorney fees and witness fees to the party.

Sec. 9. [611A.88] NO AVOIDANCE OF LIABILITY.

No person may avoid liability under sections 1 to 9 by means of any conveyance of any right, title, or interest in real property, or by any indemnification, hold harmless agreement, or similar agreement that purports to show consent of the plaintiff.

Sec. 10. EFFECTIVE DATE; APPLICATION.

(a) Sections 1 to 9 are effective August 1, 1994, and apply to actions commenced on or after the effective date.

(b) For activities described in section 2, subdivision 1, that occurred between August 1, 1988, and July 31, 1994, an action for damages must be commenced not later than August 1, 1995, or six years after the cause of action arises, whichever is later; except that the running of the limitation period is suspended during the time that coercion continues.

Presented to the governor May 6, 1994

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