



April 11, 2021

Dear Senator Carney, Representative Moonen, and Honorable Members of the Joint Standing Committee on the Judiciary,

I join you today on behalf of the Maine Women's Lobby. We write today neither for nor against **LD 1435, " An Act to Reduce Commercial Sexual Exploitation."**

Many in this room today know that I previously spent 11 years at the Maine Coalition Against Sexual Assault. In that role, I worked intimately on policy related to commercial sex, commercial sexual exploitation, and human trafficking. This included staffing the Attorney General's Human Trafficking Work Group, overseeing Maine's only statewide study on human trafficking, and coordinating the statewide Sex Trafficking and Exploitation Network Provider Council. I am committed, personally and professionally, to reducing the harm of sex trafficking and exploitation.

And as the leader of an organization shaped by a belief in bodily autonomy and choice as human rights, I am committed to working for the rights and dignity of people who are engaged in consensual sex work or sexualized labor.

Sex trafficking or exploitation, and sex work or sexual labor, are not the same thing.

Sex trafficking or exploitation is the trade of sex through force, fraud, or coercion, or among people who are not capable of consenting to the activity. Sex work or sexual labor is the consensual and informed trade of sex acts for something of value. The same people may experience both at different points in their lives. For a long time, we have thought of these behaviors as either prostitution (a criminal act) or trafficking (a victimization). There is increasingly an understanding that sometimes, people who are in fact victims are treated like perpetrators by being charged with the crime of prostitution, and that is what this bill is trying to address.

What it fails to acknowledge is that there are also adults capable of making informed decisions about their own bodies and livelihoods, who are neither criminals nor victims. All these people are equally deserving of safety and dignity. Our current legal framework has not yet acknowledged this reality, and I'm afraid this bill does not either.

I want to highlight Section 4 of this bill, which amends § 259-B from "solicitation of a child to engage in prostitution" to "solicitation of a child for commercial sexual exploitation", and Section 16, which amends § 855 from "patronizing prostitution of minor or person with mental disability" to "commercial sexual exploitation of minor or person with mental disability".

Children, and certain adults with cognitive or intellectual disabilities, are not capable of informed consent to some behaviors, and that is why our laws recognize the inherent exploitation in certain activities, here as well as in Title 17-A Ch 12. **This is an important and necessary update that we support fully.**

Yet the bill also amends the crime of engaging in prostitution – when there is no force, fraud or coercion – to exploitation (Sections 9 and 15). This has the effect of creating an equivalence between non-consensual exploitation of children and people with disabilities, and the behaviors of capable, consenting adults.

In the effort to increase safety for one group of people, this type of approach has unanticipated harmful consequences for people on all sides of the issue.

- **Conflating consensual sex work with sex trafficking makes it harder to prevent and respond to trafficking.** New Zealand decriminalized sex work in 2003 and is judged to be among those countries doing the most effective work on human trafficking¹, which shows us that we can address each issue distinctly. This also preserves and focuses scarce law enforcement resources where they are most needed.
- **‘End Demand’ or ‘Nordic Model’ policies do not decrease demand for commercial sex.** A 2014 report by the Swedish police found no reduction in trafficking in the country after 15 years of this approach.²
- **Partial criminalization, such as this bill proposes, decreases the safety of sex workers.** After Scotland instituted laws criminalizing solicitation in 2007, groups recorded a doubling in reported rapes and assaults.³ Partial criminalization “often means policing of the areas where sex workers conduct business. This forces those working into more isolated conditions and locations, increasing their physical vulnerability. It disrupts critical safety strategies and negotiations including harm-reduction techniques—such as the use of condoms—and peer networks.”⁴
- **Decriminalization of sex work increases worker rights and safety, and many organizations - from local to global - agree.** Decriminalization moves the emphasis away from consenting behaviors and focuses law enforcement resources on exploitive and abusive behaviors, which we all agree must stop. This approach is supported by the World Health Organization, UNAIDS, the Global Alliance Against Traffic in Women, Human Rights Watch, Lambda Legal, the American Civil Liberties Union, and Freedom Network USA.

We all agree that trafficking is serious, that we need to have a legal framework for preventing and responding to it, and that we must work together to ensure the safety and services for our community members who are affected by it. What we don’t agree on – yet! - is how to do that in a way that recognizes the autonomy of consenting adults. **We hope you will consider giving this issue the time and care it deserves by convening stakeholders who represent not only trafficking survivors and providers, but people who are engaged in consensual sexual labor, to consider this chapter holistically, with the health and safety of all in mind.**

¹ United States Department of State, Trafficking in Persons Report (2014), <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>

² Rikspolisstyrelsen, “människohandel för sexuella och andra ändamål,” RPs Rapport, (2014): 8

³ “attacks on prostitutes soar after vice ‘driven underground’ by law,” The Scotsman, april 16, 2008, <https://www.scotsman.com/news/attacks-prostitutes-soar-after-vice-driven-underground-law-2511658>

⁴ World Health Organization. Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions. Geneva, Switzerland: World Health Organization; 2013:24. http://apps.who.int/iris/bitstream/10665/90000/1/9789241506182_eng.pdf?ua=1.