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Institute to Address Commercial Sexual Exploitation

Testimony in Support for L.D. #1435 An Act to Reduce Commercial Sexual Exploitation and L.D. #1436 An Act to Provide Remedies for Survivors of Commercial Sexual Exploitation

Dear Senator Carney, Representative Moonen, and honorable members of the Judiciary Committee:

My name is Natalie Anderson, and I was born and raised in Portland, Maine. I am currently a third-year law student at Villanova Law School, and a certified legal intern for the Villanova Law Institute to Address Commercial Sexual Exploitation (CSE Institute), which is co-founded and directed by my supervisor Shea Rhodes, Esquire. Ms. Rhodes is a national expert on anti-human trafficking laws and policies. While I have been at school in Pennsylvania, I have remained active in the Maine legal community and have always tried to provide legal services to Mainers in need. During the summer of 2021, I worked closely with then Cumberland County District Attorney, Jonathan Sahrbeck, learning about Maine's unique approach to the criminal justice system. As a future Maine lawyer, I am speaking today to support L.D. #1435, An Act to Reduce Commercial Sexual Exploitation and L.D.#1436, An Act to Provide Remedies for Survivors of Commercial Sexual Exploitation.

The mission of the CSE Institute is to educate and provide technical assistance to those who respond to commercial sexual exploitation in Pennsylvania, the United States and beyond, promoting victim-centered, trauma-informed multidisciplinary collaboration. We equip policymakers and the broader community with the knowledge they need to improve the legal system's response to commercial sexual exploitation in order to support survivors and hold perpetrators accountable. As a Mainer, I wanted to use the knowledge I have gained at the CSE Institute and bring it home to help strengthen Maine's already exceptional community. I believe that L.D.#1435 and L.D. #1436 would improve life for many Mainers by protecting vulnerable populations.

At the CSE Institute, we center the development of our policies and best practices to combat commercial sexual exploitation around the experiences of survivors and are committed to using the survivor experience to inform and shape our positions. We aim to create a community in which every human being is treated with dignity, compassion, and respect. The CSE Institute fulfills our mission by collaborating with survivors, community partners, social service providers, policymakers, and legal system representatives to identify and implement effective

solutions for the complex crimes of sex trafficking and commercial sexual exploitation. The CSE Institute also provides free direct legal services to survivors of commercial sexual exploitation, primarily in the pursuit of criminal record relief. In my role as a certified legal intern, I have assisted with the direct representation of survivors of sex trafficking and commercial sexual exploitation.

With the passage of L.D. #1435 and L.D. #1436, Maine is taking the lead and setting an example for state legislators throughout the United States to pass legislation implementing aspects of the Equality Model. Just this year, New York and Washington have introduced legislation with some or all of the aspects of the Equality Model.¹ In 2021, the Manhattan district attorney announced that his office would no longer prosecute prostitution, while continuing to prosecute sex buyers and traffickers.² Globally, the Equality Model has been adopted in multiple countries and the number is growing. Sweden, France, Canada, Israel, Ireland, and Norway are just some of the countries that have adopted the Equality Model. Research from these countries shows a decrease in reports of violence against persons in prostitution, a decrease in trafficking, and a decrease in the number of men buying sex after implementing the Equality Model.³ In Sweden, where the Equality Model has been in place since 1999, street prostitution decreased 50% and the number of men purchasing sex declined significantly.⁴

Throughout our work at the CSE Institute, we advocate for the Equality Model as a legislative and policy solution to end the sex trade. The Equality Model consists of four elements: (1) decriminalization of persons in prostitution, (2) criminalization of sex buyers and facilitators with a commitment to treating sex buying as a serious crime, (3) a public education campaign about the inherent harms of prostitution, and (4) funded, robust, holistic exit services for victims of commercial sexual exploitation. The Equality Model prioritizes the rights of those who are exploited and holds their exploiters accountable. It directly targets the demand for commercial sex by criminalizing sex buyers and traffickers. It also acknowledges the victimization of those who are bought and sold for sex by decriminalizing persons in prostitution.

On behalf of the CSE Institute, we support both L.D. #1435 and L.D. #1436 because they represent full Equality Model bills.

First, we would like to express our support for L.D. #1435.

We support L.D. #1435 because it repeals the crime of engaging in prostitution. At the CSE Institute, we believe that individuals who are bought and sold for sex are victims of

¹ S. 1352, 2023 Leg., Reg. Sess. (N.Y. 2023); 2023 WA S.B. 5114 (NS)

² *Manhattan DA Alvin Bragg Says His Office Won't Prosecute Fare Evasion, Resisting Arrest, Prostitution and More Without Accompanying Felony Charge*, CBS NEWS, (Jan. 5, 2022), <https://www.cbsnews.com/newyork/news/manhattan-da-alvin-bragg-low-level-offenses/>

³ *What is the Equality Model?*, EQUALITY MODEL US, <https://www.equalitymodelus.org/why-the-equality-model/> (last visited May 10, 2021).

⁴ *Id.*

exploitation, not perpetrators of a crime. The “choice” to commit the “crime” of selling sex is often made from a place of economic insecurity, addiction, or other desperate circumstances.⁵ We believe that a choice made purely to survive is not a choice at all, and those who must make this choice must not be criminalized. Criminalizing persons in prostitution only perpetuates the cycle that makes it difficult for victims to exit the life and pursue a lifestyle free of exploitation. A single arrest or criminal conviction can serve as a massive barrier to accessing stable employment, housing, immigration, or educational opportunities.⁶ Without this stability, it is incredibly difficult for persons in prostitution to build a life after exploitation and, as a result, it is common for persons in prostitution to return to the life. When a person in prostitution is criminally charged for selling sex to survive, it further exacerbates the root causes behind their exploitation.

Additionally, we support L.D. #1435 because it limits criminal culpability for victims in the life by creating an affirmative defense for prostituted persons when they are charged with conspiracy to commit commercial sexual exploitation when they have been soliciting a patron to engage in sex with themselves. That way, a victim may never be liable for commercially sexually exploiting themselves, closing a loophole which would otherwise continue criminalization of a victim.

We support L.D. #1435 not only because it removes criminal liability for prostituted persons, but it also represents a trauma informed bill which understands the power of language by removing the deeply stigmatizing language of “prostitute” and “prostitution” and replaces such language with a more accurate description of “commercial sexual exploitation.” This change in language recognizes that the crime that is really occurring is economic exploitation of vulnerable groups, rather than assigning a criminalized label to those who are exploited. The term engaging a prostitute does not accurately represent the lack of choice and consent in the sex trade, whereas commercial sexual exploitation embodies the idea that the crime is happening to the victim. Additionally, the term patronizing prostitution of a minor or person with mental disability is a legal fallacy, as there is no such thing as a child prostitute or a minor engaging in prostitution; minors and those with mental disabilities are persons who legally lack the ability to consent and therefore what is occurring is sexual exploitation.

Second, we support L.D. #1435 because it increases penalties for sex buyers by increasing the penalty for commercial sexual exploitation of a child and solicitation of a child for commercial sexual exploitation from a class D crime to a class C crime. An integral part of the Equality Model is a commitment to creating laws which target those buying sex and those laws being continuously utilized by law enforcement. Additionally, The CSE Institute supports stronger penalties for sex buyers because it is well established that supply grows to meet demand. As long as there is a demand for commercial sex, sex trafficking will be one of the

⁵ *Entry into the Life*, THE LIFE STORY, <https://thelifestory.org/entry-into-the-life> (last accessed May 10, 2021).

⁶ *Report on Commercial Sexual Exploitation in Pennsylvania Spring 2020*, VILLANOVA UNIVERSITY CHARLES WIDGER SCHOOL OF LAW INSTITUTE TO ADDRESS COMMERCIAL SEXUAL EXPLOITATION, 26, <https://cseinstitute.org/wp-content/uploads/2020/05/Spring-2020-Report.pdf> (last accessed May 10, 2021).

means used to supply it. Demand increases the number of people in sex trafficking by increasing the number of marginalized individuals who are exploited. Existing data on sex trafficking victims in the United States show that the majority are women and are often women of color or of low-income backgrounds.⁷ Sex trafficking victims often possess other vulnerabilities that make them more susceptible to exploitation, like substance use disorders or histories of sexual abuse.⁸ In stark contrast, studies show that sex buyers are overwhelmingly white men with disposable incomes.⁹ These data suggest that there is a notable power imbalance between those who are bought for sex and those who purchase it. Only one party is able to make a truly free choice. Enforcing and increasing penalties for sex buyers will limit the amount of men who are willing to take the risk of such strong criminal penalties for buying sex and therefore limit the supply of victims.

Third, the CSE Institute supports L.D. #1435 because it directs the Department of Public Safety to adopt a protocol for law enforcement agencies to follow when they encounter a person who is experiencing or has experienced human trafficking. At the CSE Institute, we believe law enforcement education is vital to ending commercial sexual exploitation, because law enforcement officials are often the first line of defense against human trafficking. If policies are in place to ensure that a victim is treated like a victim this would help break the cycle of harmful criminalization of vulnerable populations which further limits their abilities to exit the life.

We would now like to express our support for L.D. #1436.

The CSE Institute supports L.D. #1436 because it fulfills the final tenant of the Equality Model by providing robust exit strategies for those in the life. L.D. #1436 provides two important components: a remedy for sealing criminal records and a path to identifying funding for critical service programming. By sealing a victim's criminal history, this bill removes substantial barriers to exiting the life, including opening up opportunities for housing, education, and employment. And, by providing important funding, Bill number 1436 helps end the cycle of exploitation with services that target the underlying drivers of commercial sexual exploitation, such as addiction, homelessness, and past trauma.

It is for these reasons that the CSE Institute supports L.D. #1435 and L.D. #1436. This legislation proposes to decriminalize people bought and sold by repealing the crime of selling sex and by sealing all past charges for acts of prostitution. It proposes to hold sex buyers accountable by penalizing the crime of buying sex with increased criminal penalties. Finally, it proposes to create a stakeholder group accountable for increasing support and exit options for persons in prostitution.

⁷ Rebecca Bender, et al., *Equality Not Exploitation: An overview of the global sex trade and trafficking crisis, and the case for the Equality Model*, WORLD WITHOUT EXPLOITATION, 5 (Nov. 2019), <https://www.equalitymodelus.org/wp-content/uploads/2020/02/Equality-Not-Exploitation-white-paper-November-2019.pdf>.

⁸ *Id.* at 6.

⁹ *Id.* at 4.

The Equality Model, and therefore L.D. #1435 and L.D.#1436, are uniquely suited to the community in Maine. Through my work with the Cumberland County District Attorney's Office, I worked with and learned from many law enforcement officials who are working to revolutionize the criminal justice system so that it keeps all Mainers safe. L.D. #1435 and L.D. #1436 would complement Maine's law enforcement mission of holding perpetrators accountable while providing support and services for those in need. Through my work with the CSE Institute, I have seen first-hand the good that the Equality Model can do for survivors and the new futures it can provide, and I believe that survivors in Maine would benefit greatly from the passage of L.D. #1435 and L.D. #1436.

To effectively combat sex trafficking, there must be a change in the way the criminal justice system treats victims of commercial sexual exploitation and those who exploit them. It is clear the Equality Model is the future. Thank you for the opportunity to advocate for this comprehensive and robust example of Equality Model legislation. If passed, L.D. #1435 and L.D. #1436 would put Maine at the forefront of the fight to end commercial sexual exploitation in the United States. I look forward to that change. Thank you for your time and consideration.

Sincerely,



Natalie Anderson
Certified Legal Intern
CSE Institute

Sincerely,



Shea M. Rhodes, Esquire
Director and Co-Founder
CSE Institute