

TESTIMONY OF MEAGAN SWAY, ESQ.

Ought to Pass – LD 1436

An Act to Provide Remedies for Survivors of Commercial Sexual Exploitation

JOINT STANDING COMMITTEE ON JUDICIARY

April 11, 2023

Senator Carney, Representative Moonen, and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Meagan Sway, and I am policy director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to support this bill because it would help free Mainers from the debilitating unintended consequences of certain criminal records.

This is how criminal law is the supposed to work. The legislature decides that something is a crime. Then it designates consequences for committing the crime. These consequences are designed to be proportional to the crime. They can include a prison sentence, rehabilitation or mental health services, community service, supervised release, and still more. Unfortunately, for as long as there have been criminal laws – but exponentially more in the digital age – a criminal record has prevented people from continuing their education, getting housing, a professional license, credit, investments, and other features of a stable, dignified life. In short, a criminal record has prevented millions across the country, and thousands across Maine, from moving on with their lives, pushing them into second-class status even after they completed their sentences.¹

This bill is a necessary corrective to this harmful flaw in our criminal legal system. In addition to decriminalizing prostitution, it would also ensure that the criminal records of some people who have been convicted of this crime are sealed. Crucially, it would also establish a

¹ The legislature was aware of this problem when, in 2019, it established a Criminal Records Review Committee, a bipartisan group that included lawmakers, prosecutors, law enforcement, civil liberties advocates, survivors of sexual trafficking, representatives of the judiciary, advocates for survivors of domestic violence, and still more voices from a diverse array of backgrounds. The Committee's recommended, among other things, a constitutional amendment to enable the legislature to enact laws permitting people to expunge criminal records without a gubernatorial pardon. *See* Final Report of the Criminal Records Review Committee, December 2021, at 14, available at <https://legislature.maine.gov/doc/7761>.

stakeholder group in DHHS to identify funds that can be used to provide necessary services to survivors of exploitation in the prostitution industry.² Finally, this bill will direct the Department of Public Safety to inform the legislature about the number of convictions and fines assessed and collected under Chapter 35 of the Criminal Code, the number of requests for sealing records pursuant to this bill, and the services provided by the State, so that lawmakers have a clearer picture of the people that Maine's sex trafficking, prostitution and public indecency laws affect, and of the number of people bills like this one might help. This bill will make our laws fairer, and our state more just. We urge you to vote *ought to pass*.

Thank you for your time and attention.

² There is no definition of commercial sexual exploitation in the bill, and we recommend that the bill be amended to include a definition. For reasons we discuss in our testimony on LD 1435, we do not support the crime of prostitution being renamed "commercial sexual exploitation" when referring to behavior engaged in by adults.