

Dear Criminal Justice and Public Safety Committee,

My name is Henri Bynx, the co-founder and co-director of the Ishtar Collective, an anti-trafficking organization that is a coalition member of The Erotic Laborers Alliance of New England (ELA-ONE).

I am here to express our partial support of LD 1592 (HP 1181) “An Act to Decriminalize Engaging in Prostitution, Strengthen the Laws against Commercial Sexual Exploitation and Allow a Person Convicted of Engaging in Prostitution To Petition the Court To Expunge the Record of Conviction” and to share perspective on this particular approach to the decriminalization of sex work. As an anti-trafficking organization, we advocate for sex workers and survivors of trafficking in Vermont and regionally to sex workers in New England, which includes Maine. As experienced advocates, we know that the criminalization of sex work subjects sellers of sex - often already marginalized people - to increased violence and risk of exploitation. Sex work is a means of survival for many, and sex workers want to work without fear of police. We want to be able to safely report violence and trafficking if it affects us or our peers. As insiders of the sex industry, we are often the first line of defense against trafficking in ways that police or the criminal legal system are not. We can spot signs of exploitation or coercion that are subtle and easy to miss, but we cannot report that or intervene safely in a criminalized or fear-based stigmatized environment.

I testified on behalf of my organization at both chambers of the state house of Vermont within the last month in favor of a Good Samaritan Bill for sex workers and trafficking survivors and it is on the Governor’s desk for signing as of today. This bill is designed to provide safe harbor for sex workers and clients to report if they are witness to or victim of a crime while engaged in prostitution with limited immunity. This may seem strange to include clients, for those who view clients as inherently evil and bad and the sex industry as exploitative, but we would like to take a moment to shift your paradigm: clients are not inherently evil, not all clients are men, and some sex workers are also clients of other sex workers.

Our members of ELA-ONE are sex workers and survivors. Our other co-director at the Ishtar Collective is a transgender sex worker and has been in a loving relationship with a former client for nearly 10 years. This is not a “Pretty Woman” story of a hooker and a John falling in love. They never actually saw each other professionally. These were just two people that happened to work in the same industry as buyer and seller at different times in their lives. The sex industry was one of the things they had in common, much like their love of music.

Some of our ELA-ONE members who are long-time sex workers are also themselves clients of sex workers at times. This bill would in effect say that on one day while they are selling sex, our members are victims who need protection from criminal liability, and on another day, when they are buyers, they are villains who deserve to be arrested. This is bizarre logic. Every lawyer knows that sometimes they are also in need of legal services, and they will hire another lawyer to represent them. Every doctor is also sometimes a patient. To bifurcate people as either a

buyer or seller, “good” or “bad”, to separate them as either a victim who needs protection or a villain who needs to be arrested, this further feeds the narrative that sex workers are emotional infants, not adults who make educated choices with their bodies. It also discourages a client to come forward to police if the client suspects their provider might be experiencing human trafficking within the sex industry. Only full decriminalization of buyer and seller, not partial decriminalization, which is what this bill is, can incentivize someone to come forward in the case of suspected exploitation or crime and strengthen the effectiveness of existing human trafficking laws. We must stop vilifying clients. The sex industry and clients are not inherently evil, regardless if one likes it or does not like it.

Early this spring, I was reaching out to consumers of sex work to hold space for their experiences and learn more about how the sex industry has impacted their lives. I'd like to share a few words from one client of mine in particular. **He wrote, "The 'Nordic model' which makes it legal to sell sex but illegal to buy it does NOT cut it where decriminalization is concerned. If the goal is to destigmatize, then promoting the stereotype that sex workers are all femmes and taking their agency by infantilizing them all as helpless victims is NOT removing a stigma, it's just changing it. We also need to get over the stigma on people who buy sex work. Anyone who watches porn is in this category. We're not all predators, perverts, or misogynists. We're not all men, either. This is personal to me as a survivor of early childhood abuse and trauma, and as an autistic person. After I was victimized at age 4, I became extremely wary of physical intimacy with any family or friends. I never learned the implicit languages of intimacy, languages that were difficult anyway with autism. Once I hit puberty and developed my own sexuality, it became terrifying to me. I'm always held back by this fear that I'm doing something wrong when I try to flirt or approach anyone I'm interested in. I've only bought sex work legally, online, so far in my life but it's a source of connection and relief. It allows me to overcome my trauma and heal just a little. Sex work is work, but it's more than that. Sex work is healing work. Sex work is social work. I've never bought full service sex work because illegal markets require so much implicit communication and that's a limitation for me. Prohibitions on consensual activities are ableist, because they make illegal things available to neurotypical people in a way that they aren't available to autistic people. Stop criminalizing humanity. Stop criminalizing the efforts of hurt and disabled people to reclaim our humanity."**

All too-often we see the character of a client or consumer as a leering male predator, seeking to trap, exploit, assault, or even kill. In reality, consumers of sex work are identities across the political, disabled, gender, and class spectrum. For my client in Vermont, who's words were just shared with you all, sex work has been an outlet for intimacy and a way of better understanding his own sexuality without fear of judgement or misunderstanding for his autism. He is a gentle, steadfast member of our community, and to think that perpetrators of a false trafficking narrative would throw him in a cage with people who commit acts of real violence is one reason why I am here today. I am here to be a neighbor to a good person, who is a participant in the sex industry.

Total decriminalization of sex work is supported by expert organizations internationally, including Amnesty International,¹ Human Rights Watch,² the ACLU,³ and more. Through extensive large-scale research, these organizations have found that total decriminalization is a necessary public health policy as well as a critical strategy in the fight against trafficking. They have not recommended partial decriminalization for a reason. Listen to them. Listen to us. This is our industry. We love our industry and some of us are survivors of trafficking and violence as well. These are not mutually exclusive. We recognize that the exploitation occurs as a result of the criminality which is what exploiters use as leverage to their own ends. We encourage you to go back and go further with this bill. There is a national movement to fully decriminalize sex work. Criminalizing sex work between consenting adults does not end the demand for sex work, nor does it improve the lives of people who participate in the sex trades by choice, circumstance, or coercion.

We urge Maine legislators to take the next step in making the world safer for sex workers by *totally*, not partially, decriminalizing sex work. Instead of treating all participants in the sex trades as criminals, victims, or both, it is time to create a more nuanced legal approach to the sex trades. Thank you for your time and consideration on this matter. It is imperative - especially during a global pandemic - that all people, especially those who are already the most marginalized and targeted, can live free of a burdensome and stigmatizing criminal record.

Expungement

This bill also provides for expungement of prostitution convictions. Almost every state already has some form of post-conviction relief for trafficked people whose criminal records arose out of their trafficking experience. In fact, Maine is one of only six states without criminal record relief for adult trafficking survivors.⁴

Now is the perfect time for Maine to not only join other states in providing post-conviction relief that helps trafficked people, but to pave the way for the rest of the country in providing an expungement option for *all* prostitution convictions, regardless of underlying circumstances. Prostitution convictions bar access to housing, healthcare, immigration sources and other vital avenues to security, well-being, and the ability to transition into other forms of employment for those who choose to do so. They serve as an unnecessary stain on the record of those who committed the victimless “crime” of working to support themselves and their families. Criminal records resulting from exploitation serve as a painful reminder for survivors of trafficking of their traumatic experience, preventing them from rebuilding their lives both practically and psychologically. We are at a critical turning point across our nation in redressing the wrongs created by mass criminalization and incarceration, especially for women and those who are the most vulnerable. We urge Maine to join other states in the critical effort to fight against

¹ <https://www.amnesty.org/en/qa-policy-to-protect-the-human-rights-of-sex-workers/>

² <https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized>

³ https://www.aclu.org/sites/default/files/field_document/aclu_sex_work_decrim_research_brief.pdf

⁴ The other states are Alaska, Iowa, Minnesota, South Dakota, and Virginia. For more information on post-conviction relief for trafficking survivors, see this 2019 report from the Polaris Project: <https://polarisproject.org/grading-criminal-record-relief-laws-for-survivors-of-human-trafficking/>

unnecessary and harmful stigmatization by allowing sex workers and survivors of trafficking to expunge unnecessary convictions from their records.

LD 1592 takes the critical first step of protecting sex workers from unnecessary criminalization. We encourage you to include a victim assistance stakeholder group like the one created in Part C of the bill needs to include representatives from the sex work community. Fear of arrest often prevents sex workers and trafficked people from coming forward to police when they are victims of violence or when they are being exploited by traffickers. However, to truly ensure sex workers and survivors of trafficking can live safely and access resources necessary for their wellbeing without fear of devastating legal repercussions, we must fully decriminalize both sex workers and their clients.

While this bill decriminalizes the sale of sex, it leaves the laws criminalizing the purchase of sex intact. This model is often referred to as “partial decriminalization” (among other names, such as the end demand, equality, or Nordic model). *Total* decriminalization, in contrast, eliminates criminal penalties for sellers *and* purchasers, i.e., all parties involved in any consensual adult sexual transaction. LD 1592 (HP 1181) is a beginning step towards eliminating unnecessary and harmful legal consequences for sex workers, but total decriminalization is the model that best and most comprehensively protects the wellbeing of both sex workers and trafficked people.