

Testimony Submitted 5/12/2021 to the Criminal Justice and Public Safety Committee

Senator Deschambault, Representative Warren, and members of the Criminal Justice and Public Safety Committee

RE: 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.

My Name is Nate Walsh and I am a resident of Freeport. I am also an Assistant District Attorney in Prosecutorial District III, and work in Lewiston. District Attorney Andrew Robinson has designated me as his Human Trafficking prosecutor, and I have served in that role for the last five years. Prior to serving District III, I briefly served in District II, where I was also assigned to the Trafficking Unit in Portland. I would like to thank you for allowing me to offer my testimony in favor of LD 1592.

In my time prosecuting cases involving sex trafficking and prostitution, I have had the opportunity to meet with many people who have experienced prostitution. Early on, I used the criminal justice system as a way to divert these people into services. A criminal penalty would provide the motivation to take the necessary steps to recovery and living a restored life, I thought. I soon learned this approach was significantly flawed. I have come to see people who have experienced prostitution as victims of exploitation. I have met many people, the vast majority women, who have sold their consent to have sex because that was what they had left. I learned to tell these people when I met them that I was not in a position to judge them because I am privileged to have never been in their position, and I have not had to make the same choices they have had to make to survive. I have heard stories about abuse in their childhood, domestic abuse as adults, and how addiction consumes someone's life. When I listened to these women, I heard about trauma, desperation, and people taking advantage of them. I came to see prostitution as the commercial exploitation of some of the most vulnerable members of our communities. I realized that the market for commercial sex is fueled by demand. Buying sex is the cause of the problem, and not the people who have been caught up in the life.

Many of the people involved in prostitution were at some point trafficked, but sometimes they were resorting to prostitution for survival. Sex buyers do not discriminate when they purchase sex.

Our response to helping these people involved in prostitution was to bring them into the criminal justice system to provide access to services. Police intervene, often through an arrest, with the goal of getting them access to services. Although well intentioned, it comes with some harm. The charge of Engaging in Prostitution carries with it a stigma that acts as a barrier to leading a restored life even if the person engages in services. I had to ask myself "is this justice?"

As a prosecutor, I do not have services to offer directly. I partner with community organizations that do provide services regardless of an individual's involvement in the criminal justice system. When I have a defendant cross my desk who is suspected of being involved in prostitution, I try to bring in defense counsel early to advocate on their behalf, and I reach out our community advocates to see if I could facilitate an introduction with the hope that they would engage in services. I will note that these defendants were not coming in on the charge of Engaging in Prostitution, but for other offenses, such as drug and property crimes. I do not intend on changing this practice, regardless of the outcome of any statutory change. If they are victims of trafficking, I can hope that they will be in a position where they

can cooperate with law enforcement, but I know that is not always the case. Some victims do not feel safe speaking to law enforcement about their traffickers. The goal is to get them to a safe place so they can.

I believe that there is a better way when addressing prostitution in the criminal justice system. Through my work speaking with national survivor leaders and anti-trafficking organizations, I began to learn about the Equality Model. In short, it shifts the focus from the victims to the sex buyers. If people wouldn't buy people, people wouldn't sell people. Addressing demand holds accountable those who inflict harm and exploit vulnerable people for sex. Sex buyers are the ones in the equation who are deserving of a criminal penalty. However, it shouldn't end there. We should work to educate our communities about the harm that is being done through prostitution. We should talk about male entitlement. We should stop using the criminal justice system as the gatekeeper for access to services that should be provided to prevent involvement in the criminal justice system.

One part of LD 1592 would establish a pilot program in the county where I prosecute that would see the State lead a coordinated response among the agencies and organizations providing direct services to victims of commercial sexual exploitation and sex trafficking. This program would help design a way to fill the void that the criminal justice system would leave for access to services.

This is where I believe LD 1592 will put us on a path to justice. We call sex buying what it is: "commercial sexual exploitation." We send a clear message that this crime will be taken seriously, and that victims will be treated as such.

Respectfully submitted,



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