



Decriminalize
Sex Work ♡

END HUMAN TRAFFICKING.
PROMOTE HEALTH & SAFETY.

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February 15, 2024

RE: Support for H7165, “Relating to Criminal Offenses - Commercial Sexual Activity”

To the House Judiciary Committee,

I am writing on behalf of my organization to express our strong support of H7165, providing immunity from arrest and prosecution for commercial sexual activity to victims or witnesses of crime reporting to law enforcement or seeking healthcare services. Decriminalize Sex Work is a national organization pursuing a state-by-state strategy to advance legislation protecting the rights, health, and safety of adult consensual sex workers and victims of human trafficking in the United States. As DSW’s staff attorney, I have expertise in various policies that affect these marginalized groups and have been closely tracking and supporting immunity bills in other states for several years.

As similar legislation has been in the Judiciary in prior sessions, and you have two immunity bills in front of you today, you have heard and will continue to hear how critical these measures are. To avoid belaboring the point, I will be brief in discussing immunity policies generally before detailing the specific measures in H7165.

People in the sex trade are uniquely vulnerable to violence and exploitation, but frequently do not report crimes perpetrated against them due to fear of arrest. This fear leaves victims and witnesses of crime unprotected and without resources, and law enforcement without critical information that would assist in investigating violent crime. This is not merely a hypothetical situation; last year, a suspect was arrested in the infamous Long Island Serial Killer case after the murders of several sex workers in New York went unsolved for over a decade. Since the arrest, it has become public knowledge that there were likely sex workers with valuable information about the suspect who were not able to work with law enforcement in the investigation due to the risk of arrest.¹ As a result of the investigation’s shortcomings, the suspect continued interacting with and likely harming sex workers over at least 12 years while the local community was forced to live with the uncertainty of having a serial killer in their midst.

As I have testified in the past, and as others will today, this is by no means an unprecedented policy. Nine other states have existing immunity measures, with similar legislation moving through committees in several other states as I write this. Most, if not all of these bills received bipartisan support and were advocated for by law enforcement, anti-trafficking advocates, sex workers, healthcare providers, etc.

H7165 in particular would be one of the most protective and comprehensive immunity policies in the country. The whole aim of these policies is to ensure there are no barriers to reporting crimes and seeking healthcare, in order to protect victims and bolster law enforcement investigations. This bill removes several potential barriers to reporting: it ensures that immunity is still given to reporters even when they withdraw from participating an investigation; it does not require a report to result in prosecution or conviction in order for the reporter to receive immunity; and it ensures that law enforcement officers are not immune from civil liability if they knowingly arrest someone for commercial sexual activity that should have received immunity. This bill was constructed somewhat broadly to ensure the efficacy of the policy, so that victims and witnesses can safely report, but it still has built in safeguards to ensure that it does not go beyond that purpose. Specifically, a report must be made in good faith, and reported crime must have occurred at or around the time of, or be related

¹ There is excessive media coverage on this issue, but one especially pertinent highlight comes from an October 2023 New York Times article, “*The Gilgo Beach Suspect May Have Hunted Them. Now They’re Key Witnesses.*” <https://www.nytimes.com/2023/10/01/nyregion/gilgo-beach-killer-witnesses.html> You may contact me for a PDF of the article.

to, the commercial sexual activity that will not be prosecuted. Additionally, immunity can only be applied for four specific commercial sexual activity charges.²

I understand that you have two similar immunity bills in front of you today. I hope that you can reconcile these bills, because the bottom line of both is critical to protecting your constituents. There are a few differences between H7165 and H7307. We find that H7165 is the more protective of the two bills, because it removes more barriers to reporting:

- H7165, unlike H7307, does not enumerate which crimes would be permissible to report for a victim or witness to be granted immunity. The broader language in H7165 makes for a more effective policy because it removes any hesitancy a potential reporter may have. If someone is unsure if they will be granted immunity, they are much less likely to come forward to law enforcement. In the trauma of experiencing or witnessing a crime, a reporter is unlikely to have the time, resources, or emotional ability to research legal intricacies. Not enumerating reportable crimes creates an environment more amenable to reporting.
- H7165 requires that the commission or attempted commission of the reported crime occurred at or around the time of, or was related to, the commercial sexual activity that will not be prosecuted; whereas H7307 requires more specifically that evidence must be acquired from reporting in order for immunity to apply. This may be more of a language choice difference than anything else, but it is important to use the statutory construction that will be interpreted as most protective of victims.
- H7307 does not apply civil liability for law enforcement knowingly ignoring immunity provisions for commercial sexual activity crimes.

The expansive provisions of these bills are neither unprecedented nor overbroad, as discussed above. Ultimately, the goal is to ensure victims and witnesses of crime always feel safe enough to report their experiences to law enforcement and seek healthcare.

To make communities safer, it is in the public interest to encourage victims and witnesses of crime to come forward, aid law enforcement, and receive needed medical care. In fact, the Special Legislative Study Commission Ensuring Racial Equity and Optimizing Health and Safety Laws Affecting Marginalized Individuals specifically urged the General Assembly to reconsider these protections in its Final Report, issued last year.³ H7165 is a pragmatic, carefully constructed policy that would ensure victims and witnesses feel safe to seek the resources they need while simultaneously giving law enforcement better tools to investigate murder, assault, human trafficking, and other violent crimes. This bill specifically contains the statutory language that would most effectively ensure that all of the above goals are met, so I hope that you will keep this testimony in mind as you consider both bills.

We urge you to pass this legislation as a critical step towards addressing human trafficking and violent crime in Rhode Island, and to promote the health, wellbeing, and social support of all communities. Please to not hesitate to contact me for additional resources.

Regards,



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² § 11-34.1-2. Prostitution; § 11-34.1-3. Procurement of sexual conduct for a fee; § 11-34.1-4. Loitering for prostitution; and § 11-34.1-6. Soliciting from motor vehicles for indecent purposes.

³ "Based on the testimony and information presented to the Commission, and given the varied nature of the Commission's findings, the Commission proposes the following recommendations...9. Re-evaluate and reconsider legislation introduced in 2021 (2021 H-5467) that intended to grant immunity to sex workers if they are victims or witnesses to crimes while engaged in prostitution-related activities." *Special Legislative Study Commission Ensuring Racial Equity and Optimizing Health and Safety Laws Affecting Marginalized Individuals* Final Report, Recommendation 9, p. 7.