



Rhode Island House of Representatives

*Special Legislative Commission To Study Ensuring
Racial Equity And Optimizing Health And Safety
Laws Affecting Marginalized Individuals*

Final Report

May 22, 2023

**Report Submitted to the
Rhode Island House of Representatives**

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Commission Members

- Representative Edith H. Ajello, Vice Chair
- Dr. Philip A. Chan, RI Department of Health
- Sidney Wordell, RI Police Chiefs' Association
- Michael DiLauro, Esq., RI Public Defender's Office
- Alison L. Fonseca, Esq., RI Attorney General's Office
- Bella Robinson, COYOTE RI
- Robyn Linde, Amnesty International
- Justice Gaines, Providence Youth Student Movement
- Charlotte Peters, The Womxn Project
- Elena Shih, Brown University Center for Slavery & Justice
- J. Leigh Oshiro-Brantly, Erotic Labor Alliance of NE (ELA ONE)
- Henri Bynx, Erotic Labor Alliance of NE (ELA ONE)

A Letter from Representative Edith H. Ajello, Vice Chair

Dear Speaker Shekarchi,

I am pleased to provide you with this report by the Special Legislative Commission to Study Ensuring Racial Equity and Optimizing Health and Safety Laws Affecting Marginalized Individuals (the “**Commission**”).

Pursuant to its enabling legislation 2021 H 5250 Sub A, the purpose of said Commission is to make a comprehensive study and provide recommendations on the health and safety impact of revising laws related to commercial sexual activity, identifying the methods of human trafficking and exploitation to develop strategies to reduce these activities, and ensuring accountability in the treatment of marginalized and targeted communities by police.

Thirteen (13) individuals representing various backgrounds and professional affiliations were originally appointed to the Commission. The individual who was appointed Chair of the Commission, Representative Anastasia Williams, did not remain on the Commission as she was not re-elected in 2022. These professionals included the Executive Director of the Rhode Island Police Chiefs’ Association, an attorney from the Rhode Island Public Defender’s Office, a representative from the Rhode Island Department of Health, a representative from the organization COYOTE RI, a representative from Amnesty International, two representatives from organizations serving impacted populations, a professional from the Brown University Center for Slavery & Justice, an attorney from the Rhode Island Attorney General's Office, and two commercial sex workers.

The Commission first met on November 15, 2021 and over the course of nineteen (19) months, met a total of eight (8) times and heard testimony from eleven (11) witnesses, plus an additional three (3) witnesses during public testimony.

This report contains the Commission’s findings and recommendations to the House of Representatives based on information presented by the above-referenced witnesses who testified before the Commission, voluminous written testimony, and presentations made to the Commission.

I would like to express my gratitude to all members of the Commission for their willingness to take part in this worthy initiative and we appreciate the investment of the time and talent that they graciously provided.

Sincerely,

Representative Edith H. Ajello, Vice Chair

Commission Findings

Based on the testimony and information presented to the Commission, the Commission notes the following findings*:

1. Sex work is an umbrella term for a variety of commercial sexual activities, including in-person sexual services and erotic massage, exotic dancing, online camming, and adult film.
2. Prostitution is the kind of sex work most often criminalized, and it is the direct, in-person exchange of sex for money or other things of value. All states, except Nevada, criminalize prostitution but each jurisdiction has a different exact definition of what activities count as prostitution.
3. Distinct from sex work that involves consenting adults, human trafficking, is criminalized in every state and at the federal level. The Trafficking Victims Protection Act of 2000 and subsequent reauthorizations, define human trafficking as a crime involving the exploitation of a person for labor, services, or commercial sex. While force, fraud, or coercion are necessary components of trafficking an adult for commercial sex, any inducement of a person under the age of eighteen (18) for commercial sex is defined as trafficking at the federal level and in most states. People are trafficked into a wide array of work, including prostitution, restaurant work, agricultural labor, and domestic labor.
4. The legal approach to prostitution in all US states, except Nevada, is defined as full criminalization. This legal categorization means that all parties involved in prostitution may face criminal penalties. This widespread criminalization keeps the sex industry underground, removes the ability of workers to exert their rights or redress wrongs or violence committed against them, and places people in a cycle of arrest and incarceration. This legal approach fuels stigma and discrimination against sex workers, which impedes their access to basic necessities, including healthcare, housing, and other social services. Due to systemic discrimination, these harmful outcomes of criminalization disproportionately affect Black, transgender, and poor sex workers.
5. In 1980, Rhode Island decriminalized indoor prostitution and in 2009, the Rhode Island General Assembly enacted a law that criminalized all prostitution. Between 1980 and 2009, when indoor prostitution was legal in Rhode Island, testimony indicated that there was a significant decline in sexually transmitted diseases and sexual assaults in Rhode Island. Comparing the numbers of sexual diseases pre and post criminalization in RI shows the numbers going in the wrong direction.

6. The ACLU has a long-standing position on the issue of sex work decriminalization and, for over 40 years, has opposed laws criminalizing sexual activity among consenting adults. According to the ACLU, these laws have traditionally represented a direct form of discrimination against women.
7. According to the Erotic Labor Alliance of New England, repressive policies including criminalization of sex work has been associated with increased risk of sexual violence, almost two times increased risk of HIV and other STI's, and disruption of support networks and access to services.
8. According to a study done in 2018 by Lucy Platt entitled "Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies", the removal of criminal and administrative sanctions for sex work is needed to improve sex workers' health and access to services and justice.
9. The "New Zealand Model" is a 2003 law passed by New Zealand which aims to uphold the human rights of sex workers and decriminalizes prostitution. Under that model, it is not against the law to work as a sex worker or operate a brothel, nor is it against the law to pay for sexual services. However, it is illegal for any third party to facilitate anyone under the age of eighteen (18) into undertaking sex work.
10. According to COYOTE RI: the main impact of the re-criminalization of indoor prostitution has been the repeated arrests and deportations of Asian Spa workers; over the last six (6) years, there has been a sharp increase in arrests of Asian spa workers; and, in 2021, Asian spa workers made up thirteen (13) of Rhode Island's sixteen (16) total prostitution-related arrests.
11. The Rhode Island Attorney General's Office only prosecute sex traffickers and does not prosecute sex workers; Further, according to the Rhode Island Attorney General's Office, it is usually municipalities that prosecute sex workers as these crimes are classified as misdemeanors.
12. There is a concern with potential immunity provisions in pieces of proposed prostitution decriminalization legislation and any such provisions should be revised to be aligned with "Good Samaritan" laws.

****Note: Sidney Wordell, RI Police Chiefs' Association, and Alison L. Fonseca, Esq., RI Attorney General's Office, both abstained from supporting the Commission Findings.***

Commission Recommendations

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**:

1. Consider a Rhode Island law to restore the pre-2009 landscape, such that private, consensual sexual activity remains out of the reach of criminal laws. Alternatively, consider adopting the New Zealand Model (referenced in the above findings), which decriminalizes prostitution.
2. Recommend the General Assembly repeal R.I.G.L. §42-56-20.3(e), which requires those convicted of prostitution to pay extra court costs.
3. Evaluate the impact of a Rhode Island statute that bars law enforcement from contacting immigration officials about individuals whom they have arrested for prostitution.
4. Recommend the General Assembly repeal R.I.G.L. §23-6.3-4(a)(7), which requires any individual convicted of prostitution to have an HIV test performed on them.
5. Review R.I.G.L. §11-34-11, which imposes additional penalties for engaging in prostitution within 300 yards of a school.
6. Consider legislation introduced by Vice Chair Ajello in 2023 (2023 H-5428) which provided that a patient shall not be denied appropriate care on the basis of age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, national origin, source of income, source of payment, or profession.
7. Consider legislation introduced last year by Representative Henries (2022 H -- 6637) which provides that police officers cannot claim consent as a defense to having sex with any individual who is formally in their custody.
8. Once an individual has claimed that they were the victim of coercion or trafficking, further discuss the burden of proof which is placed on the arrested individual pursuant to R.I.G.L. §11-34.1-2(c).
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.
10. Consider specifically exempting prostitution-related offenses from some forms of penalization that generally apply across the board for criminal offenses.

11. Consider creating comprehensive and accessible criminal record relief for survivors of trafficking; Criminal record relief should apply to all individuals with past prostitution charges as criminal records can prevent individuals from being eligible for certain jobs, housing, healthcare, and other essential resources, and can have severe immigration consequences.
12. Evaluate the “Loitering for Prostitution” Rhode Island statute §11-34.1-4(a) which provide that it shall be unlawful for any person to stand or wander in or near any public highway or street, or any public or private place, and attempt to engage passersby in conversation, or stop or attempt to stop motor vehicles, for the purpose of prostitution or other commercial sexual activity.

*****Note: Sidney Wordell, RI Police Chiefs’ Association, and Alison L. Fonseca, Esq., RI Attorney General’s Office, both abstained from supporting the Commission Recommendations.***

Appendix A-Enabling Legislation 2021 H 5250 Sub A

2021 -- H 5250 SUBSTITUTE A

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STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2021

HOUSE RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO STUDY ENSURING RACIAL EQUITY AND OPTIMIZING HEALTH AND SAFETY LAWS AFFECTING MARGINALIZED INDIVIDUALS

Introduced By: Representatives Williams, Ajello, Vella-Wilkinson, Alzate, Henries, and Morales

Date Introduced: January 29, 2021

Referred To: House Health & Human Services

WHEREAS, There has been significant research on the safety and health impact of laws specifically related to violence, exploitation, stigma, human trafficking and sexual health, but more needs to be done analyzing the data; and

WHEREAS, These laws disproportionately impact women, transgender individuals, and people of color; and

WHEREAS, Police treatment and behavior of marginalized and targeted communities, especially Black people and transgender women, is being highlighted and addressed throughout our Nation and the State of Rhode Island, and it is imperative upon us to ensure justice and accountability in the way our laws impact our citizens; and

WHEREAS, There has been a documented increase in exploitation and violence against people in the sex industry in Rhode Island since the passage of federal legislation FOSTA/SESTA; and

WHEREAS, A newly-published meta-analysis of 134 studies, spanning many nations and published over a 28-year period, showed increased violence and incidence of STIs in jurisdictions with repressive police practices; and

WHEREAS, A 2017 study, conducted by Baylor University's Scott Cunningham and Manisha Shah of the University of California Los Angeles, published in the Review of Economic Studies found that during 2003 through 2009, while indoor prostitution was still decriminalized in Rhode Island, the number of rapes diminished by 31 percent and the statewide incidence of gonorrhea among women diminished by 39 percent; now, therefore be it

RESOLVED, That a special legislative commission be and the same is hereby created consisting of thirteen (13) members: two (2) of whom shall be members of the House, to be appointed by the Speaker of the House; one of whom shall be from the organization COYOTE5 RI, to be appointed by the commission Chairperson; one of whom shall be from the organization Amnesty International, to be appointed by the commission Chairperson; two (2) of whom shall be representatives of organizations serving populations disproportionately impacted by the criminalization of commercial sex, with priority given to organizations focused on improving public health, supporting survivors of violence and sexual assault, and civil rights organizations, to be appointed by the commission Chairperson; one of whom shall be the Director of the Department of Health, or designee; one of whom shall be an attorney from the Rhode Island Public Defender's Office, to be appointed by the Speaker of the House; one of whom shall be the Rhode Island Attorney General, or designee; one of whom shall be from the Brown University

Center for the Study of Slavery and Justice, to be appointed by the Speaker of the House; two (2) of whom shall be individuals that have engaged in commercial sex, to be appointed by the commission Chairperson; and one of whom shall be the President of the Rhode Island Police Chief's Association, or designee.

In lieu of any appointment of a member of the legislature to a permanent advisory commission, a legislative study commission, or any commission created by a General Assembly resolution, the appointing authority may appoint a member of the general public to serve in lieu of a legislator, provided that the majority leader or the minority leader of the political party which is entitled to the appointment consents to the appointment of the member of the general public. The purpose of said commission shall be to make a comprehensive study and provide recommendations on the health and safety impact of revising laws related to commercial sexual activity, identifying the methods of human trafficking and exploitation to develop strategies to reduce these activities, and ensuring accountability in the treatment of marginalized and targeted communities by police.

Forthwith upon passage of this resolution, the members of the commission shall meet at the call of the Speaker of the House and organize and shall select a chairperson from among the legislators.

Vacancies in said commission shall be filled in like manner as the original appointment.

The membership of said commission shall receive no compensation for their services.

All departments and agencies of the state shall furnish such advice and information, documentary and otherwise, to said commission and its agents as is deemed necessary or desirable by the commission to facilitate the purposes of this resolution.

The Speaker of the House is hereby authorized and directed to provide suitable quarters for said commission; and be it further

RESOLVED, That the commission shall report its findings and results to the House of Representatives on or before May 31, 2023, and said commission shall expire on June 30, 2023.

Appendix B-Commission Agendas, Presentations, & Capitol TV Videos

These documents have been posted in the Marginalized Individuals Commission section of the Commission/Task Forces tab of the State of Rhode Island General Assembly website.

<https://www.rilegislature.gov>

1. November 15, 2021 Agenda

- Election of Chair and Vice Chair
- Review of House Resolution 2021 H 5250 Sub A

2. February 28, 2022 Agenda

- Steven Brown, Executive Director, ACLU of Rhode Island

3. March 21, 2022 Agenda

- Dr. Philip A. Chan, RI Department of Health

4. April 25, 2022 Agenda

- Melissa Sontag Broudo, JD/MPH, Sharmus Outlaw Advocacy and Rights Institute (SOAR)
- Danielle Ozuna, Consultant, Anti-Sex Trafficking and Behavioral Health

5. May 23, 2022 Agenda

- This meeting was a roundtable discussion amongst commission members recapping events, with paths moving forward and potential common ground and consensus.

6. June 13, 2022 Agenda

- J. Leigh Oshiro Brantly, Erotic Labor Alliance of New England (ELA ONE)
- Henri Bynx, Erotic Labor Alliance of New England (ELA ONE)

7. April 24, 2023 Agenda

- Bella Robinson, Coyote RI
- Sidney Wordell, Executive Director, RI Police Chiefs' Association
- RI Attorney General's Office
- Melissa Sontag Broudo, JD/MPH, Sharmus Outlaw Advocacy and Rights Institute (SOAR) and Henri Bynx, Commercial Sex Worker
- Public Testimony

8. May 22, 2023 Agenda

- Discussion of proposed findings and recommendations

Appendix C-Written Testimony and Material

These documents have been posted in the Marginalized Individuals Commission section of the Commission/Task Forces tab of the State of Rhode Island General Assembly website:

<https://www.rilegislature.gov>

05-22-2023---Final Report Marginalized Individuals Commission
05-22-2023---Agenda Marginalized Individuals Commission
05-08-2023---American Massage Therapy Association Letter
04-24-2023---Sidney Wordell Talking Points
04-24-2023---Bella Robinson Presentation
04-24-2023---Key Recommendations Melissa Broudo and Henri Bynx.docx
04-24-2023---Public Testimony
04-24-2023---Agenda Marginalized Individuals Commission
04-24-2023---Prostitution-and-Prostitution-Related-Charges-in-Rhode-Island-2000-Present-CoyoteRI
January 2023
2-14-2022---Pro Jo Why are STI rates up in Rhode Island_ Dr. Philip Chan
2-28-2022---Agenda Marginalized Individuals Commission
6-13-2022---Intersection of LGBTQIA and Sex Workers' Rights Henri Bynx J. Leigh Oshiro Brantly
6-13-2022---Agenda Marginalized Individuals Commission
5-23-2022---Agenda Marginalized Individuals Commission
4-25-2022---Danielle Ozuna--Fact Sheet
4-25-2022---By the Numbers--New York's Treatment of Sex Workers and Trafficking Survivors
4-25-2022---Associations between sex work laws and sex workers' health--
4-25-2022---Decriminalize Sex Work for Public Health
4-25-2022---Melissa Sontag Broudo--RI study commission final draft MSB
4-25-2022---Danielle Ozuna--CSEC 101 PowerPoint
4-25-2022---Agenda Marginalized Individuals Commission
3-21-2022--Dr Chan Presentation--Final
3-21-2022---Agenda Marginalized Individuals Commission
2-28-2022--In re Lamarine--527 A.2d 1133
2-28-2022---Steven Brown--RIACLU Testimony
11-15-2021--Enabling legislation 2021 H5250 Sub A
11-15-2021---Agenda Marginalized Individuals Commission