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Testimony Before the District of Columbia Council
Committee on the Judiciary and Public Safety
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Public Hearing:
B23-0318, The “The Community Safety and Health Amendment Act of 2019”

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Introduction

Good morning Chairman Allen and members of the Committee on the Judiciary and Public Safety. My name is Judith Sandalow. I am the Executive Director of the Children’s Law Center and a resident of the District.¹ I am here with my colleague, Naiké Savain, testifying today on behalf of Children’s Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With almost 100 staff and hundreds of pro bono lawyers, Children’s Law Center reaches 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. Some of the children and youth Children’s Law Center represents have been or are at risk of being trafficked or engage in survival sex to meet their basic needs. We hope that through this testimony we can share some of the lessons we have learned from the experiences of youth involved in commercial sex. Beyond the obvious trauma children experience from being sexually exploited, there are also significant long-term physical and mental health consequences.²

We appreciate this opportunity to testify about B23-0318 the Community Safety and Health Amendment Act of 2019 (“the Act”). This bill addresses important issues about which there are passionate feelings. There is, we believe, a lot of common ground. Many of the goals of the legislation – improving police interaction with sex workers, addressing housing insecurity for sex workers, reducing the overall stigma and violence that sex workers face daily, furthering gender equity, removing barriers that prevent sex workers from reporting abuse, violence, and sex trafficking to law enforcement – are all goals we support. Sex workers, especially Black, Brown, and LGBTQ sex workers, should have improved ways to keep themselves safe and healthy. We support the decriminalization of the selling of sex, as we do not believe that sex workers should be further criminalized.

Unfortunately, this bill will have very serious unintended consequences. We are concerned that this bill will increase child sex trafficking in the District, make it more difficult for law enforcement to enter properties where trafficked children are being held, and eliminate the safe harbor provision that requires the Metropolitan Police Department (MPD) to refer victims of child sex trafficking to appropriate services. For these reasons, we are opposing the passage of the Act.

The Act Will Increase Demand and Increase Trafficking of Children and Youth

Children’s Law Center’s most significant concern is that this Act will lead to more children being sexually exploited and trafficked.³ If the buying and selling of sex is completely decriminalized in the District, there will be an increased demand which will lead to higher numbers of trafficked children and youth. Research shows that when the entire sex trade industry is decriminalized – including the procurers, brothel owners, and the buyers – there will be an increase in demand for commercial sex, and in turn an increase in trafficking and exploitation.⁴ Why is this? First, some men who have never purchased sex before will become buyers if sex work is decriminalized. A 2008 survey of over 8,000 American men indicated that over 20% of men who had never bought sex reported they would if the circumstances were right, which includes not being arrested.⁵ Three out of four men who buy sex infrequently said that risk of arrest was a very important factor in deciding to purchase sex.⁶ As such, it is safe to assume that these buyers would purchase sex more often if they knew they could not be arrested. Research also shows men who buy sex prefer sex with younger people, including those under 18.⁷ In a multi-country study of clients who purchased sex, researchers found that “just over three-quarters of all clients surveyed expressed a preference for prostitutes aged 25 or under, with 22% stating a preference for those aged 18 or below.”⁸ The interest in this younger or underage market coupled with the projected increased overall demand will lead to more young people being exploited to fill that demand.

Increased sex trafficking after decriminalizing or legalizing sex work has been shown in both U.S.⁹ and international settings.¹⁰ From the survey of American men, we know that demand for commercial sex will grow.¹¹ Research from international jurisdictions shows that the supply of consenting adults is unlikely to meet the increased demand. If DC follows the international pattern, initially, new consenting adults will enter the market as sellers in order to meet the new demand. When demand outpaces the number of consenting adults willing to sell sex, traffickers will capitalize on the need for more sex workers by exploiting children and youth for commercial sex.¹² Due to a lack of DC-specific data regarding the supply and demand for sex work, it is difficult to determine the exact tipping point at which demand for commercial sex will outpace the supply of consenting adults. However, in a multi-country study, researchers found that the growth in demand consistently outpaced the supply of consenting adults, which led to increases in human trafficking. When Germany legalized sex work, they saw an estimated 12% increase in sex trafficking victims in the first year of legalization and an additional estimated 11% in the second year.¹³ Although there were likely a greater proportion of consensual sex workers in Germany, numerically, there were also more trafficked persons working in the market to satisfy the newly created demand.

Research about the domestic decriminalization of indoor sex work in Rhode Island supports the conclusion that decriminalization increases demand and creates opportunities for trafficking and exploitation. Rhode Island decriminalized indoor prostitution for almost 30 years from 1980 to 2009 during which time the industry was completely unregulated and legal.¹⁴ Rhode Island saw an incredible growth in the sex trade and found that from 1998 until 2009, the number of Asian spa-brothels increased from two or three to thirty-one.¹⁵ Providence raids on Asian spa-brothels uncovered slavery-like conditions, with trafficked women “forced to work 16- to 18-hour days. They didn’t get paid but they got tips.”¹⁶ Many of the women found during that investigation had been trafficked from Asia to New York and then brought to Rhode Island where they were forced

to pay for their living and transportation expenses.¹⁷ The opportunity to legally operate an indoor prostitution business brought in new procurers and of course traffickers to help meet the newly created demand.¹⁸ The experiences of jurisdictions who have legalized or decriminalized sex work show that if this bill is passed, demand for sex workers will increase and create opportunities for more persons to be trafficked, including children and youth.

DC's Unique Geography Will Create an Influx of Sex Purchasers Who Will Increase Demand

Increased demand paired with the District's porous borders, connections to public transportation and major highways will create a haven for sex traffickers and exploiters. Much like DC, Providence, RI is bounded by three interstate highways, which made it an easy-to-access sex tourism destination for purchasers from many states in the region. Researchers studying the impact of decriminalized indoor prostitution in Rhode Island found that purchasers traveled readily to Rhode Island to avoid prosecution.¹⁹ A 2008 search of an online forum USASexguide.info uncovered posts from sex buyers confirming the ease with which they traveled into Rhode Island to purchase sex, "No need to visit a brothel in Massachusetts when you are just 5 miles away from the safety of Rhode Island."²⁰ Another online forum poster called Rhode Island "a buyers paradise."²¹ Law enforcement also routinely reported seeing license plates from other states in the parking lots of Asian spa-brothels and massage parlors.²² If this bill is passed, DC will also likely experience an influx of sex buyers from other states. With an already well-established tourism base as well as millions of people who enter the District each day for business, the District's prime location as a mid-Atlantic hub will easily draw more buyers. This will create a breeding ground for sex traffickers and exploiters looking to meet the new demand for commercial sex in the District with children and youth.

The Act Makes It More Difficult for Law Enforcement to Locate and Retrieve Victims of Sex Trafficking

The Act repeals DC Code § 22-2713(a), entering a brothel under a nuisance standard. This change will make an already difficult task, investigating child trafficking, even more difficult. We know from our legal expertise and through our client's lived experiences how important it is for law enforcement officers to quickly enter a property in order to identify sex trafficking survivors. Many child sex trafficking survivors have been found while they were being held in houses of prostitution, some of which were their own homes. The reality is that traffickers do not distinguish between children and adults and may keep both in the same house of prostitution. Children's Law Center knows the challenges of locating trafficked children in these brothels and houses of prostitution first hand. Responding to a tip from family members, a Children's Law Center investigator spent hours searching Back Page and other websites looking for the photograph of a child client who we believed was being sold for sex. It took our internal team days before we were able to locate the child's photo and communicate their potential location to law enforcement. Through proven tactics like using burner phones and deleting online postings frequently, traffickers make it incredibly difficult to locate and retrieve trafficked children from trap houses. Removing law enforcement's ability to investigate a property as a nuisance brothel would have cost the precious minutes needed to retrieve the child before their traffickers moved the child to the next location.

Today, under the DC Code's nuisance provisions, law enforcement only needs reasonable suspicion to enter a property where they believe children are being trafficked. The proposed bill repeals this nuisance provision and raises the standard of proof needed for law enforcement to enter a property to probable cause of the trafficker's criminal intent or knowledge of trafficking. The higher standard of proof combined with known trafficker tactics will make it even harder for law enforcement to investigate and retrieve child sex trafficking victims.

The Safe Harbor Provision Should Not Be Repealed

This bill also repeals D.C. Code § 22-2701, which includes the safe harbor provision for children. The safe harbor provision was created by The Sex Trafficking of Minors Prevention Amendment Act of 2014 and makes any child who engages in or offers to engage in a sexual act or sexual contact in return for receiving anything of value immune from prosecution.²³ It also requires MPD to refer children that are engaged in commercial sex to be referred to organizations that can provide services to child sex trafficking victims. The need for MPD to refer children to organizations that can provide services to child sex trafficking victims is real. Courtney's House, a child sex trafficking victim service provider, reports having long waitlists for their services. Today Courtney's House is providing services for trafficked children as young as nine. The safe harbor provision must be preserved to ensure children and youth who are trafficked receive the services they need.

Conclusion

Although we support the important goals of the Act, the unintended consequences of increasing youth who are exploited lead us to oppose it. Thank you for the opportunity to testify.

¹ Children's Law Center fights so every child in DC can grow up with a loving family, good health, and a quality education. Judges, pediatricians, and families turn to us to be the voice for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC's poorest neighborhoods--more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children

² Barnett, E. et al., *Commercial Sexual Exploitation and Sex Trafficking of Children and Adolescents: A Narrative Review* at 825-829. Academic Pediatrics. (November-December 2017). Retrieved from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5673585>.

³ We use the U.S. Department of Justice definition of Child Sex Trafficking: "the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a minor for the purpose of a commercial sex act". We define a Trafficked Child as any person under 18 years of age who has engaged in commercial sex acts or sexual contact in exchange for anything of value. Please see: Department of Justice. *Child Sex Trafficking*. (2017) Retrieved from: <https://www.justice.gov/criminal-ceos/child-sex-trafficking>.

⁴ Cho, S. Y., Dreher, A., & Neumayer, E. *Does legalized prostitution increase human trafficking?* at 67-82. World Development. (2013) Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1986065.

⁵ Demand Abolition. *Who Buys Sex? Understanding and Disrupting Illicit Market Demand* at 11. (November 2018) Retrieved from: <https://www.demandabolition.org/wp-content/uploads/2019/07/Demand-Buyer-Report-July-2019.pdf>.

⁶ See *Who Buys Sex? Understanding and Disrupting Illicit Market Demand* at 48.

⁷ Anderson, B. and O'Connell Davidson, J. *Is Trafficking Human Beings Demand Driven? A Multi-Country Pilot Study*. International Organization for Migration. (2003) Retrieved from: https://publications.iom.int/system/files/pdf/mrs_15_2003.pdf.

⁸ See *Is Trafficking Human Beings Demand Driven? A Multi-Country Pilot Study* at 20.

⁹ Shapiro, M. & Hughes, D. M. *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 533-560. Wake Forest L. Rev. (2017)

¹⁰ See *Does legalized prostitution increase human trafficking?* at 25.

¹¹ See *Who Buys Sex? Understanding and Disrupting Illicit Market Demand* at 48.

¹² See *Does legalized prostitution increase human trafficking?* at 74.

¹³ The estimated number of trafficked prostitutes in Germany 2001, the year prior to legalization, was a minimum of 9,870. After legalization, the minimum number of trafficked prostitutes in Germany in 2002 was estimated to have risen to 11,080. In 2003, the estimated minimum number of trafficked prostitutes was 12,350. The percentage increases were calculated using the baseline of 2001's estimate of trafficked prostitutes. See *Does legalized prostitution increase human trafficking?* at 25.

¹⁴ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 538.

¹⁵ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 538.

¹⁶ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 544.

¹⁷ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 544.

¹⁸ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 542.

¹⁹ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 540.

²⁰ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 540.

²¹ See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 540.

²² See *Decriminalized Prostitution: Impunity for Violence and Exploitation* at 540.

²³ B20-0714, The Sex Trafficking of Minors Prevention Amendment Act of 2014, Retrieved from: <http://lims.dccouncil.us/Download/31339/B20-0714-SignedAct.pdf>.