

**New Hampshire House of Representatives
Criminal Justice and Public Safety Committee**

Hearing RE: HB 201

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I am an attorney and advocate for survivors of human trafficking and people in the sex industry. I am grateful for this opportunity to speak before you and appreciate your thoughtful consideration of policies aimed to support survivors. In regards to the law before us, HB 201, I would caution against an expansion of criminalization without first studying the impact of prostitution and human trafficking laws on those who are most vulnerable. Below I will detail my expertise and my rationale for this analysis.

I went to law school with the goal of supporting the rights, safety, and health of women in the sex industry. I knew that women in the sex industry – whether there by force, fraud, or coercion – would only be able to access their rights if they did not have to live in continual fear of arrest and violence. I also obtained my Masters in Public Health, during which I focused on the public health impact of criminalization on female sex workers. I have spent 15 years advocating for and representing people in the sex industry, many of whom were survivors of exploitation. I have had the honor of becoming one of the leading attorneys on vacating convictions for survivors of trafficking in the country, having filed and won the first ever vacating motion in the country¹ and thereafter filing and overseeing dozens of other vacating motions. I have also advised legislators in other states on the passage of laws related to trafficking.

I have seen firsthand the immense (and often unintended) consequences of criminalization – victims of trafficking who had dozens of arrests during the period they were trafficked, unable to obtain a job, denied citizenship, pained by stigma and shame, and generally unable to move forward with their lives because of their record. I have witnessed the expansion of laws that aim to combat trafficking, but end up conflating prostitution and trafficking, two distinct legal issues, and result in harm to those who are the most vulnerable and marginalized.

Human trafficking is a horrific human rights violation, but it is not new and it does not look the way the media often portrays it to look. First, trafficking primarily involves those engaging in non-sexual labor (such as domestic workers, restaurant employees, nail salons technicians, etc). Second, the reality of the lives of victims of trafficking into commercial sex are complex and their entry into prostitution is often multi-factorial. The women I have represented in New York City who were victims of domestic trafficking were primarily young women from fractured families who were failed by various systems (education, housing, child welfare, among others). Their traffickers – overwhelmingly intimate partners or someone who

¹ *People v. GM* (2011 NY Slip Op 21176).

was in their lives such as a neighbor or friend - provided what felt like much needed security and feelings that replicated love/attachment that were missing from their lives. I am sure such cases exist where a stranger kidnaps a young girl, but they would be the exception, not the rule. I make this key point because so often, discourse around human trafficking amplifies these rare and extreme cases, while ignoring the reality that trafficking occurs across most labor sectors, and is the result of complex social and economic forces.

As a result, laws are passed that attempt to punish a bad actor (a trafficker or client) without ever delving deeper into what placed all parties in this predicament in the first instance. We are left to watch history repeat itself indefinitely, and people cycle in and out of the criminal justice system without systemic – or even interpersonal- changes. As an attorney and someone with a public health background, I long for policies that are grounded in research and data, and unfortunately policies on this issue are often solely tied to emotion.

HB 201 increases the penalty for buyers of commercial sexual acts with a minor from a class B felony to a class A felony. While this may sound beneficial, data has shown that heightened criminalization on both the provider and purchaser does not tie to better health/safety outcomes, and in fact heightens the risk of sexual and physical violence to sex workers, increases risk of STIs, and diminishes the rate of condom usage.² To be unequivocally clear, I do not condone the engagement of commercial sex with minors. But New Hampshire already has the existing penalty, as well as other laws, that aim to combat exploitation of minors and hold perpetrators accountable.

As stated above, the reality of human trafficking is infinitely more complex and multi-factorial than the existence of a victim and a bad actor – yet policies that aim to heighten punishment are often favored because they give the feeling of being proactive. I would therefore urge the Committee to delve deeper into various models related to prostitution and trafficking laws and how New Hampshire could be a pioneer in ensuring that those who are the most marginalized have policies that affirmatively support and assist them.

I greatly appreciate the Committee's consideration of my testimony.

Melissa Broudo, JD, MPH

² See, Platt L, Greenfell P, Meiksin R, Elmes J, Sherman SG, Sanders G et al (2018) Associations between sex work laws and sex workers' health: A systemic review and meta-analysis of quantitative and qualitative studies. PLoS Med 15(12): e1002680
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