

ACLU OF RI POSITION: SUPPORT

**TESTIMONY ON 21 – S 771
AN ACT RELATING TO CRIMINAL OFFENSES –
COMMERCIAL SEXUAL ACTIVITY
May 13, 2021**

Over the past decade, a number of research briefs have pointed to Rhode Island’s inadvertent and temporary decriminalization of indoor sex work as a case study to support the efficacy of a permanent policy structured around such decriminalization. In 2009, when legislation was enacted which closed this “loophole” in our commercial sexual activity statutes, our organization objected to its passage, noting that criminalization deprived sex workers of their autonomy and impacted their safety. As such, we are appreciative of the opportunity to provide testimony today in support of this legislation which would decriminalize commercial sexual activity in Rhode Island.

The ACLU of RI has long opposed laws which criminalize consensual sexual activity between adults. As a matter of both criminal justice and public health, the decriminalization of this victimless offense is the appropriate policy to pass in order to address the adverse consequences which have arisen from its implementation.

Every so often, local law enforcement agencies conduct street stings of both sex workers and “johns.” The sting typically receives media attention but has no lasting effect beyond embarrassing and penalizing consenting adults for seeking sexual conduct for a fee. By humiliating and charging “johns” for consensual sex and by purporting to “help” sex workers by giving them arrest records, the law’s effect is only to make the lives of sex workers more difficult and dangerous.

At about the same frequency, police will raid a massage parlor or a strip club – such as the 2018 Foxy Lady arrests – and claim to have acted in an effort to address the problem of human trafficking. However, these raids rarely end with the filing of trafficking charges while routinely resulting in the arrests of sex workers – the workers supposedly being helped by police enforcement of these laws.

Human trafficking is a scourge, and efforts to eradicate it are to be applauded. However, the conflation of sex work with sex trafficking does nothing to help trafficking victims. Some police have even stated that one reason that they arrest female sex workers for prostitution (and, disproportionately in Rhode Island, female sex workers are those who are most often arrested) is with the intent of using the criminal charges as a tool to force alleged victims of trafficking to cooperate with the police in “naming names.” Yet, we emphatically reject the notion that the only way such individuals can be helped is if they are first put in handcuffs. Not only is this approach

morally disconcerting, but it has failed miserably as a practical matter as well. This misuse of the state's criminal laws deserves examination.

The decriminalization of sex work would ensure that sex workers are able to care for their health, safety, and autonomy without inappropriate stigmatization. It would ensure that our criminal justice system is not being utilized to take unnecessarily punitive action against individuals engaging in consensual behavior. And, importantly, it would center important tenets of privacy and self-determination in our statutes and ensure that the law is not being used to criminalize individuals, especially women, to fulfill a specific moral narrative or "make an example" out of individuals for a titillating news story. We urge passage of this important legislation.

Thank you for your consideration.

Submitted by: Hannah Stern, Policy Associate