



Re: No on HB68

Dear Members of the Alaska House Finance Committee,

We oppose HB 68 because it is fiscally irresponsible. HB 68 unnecessarily adds new crimes to chapter 11.66 and 11.41 that are overly broad and are unduly harmful to sex workers and sex trafficking survivors and will have direct and hidden costs to the state.

There are many things wrong with this 52 page behemoth of a bill, but our main concerns relate to the criminalization of sex workers and sex trafficking survivors, the criminalization of our first responders to sex trafficking, administrative subpoenas that can be used against sex workers and sex trafficking survivors without due process, and the provision that sex workers and sex trafficking survivors could be ordered to pay restitution to a client's family if he died during or related to engaging in prostitution.

Section 38 of House Bill 68 creates the new crime of Felony Prostitution and makes it a Class B felony for sex workers and sex trafficking survivors to have a place of prostitution. The definition of a place of prostitution lacks the modifier included in current law stipulating that the person must receive compensation for prostitution services provided by another person to be charged with having a place of prostitution. Real sex traffickers often put hotel rooms and even apartments in the names of their victims to avoid

prosecution, and there is a very real possibility that sex trafficking survivors would be charged with Felony Prostitution under this section.

The Department of Law has been very clear about their intent to use this bill against sex workers and sex trafficking survivors. At the March 20, 2023 House Judiciary hearing Representative Gray asked Director John Skidmore about the potential for unintentional unclassified felony charges for having a prostitution enterprise (an unclassified felony in that version of the bill, a Class B felony in the current version) if a client asked a sex worker to bring a friend to an appointment and she did.

Skidmore responded that that would not be unintentional, saying “I would not say that I would never charge that as a prosecutor, because what you described I think those two people are now organized, I think it does lend itself to be charged in that way.” Representative Gray responded that he would think the “woman would be safer by having her friend go with her... [this is] the opposite of what we are trying to do with the bill.”

When common safety practices within the sex industry, as described above, become serious felonies, it becomes impossible for sex workers and sex trafficking survivors to report violent crimes like sex trafficking and murder to police. Here in the rape capital of the US with the second highest per capita rate of serial killing in the country, it is essential that sex workers like Valerie Casler feel safe to go immediately to police and bring them all possible evidence of serious crimes like the murders committed by Brian Steven Smith.

Creating a crime of felony prostitution and criminalizing safety practices in this bill would promote sex trafficking and encourage criminals like Brian Steven Smith to prey on vulnerable survivors with impunity.

Section 32 creates the new felony crime in chapter 11.41 in the sex trafficking statute; Patron of Victim of Sex Trafficking for merely *soliciting* someone with reckless disregard that they may be a trafficking victim. This means that if a client made an appointment with an escort and upon arriving discovered that she was a trafficking victim, he would already be

guilty of a felony merely for soliciting her. The cost to investigate, prosecute and incarcerate people for this new crime is not reflected in the fiscals notes especially if the Special Crimes Investigative Unit at the Alaska Bureau of Investigation continues to use fictitious victims. Please consider in your deliberations of this bill, a review of that units' activities and budget.

Section 63, the vacatur provision created in HB 68 to remove prostitution convictions for individuals who were sex trafficking victims is also untenable. It burdens the sex trafficking victim to petition to the court to remove the prostitution convictions. Additionally, it would force them to prove their innocence and potentially have to manufacture evidence towards that end. Prostitution convictions can be the means to lose parental rights, be discriminated against in accessing housing, financial institutions, employment and educational tracks that require security or background checks for certifications.

We saw that the mere prostitution arrests, conducted by the Alaska State Trooper's under the guise of rescuing sex trafficking victims in December of 2022, caused just these sort of un-statuted punishments. It was reported to us that at least 2 men lost their jobs as a result of their names being published in the press with one man choosing to move out of state as his best option for his future employment. The loss of workforce that will result if HB 68 becomes law, is also not reflected in the fiscal notes.

We suggest blanket vacating ALL prostitution convictions so as not perpetuate injustices and avoid creating more opportunities for systemic exploitation. This approach aligns with due process by providing a pathway to justice and healing for sex trafficking survivors and helps to dismantle discrimination associated with a prostitution charge.

Section 87 allows for administrative subpoenas for suspected sex trafficking, which we all know would be used primarily against sex workers and sex trafficking survivors. This violates fourth amendment privacy rights and will cost the state in litigation.

Section 80 allows for the Violent Crimes Compensation Board to order sex workers and sex trafficking survivors to pay restitution. For example it could be ordered that families of customers who die as a result of engaging in prostitution receive compensation from sex workers and sex trafficking victims. It would also deny restitution to victims who have engaged in standard safety procedures within the sex industry that are criminalized, adding to the list of things that make this bill untenable and doesn't include the social cost.

Finally, under section 38 providing a definition of "fee" in relation to the definition of prostitution ("sexual conduct in exchange for a fee") raises questions. Saying that "'fee" does not include payment for reasonably apportioned shared expenses of a residence," is especially confusing in light of the previous committee Chair's statements during hearings for HB 264 this year that she believes sex in exchange for housing is sex trafficking. Does the bill intend to say that a customer is not guilty of prostitution if they pay in housing rather than money? Or that a sex worker is not guilty of prostitution if she only trades sex for "reasonably apportioned" housing expenses?

Will your committee ask the Department of Law if they will issue a memo telling us what rate we are allowed to value our labor at and what a "reasonably apportioned" housing expense would be?

Please vote no on this dangerous bill.

Thank you,

Terra Burns
Amber Nickerson
Maxine Doogan
Kat McElroy

Enclosed Sectional Analysis