



DC Legislation of Interest – October 17, 2017

Reducing Criminalization to Improve Community Safety and Health Amendment Act

B22-0516

PRIMARY SPONSORS: Grosso and R. White

CO-SPONSORS: None

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BILL SUMMARY/ANALYSIS –

The bill decriminalizes prostitution. Specifically, it repeals the following criminal statutes:

- § 22-2701 - Engaging in prostitution or soliciting for prostitution (selling or buying sex for money)
- § 22-2703 - Suspension of sentence; conditions; enforcement (suspension of sentence for sale or purchase of sex if meets court demands)
- § 22-2705 - Pandering; inducing or compelling an individual to engage in prostitution (inducing someone to reside in house of prostitution or other home in order to sell sex for money; forcing someone to marry against their will; parent or guardian allowing the taking or detainment of the child for prostitution) NOTE: some of these purposes are moved to §22-2706. See below.
- § 22-2707 - Procuring; receiving money or other valuable thing for arranging assignation (pimping)
- § 22-2709 - Detaining an individual in disorderly house for debt there contracted (detaining a person in a house of prostitution because of a debt)
- § 22-2710 - Procuring for house of prostitution (procuring a person to place in a house of prostitution)
- § 22-2711 - Procuring for third persons (procuring or placing a person in another's custody for prostitution)

- § 22-2712 - Operating house of prostitution
- § 22-2722 - Keeping bawdy or disorderly houses (keeping a house of for the purpose of lewdness, assignation or prostitution)
- § 22-2723 - Property subject to seizure and forfeiture (seizure of vehicles, money and other items intended to be used for prostitution-related offenses)
- § 22-2724 – Impoundment (instructions for impounding a vehicle used in prostitution-related offenses)
- § 22-2725 - Anti-Prostitution Vehicle Impoundment Proceeds Fund (creates fund made up of civil penalties, booting, towing, impoundment, and storage fees to be used solely for those expenses and not as part of the annual budget for the District)

The bill removes the portion of §22-2713 that declares a house occupied for lewdness, assignation, or prostitution to be a legal nuisance. The portion of the statute that makes a house for use, keeping, or sale of controlled substances a legal nuisance remains intact. This could create difficulties in tracking and prosecuting sex traffickers that run such a house with forced labor.

The bill amends §22-2706 - Compelling an individual to live life of prostitution against his or her will. The statute currently makes it a crime to detain an individual against their will for the purpose of prostitution or a sexual act. It also makes it a crime to compel an individual to reside with him or her or with any other person for the purposes of prostitution or a sexual act. The bill adds the crime of forcing an individual to marry the abductor or any other person against their will. It makes it a crime for a parent or guardian to consent to the individual being taken, detained, or used by any person for the purpose of prostitution or a sexual act. Both crimes are felonies with longer sentences if the victim is under the age of 18. Both crimes already exist. They are simply being reorganized within the D.C. Code from §22-2705, which the bill is repealing.

Task Force

The bill creates a task force to improve community safety and health. The task force would be commissioned for 3 years to make recommendations regarding the removal of criminal penalties and providing support to individuals engaging in commercial sex. The task force will be comprised of 15 members. In addition to representatives from the relevant sectors of the DC government, organizations focusing on advocating for sex workers, preventing HIV transmission, improving public health, preventing violence and sexual assault, and protecting civil and human rights will be included. Also, included will be organizations representing

populations disproportionately impacted by the criminalization of commercial sex and at least three individuals formerly engaged in sex work.

The task force will study the historic trends and impact of criminal penalties for commercial sex, the impact of the removal of those penalties on public health and safety, and additional resource that may be needed for commercial sex workers. The task force will provide guidance to the Mayor on improving public health and safety in the wake of the statutory changes, including greater attention to violence against sex workers and easier access to health and social services.

The final report submitted by the task force will include recommendations for statutory changes and changes to regulations and policies to better implement the decriminalization of sex work and provide for public health and safety.

COMMENTS – The intent of the bill is to decriminalize commercial sex work in an effort to improve public health and safety. While many have advocated for decriminalizing the sale of sex from the perspective of the commercial sex worker, it has often been advocated that the purchase of sex should remain illegal in order to reduce demand and help protect individuals from being forced into sexual slavery. This bill removes criminal penalties for both the sale and purchase of sex, making the trade of sex for money or other things of value a legal activity for both the buyer and seller. The one thing that remains a crime is forcing someone into commercial sex work, adult or child. This, of course, is in line with local and federal efforts to end sex trafficking.

The portion of text that was moved from D.C. Code §22-2705 (repealed section) to §22-2706 (Compelling an Individual to Live a Life of Prostitution Against His or Her will) is largely the same in intent, but with some differences in language. The rest of the language from §22-2705 is lost to the repeal. Arguably, the language being lost accomplishes the same as the existing language in §22-2706 which remains intact. Both statutory provisions make it illegal to detain and individual or force them to reside with him or her or any other person for the purpose of prostitution or a sex act. But while the remaining language (upon bill passage) makes it unlawful to detain by threats or duress, the language lost made it unlawful to “cause, compel, induce, entice, procure, or attempt to cause, compel, induce, entice, or procure” an individual to reside with any other purpose for the purpose of prostitution. The latter language is more specific and inclusive. Using words like “induce, entice, procure” seem to cover more than what is conveyed by “detain by threats or duress.” This may make it easier for a trafficker in sex to provide a defense to the statute, arguing that it wasn’t through threats or duress that the

person was detained but some other enticement. While this is in line with legalizing prostitution if the so-called enticement allows for a considered choice, the lines are sometimes blurred in determining choice vs. force. The lost language also covers an attempt to force a person to reside with another, not just the action of doing it. Lastly, the language prohibiting the forcing of a person into a house of prostitution would be lost. Arguably, that scenario is covered by the language of forcing an individual to “reside with him or her or with any other person for the purposes of prostitution or a sexual act.” However, the lost language covered a house of prostitution separately from causing a person to reside with any other person. As the bill, also, decriminalizes houses of prostitution, it is hard to reference a house of prostitution in the remaining text of the law.

Changes in statutes can be used to determine legislative intent. Therefore, it could be argued that anything lost in rewriting the statute would be an intentional change to the behavior being criminalized. It is worth considering how the changes being made by the bill affect attempts to address sex trafficking effectively.

The bill is no doubt controversial and, even with passage by the DC City Council and signature of the Mayor, it is very possible that the US Congress will oppose it during the federal review period and kill the legislation.

Referred to Committee on Judiciary and Public Safety (10/17/17)
