

June 21, 2009

## Action Alert for Senate: Comments on Human Trafficking Bills

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# CITIZENS AGAINST TRAFFICKING

## ACTION ALERT

### Focus on the Senate for Prostitution and Trafficking Bills

Sunday, June 21, 2009

Rhode Island Senate President Paiva-Weed has said that she is “confident that we will address the issue of prostitution and human trafficking” this session (*ProJo*, Sunday, June 21, 2009, p A6).

The votes in the Senate are crucial to Rhode Island getting a prostitution law and improving our trafficking law!

There are competing bills, so it can get confusing. Remember, there are two versions of the prostitution bill (a House and Senate version) and two versions of the trafficking bill (a House and Senate version).

### **The Prostitution Bill**

Rhode Island is the only state in the U.S. that does not have a prostitution law. Lack of a law has allowed the sex industry to grow rapidly and prevented law enforcement from helping the victims and stopping the pimps.

- 1) The House version is H 5044A. It has already passed the House Judiciary Committee and the full House by a large majority. CAT supports the House version (H 5044A) because it provides protection from prosecution for victims of trafficking.
- 2) There is a Senate version (S 0596) that is still in the Senate Judiciary Committee. The Committee must pass it with amendments to match the House bill.
- 3) Then the full Senate must pass the prostitution law.

### **The Trafficking Bill**

Rhode Island has a trafficking law passed in 2007. The current bills will expand the trafficking law in Rhode Island. They will enable the prosecution of sex traffickers of minors without proving the force, fraud and coercion were used.

- 1) CAT supports the House version (H 5661A) of the trafficking bill. It makes forced labor a crime in Rhode Island (the Senate version does not). It is a simpler bill without the serious problems that are in the Senate bill.
- 2) The House version (H 5661A) has yet to pass the full House, but opposition is not expected.
- 3) CAT opposes the Senate version (S 0605) of the trafficking bill. It does **not** include forced labor, a serious crime of modern-day slavery. The Senate version has provisions that will **weaken the existing law**. The Senate version adds a loophole for customers (johns) of victims of trafficking if the johns are under age 21. (We've had enough of loopholes!) The Senate version (S 0605) is also opposed by the Rhode Island State Police and Governor Carcieri. (See later in this document for my full analysis of S 605.)
- 4) The Senate version (S 605) was passed by the Senate Judiciary Committee.
- 5) The Senate version (S 605) will now come up for a vote in the full Senate. CAT call for Senators to vote S 0605 down and pass H 5661A when it comes over from the House.

## **Action Needed**

- 1) Call Senators on the Senate Judiciary Committee tell them you want them to pass a prostitution bill that matches the House version (H 5044A).
- 2) Call President of the Senate Paiva Weed and tell her you want both a prostitution and a trafficking bill to pass this session.
- 3) Call your Senator and say want a prostitution and a trafficking bill matching the House versions of both bills passed in the Senate.

**This is our last chance this year to get these much needed laws.** Decisions will be made in the next day or two. Please send emails and call and leave messages for the Senators tonight (Sunday) or tomorrow (Monday) morning.

## **Contact Senators through Email**

You can send an email message to all Senators at [senators@rilin.state.ri.us](mailto:senators@rilin.state.ri.us)

The phone number for President of the Senate Paiva Weed is 401-222-6655. Her email address is [sen-paivaweed@rilin.state.ri.us](mailto:sen-paivaweed@rilin.state.ri.us)

Here is the list of members of the Senate Judiciary Committee. These are the crucial contacts for supporting the good prostitution and trafficking bills that we need.

Senator McCaffrey (Committee Chair): [sen-mccaffrey@rilin.state.ri.us](mailto:sen-mccaffrey@rilin.state.ri.us)  
Senator Blais: [sen-blais@rilin.state.ri.us](mailto:sen-blais@rilin.state.ri.us)  
Senator Goodwin: [sen-goodwin@rilin.state.ri.us](mailto:sen-goodwin@rilin.state.ri.us)  
Senator Jabour (the bill sponsor): [sen-jabour@rilin.state.ri.us](mailto:sen-jabour@rilin.state.ri.us)  
Senator Lynch: [sen-lynch@rilin.state.ri.us](mailto:sen-lynch@rilin.state.ri.us)  
Senator Maselli: [sen-maselli@rilin.state.ri.us](mailto:sen-maselli@rilin.state.ri.us)  
Senator McBurney III: [sen-mcburney@rilin.state.ri.us](mailto:sen-mcburney@rilin.state.ri.us)  
Senator Metts: [sen-metts@rilin.state.ri.us](mailto:sen-metts@rilin.state.ri.us)  
Senator Perry: [sen-perry@rilin.state.ri.us](mailto:sen-perry@rilin.state.ri.us)  
Senator Levesque: [sen-levesque@rilin.state.ri.us](mailto:sen-levesque@rilin.state.ri.us)

Thank you for your support.

Donna M. Hughes, Co-founder  
Citizens Against Trafficking (CAT)

### **Comments on Trafficking Bills S 605A and H 5661A**

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June 14, 2009

I've carefully read the House and Senate versions of the human trafficking bills. I am not a lawyer, but I have extensive experience in research and policy on human trafficking and have participated in drafting the federal Trafficking Victims Protection Reauthorization Acts of 2003, 2005, and 2008.

H 5661A has passed the House Judiciary Committee and S 605A has passed the Senate Judiciary Committee.

Overall, H 5661A is a more comprehensive, cleaner bill. It includes the much needed forced labor law. Rhode Island is the only state that has passed an anti-trafficking law that those not include forced labor. H 5661A remedies that.

I think H 5661A can be improved in one way:

1. **11-67-6. Sex trafficking of a minor (b) (1) and (2):** Change commercial sex acts to a commercial sex act. This reduces the burden on the prosecution to prove that multiple commercial sex acts occurred.

In my opinion there are serious problems with S 605A. I testified in favor of the bill based on the text of S 605. The later version was available upon request at the Senate Judiciary Hearing, but I did not have time to review it carefully. Since then I have read it and found the following serious issues.

1. S 605A does not have provisions for forced labor. All sections refer to sex trafficking. At the hearing I suggested a change that would have corrected this omission, but the recommendation was not adopted.
  - a. To include forced labor in the Rhode Island criminal code, make the following changes: Change: **11-67-2. Involuntary servitude.—(a)** Whoever knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to forced labor in order to commit a commercial sexual activity either by:  
To: **11-67-2. Involuntary servitude.—(a )** Whoever knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to forced labor or a commercial sexual act either by:
2. There is a clause in two sections that appears to create an exemption from prosecution for a trafficking crime if a person is a victim or former victim. In **11-67-3. Trafficking of persons for forced labor or commercial sexual activity** and **11-67-3.1 Trafficking of minors for commercial sex acts**, there is a clause in section **11-67-3 (c)** and **11-67-3.1 (2)** that states "...this section shall not apply to a "victim" as defined in this chapter." Perpetrators of human trafficking, particularly sex traffickers, groom victims to become perpetrators. They choose one victim to become the enforcer over other victims. Sometimes, the victim-turned-enforcer commits more acts of intimidation and violence against victims than the trafficker. Previous and ongoing victimization should be taken into consideration by the court, but an enforcer/perpetrator should not be exempt from prosecution.
3. **11-67-3.1 (c)** Creation of a crime of purchasing a sex act from a minor with a severe penalty equal to that of the trafficker. First of all, I have no sympathy for "johns," men who purchase sex acts. I believe there should be a law against purchasing sex acts and the penalties for purchasing a sex act from a minor should be the same as the sexual

abuse of a child. This subsection creates the crime of purchasing a sex act from a minor if the person is over age 21. First of all, men aged 18-20, should not be exempt from the law. But the more serious problem is the crime is treated as being equal to the trafficking of a minor with the same penalty --“subject to no more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both.”

4. I have a question about **11-67-6. Training.** In 11-67-6 (a) (4) and 11-67-6 (b) (4) it states that training must cover “legal duties imposed on police officers to make arrests ... and to offer protection and assistance.” Does this imply there is legal liability for police officers if they do not make arrests or offer protection and assistance?
5. There are serious problems with **11-67-7. Oversight Committee created—Composition—Duties and responsibilities.**
  - a. All but one person on the 16 member committee is named (by organization or office) in the legislation. (The governor can make one appointee.) Therefore, the General Assembly is appointing all, but one, members of the Oversight Committee. Does this violate the separation of powers rule?
  - b. Some of the organizations listed are small volunteer advocacy organizations or have limited experience in working with victims of trafficking or working on anti-trafficking policy. The professional expertise on trafficking is quite thin for the serious undertaking of writing of police protocols and other duties listed.
  - c. One section **11-67-7 (c)** enables a majority of the committee to call a meeting. This enables the group of non-governmental or advocacy organizations to call a meeting without the involvement of the chairman, the Attorney General.
  - d. One clause--**11-67-7 (e)(vi)**—appears to prevent any information about victims or “purported victims” from being released to the public or the media. Does this violate the open records laws?
  - e. In testimony before the Senate Judiciary Committee advocates for the Oversight Committee claimed that Rhode Island needed this Committee because there were 45 Task Forces on Trafficking in other states. The Task Forces they refer to are federal committees set up by the U.S. Department of Justice. The task forces have created good working relations between local, state, and federal law enforcement. They include service providers so they can coordinate services for

victims with raids. There are few advocacy groups on them. They are headed by the U.S. Attorney in that district. I notice that the Oversight Committee does not include the U.S. Attorney or anyone from a federal agency. All police departments are not included.