



February 14, 2023

No on SB66

Dear legislators,

We are writing to urge you to vote no on House Bill 68, the bill that would make almost all prostitutes and sex trafficking survivors in Alaska guilty of unclassified felony sex trafficking.

The Community United for Safety and Protection is a group of current and former sex workers and sex trafficking survivors that formed in the aftermath of Alaska's 2012 sex trafficking bill, when we saw sex workers and sex trafficking survivors being charged with trafficking themselves. In the first two years of that law, three quarters of those charged with sex trafficking were sex workers, not pimps. Representatives LeDoux, Lynn, and Senators Gardner and McGuire sponsored bills and amendments to SB91 that made the sex trafficking and prostitution laws less harmful in 2016. Now the governor's bad sex trafficking bill is trying to undo all their hard work by making sex workers and our clients felons.

**House Bill 68 would make it an unclassified felony, sex trafficking in the first degree, to have a place of prostitution - something all prostitutes who don't work outdoors are guilty of.** We saw in the aftermath of the 2012 trafficking bill that police and prosecutors can't be trusted to use their discretion to not charge those they say they want to protect.

House Bill 68 also creates a Class B/C felony, not for those who buy sex from sex trafficking victims, but from those who **merely solicit** someone who meets the definition of a trafficking victim created by this bill, which includes practically every prostitute in Alaska. The bills focus on those who solicit, rather than engage in, a commercial sex act reveals law enforcement's intentions to do sting operations where they pimp out fake victims and then arrest customers for solicitation.

As the sex industry is self regulatory, due to being too criminalized to call the police for help, many of the customers soliciting these fake victims would likely be doing so out of concern, to offer assistance. Customers of actual trafficking victims would risk being charged with a felony if

they called the police. This drives sex work and actual sex trafficking further underground, where abuse and violence proliferate.

These efforts to expand the definition of sex trafficking to include virtually all prostitution and solicitors of fictitious victims reflects the desperation by police and prosecutors to produce hundreds of victims and traffickers where there are actually very few, and create conditions that would allow actual sex trafficking to flourish along the way.

The bill is quite long and most sections are problematic. Out of respect for your time we are keeping this letter to these two points, and we would love the opportunity to meet with you via zoom for a full sectional analysis.

In the meantime we are attaching a draft of what we believe would be a good committee substitute. Our draft would decriminalize sex sellers, enfranchise buyers into immunity in reporting heinous crimes, and allow for the expungement of all prostitution convictions with no requirements that a person prove they were a victim. It does not change the current trafficking statutes, which were tweaked in 2016 and 2017.

Please vote no on HB 68 or consider sponsoring the suggested committee substitute.

Thanks for your time and attention,

Maxine Doogan  
Amber Nickerson  
Terra Burns  
Kat McElroy

Committee Substitute included.

BILL NO. \_\_\_\_  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTY SECOND LEGISLATURE – SECOND SESSION

**BY :**

**Introduced:**

**Referred:**

**A BILL  
FOR AN ACT ENTITLED**

**“An Act relating to the offenses of prostitution, sex trafficking, and human trafficking, to powers of a sentencing court if a crime was knowingly committed against someone because the person works as an exotic service provider, and providing for an effective date.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**\*Section.1.** AS 11.66.100(a) is amended to read:

(a) A person commits the crime of prostitution if the person  
[ (1) ENGAGES IN OR AGREES OR OFFERS TO ENGAGE IN SEXUAL  
CONDUCT IN RETURN FOR A FEE; OR (2)]makes an offer of a fee in return for sexual  
conduct.

**\*Sec.2.** AS 11.66.110(a) is amended to read:

(a) A person commits the crime of sex trafficking in the first degree if the person  
(1) Induces or causes a person to engage in prostitution through  
the use of force or threat of force against any person, or by deception, or by coercion;  
(2) as other than a patron of a prostitute, induces [OR CAUSES] a person under 18  
[20] years of age to engage in prostitution; or  
(3) compels or induces [OR CAUSES] a person in that person's legal custody to  
engage in prostitution.

**\*Sec. 3.** AS 11.66.110(b) is amended to read:

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant  
reasonably believed that the person induced or caused to engage in prostitution was 18  
[20] years of age or older.

**\*Sec. 4.** The amendment of AS 11.66.100 (a)(1) enacted in sec. 1 of this Act and the  
repeal of AS 11.66.120, AS 11.66.130, and AS 11.66.135 enacted in Sec. 5 of this Act  
applies to conduct occurring before, on, or after the effective date of Sec.5 of this Act.

**\*Sec. 5.** AS 11.66.120, AS 11.66.130, and AS 11.66.135 are repealed.

**\*Sec. 6. AS 11.66.100 (c) is amended to read:**

(c) A person may not be prosecuted under (a)[(1)] (2) of this section if the

(1) person witnessed or was a victim of, and reported to law enforcement in good faith, one or more of the following crimes:

- (A) murder in the first degree under AS 11.41.100;
- (B) murder in the second degree under AS 11.41.110;
- (C) manslaughter under AS 11.41.120;
- (D) criminally negligent homicide under AS 11.41.130;
- (E) assault in the first degree under AS 11.41.200;
- (F) assault in the second degree under AS 11.41.210;
- (G) assault in the third degree under AS 11.41.220;
- (H) assault in the fourth degree under AS 11.41.230;
- (I) sexual assault in the first degree under AS 11.41.410;
- (J) sexual assault in the second degree under AS 11.41.420;
- (K) sexual assault in the third degree under AS 11.41.425;
- (L) sexual assault in the fourth degree under AS 11.41.427;
- (M) sexual abuse of a minor in the first degree under AS 11.41.434;
- (N) sexual abuse of a minor in the second degree under AS 11.41.436;
- (O) sexual abuse of a minor in the third degree under AS 11.41.438;
- (P) sexual abuse of a minor in the fourth degree under AS 11.41.440;

- (Q) robbery in the first degree under AS 11.41.500;
- (R) robbery in the second degree under AS 11.41.510;
- (S) extortion under AS 11.41.520;
- (T) coercion under AS 11.41.530;
- (U) distribution of child pornography under AS 11.61.125;
- (V) possession of child pornography under AS 11.61.127;
- (W) sex trafficking in the first degree under AS 11.66.110;
- (X) sex trafficking in the second degree under AS 11.66.120;
- (Y) sex trafficking in the third degree under AS 11.66.130; or
- (Z) sex trafficking in the fourth degree under AS 11.66.135;

(2) evidence supporting the prosecution under (a)(1) of this section was obtained or discovered as a result of the person reporting the crime to law enforcement; and

(3) person cooperated with law enforcement personnel.

**\*Sec. 7.** AS 12.55.155 (c) is amended by adding a new subsection to read:

**(36) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's work as an erotic services provider or the defendant, at the time the offense was committed, voluntarily paid cash or other valuable consideration to the victim and as a result asserted that the offense was consensual sexual conduct in return for a fee.**

**\*Sec. 8.** AS 12.55.155(i) is amended by adding a new subsection to read:

(i) In this section,

(1) "serious provocation" has the meaning given in AS 11.41.115(f); and

(2) "erotic services provider" means a person who earns a living from their erotic labor, including:

(A) prostitutes who work in massage parlors or brothels, in their

homes or on an outcall basis to homes or hotels, or on the street,  
(B) exotic or burlesque dancers and strippers,  
(C) adult film performers,  
(D) escorts,  
(E) courtesans,  
(F) dominatrixes,  
(G) submissives,  
(H) telephone sex operators,  
(I) webcam performers, and  
(J) adult content providers.

**\*Sec. 9.** AS 12.55.155(c) enacted in sec. 1 of this Act, applies to offenses committed on, or after the effective date of this Act.

**\*Sec. 10.** AS 12.72 is amended by adding a new section to read:

**Sec. 12.72.028. Order setting aside conviction or record of arrest.**

(a) At any time after the lapse of three years from the date of pronouncement of judgment, any defendant who has fully complied with and performed the sentence of the court and whose conviction is for a covered nonviolent offense described in (j) of this section by motion may apply to the court where the conviction was entered for entry of an order setting aside the conviction. A person who is still under supervision, or who is still incarcerated, as part of the sentence for the offense that is the subject of the motion has not fully complied with or performed the sentence of the court.

(b) At any time after the lapse of one year from the date of any arrest for an alleged covered nonviolent offense described in (j) of this section, if no accusatory instrument was filed, or at any time after an acquittal or a dismissal of the charge of a covered nonviolent offense the arrested person may apply to the court that would have jurisdiction over the crime for which the person was arrested, for entry of an order setting aside the record of the arrest. For the purpose of computing the one-year period, time during which the arrested person has secreted himself or herself within or without this state is not included.

(c) A copy of the motion and a full set of the defendant's fingerprints shall be served upon the office of the prosecuting attorney who prosecuted the crime or violation, or who had authority to prosecute the charge if there was no accusatory instrument filed. Opportunity shall be given to contest the motion. The fingerprint card with the notation motion for setting aside conviction, or motion for setting aside arrest record and the criminal justice information related to the conviction or arrest as the case may be, shall be forwarded to the department. Information resulting from the fingerprint search along with the fingerprint card shall be returned to the prosecuting attorney.

(d) When a person makes a motion under (a) of this section, the person must pay the fee to the

department established by AS 12.62.160. The person shall attach a certified check payable to the department to the fingerprint card that is served upon the prosecuting attorney. The office of the prosecuting attorney shall forward the check with the fingerprint card to the department.

(e) In addition to the fee required in (d) of this section, when a person makes a motion under (a) of this section the person must pay the filing fee established under court rule.

(f) The prosecuting attorney may not charge the defendant a fee for performing the requirements described in this section.

(g) Upon hearing the motion, the court may require the filing of affidavits and may require the taking of proofs the court considers proper. If the court determines that the circumstances and behavior of the applicant from the date of conviction, or from the date of arrest as the case may be, to the date of the hearing on the motion warrant setting aside the conviction, or the arrest record as the case may be, the court shall enter an appropriate order that states the original arrest charge and the conviction charge, if any and if different from the original, date of charge, submitting agency and disposition. The order shall also state that positive identification has been established by the department. Upon the entry of the order, the applicant for purposes of the law is considered not to have been previously convicted, or arrested as the case may be, and the court shall issue an order sealing the record of conviction and other official records in the case, including the criminal justice information in the custody of a criminal justice agency relating to the conviction or arrest described in the order. The clerk of the court shall forward a certified copy of the order to criminal justice agencies as directed by the court. Upon entry of the order, the conviction, arrest or other proceeding is considered not to have occurred, and the applicant may answer accordingly any questions relating to its occurrence.

(h) For purposes of any civil action in which truth is an element of a claim for relief or affirmative defense, the provisions of (g) of this section providing that the conviction, arrest or other proceeding is considered not to have occurred do not apply and a party may apply to the court for an order requiring disclosure of the official records in the case as may be necessary in the interest of justice.

(i) Upon motion of any prosecutor or defendant in a case involving records sealed under this section, supported by affidavit showing good cause, the court with jurisdiction may order the reopening and disclosure of any records sealed under this section for the limited purpose of assisting the investigation of the movant. However, the order has no other effect on the orders setting aside the conviction or the arrest record.

(j) In this section,

- (1) "criminal justice agency" has the meaning provided in AS 12.62.900(11);
- (2) "criminal justice information" has the meaning provided in AS 12.62.900(12);
- (3) "covered nonviolent offense" means the crime of prostitution under AS 11.66.100(a)(1); and

(D) “department” has the meaning provided in AS 12.62.900(15).

**Sec. 11.** AS 12.72.028 enacted in sec. 1 of this Act, applies to offenses committed before, on, or after the effective date of this Act.

**Sec. 12.** The uncoded law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. AS 12.55.028 enacted by Sec. 1 of this Act has the effect of changing Rule 43, Alaska Rules of Criminal Procedure, by creating an alternate procedure for when the court may set aside arrests and convictions for certain offenses.

**Sec. 13.** The uncoded law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. AS 12.55.028 enacted by sec. 1 of this Act takes effect only if sec. 3 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

**\*Sec. 14.** This Act takes effect July 1, 2023.





March 6th, 2023

Dear House & Senate Judiciary Committee:

COYOTE RI is writing to you today in strong opposition of SB68 & HB68.

SB66 and HB 68 would make it an unclassified felony, sex trafficking in the first degree, to have a place of prostitution - something all prostitutes who don't work outdoors are guilty of. We saw in the aftermath of the 2012 trafficking bill, when an independent sex worker was charged with trafficking herself, that police and prosecutors can't be trusted to use their discretion to not charge those they say they want to protect. That's why we oppose SB66 and HB68.

House Bill 68 and SB66 also creates a Class B/C felony, not for those who buy sex from sex trafficking victims, but from those who merely solicit someone who meets the definition of a trafficking victim created by this bill, which includes practically every prostitute in Alaska. The bills focus on those who solicit, rather than engage, in a commercial sex act revealing law enforcement's intentions to do sting operations where they pimp out fake victims and then arrest customers for solicitation.

As the sex industry is self regulatory, due to being too criminalized to call the police for help, many of the customers soliciting these fake victims would likely be doing so out of concern, to offer assistance. Customers of actual trafficking victims would risk being charged with a felony if they called the police. This drives sex work and actual sex trafficking further underground, where abuse and violence proliferate. Instead, customers who encounter a sex trafficking victim should be able to call the police and make a report without being arrested at all.

The legislature changed the trafficking statutes in 2016 and 2017. Let's respect their good work.

We oppose SB6 & HB68 and ask you to VOTE NO on them

Bella Robinson

Tara Burns

Kayla Katt

Ramona Flour

Ms Sheila

COYOTE RI Call Off Your Old Tired Ethics, Rhode Island (COYOTE RI) is a group of current and former sex workers and sex trafficking survivors working on "policy" for improved health and safety for people in Rhode Island's sex industry. Learn more at [www.coyoteri.org](http://www.coyoteri.org)