



HB68 Section Analysis

This is the full text that seems to have all the amendments integrated:

<https://www.akleg.gov/basis/Bill/Text/33?Hsid=HB0068B>

This is a handy summary of changes:

https://www.akleg.gov/basis/get_documents.asp?session=33&docid=26625

Big big problems:

1. It would be PROSTITUTION IN THE 1st DEGREE, a CLASS B FELONY to own, supervise, or manage a place of prostitution or a prostitution enterprise.
 - a. "place of prostitution" means any place where a person, other than a proprietor of the place, engages in sexual conduct in return for a fee;
 - b. Prostitution enterprise is not defined in the current version but the original version defined it as "prostitution enterprise" means an arrangement in which two or more persons are organized to render sexual conduct in return for a fee. (Skidmore explained that this includes duos.)
Maybe we propose a new definition that clearly excludes worker collectives?
2. PATRON OF A VICTIM OF SEX TRAFFICKING it would be a CLASS B OR C felony to SOLICIT (not engage in prostitution with) someone with reckless disregard that they may be a victim of sex trafficking. This means that if a client booked with an escort, arrived and discovered that she was a trafficking victim, he would already have committed a felony by soliciting her.
3. Administrative subpoenas for suspected sex trafficking. This means that they would not have to go through the court and could give themselves their own subpoenas on prostitutes, since they're sure we're all sex trafficking victims.
4. Prostitution for buyers would become a class A misdemeanor and the third offense would be a class C felony.
5. Vacation of judgment with burden of proof on victim to prove they were a victim - just vacate all prostitution charges.

6. If a person is killed due to their participation in a “commercial sex act” the VCCB may order payment of compensation.

Medium problems:

1. Revocation or inability to get many licenses for people convicted of sex trafficking, which would be fine if sex trafficking actually meant sex trafficking, but currently sex workers have been convicted of sex trafficking for normal sex work activities and this would prevent them from finding professional employment.
2. Throughout the human (labor) trafficking statute prostitutes are removed from it’s protections and dancers are included as a category separate from “labor.”

| Element | Currently | HB68 |
|---------------------------------------|---------------------------|---------------------------|
| Induces through force | ST1 - A Felony | ST1 - Unclassified Felony |
| Induces through threat of force | | ST1 - Unclassified Felony |
| Induces someone under 20 | ST1 - Unclassified Felony | |
| Induces someone under 21 | | ST1 - Unclassified Felony |
| Induces through coercion* | | ST1 - Unclassified Felony |
| Prostitution Enterprise | ST2 - B Felony | Prostitution - B Felony |
| Travel for Prostitution | ST2 - B Felony | |
| Procures Customer for Prostitute | ST2 - B Felony | |
| Place of Prostitution | ST3 - C Felony | Prostitution - B Felony |
| Induces Adult | ST3 - C Felony | |
| Recieves money or property from p | ST3 - C Felony | |
| Aids Prostitution Enterprise | ST3 - C Felony | |
| Aids Prostitution | ST4 - A Misdemeanor | |
| | | |
| *oversimplification of actual wording | | |

Sectional -

Sections 1: Housekeeping, does not actually change anything.

Sections 2-29: Licensures

Section 30: Confidentiality of sex trafficking victims, we support this.

Section 31: Housekeeping

Section 32: New definitions of sex trafficking and moving it to Ch 41 rather than 66 of the statutes and new crime of patron of a victim of sex trafficking.

Sex trafficking in the 1st degree:

- Induce or causes by force or threat of force (we support but this is not a change)
- Induce someone under 21 (oppose, this should be 18, but also not a change)

Sex trafficking in the 2nd degree

- Induce or causes an adult (but definition of "induce or cause" is more what we would think of as coercion and actually lifted from a draft we previously provided to DoL with the exception of including "providing or withholding a controlled substance.") Support with clarification of providing controlled substance.

Sex trafficking in the 3rd degree

- As other than a patron, provides services, resources, or other assistance (new, oppose)

Patron of Victim of Sex Trafficking

- Solicits with disregard that the person is a trafficking victim or under 18, oppose, see above.

Section 33: Removes prostitutes from the first degree "human trafficking" (labor trafficking) statute and maintains "adult entertainment" as being distinct from "labor." Oppose. Sex work is work.

Section 34: Makes human trafficking in the 1st degree an unclassified felony.

Section 35: Second degree human (labor) trafficking

- Excludes sex trafficking victims from the protections of the second degree human trafficking statute. Oppose.
- Introduces "induce or cause" language with same definition as above. Support with clarification of providing controlled substance.
- Changes to class A felony

Section 36: Third degree human (labor) trafficking. No substantive changes.

Section 37: Excludes sex trafficking victims from the protections of the Coercion statute because of language in the new sex trafficking statute. Oppose.

Section 38: Creates the new crimes of FELONY PROSTITUTION.

- Prostitution in the 1st degree, Class B Felony: manages, supervises, controls or owns a place of prostitution or prostitution enterprise. Oppose.
 - "place of prostitution" means any place where a person, other than a proprietor of the place, engages in sexual conduct in return for a fee;
 - Prostitution enterprise has no definition in this draft, but Mr. Skidmore testified that the definition in the previous draft would include two sex workers doing a duo.
 - Place of prostitution does not include the modifier in the current statute that a person must receive money from another persons prostitution to be charged.
- Prostitution in the 2nd degree, Class C Felony, third prostitution offense for clients. Oppose.
- The rest is just moving the existing prostitution statutes lower

Section 39: Housekeeping.

Section 40: Definition of place of prostitution.

Section 41: Creates a definition of "fee" in relation to a prostitution exchange to clarify that sex in exchange for housing is not prostitution. WTF

Section 42-43: adds human (labor) trafficking to some sentencing statutes.

Section 44: definitions:

- new definition of "adult entertainment" includes dancers excludes porn, phone sex, etc.
- "Commercial sex act" stays the same
- "Services resources or assistance"
- "Sexual act" as distinct from sexual conduct even though it seems to mean the same thing - sexual conduct is used in prostitution statutes and sexual act in sex trafficking.
- "Victim of sex trafficking" means someone induced or caused

Section 45: Housekeeping and adding sex trafficking to prosecutorial time limitations.

Section 46: Housekeeping in the wiretapping statutes

Section 47: Repeat of sex trafficking victims rights to privacy. Support.

Section 48: Loss of business licenses for sex and labor trafficking.

Section 49: Housekeeping and adding labor trafficking to fines.

Section 50 - 53: Sentencing, mostly housekeeping.

Section 54: no less than 72hr incarceration for second conviction for clients

Section 55: "most serious felony" definition

Section 56: "sexual felony" adds all degrees of trafficking and patron of a victim.

Section 57: changes "sexual offense" to "sex offense"

Section 58: definition of "sex offense"

Section 59: withholding publication of the names of victims of sex offenses

Section 60: definition of "sex offense" again

Section 61-62: more definitions

Section 63: vacation of judgment of prostitution by petition that the person was a victim of trafficking. Burden of proof is on the victim. Oppose in support of vacation of all prostitution convictions.

Section 64: education - sex ed does not include sexual violence ed, including sex trafficking

Section 65: sex trafficking training required for teachers

Section 66: sex traffickers cannot be teachers

Section 67: requires schools to teach about sex trafficking

Section 68: more sex trafficking training in schools

Section 69: housekeeping

Section 70: new definition of notice to parents/guardians

Section 71: housekeeping related to section 64

Section 72: convicted traffickers may not be teachers

Section 73: takes away privacy rights granted above to sex trafficking victims if they are charged with a crime

Section 74-79: more housekeeping and definitions related to privacy of sex trafficking victims and their counselors

Section 80: if a person is injured or killed due to their involvement in a commercial sexual act the VCCB may order payment of compensation. Does this include if a client has a heart attack?

Section 81-82: housekeeping

Section 83: licensure of school bus drivers including exclusion for felony prostitution convictions

Section 84-86: housekeeping

Section 87: Administrative subpoenas for suspected sex trafficking

Section 88: definition of "sexual abuse"

Section 89-92: housekeeping

Section 93: applicability



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

From: Sf Mistress <sfmistress@gmail.com>
Sent: Saturday, April 27, 2024 9:32 PM
To: House Finance; Rep. Daniel Ortiz; Rep. Sara Hannan; Rep. Julie Coulombe; Rep. Andy Josephson; Rep. Alyse Galvin; Rep. DeLena Johnson; Rep. Will Stapp; Rep. Bryce Edgmon; Rep. Neal Foster; Rep. Frank Tomaszewski; Rep. Mike Cronk
Cc: Hunter Meachum; Timothy Clark; Eleilia Preston; Alexander Schroeder; Lisa Keller; Brooke.Ivy@akleg.gov; Brodie Anderson; Bernard Aoto; Clifton Coghill; Julie Morris; Laib Allensworth
Subject: CUSP Vote No HB 68 2024 Plus Sectional Analysis
Attachments: CUSP Vote No on HB68 2024.pdf; HB 68 updated analysis (1).pdf

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