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**PAUL SIMON PUBLIC POLICY INSTITUTE
GRADUATE STUDENT PAPERS**

**THE (DE)CRIMINALIZATION
OF CONSENSUAL SEX WORK**

**IMPLICATIONS FOR ILLINOIS AND
THE UNITED STATES**

BY CHLOE GOLDBACH

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Paul Simon Public Policy Institute Graduate Student Papers

The (De)Criminalization of Consensual Sex Work: Implications for Illinois and the United States

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July 2022

A Publication of the Paul Simon Public Policy Institute

Table of Contents

Introduction	1
1 Review of Literature	4
1.1 What is Sex Work?.....	4
1.2 Who is Involved in Sex Work?	5
1.3 Nonconsensual Sex Work: Human & Sex Trafficking.....	8
1.4 Types of Sex Work Laws.....	13
1.5 Exit Strategies	20
2 Current Legislation	22
2.1 International Legislation	22
2.2 Federal Legislation in the United States	27
2.3 State and City Legislation (Outside of Illinois)	30
2.4 Illinois Legislation	33
3 Public Opinion Polling	36
3.1 1970s Polling.....	37
3.2 1980s Polling.....	38
3.3 1990s Polling.....	39
3.4 2000s Polling.....	40
3.5 2010s Polling.....	40
3.6 2020s Polling.....	44
4 Implications and Recommendations	45
4.1 Public Health Implications of Various Approaches to Sex Work Legislation.....	46
4.2 Impacts of the COVID-19 Pandemic	54

4.3 Directions for Future Research	55
4.4 Illinois and National Policy Recommendations	56
Conclusions	58
References	60
Appendix A: Sex Work Legislation in Illinois	80

Abstract

In-person consensual sex work, or prostitution, is criminalized and stigmatized throughout much of the United States and the world. Sex workers, pro-sex work advocacy organizations, and researchers have suggested that decriminalization of in-person consensual sex work has significant public health and economic benefits for sex workers and society more broadly. This paper addresses the issue of sex work legislation, with a primary focus on the United States and the state of Illinois. First, an overview of sex work, individuals involved with sex work, and differences between and confluences with human trafficking are discussed. The paper then focuses on five common forms of sex work legislation (partial criminalization, full criminalization, Swedish/Nordic model, legalization, decriminalization) and examples of each across various countries, followed by an overview of relevant United States federal and Illinois state legislation. Data from existing national polls from the 1970s to 2020 were also examined to explore public attitudes regarding sex work legislation. Finally, public health implications, effects of the COVID-19 pandemic, and recommendations for future research and policy are discussed. This research provides a foundation for a better understanding of the implications of sex work legislation and suggests that decriminalization of sex work may provide significant health and economic benefits to sex workers and the general public alike in Illinois and the rest of the United States.

Introduction

“It takes about two minutes to politicize a hooker.” – Margo St. James (from Chateauvert, 2014)

Consensual sex work, and more specifically prostitution, is sometimes referred to as the “world’s oldest profession,” but consensual sex work is partially or fully criminalized and not viewed as a legitimate profession in many parts of the world. Major organizations (e.g., American Civil Liberties Union [ACLU], Data for Progress, Transgender Law Center) have called for legislation to decriminalize consensual sex work to reduce the negative safety, health, and financial impacts experienced by many sex workers resulting from stigmatization and criminalization of consensual sex work (e.g., ACLU, 2020; Luo, 2020). In a review of 83 references (57 journal articles, 18 nongovernmental organization [NGO] reports, 7 government reports, 1 law review), the ACLU concluded that partial and full criminalization of consensual sex work significantly increases risk of violence to sex workers at the hands of clients and police, decreases likelihood that sex workers will report violent crime, increases risk of HIV/sexually transmitted infection transmission, reduces health care access for and utilization by sex workers, and reduces many sex workers’ income and ability to financially support themselves and their dependents (ACLU, 2020). Furthermore, public support for decriminalization of prostitution has grown significantly in the past several decades, with less than 30% supporting decriminalization in the 1980s (Smith, 1998), 38% in 2012 (Osse, 2012), 44% in 2015 (Moore, 2015), 49% in 2016 (Marist Poll, 2016), and 52% supporting decriminalization in a 2020 poll (Luo, 2020). Despite the negative public health implications of consensual sex work criminalization and increasing public support for consensual sex work decriminalization, consensual sex work is fully criminalized everywhere in the United States with the exception of several rural Nevada counties and more recently, Baltimore, Maryland.

The term “consensual sex work” can encapsulate many different types of work associated with the sex industry, but throughout this paper, consensual sex work will be used to refer specifically to prostitution (i.e., the in-person exchange of sexual labor between consenting adults for money and/or other resources), unless otherwise specified. The term “consensual” is placed in front of sex work in this context to differentiate it from forced sex work, which often results from sex trafficking. In this paper, the term “sex workers” will be used to refer to individuals who sell sexual labor, “clients” or “buyers” will be used to refer to individuals who purchase services provided by sex workers, and “third parties” refers to any other individuals or organizations involved in the provision of sex work (e.g., managers, brothels, advertising, website hosting).

Legislation governing prostitution around the world often falls into one of five main models: partial criminalization, full criminalization, the Swedish/Nordic Model, legalization/regulationism, or decriminalization (Mac & Smith, 2018). In the United States, there are no federal laws that are explicitly focused on the regulation, criminalization, or decriminalization of the sale and purchase of consensual sexual services, but federal law still significantly affects consensual sex work. Recent federal legislation (i.e., Allow States and Victims to Fight Online Sex Trafficking Act of 2017 [FOSTA], 2018) introduced provisions such that third parties (e.g., websites) that promote or facilitate the buying or selling of sex will be criminalized. The promotion of consensual sex work was criminalized under FOSTA because the promotion and facilitation of all forms of selling of sexual services are criminalized. In other words, the law makes no distinctions between consensual sex work and non-consensual sex work (i.e., sex trafficking; FOSTA, 2018; Peterson et al., 2019).

The majority of United States legislation related to prostitution is left up to each individual state. Several rural counties in Nevada adopt a legalization/regulationist model through the Nevada brothel system, but legislation in the rest of the United States reflect full criminalization (i.e., all parties involved are subject to criminal penalties). Within Illinois specifically, prostitution is currently a misdemeanor offense for sex workers, felony offense for clients, and felony offense for third parties/promoters of sex work services (Criminal Code of 2012, 2012). Sex workers could previously face felony charges for prostitution offenses in certain circumstances (e.g., subsequent violations of the Criminal Code of 2012), but all charges were changed to misdemeanors in 2013 (Illinois S.B. 1872, 2013). In 2021, an Illinois Senate bill was enacted to allow provisions for sex workers to expunge prior felony prostitution charges (Illinois S.B. 2136, 2021).

Regardless of political or moral attitudes that an individual or group holds toward consensual sex work, current research suggests that current United States legislation that criminalizes prostitution has significant negative health and financial impacts on sex workers (e.g., ACLU, 2020). This paper will first focus on defining consensual sex work and identifying who is typically involved in consensual sex work in the United States. Next, the paper will provide an overview of prominent legislative approaches to consensual sex work, in addition to examples of each type of legislation globally, current US federal policies, and US state policies with a primary focus on legislation in the state of Illinois. The paper will then provide an overview of previous public opinion surveys regarding attitudes toward criminalizing, legalizing and/or decriminalizing consensual sex work. Finally, the paper will conclude with the public health implications of current US legislation that criminalizes consensual sex work, the impacts

of the COVID-19 pandemic on individuals involved in consensual sex work, and recommendations for policy and future research.

Review of Literature

What is Sex Work?

Sex work, a term typically credited to activist and sex worker Carol Leigh who popularized the term starting in 1970s, refers to the practice of exchanging sexual labor for money or other resources (Leigh, 1997; Mac & Smith, 2018, p. 1). Sex work is a broad term that can encompass any type of work associated with the sex industry, including prostitution, pornography/adult film work, camming (e.g., streaming adult content via webcam), phone sex lines, erotic dancing, sexual massage, sugar-babying, and some BDSM (bondage and discipline, dominance and submission, sadism and masochism) work (Kallock, 2019, p. 5). Although sex work encompasses many different types of work, discussion of sex work in this paper refers specifically to prostitution, unless otherwise specified. Prostitution refers to the exchange of in-person sexual actions for a monetary fee or other resources (Harcourt & Donovan, 2005).

Researchers of sex work have identified dozens of types of prostitution (e.g., Harcourt & Donovan, 2005; Mac & Smith, 2018). The types of work that are labeled as “prostitution” often vary based on location, current cultural beliefs, and current legislation (Rule & Twinley, 2020). Street prostitution, the solicitation of clients in public spaces with service occurring often on side streets or in vehicles, is one of the most common forms of prostitution (Harcourt & Donovan, 2005; Mac & Smith, 2018). It is especially common in areas where prostitution is predominately criminalized (e.g., United States, United Kingdom), or where legalized forms of prostitution are difficult to access for individuals from lower socioeconomic or other marginalized backgrounds (e.g., Germany, Netherlands, brothels in Nevada). Prostitution may also come in the form of

working in a brothel (i.e., licensed site for buying/selling of sex), escort work, solicitation in various venues (e.g., bars, clubs, bathhouses), survival sex (i.e., individuals who experience significant resource insecurity and resort to sex work because other employment opportunities are not available to them), and more.

Who is Involved in Sex Work?

The Sex Worker

Sex work involves the sex worker, client(s), and sometimes, third parties (e.g., managers, brothels; Mac & Smith, 2018). The sex worker is an individual who provides sexual services in exchange for money or other resources, and the types and extent of the services provided can vary significantly from one sex worker to the next. The sex worker is most commonly a cisgender or transgender woman, and the client is most commonly a cisgender man (Mac & Smith, 2018); various terms used to describe gender identity (e.g., cisgender, transgender, nonbinary) are defined below. Although the majority of sex workers are women, including both transgender women and cisgender women (James et al., 2016; Smith & Mac, 2018), some cisgender men (Kaye, 2014; Minichiello et al., 2013), transgender men, and nonbinary individuals (James et al., 2016; Jones, 2020) are also sex workers. Precise population estimates of sex workers have not been determined due to a variety of methodological complexities related to determining the population size of a marginalized and largely criminalized group of people (Global Network of Sex Work Projects, 2015). Current population estimates have ranged from over 10 million to 42 million worldwide, with at least 1 million sex workers estimated to be in the United States alone (Goldmann, 2011; Joint United Nations Programme on HIV/AIDS [UNAIDS], 2015).

To provide clarity on gender identity terminology, definitions of transgender, cisgender, and nonbinary are provided here. The terms transgender (trans) and nonbinary are used to describe individuals who have a gender identity that differs from what is culturally expected based on the sex they were assigned at birth (American Psychological Association [APA], 2015; Tompkins, 2021). For example, an individual who has a sex assignment of male at birth may be expected by others (e.g., family, peers, societal institutions) to identify as a man and behave in a stereotypically masculine manner, regardless of the gender identity that they hold. The use of transgender as a broad umbrella term often includes trans men, trans women, and nonbinary people, but it is important to acknowledge that not all nonbinary people identify with the label of trans or transgender (Darwin, 2020). A transgender man is someone who was assigned female at birth and identifies as a man. A transgender woman is someone who was assigned male at birth and identifies as a woman. A nonbinary person has a gender identity that is outside of the man-woman gender binary or any identity that is not exclusively that of a man or woman. Nonbinary identities can include having a gender identity that is fluid or not fixed (e.g., genderfluid), having an identity that is neither man nor woman (e.g., genderqueer), feeling like one identifies with multiple genders (e.g., bigender, pangender), feeling like one does not have a gender (e.g., agender), or describing one's gender as neutral (e.g., gender neutral, neutrois; Vincent & Barker, 2021). The term cisgender refers to an individual who holds a gender identity that matches cultural expectations based on their sex assigned at birth (e.g., someone who was assigned female at birth and identifies as a woman; APA, 2015; Tompkins, 2021).

The Client/Buyer

The client, or buyer, of sex work is most commonly a cisgender man (Mac & Smith, 2018; Monto & Milrod, 2014) for sex workers of all genders (Scott et al., 2014). Although many

people believe that only men purchase sex, some women are also sex work clients (Scott et al., 2014). Although the population size of sex work clients is relatively unknown, researchers suggest that 13% to 20% of men in the United States have purchased sex at least once in their lifetime (Monto & Milrod, 2014; Shively et al., 2008; Weitzer, 2000). Using data from a nationally representative sample of over 4,000 men in the United States from 2002-2010, Monto and Milrod (2014) found that 13.9% of survey respondents had purchased sex at least once in their lifetime and 1.0% had purchased in the past year. Men who purchase sex may do so for a variety reasons, including viewing sex as a drive or urge, feeling that engaging in sex is necessary to meet cultural expectations of masculinity, wanting experience with a variety of partners, lack of desire to be in a committed relationship, difficulties in a current intimate relationship, difficulties finding a partner in conventional dating contexts, desire for intimacy, and desire for friendship (Hammond & van Hooff, 2019; Joseph & Black, 2012; Silver et al., 2021). It is estimated that, globally, 45% to 75% of sex workers have experienced violence, with clients likely contributing to the majority of incidents of violence, especially in places where sex work is criminalized (Deering et al., 2014).

Managers and Other Third Parties

Third parties in sex work have often been associated with the idea of the “pimp,” who has been defined as “a person who arranges opportunities for sexual encounters with a prostitute and usually exerts control over their earnings” (Mensah, 2018, p. 21). Representations of the “pimp” are often gendered and racialized, with one of the most common stereotypes being that of a Black man “pimp” with a White woman sex worker (Mensah, 2018). Common conceptualizations of third parties in sex work create the image of a harmful dyad where men are perceived as aggressive and exploitative and women as abused and helpless. Creation of the

image of all third parties as exploitative “pimps,” or as traffickers, criminals, predators, or abusers, serves to affirm and justify the pervasive stigma and common criminalization approaches to sex work (Bruckert, 2018).

In reality, women often conduct most third-party work in the sex industry, and many individuals who are involved in third party previously worked or still work as sex workers (Bruckert, 2018). Additionally, the roles of the sex worker and third party frequently overlap or alternate. A common third party is a brothel, which is often defined as any location where more than one sex worker is conducting business. Sex workers often try to work together to conduct work in safer environments (e.g., working in a shared building away from dangerous/unknown locations), a business structure that involves the overlap of the sex worker and third party. Unfortunately, such business arrangements are criminalized in many parts of the world. Although some managers and other third parties are involved in sex worker exploitation and abuse, criminalization policies can exacerbate this issue. Policies that criminalize managers and other third parties (e.g., criminalization models, Swedish/Nordic model) can create barriers to the creation of labor protections and safer sex policies for sex workers because legal recourse for those involved in sex work is limited when one or more parts of the sex work process are criminalized (Jeffrey, 2018).

Nonconsensual Sex Work: Human & Sex Trafficking

Although the scope of this paper focuses on consensual sex work, it is important to briefly discuss nonconsensual sex work. Nonconsensual sex work is a significant international issue and it is often conflated with consensual sex work in advocacy efforts, research literature, and legislative policy. Any form of sex work that is nonconsensual, forced, or conducted through coercion falls under the label of sex trafficking, which is a form of human trafficking (Logan et

al., 2009). In the United States, the Victims of Trafficking and Violence Protection Act defines human trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery” (Victims of Trafficking and Violence Protection Act, 2000). Within the same Act, sex trafficking is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act” (Victims of Trafficking and Violence Protection Act, 2000). Sex trafficking can occur across country borders or occur entirely within the trafficking victim’s own country (Logan et al., 2009). It is important to acknowledge that human trafficking is distinct from human smuggling in that smuggling often involves the consent of the individuals being smuggled to a new location and the relationship between transporter and smuggled individuals typically ends once their destination is reached (United States Department of Homeland Security, 2020). In human/sex trafficking, transportation is often not consensual. Individuals who do consent to being smuggled across borders can become trafficking victims if the “fee” for being transported serves as a form of debt used to entrap individuals in a forced labor situation.

Population estimates on the number of people who are victims of human and sex trafficking vary. The International Labor Organization (2017) estimated that, at any given time in 2016, about 24.9 million people were in forced labor, with 4.8 million of these individuals being in forced sexual labor. In the United States, the US Department of State estimated in 2009 that anywhere from 14,500 to 20,000 individuals are trafficked into the United States each year (United States Department of Health and Human Services, 2009). The National Human Trafficking Hotline documented 63,380 human trafficking cases between 2007 and 2019 (National Human Trafficking Hotline, 2020). Of these cases, 11,500 human trafficking cases

were reported in 2019, and 8,000 of the cases in 2019 were sex trafficking cases that involved over 14,000 sex trafficking victims. The Human Trafficking Institute found that, in 2018, there were 771 active human trafficking federal court cases, and over 90% of these cases were related to sex trafficking crimes (The Human Trafficking Institute, 2019).

Human Trafficking in Illinois

The Illinois Human Trafficking Task Force, created following the Human Trafficking Task Force Act of 2016, generated a report in 2018 to document the state of human trafficking in Illinois and make recommendations designed to address the problem of human trafficking (Human Trafficking Task Force Act, 2016; Illinois Human Trafficking Task Force, 2018). The Illinois Human Trafficking Task Force adopted the definition of human trafficking established in the Trafficking Victims Protection Act of 2000: “Human trafficking is the act of recruiting, harboring, moving, or obtaining a person by force, fraud, or coercion, for the purpose of involuntary servitude, debt bondage, or sexual exploitation” (Illinois Human Trafficking Task Force, 2018). At the time of the 2018 report, Illinois had the 11th highest number of reported human trafficking cases of all 50 states. From December 2007 to December 2017, a total of 1,148 cases that included 2,832 trafficked individuals and survivors were reported in the state of Illinois to the National Human Trafficking Hotline. In 2017, 160 of the 193 reported cases of human trafficking in Illinois involved sex trafficking.

The Illinois Human Trafficking Task Force (2018) offered several recommendations for addressing human trafficking based on the findings in their 2018 report. The first series of recommendations are related to education and awareness, which include establishing funding for the Illinois Human Trafficking Task Force, creating training programs that are targeted to potential allies and industries (e.g., hospital staff, social workers, teachers, law enforcement,

public transit workers), and enacting legislative changes to promote and increase education and awareness of human trafficking. The Task Force also created a series of recommendations for health and human services, including appointing sex and labor trafficking survivors to state advisory councils, providing housing services for survivors, and expanding medical and financial support/benefits for survivors of human trafficking. Recommendations for law enforcement include consistent enforcement of laws that are intended to address human trafficking, increased availability of support services for high-risk individuals, and providing trauma-informed resources and support for survivors of human trafficking who are under the age of 18. Recommendations for the court included providing availability of advocates to assist in case management and expanding community-based services to assist court referrals to providers. Lastly, recommendations for prosecution include imposing stricter penalties for perpetrators of human trafficking, continued conversation on legalization and decriminalization of prostitution, and merging charges for solicitation and patronizing a prostitute due to differences in penalties and difficulties in proving patronizing offenses.

Conflation of Sex Work with Human and Sex Trafficking

Researchers and activists have argued that some advocacy efforts (e.g., abolitionist feminism discussed later in this paper) and many legislative policies conflate consensual sex work with forced sexual labor/sex trafficking (e.g., Amnesty International, 2016; Bettio et al., 2017; Decriminalize Sex Work, n.d.; Mac & Smith, 2018; Vanwesenbeeck, 2017; Viswasam et al., 2021). The Illinois Human Trafficking Task Report (2018) also appears to acknowledge conflation of sex trafficking with consensual sex work/prostitution in how law enforcement currently approaches both issues, with statements such as “if prostitution were legal, law enforcement would not have a lawful basis to proactively investigate [human trafficking].” At

the same time, the Illinois Human Trafficking Task Report (2018) does recognize a distinction between human trafficking and sex work, in addition to potential benefits of the decriminalization of prostitution, stating that, “the decriminalizing of prostitution may provide opportunities for sex workers and human trafficking survivors to begin to organize and protect themselves.”

The conflation of human and sex trafficking with consensual sex work occurs, in part, because of varying definitions of trafficking used by individuals, organizations, and within legislation. Some anti-prostitution activists and activist organizations use the term trafficking to refer to all forms of prostitution/sex work, framing sex work as inherently exploitative regardless of the conditions in which it occurs (e.g., regardless of whether it is consensual or forced; Mac & Smith, 2018; Weitzer, 2020). Trafficking has also been used to describe any form of sex work that involves a manager or other third party in the process of selling sex. “Brothel-keeping,” often defined as any location where two or more sex workers conduct their work, and using online services to find clients are considered third parties and have therefore been criminalized in many countries, including the United States, with the intention of preventing sex trafficking and protecting victims of sex trafficking (Mac & Smith, 2018; Tripp, 2019). Furthermore, criminalization legislation in the United States and abroad has frequently been framed under the “end demand model,” or the idea that creating legislation designed to reduce the demand for all types of sex work (by criminalizing buyers and third parties) will help reduce human trafficking (Allow States and Victims to Fight Online Sex Trafficking Act [FOSTA], 2018; Decriminalize Sex Work, n.d.; Reducing the Demand for Human Trafficking Act, 2021; Stop Enabling Sex Traffickers Act [SESTA], 2018; Victims of Trafficking and Violence Protection Act, 2000). Sex work activists and researchers have argued that such efforts significantly increase safety risks for

sex workers because they cannot easily screen potential clients or work in groups, and many fear legal recourse or abuse by law enforcement were they to report any experiences of exploitation or sexual assault (Mac & Smith, 2018; Tripp, 2019).

Immigrant/migrant sex workers experience additional stigma and legal barriers due to their immigration status being compounded with the conflation of sex work and sex trafficking. Disproportionate numbers of immigrant/migrant sex workers involved in consensual sex work are criminalized under human trafficking, anti-prostitution, and immigration policies because of the misconception that they were trafficked across borders and involved in forced/coerced sex work in the process (Goldenberg, Krusi, et al., 2017; Mac & Smith, 2018). In reality, many immigrant/migrant sex workers legally travel and willingly engage in sex work to meet financial needs that would not otherwise be met due to employment barriers that many immigrants often experience (Goldenberg, Krusi, et al., 2017; McBride & Janushev, 2021).

Types of Sex Work Laws

Sex work legislation often comes in the form of partial criminalization, full criminalization, legalization/regulationism, or decriminalization, with most legislation criminalizing one or more of the people and/or processes involved the process of selling and buying sex (Mac & Smith, 2018). Before describing the specific forms of sex work legislation, it is important to have an understanding of common belief systems that often inform various approaches to sex work advocacy and legislation. Magaly Rodriguez Garcia, a historian and researcher of labor and prostitution policy, states, “understanding of prostitution in most societies” stems from “the moral or status connotation attached to it, and not so much the exchange of sexual favors for money or in-kind” (Garcia, 2016, p. 3). Legislative policies for sex work are influenced by attitudes regarding the moralities and purposes of sexual activity, and

more specifically, sexual activity that involves the exchange of money or other resources (Kallock, 2019).

Ideological Frameworks that Inform Approaches to Sex Work Advocacy and Legislation

Various ideological frameworks inform various approaches to sex work advocacy and legislation, including abolitionist feminism, sex radicalism, and sex laborism (Kallock, 2019). Broadly speaking, abolitionist feminism positions the sex industry as an “institution of male domination over women” (Weitzer, 2020, p. 401). Abolitionist feminism centers on the idea that prostitution (abolition feminists typically use the term “prostitution” as opposed to “sex work”) is inherently and always exploitative of women, regardless of context, and therefore the selling of sex needs to be altogether abolished from society (Kallock, 2019). Under this framework, all sex work is perceived to be a violation of human rights, analogous to slavery, and an embodiment and continual recreation of sexist, patriarchal domination that contributes to sexual abuse (Stabile, 2020). Consensual sex work is often conflated with sex/human trafficking in an abolitionist framework because consensual and forced/nonconsensual forms of sex work are not distinguished and both are perceived to be equally exploitative (Ditmore, 2002; Weitzer, 2020). The focus of abolitionist feminism is typically on cisgender women, and transgender women and men, nonbinary individuals, and cisgender men who are sex workers are often not included in abolitionist feminist activism (Kallock, 2019; Stabile, 2020). Within abolitionist feminism, ending the demand for prostitution is a core issue, and criminalization of those who “create” the demand (i.e., the buyers and third parties) for prostitution is viewed as the primary means of eradicating prostitution (Mac & Smith, 2018). Because of this, abolitionist feminism has also been labeled as carceral feminism, which is defined as feminism that “focuses on policing and criminalization as key ways to deliver justice for women” (Mac & Smith, 2018, p. 16).

Activists and scholars have criticized abolitionist feminism by claiming that criminalizing some or all of the individuals and/or processes involved in consensual sex work does not directly address the reasons why individuals may become sex workers (Kallock, 2019; Mac & Smith, 2018). Some sex workers choose to be involved in sex work because it is empowering, and therefore criminalization denies sex workers' agency to choose this line of work. More importantly, some individuals who are part of marginalized groups (e.g., transgender women, immigrants) may become involved in sex work out of economic necessity (sometimes referred to as survival sex) because other employment opportunities are inaccessible due to stigma, discrimination, and/or legal barriers. Therefore, criminalizing sex work without providing alternate employment opportunities that provide living wages denies the basic welfare needs of many sex workers (Kallock, 2019; Mac & Smith, 2018).

Sex radicalism, another framework informing sex work advocacy, is centered on the idea that sex is a normal part of people's lives and should therefore be embraced rather than repressed or stigmatized (Kallock, 2019). Sex radicalism serves to contrast "sex negative" mindsets and limited approaches to sex education (e.g., abstinence-only-until-marriage programs) that are common in Western cultures like the United States (Santelli et al., 2017; Sutherland, 2004). Applying a sex radical approach shifts the focuses of sex work advocacy from abolishing sex work as an institution to instead focusing on the human rights and welfare of sex workers themselves (Sutherland, 2004). Under a sex radical framework, sex work serves to challenge, expand, and transform norms and expectations related to sexuality and sexual activity, (e.g., Showden, 2011). One aspect of the transformative nature of sex work under sex radicalism is the notion of "whore sexuality," which seeks to embrace sexuality and destabilize the sociocultural binary of viewing people as either pure or impure in relation to any form of sexual activity

(Rubin, 1999). Another transformative aspect of sex radicalism is viewing sex (and sex work) as a therapy to sex negative attitudes and limited perceptions of what types of sexualities are acceptable (e.g., expanding beyond a limited view of heterosexuality as being the only acceptable sexuality in a heterosexist culture; Kallock, 2019).

Although sex radicalism seeks to challenge sexual repression and advocate for sex worker agency, it is not without its critiques. The political and personal agency that sex radicals advocate is often most accessible to individuals with privileged identities (e.g., White, cisgender, middle to upper class) and have access to alternate forms of employment that produce living wages. A sex radical approach may not be possible for individuals engaged in survival sex and for sex workers who are part of other marginalized populations, such as transgender women of color, immigrants, and individuals from lower socioeconomic backgrounds (Kallock, 2019). Sex radicalism has also been criticized as being a reductive framework because it can easily be employed to reduce sex work to sexual activity and sexual liberation, without deeper consideration of other sociocultural complexities that intersect with sex work and the experiences of sex workers. As Carisa Showden, a gender studies researcher, states, “sex radicals want to redefine what sex and prostitution mean while often attending too little to the ways in which we cannot control the meanings others impose on our actions” (Showden, 2011, p. 151).

Sex laborism is a third and more recent framework that informs sex work advocacy. Sex laborism prioritizes the labor conditions that affect sex workers’ lives, rather than focusing on sex work as an oppressive institution that needs to be abolished (i.e., abolitionist feminism) or uplifting sex work as a socio-culturally transformative force (i.e., sex radicalism; Kallock, 2019). Under sex laborism, sex work is therefore framed as a job or form of employment, instead of as a form of empowerment or sexual violence/exploitation. Sex workers are “produced” by economic

systems that limit the availability of employment, especially employment that provides a living wage. In these same systems, sex work and sex workers are often subject to interpersonal and systemic stigmatization. Many countries therefore create systems that simultaneously push or force people into sex work and then criminalize them for engaging in sex work as a form of employment out of necessity. The simultaneous stigmatization and criminalization of sex work places limits on the ability of sex workers to engage in safe sex work, limits on legal recourse for experiencing violence or financial exploitation, and prevents access to labor rights (Gall, 2014; Kallock, 2019).

Sex laborism has strengths compared to abolitionist and sex radicalism approaches to sex in that it focuses on the role of capitalistic systems in shaping sex work as a profession and shaping the lives of sex workers (Kallock, 2019). Sex laborism as an approach to conceptualizing sex work and sex work legislation is not without its flaws, though. A sex laborism perspective focuses primarily on economics as the primary dimension of sex work, which can lead to inadvertently overlooking the historical, cultural, social, and political factors that structure how sex work is perceived and legislated. Therefore, some have argued for approaches that integrate considerations of labor conditions under sex laborism with the sex radical perspective that considers how sexual activity, desire, and sex work are continuously socially constructed and reconstructed, social constructions that shape societal attitudes, which in turn can influence sex work policy (Hirschmann, 2003). Hirschmann's (2003) perspective emphasizes how adopting a singular framework for sex work can lead to an incomplete conceptualization of the numerous factors that influence the physical, psychological, and financial well-being of sex workers, thereby contributing to the creation of legislation that often does not adequately address sex workers' needs.

Partial or Full Criminalization

Partial criminalization refers to a legislative framework wherein sex work is legal under specific circumstances and/or only certain aspects of the provision of sex work are criminalized (Mac & Smith, 2018). For example, sex workers may be able to legally solicit clients in certain areas, but then they may need to relocate to conduct their actual work. In a managed area in Holbeck in Leeds, England, sex workers could legally solicit clients (but conduct business elsewhere) until the managed area closed in June 2021 (Bowen et al., 2021). In places like England, Scotland, and Wales, the buying and selling of sex may technically be legal, but many activities associated with sex work are often illegal, including solicitation by the sex worker, kerb-crawling (i.e., solicitation by buyer), and working indoors with other sex workers/brothel-keeping (Civic Government Scotland Act, 1982; Mac & Smith, 2018; Policing and Crime Act, 2009; Prostitution Public Places Scotland Act, 2007; Sexual Offenses Act, 2003). The Scottish government is currently considering adopting a policy similar to the Swedish/Nordic model, which would criminalize all individuals involved in sex work with the exception of the sex worker (Scottish Government, 2021).

Full criminalization refers to sex work legislation that criminalizes all individuals (i.e., sex worker, buyer, third parties) and processes involved in the provision of sex work (Mac & Smith, 2018). Full criminalization models exist in many countries, including but not limited to the United States (except for several rural counties in Nevada), South Africa, Kenya, Uganda, Russia, Iran, Pakistan, and China.

The Swedish/Nordic Model

The Swedish/Nordic model refers to specific subtype of a partial criminalization approach to sex work legislation. The Swedish/Nordic model is a policy that decriminalizes the

sex worker, but criminalizes all other individuals involved in the selling of sex (i.e., buyers, managers/other third parties; Langford & Skilbrei, 2020; Mac & Smith, 2018). The Swedish/Nordic model was established in Sweden in 1999 with the Sex Purchase Act (1999) and has since been adopted in multiple other countries including Norway, Iceland, Canada, Ireland, France, and Israel (Langford & Skilbrei, 2020). Advocates for the Swedish/Nordic model typically adopt an abolitionist feminist perspective, meaning that the focus of legislation influenced by the Swedish/Nordic model is on criminalizing the demand for sex work and protecting women from a sex industry that is perceived to be inherently exploitative by providing rehabilitation and exit services for sex workers. In countries like Sweden, criminalizing some aspects of the process of selling sex (e.g., solicitation, brothel-keeping) can create additional barriers to safe participation in sex work, thereby creating increased risk of harm to the physical, mental, and financial well-being of many sex workers (Kallock, 2019; Mac & Smith, 2018).

Legalization/Regulationism

A legalization or regulationist approach to sex work refers to a legislative framework that legalizes sex work for workers who are able to comply with various bureaucratic requirements (Mac & Smith, 2018). Examples of locations that adopt a legalization/regulationist model include Germany, Netherlands, Turkey, and 10 rural Nevada counties in the United States. Bureaucratic requirements may include obtaining a sex worker identification card, which, for example, requires counseling and drug, pregnancy, and sexually transmitted infections testing to become licensed in Germany (Prostituiertenschutzgesetz [Prostitutes Protection Act], 2017). Some individuals may not be able to comply with the regulations, which may result from cost barriers, unwillingness to publicly identify as a sex worker, or systemic exclusion from the ability to be licensed (e.g., transgender women cannot be licensed to work in brothels in Turkey;

Engin, 2018). For individuals who do not comply with bureaucratic requirements, conducting of sex work is an illegal activity subject to criminal penalty. Legalization/regulationist models often force sex workers to work in brothels or with managers because conducting sex work independently is partially or fully criminalized in many countries that adopt this model.

Full Decriminalization

Full decriminalization is an approach to sex work legislation where all parties involved in sex work (i.e., sex worker, buyer, third parties) are decriminalized, and sex work is regulated through labor law similar to other legally recognized professions (Mac & Smith, 2018). Full decriminalization can be found in New Zealand and New South Wales. It is important to differentiate decriminalization from legalization. Under legalization, as discussed above, sex work is considered a crime unless specific circumstances are met and/or sex work is conducted only in specific contexts (i.e., requirements of sex workers to be licensed to legally sell sex). Under a decriminalization model, the default position is that sex work is not a crime and is instead a legally permissible profession.

Exit Strategies

Exit strategies (also called exit schemes, exit services, or exit programs) refer to systematic ways of providing support (e.g., alternate forms of employment) to sex workers in areas where sex work is partially or full criminalized (Mac & Smith, 2018). Scholars and activists have discussed three main exit strategies: abstinence programs, harm reduction interventions, and diversion programs (e.g., Koegler et al., 2020). Abstinence programs seek to provide supportive services with the intent of preventing sex workers from returning to sex work. Harm reduction interventions seek to reduce exposure to risky and harmful situations/behaviors of sex workers (e.g., strategies for safer sex). Diversion programs are designed to provide

rehabilitation to individuals arrested on prostitution charges, wherein rehabilitation is often broadly defined.

Exit strategies are most commonly present in the Swedish/Nordic Model and in advocacy efforts by abolitionist feminists. The intent of the Swedish Model is to “end demand” for prostitution, and because such an effort hurts the income of sex workers, legislation is often designed with the intention of providing services to help sex workers “exit” the profession of sex work and enter a legally recognized profession. Although the proposed intent of exit strategies is to help sex workers, the implementation of this kind of model in Sweden has been criticized because funding for social services for exit strategies has been found to be limited or nonexistent in some areas that adopt legislative models that include exit strategies (Holmström & Skilbrei, 2017; Mac & Smith, 2018).

Although examples of exit strategies and programs can also be found throughout the United States, very few programs have been systematically evaluated and outcome effectiveness (e.g., preventing future arrests) varies widely between programs (Koegler et al., 2020; Preble et al., 2016; Wahab, 2006). For example, a study on a diversion program in Baltimore, Maryland found no significant differences in rearrest rates for sex workers in the diversion program compared to those not in any diversion or other exit program (Koegler et al., 2020). A diversion program in Arizona was found to have a rearrest rate of only 14.5% (Felini et al., 2011), but a similar program in Texas had a rearrest rate of over 50% (Roe-Sepowitz et al., 2011). In an evaluation of the Salt Lake City Prostitution Diversion Project, the program appeared to reduce rearrest rates for sex workers, but sex workers generally did not receive support for housing or alternative employment. Furthermore, the program was continuously in danger of being shut down due to lack of funding, and perceived goals and overall effectiveness of the program varied

widely between service providers and sex workers who participated in the Salt Lake City Prostitution Diversion Project program (Wahab, 2006).

Current Legislation

International Legislation

Examples of each of the main forms of sex work legislative policy can be found throughout the world. England is a prime example of a partial criminalization approach to sex work. Sweden forms the basis of the Swedish/Nordic Model approach to sex work legislation. Germany represents an example of the legalization/regulationism approach to sex work legislation. New Zealand is one of the only examples of a legislative approach that represents true full decriminalization.

England: Sexual Offences Act & Policing and Crime Act

England's primary sex work legislation, the Sexual Offences Act (2003) and Policing and Crime Act (2009), are examples of a partial criminalization approach to sex work legislation. Sections 51A to 56 of the Sexual Offences Act (2003), specifically, refer to various prostitution-related offenses, including solicitation, inciting prostitution for gain, controlling/managing prostitution for gain, paying for sexual services to a prostitute forced/coerced into providing sexual services by a third party, and keeping of a brothel for prostitution. Sections 14 to 20 of the Policing and Crime Act (2009) amended laws put in place by the Sexual Offences Act (2003), specifically laws requiring individuals involved in prostitution to attend mandatory meetings to help them find ways to exit sex work and the introduction of closure orders for brothels.

Under these laws, the acts of buying and selling sex are technically not illegal, providing that numerous stipulations are taken into account. A buyer soliciting a sex worker is always illegal under current law. The Policing Crime Act (2009) amended Section 1 of the Street

Offenses Act (1959) such that sex workers are subject to criminal penalties only if engaged in “persistent” loitering or solicitation for the purposes of selling sex. “Persistent” is defined as two or more occasions during any three-month period, meaning that the sex worker is subject to criminal penalties if the sex worker is witnessed selling sex more than once during a three-month period. Indoor sex work is legal providing that only one worker is on the premises. An indoor location that has two or more sex workers is classified as a brothel and therefore individuals on the premises are subject to criminal penalties because managing or facilitating sex work, including keeping of a brothel, is illegal under current legislation in England. Under the closure orders established in Section 21 of the Policing and Crime Act (2009), police are granted power to raid any indoor location that is suspected of being a brothel or facilitating sex work with more than one sex worker on the premises. Although the Policing and Crime Act (2009) provides “engagement and support orders” intended to help sex workers leave the field of sex work (i.e., exit strategies), sex workers are subject to criminal penalties if they do not attend rehabilitation meetings.

Sweden: Women’s Peace Act (Kvinnofrid) & Sex Purchase Act

Sweden’s Women’s Peace Act (known as Kvinnofrid; 1999) created legislation intended to protect women from violence and sexual harassment throughout various aspects of Swedish society. The Sex Purchase Act, which is a part of the Women’s Peace Act, is credited with establishing the Swedish/Nordic Model approach to sex work legislation. The Sex Purchase Act (1999) serves to decriminalize sex workers and criminalize all other individuals involved in sex work (i.e., buyers, managers/third parties). The intent of the act is to criminalize the demand for sex work (i.e., imposing criminal penalties on buyers and third parties) and decriminalize the sex workers themselves.

Similar to some partial criminalization models, the act calls for exit services/exiting schemes to help sex workers leave sex work and pursue a different profession. In many parts of Sweden, funding is limited for support services for sex workers. Additionally, sex workers may need to have left prostitution for at least several months to establish proof of eligibility for support services (Mac & Smith, 2018, pp. 153-156; Sex Purchase Act, 1999), despite Swedish parliament releasing a statement that “criminalisation can never be more than a supplementary element in the efforts to reduce the demand for prostitution and cannot be a substitute for broader social interventions” (Government Offices of Sweden, 2021). Furthermore, laws criminalizing solicitation of sex workers and brothel-keeping (i.e., any location where two or more sex workers conduct business) remain in place, and it is legal for police to confiscate income that individuals obtain through the provision of sex work

Germany: Prostitutes Protection Act (Prostituiertenschutzgesetz)

Germany’s Prostitutes Protection Act (Herter & Fem, 2017; Prostituiertenschutzgesetz, 2017) is an example of a regulationist or legalization approach to sex work legislation. As of July 1, 2017, the Prostitutes Protection Act requires sex workers to register as prostitutes and obtain a permit for all work related to prostitution. Sex work is illegal if conducted by a sex worker who is not registered with local authorities and who has not obtained a work permit. The registration process involves submitting two photographs, first and last name, date and place of birth, nationality, address where business will be conducted, federal states or municipalities where business will be conducted, and evidence of health consultation. Proof of a health consultation that occurred within the past three months needs to be provided for initial registration, and ongoing consultations need to occur every six months (for individuals under 21 years of age) or 12 months (for individuals 21 years of age or older) to maintain registration. Depending on the

state or municipality, the registration process may be free (e.g., in Hamburg) or it may have a fee (e.g., €35 in Bavaria; ProstSchG Information & Help, n.d.). Once all required information has been received, the sex worker will receive a registration certificate that they must have on their person at all times while conducting business related to sex work (Herter & Fem, 2017; Prostituiertenschutzgesetz, 2017). Sex workers can also obtain an “alias photo ID”, which is a registration certificate that has a pseudonym but is still registered under the sex worker’s legal name.

In Germany, any “prostitution venue” (e.g., brothel or other business that sells sexual services) also needs to have a permit that will only be granted if certain requirements are met (Herter & Fem, 2017; Prostituiertenschutzgesetz, 2017). Minimum requirements for facilities where sex work is conducted include that the premises must not be observable from the outside, an emergency call system must be installed, common rooms and break rooms must be present, and separate sanitary facilities for sex workers and clients must be present. Use of condoms is also mandatory during the provision of sex work services. Furthermore, the Prostitutes Protection Act defines a “prostitution venue” as any location that conducts sex work with more than one worker on the premises. Sex workers who conduct work without registration can be fined up to €1,000. Individuals who operate any “prostitution venue” without a permit can be fined up to €10,000. Clients who do not use a condom can be fined upwards of €50,000.

Various sex work advocacy organizations (e.g., International Committee on the Rights of Sex Workers in Europe [ICRSE], Hydra e.V. Professional Association Erotic and Sexual Services) have criticized the Prostitution Protection Act on various grounds (e.g., Herter & Fem, 2017). The registration requirement has been criticized for infringing on rights regarding self-determination of disclosure of sexual and other personal information, and for creating

unnecessary barriers for individuals who do not have an address or for migrant workers who cannot produce all required documentation. Activists have also argued that requiring ongoing medical consultations and requiring condom use without giving workers autonomy to use alternate safer sex protection measures infringes on sex workers' bodily autonomy.

New Zealand: Prostitution Reform Act

New Zealand's Prostitution Reform Act (2003) is the primary example of a full decriminalization approach to sex work legislation. The Prostitution Reform Act was designed to decriminalize prostitution and create a framework that "(a) safeguards the human rights of sex workers and protects them from exploitation; (b) promotes the welfare and occupational health and safety of sex workers; (c) is conducive to public health; [and] (d) prohibits the use in prostitution of persons under 18 years of age" (Section 3, Prostitution Reform Act, 2003). Conducting sex work, operating a brothel or other "business of prostitution", and paying for sexual services are all legal under the Prostitution Reform Act, given that individuals involved in sex work abide by several other restrictions and regulations under civil law.

Sex workers must be at least 18 years of age and cannot be forced/coerced into conducting sex work. Operators of "businesses of prostitution" are required to apply for and receive a certificate from a Registrar of the District Court, or otherwise be subject to fines up to \$10,000. An operator refers to "a person who, whether alone or with others, owns, operates, controls, or manages the business" (Section 5, Prostitution Reform Act, 2003). The definition of operator does not include sex workers who work in "small owner-operated brothels," which are defined as locations where "not more than 4 sex workers work; and where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel" (Section 4, Prostitution Reform Act, 2003). Operators, sex workers, and clients are

required to adopt safer sex practices, which means taking all “reasonable steps to minimize the risk of acquiring or transmitting sexually transmissible infections.” The Health and Safety Work Act (2015) also applies to sex workers when they are conducting business. The advertising of sex work is also restricted such that “advertisements for commercial sexual services may not be (a) broadcast on radio or television; or (b) published in a newspaper or periodical, except in the classified advertisements section of the newspaper or periodical; or (c) screened at a public cinema” (Section 11, Prostitution Reform Act, 2003).

Although the Prostitution Reform Act decriminalized sex work throughout New Zealand, the act only applies to New Zealand citizens and holders of permanent residency in New Zealand (Section 19, Prostitution Reform Act, 2003). Immigrants may not be granted or maintain a visa under the Immigration Act (2009) if they have previously or intend to conduct sex work, work as an operator, or invest in a business of prostitution. Immigrants who have temporary visas may be subject to deportation if they are found conducting sex work, a policy that drawn criticism because of the negative health and financial implications for immigrant sex workers in Zealand (e.g., Bennachie et al., 2021).

Federal Legislation in the United States

In the United States, consensual sex work is technically not illegal at the federal level, but it is illegal in every state (with the exception of several rural Nevada counties) due to state-level legislation (ProCon.org, 2018). Despite this, there is federal legislation that affects sex work and sex workers, primarily legislation related to human trafficking.

H.R.1865 & S.1693 –Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) & Stop Enabling Sex Traffickers Act (SESTA)

The Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA; 2018) and the Stop Enabling Sex Traffickers Act (SESTA; 2018) are United States House of Representatives and Senate bills, respectively, that were enacted into law on April 11, 2018. The bill amended Section 230 of the Communications Decency Act. Section 230, a section of Title 47 of the United States Code, was enacted under the Communications Decency Act (CDA) of 1996 and protects providers of “interactive computer services” (e.g., owners of internet websites) from civil liability based on the actions of users of the online services they provide. Senator Rob Portman, Senate sponsor for SESTA (2018), had previously investigated Backpage.com, an online classifieds service, and argued that the website, and similar websites for advertising services and products, facilitated sex trafficking but were provided immunity from enforcement under criminal and civil law under Section 230 of the CDA. FOSTA and SESTA clarified United States sex trafficking law to state that is illegal to “knowingly assist, facilitate, or support sex trafficking,” and enforcement of state and federal sex trafficking laws was excluded from immunity under Section 230 of the CDA. Furthermore, FOSTA/SESTA outlawed any online ads the mentioned the selling of sexual services, demonstrating the conflation of consensual sex work and sex trafficking in federal United States legislation. In other words, any websites that host content associated with the selling of sex are presumed to be associated with sex trafficking and are therefore criminalized under SESTA/FOSTA.

The enactment of SESTA/FOSTA is especially relevant to consensual sex work because many websites that provided a space for sex workers to advertise their services permanently shut down after the bills passed in 2018 (Mac & Smith, 2018). Under FOSTA/SESTA, the host of a

website that allows users to advertise services or products for sale can be held liable under criminal and civil law if any user posts advertisements that facilitate, or are assumed to facilitate, sex trafficking. For example, Backpage.com was a prominent website used by sex workers to connect with and screen clients in advance to help identify whether a potential client was safe or dangerous (Blunt & Wolf, 2020; Mac & Smith, 2018). FOSTA/SESTA was enacted out of an important need to hold individuals and organizations responsible for online advertisements of sex trafficking, but internet protections provided to consensual sex workers under Section 230 of the CDA were removed in the process (Blunt & Wolf, 2020; Tripp, 2019). Sex work advocates have argued that “SESTA/FOSTA was supposed to prevent the online exploitation of trafficked persons [but] these laws have hurt the people they intended to help, pushing sex workers and trafficking victims into more dangerous and exploitative situations” (Decriminalize Sex Work, n.d.).

In addition to creating additional barriers regarding sex workers’ ability to conduct work safely and financial livelihood, FOSTA/SESTA has largely been deemed ineffective at achieving the claimed intention of combatting/reducing sex trafficking. Since enactment in 2018, FOSTA/SESTA has only been used once in criminal prosecution (Gezinski & Gonzalez-Pons, 2022). Furthermore, the shutdown of prominent websites like Backpage and the personals section of Craigslist has created additional difficulties for law enforcement because these sites were frequently used by law enforcement to identify trafficking victims (Bronstein, 2021). Scholars and activists have also criticized FOSTA/SESTA on the grounds that the legislation was not based on empirical data and the actual prevalence of online-facilitated sex trafficking is still largely unknown (Gezinski & Gonzalez-Pons, 2022).

H.R.5448 & S.3165 - Safe Sex Workers Study Act

The Safe Sex Workers Study Act was introduced in the House (H.R.5448) by California Representative Ro Khanna on December 17, 2019, and in the Senate (S.3165) by Senator Elizabeth Warren on January 1, 2020. The Senate and House bills would require the Department of Health and Human Service to study the impacts of FOSTA/SESTA on consensual sex workers' health, housing stability, financial stability, and other experiences. Neither bill was voted on. Therefore, these bills have not been enacted but may be introduced in subsequent Congress sessions.

State and City Legislation (Outside of Illinois)

In all 50 states and the District of Columbia (except for several rural Nevada counties and in Baltimore, Maryland), consensual sex work/prostitution is criminalized for all parties (sex worker, client, third parties; procon.org, 2018). Penalties for involvement in consensual sex work are typically classified as misdemeanors, with some states classifying consensual sex work as a felony offense for repeat offenses (e.g., Arizona, Florida, Idaho, Indiana, Texas). State-level legislation typically criminalizes one or more of the following sex work-related offenses: solicitation, patronizing, promoting, leasing, and/or loitering. Individuals are subject to a solicitation of prostitution offense when offering or buying sexual services for money or other resources. Both sex workers and clients/buyers can be subject to criminal penalties under solicitation laws. The criminal offense of patronizing a prostitute is committed when an individual pays or attempts to pay a sex worker for sexual services, and only clients/buyers are subject to criminal charges under patronizing-a-prostitute laws. Third parties involved in sex work can be subject to promoting prostitution charges, which can include advertisement of sex work services and receiving monetary compensation for any activities other than acting directly

as a sex worker (e.g., serving as a manager). Individuals may be subject to leasing, or leasing premises for prostitution, charges if they own, rent, or sublet any building/location for the purpose of conducting sex work. Sex workers can be subject to loitering for the purpose of prostitution charges if they spend time in a public location and law enforcement assumes that they have the intention of committing and/or promoting prostitution. Sex workers and sex work advocates have described loitering laws as discriminatory because they allow law enforcement to profile individuals on the basis of race, gender, and/or other stereotypes associated with sex workers/prostitutes (Decriminalize Sex Work, n.d).

Nevada Brothel System

Ten rural counties in Nevada apply a legalization/regulationist model to sex work, contrasting the full criminalization model applied everywhere else in the United States (Blithe et al., 2019; Crimes Against Public Decency and Good Morals, 2020). Consensual sex work/prostitution is regulated in Nevada under Chapter 201 (Crimes Against Public Decency and Good Morals) of the Nevada Revised Statutes (2020). Sex work/prostitution and solicitation is only legal in a “house of prostitution” that is licensed by the state specifically for conducting sex work. Houses/brothels can only be licensed in Nevada counties that have fewer than 700,000 residents, and they cannot be located on principal business streets or within 400 yards of churches or schools. Sex workers need to obtain work cards to legally work as independent contractors within licensed houses/brothels. In order to work in a licensed house/brothel, sex workers need to submit to weekly tests for sexually transmitted diseases and monthly blood testing. If a sex worker tests positive for human immunodeficiency virus (HIV), they are subject to criminal penalties if they continue to work (Blithe et al., 2019).

Many brothels also enforce what are known as lockdown policies, regulations that determine under what circumstances sex workers are allowed to leave the brothel that they are currently contracted to work at (Blithe et al., 2019). Although lockdown policies are not explicitly included in the Nevada Revised Statutes, broad interpretations of state and local law contribute to curfews and stipulations on when (or even if) sex workers can leave the brothel in which they work and where they are allowed to go when/if they do leave the brothel. For example, Code 5.16.030 of Storey County, Nevada, states that brothel licenses are only valid providing that the brothels do not “constitute a public nuisance or an offense to public decency” (Storey County Ord. No. 14-261, 2015). Sex workers have been classified as a “public nuisance” throughout history, and Storey County Code has therefore been applied to justify brothel lockdown policies under the argument of maintaining public order (Blithe et al., 2019).

Decriminalization/Legalization of Prostitution

Although consensual sex work/prostitution is still illegal throughout the United States, partial or full decriminalization policies have been proposed, and some have even passed. In Baltimore, Maryland, State’s Attorney Marilyn Mosby announced in March 2020 at the start of the COVID-19 pandemic that Baltimore would cease prosecution of various misdemeanors, including prostitution charges (Battaglia, 2021). Researchers analyzed the effects of the Baltimore prostitution decriminalization policy from April 2020 to May 2021 and found that hundreds of arrests were averted, only six (out of 741) individuals who had misdemeanor charges dropped went on to commit more serious crimes, and public complaints related to sex work did not increase (Rouhani et al., 2021). In New Hampshire, HB 123, sponsored by Representative Nicole Klein-Knight, went into effect on January 1, 2022, and grants immunity to sex workers from prosecution for prostitution-related offenses when reporting sexual assault.

Several bills calling for partial or full decriminalization have also been proposed. Louisiana HB67, sponsored by Representative Mandie Landry, calls for decriminalizing consensual sex work within the state of Louisiana. The bill also calls for the Louisiana State Law Institute to study and make recommendations for additional amendments to Louisiana law related to the goal of decriminalizing consensual sex work-related offenses. Louisiana HB67 is currently in committee as of April 12, 2021. A Maine bill, LD1592 (“An Act To Remove Punishments for Sex Selling and Decrease Demand by Increasing Penalties for Sex Buying”), was introduced in 2021 to partially decriminalize consensual sex work in Maine, but the bill failed to pass in the House after passing in the Senate. Massachusetts H1761 and New York S6040, bills intended to partially decriminalize consensual sex work, are both in committee as of June 8, 2021, and March 31, 2021, respectively. Oregon HB3088, a bill that would repeal crimes related to consensual sex work, solicitation, and promoting prostitution, is currently in committee as of June 26, 2021.

Illinois Legislation

Consensual sex work/prostitution is illegal within the state of Illinois for all parties involved (i.e., sex worker, buyer/client, third parties). Bills relevant to human and sex trafficking also affect sex workers. Several relevant bills and acts are discussed below. Refer to Appendix A for a more comprehensive overview of relevant legislation in the state of Illinois.

720 ILCS 5/11-14 - Prostitution

Chapter 720, Act 5, Article 11, Subdivision 15 (Prostitution Offenses, 2011) of the Illinois Compiled Statutes includes sex work-related offenses of committing an act of prostitution, solicitation, promotion, and patronizing. Section 11-14 (720 ILCS 5/11-14; Prostitution, 2011) covers committing an act of prostitution, solicitation of a sexual act, and

promoting prostitution. Under Section 11-14, any individual who performs “any act of sexual penetration” or “fondling of the sex organs” with another person in exchange for “anything of value” is subject to a Class A misdemeanor. It is also a Class A misdemeanor to engage in solicitation (i.e., offering anything of value in exchange for sexual activity with a person that is not their spouse). Promoting prostitution includes any acts that advance the process of prostitution and/or result in profit from prostitution. Promoting prostitution that involves adults is a Class 4 felony, or Class 3 felony if conducted within 1,000 feet of a school. If the promotion of prostitution involves individuals under the age of 18 or individuals “with a severe or profound intellectual disability,” the offense is a Class X felony if conducted within 1,000 feet of a school and a Class 1 felony in all other circumstances.

IL SB1872/Public Act 098-0538. Illinois S.B. 1872, sponsored by Senator John G. Mulroe, became Public Act 098-0538 (2013), which amended prostitution-related offenses in 720 ILCS 5/11-14. Once the act was passed in 2013, committing an act of prostitution was classified as a Class A misdemeanor in all situations. Prior to Public Act 098-0538, committing an act of prostitution was classified as a Class 4 felony if conducted within 1,000 feet of a school and a Class A misdemeanor in all other situations.

IL SB2136/Public Act 102-0639 – Act to Expunge Felony Prostitution Records. Illinois S.B. 2136, sponsored by Senator Jacqueline Y. Collins, became Public Act 102-0639 (2021), which amended portions of the Illinois Criminal Identification Act and the Code of Criminal Procedure of 1963. The public act allows sex workers to expunge previous felony charges that occurred prior to the reduction of prostitution charges to a misdemeanor under Public Act 098-0538 (2013). The proposed Public Act 102-0639 (2021) originally did not require

ongoing drug testing for individuals seeking expungement, but this requirement was added to final act before receiving approval in the Illinois House of Representatives (Cantu, 2021).

720 ILCS 5/11-18 – Patronizing a Prostitute

Criminal charges associated with patronizing a prostitute are covered in 720 ILCS 5/11-18 (Patronizing a Prostitute, 2011). Patronizing a prostitute includes engaging “in an act of sexual penetration” or “fondling of sex organs” with a prostitute, and being in a “place of prostitution” with the intent of engaging in sexual acts. An individual who patronizes a sex worker/prostitute is subject to a Class 4 felony, or a Class 3 felony if it occurs within 1,000 feet of a school. If the sex worker/prostitute is under the age of 18 or has “a severe or profound intellectual disability,” the individual who patronizes the sex worker/prostitute is subject to a Class 3 felony, or a Class 2 felony if it occurs within 1,000 feet of a school.

740 ICLS 128/- Trafficking Victims Protection Act

The Trafficking Protections Act (2018) was originally introduced as S.B. 3108 and sponsored by Senator Iris Y. Martinez and Representative Emanuel Chris Welch. The senate bill became Public Act 100-0939, which is covered under Civil Liabilities of the Illinois Compiled Statutes (740 ICLS 128/). With the passing of the Trafficking Protections Act, victims of involuntary servitude, sex trafficking, or labor trafficking may seek civil damages and remedies from individuals or entities that subjected them to **or** maintained them in the sex trade or involuntary servitude.

IL SB1599/Public Act 102-0323 – Human Trafficking Task Force Act of 2021

Illinois S.B. 1599, sponsored by Senator Jacqueline Y. Collins, became Public Act 102-0323 (2021). The public act creates requirements for the composition and duties of a task force to report of on the state of human trafficking, including sex trafficking, in Illinois. The task force

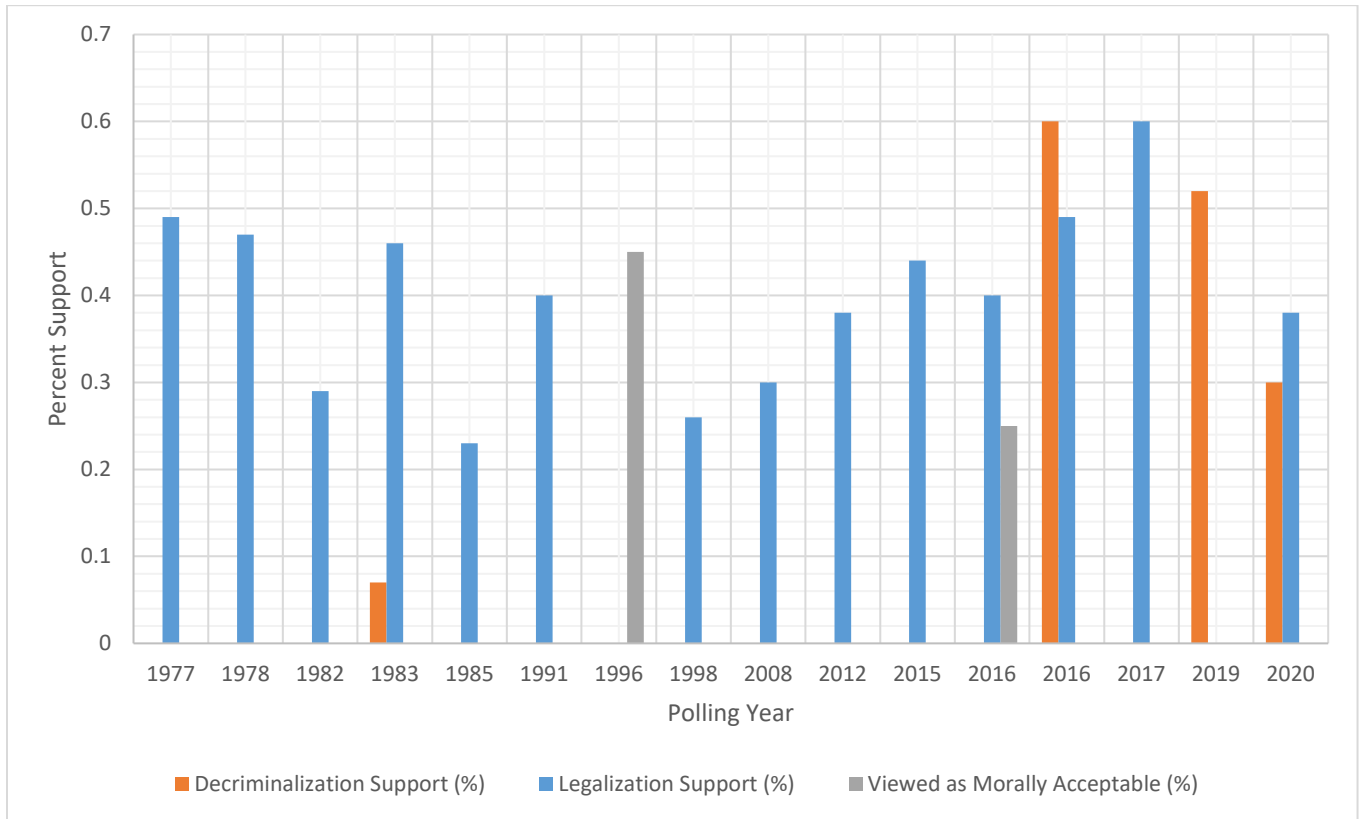
is required to provide their report to the Illinois General Assembly and Governor by June 30, 2024.

Public Opinion Polling

The Paul Simon Public Policy Institute did not conduct the statewide Simon Poll in Illinois in 2021 or 2022. Therefore, in order to gain insight into United States citizens' perspectives on the criminalization, decriminalization, and legalization of sex work/prostitution, existing polling data gathered from the 1970s through 2020 were reviewed (Luo, 2020; Mancini et al., 2020; Marist Poll, 2016; Moore, 2015, 2016; Osse, 2012; Quinnipiac University Poll, 2008; Smith, 1998). Although policies throughout the United States reflect full criminalization models (with exception of Nevada and, more recently, Baltimore, Maryland), public support for decriminalization has typically grown over time. For example, fewer than 30% of individuals supported decriminalization in various polls conducted in the 1980s and 1990s (Smith, 1998) but this has increased to over 50% according to a YouGov poll conducted in 2019 (Luo, 2020). It is important to note that there are inconsistencies regarding question phrasing between some of the polls. Furthermore, many polls only asked about legalization and full criminalization of prostitution, making it difficult to determine trends over time regarding attitudes toward full decriminalization. Figure 1 below outlines major poll findings from the 1970s to 2020, and the subsections that follow contain additional details on each poll.

Figure 1

Attitudes Toward Decriminalization, Legalization, and Moral Acceptability of Sex Work



1970s Polling

Several major polls in the 1970s focused on attitudes regarding legalization versus criminalization, without any focus on full decriminalization. Nearly 50% of individuals surveyed in two national polls reported that they supported the legalization of prostitution. In a 1977 poll conducted by Yankelovich Partners, a nationally representative sample of 1,044 participants was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants were asked whether they agreed or disagreed with the following question: “It would be better if they legalized prostitution and limited it to just one district in any city or town.” Of the 1,044 participants, 20% agreed strongly with legalizing prostitution, 29% partly agreed, 45% disagreed, and 6% were unsure.

In a 1978 poll conducted by the Centre for Longitudinal Studies, a nationally representative sample of 1,993 participants was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants responded to the following question: “In dealing with prostitution, the government should: 1) license and regulate it, 2) arrest or fine the people who have anything to do with it, 3) neither, 4) undecided.” Of the 1,933 participants surveyed, 47% responded that prostitution should be licensed and regulated, 30% responded that individuals involved with prostitution should be arrested or fined, and 23% responded neither or undecided.

1980s Polling

Several national polls conducted in the 1980s demonstrated mixed support for legalization and decriminalization of prostitution. More individuals typically opposed legalization compared to individuals polled in the 1970s. In a 1982 poll by Audits & Surveys Worldwide, a nationally representative sample was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants responded to the following question: “Would you favor or oppose legalizing prostitution throughout the United States?” The total number of participants was not reported (from Smith, 1998), but 29% responded in favor of legalizing prostitution, 63% responded in opposition of legalizing prostitution, and 8% responded unsure.

In a 1983 poll conducted by Audits & Surveys Worldwide, a nationally representative sample of 1,200 participants was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants responded to the following question: “Which of the following best describes your feelings about prostitution in the U.S.? It should be illegal, it should be legal under certain restrictions, there should be no laws against prostitution.” Of the 1,200 participants surveyed, 7% responded in favor of having no laws against prostitution (i.e., full

decriminalization), 46% responded in favor of legalizing prostitution under certain restrictions, 43% responded that prostitution should be illegal, and 4% responded unsure.

In a 1985 poll conducted by Yankelovich Partners, a nationally representative sample of 1,014 participants was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants responded to the following question: “Do you favor or oppose: The legalization of prostitution.” Of the 1,014 participants surveyed, 23% favored legalizing prostitution, 72% opposed the legalization of prostitution, and 6% responded unsure.

1990s Polling

Based on national polling data, individuals also had mixed support for legalization and decriminalization of prostitution in the 1990s. In a 1991 poll conducted by Gallup, a nationally representative sample of 1,216 participants was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants responded to the following question: “Some people feel that in order to help reduce the spread of AIDS, prostitution should be made legal and regulated by the government. Do you agree or disagree?” Of the 1,216 participants surveyed, 40% favored legalizing prostitution, 55% opposed the legalization of prostitution, and 5% responded unsure.

In a 1996 poll conducted by General Social Survey, a nationally representative sample of 1,399 participants was surveyed on attitudes regarding the morality of prostitution (Smith, 1998). Participants responded to the following question: “How much do you agree or disagree with the following statements? There is nothing inherently wrong with prostitution, so long as the health risks can be minimized. If consenting adults agree to exchange money for sex, that’s their business.” Of the 1,399 participants surveyed, 45% agreed with the statement, 52% disagreed with the statement, and 2% responded unsure.

In a 1998 poll conducted by Gallup, a nationally representative sample of 1,019 participants was surveyed on attitudes regarding legalization of prostitution (Smith, 1998). Participants responded to the following question: “In your opinion, should prostitution involving adults aged 18 years of age and older be legal or illegal in your state?” Of the 1,019 participants surveyed, 26% favored legalizing prostitution, 70% opposed the legalization of prostitution, and 3% responded unsure.

2000s Polling

It was difficult to find polling data from the 2000s regarding attitudes toward prostitution. One survey was conducted by Quinnipiac University with an unknown number of voters in New York (Quinnipiac University Poll, 2008). Participants were asked the following question: “Do you think prostitution involving people over 18 should be legalized?” Of the New York voters surveyed in the poll, 30% responded yes, 62% responded no, and 8% responded unsure. Participants were also asked: “Do you think that prostitution is a victimless crime?” to which 26% responded yes (i.e., prostitution is a victimless crime), 66% responded no, and 8% responded unsure.

2010s Polling

The support for legalization and decriminalization gradually increased over the course of the 2010s (Luo, 2020; Mancini et al., 2020; Marist Poll, 2016; Moore, 2015, 2016; Osse, 2012). Approximately 40% of individuals supported legalization of prostitution in the beginning of the decade. By the end of the 2010s, a majority of individuals indicated that they were in favor of the legalization of prostitution/consensual sex work. Some surveys in the 2010s also differentiated between decriminalization and legalization, asking about one or both of these issues. Survey results suggest that legalization or decriminalization is typically favored more by men compared

to women, younger individuals compared to older individuals, White individuals compared to people of color, and Democrats compared to Republicans.

Using a nationally representative sample of 1,000 individuals, YouGov America conducted a poll in 2012 on attitudes toward the legalization of prostitution (Osse, 2012). In response to “Should prostitution be legalized?” 38% of participants responded definitely yes or probably yes, 48% responded probably not or definitely not, and 13% responded unsure. Participants were also surveyed on their reasons for supporting or opposing legalization of prostitution. Of the participants that supported legalization, reasons for support included: reducing the influence of organized crime (11% of participants that supported legalization), better health controls (26%), less exploitation of underage and vulnerable individuals (25%), ability to enforce income taxes (23%), and nothing is morally wrong so why criminalize (15%). Of the participants that opposed legalization, reasons for opposition included: morally wrong (44% of participants who opposed legalization), legalizing is likely to increase demand (5%), spreads STDs and AIDS (25%), undermines marriage (9%), and contrary to religious beliefs (17%).

YouGov America conducted a poll in 2015 with a nationally representative sample of 999 individuals (Moore, 2015). In response to “Do you think that prostitution should be legal?” 44% of participants responded definitely yes or probably yes, 46% responded probably no or definitely no, and 11% responded not sure. Legalization was generally supported more by men (59%) compared to women (30%), more by Democrats (50%) compared to Republicans (34%), more by White individuals (47%) compared to Black (31%) and Hispanic (34%) individuals, and more by individuals with incomes greater than \$100,000 (56%) compared to incomes between \$50,000 and \$100,000 (44%) and incomes less than \$50,000 (42%). Regarding criminal

penalties, participants were asked: “Who do you think should be punished the most, if at all, for breaking laws against prostitution?” An overwhelming majority of participants (74%) responded that both the prostitute and customer should be punished equally, but participants were required to respond whether one or both should be punished because a response to not punish either was not given to participants. Participants were also surveyed on their reasons for supporting or opposing legalization of prostitution. Participants were provided with the prompt: “Below is a list of arguments in favor of decriminalizing prostitution. Please say which ones you find most persuasive. (Select all that apply.)” The participants responded as follows regarding arguments in favor of decriminalization: 42% responded “consensual sex between adults should be free from state interference,” 34% responded “it reduces the stigma of prostitution, making it easier to go to the police in cases of abuse,” 18% responded “it empowers prostitutes to earn a fair wage from their customers,” 33% responded “it empowers prostitutes to be more insistent about healthy sex and sex they are comfortable with,” 19% responded “it professionalises the industry, giving prostitutes better access to pensions and employment rights,” 31% responded “it allows prostitutes to share information about abusive or unsuitable clients,” 21% responded “none of these,” and 16% responded “don’t know.” Participants were also asked to respond to arguments against decriminalization: 25% responded “it boosts sex tourism, making towns and cities less safe and desirable,” 38% responded “it expands criminal activities related to prostitution,” 22% responded “it encourages people to become prostitutes,” 29% responded “prostitution is exploitative, whether or not the prostitute consents to sex,” 15% responded “violence against prostitutes would increase regardless of the safeguards put in place,” 22% responded “people should not be using prostitutes,” 22% responded “none of these,” and 15% responded “don’t know.”

YouGov America conducted a poll in 2016 with a nationally representative sample of 1,000 individuals (Moore, 2016). Participants were asked: “Do you think it should be legal or illegal for someone to: (1) pay money for sex; (2) accept money for sex?” Responses were similar for both paying and accepting, with 39% and 40%, respectively, responding that paying and accepting money for sex should be legal. Regarding illegality, 45% of participants responded that paying for sex should be illegal and 43% that accepting money for sex should be illegal. Participants were asked whether paying or accepting money for sex is morally acceptable or morally wrong, and 24% and 25% responded that paying and accepting, respectively, are morally acceptable, and 57% and 56% responded that paying and accepting, respectively, are morally wrong.

The Marist Poll also conducted a poll in 2016 with a nationally representative sample of 516 individuals (Marist Poll, 2016). Nearly half of participants (49%) agreed that prostitution between two consenting adults should be legal and 44% disagreed. Men (54%) and individuals younger than 45 (58%) were more likely to support legalization compared to women (44%) and individuals older than 45 (40%). The majority of participants believed that the sex worker (63%) or customer (60%) should not receive any penalties (e.g., fines or criminal charges); only 29% of participants believed that sex workers should face criminal charges, and 33% believed that customers should face criminal charges.

Mancini and colleagues (2020) conducted a survey in 2017 using polling data collected by Growth from Knowledge (GfK). The sample consisted only of men, with a nationally representative sample of 2,385 men. The majority of men in the sample (60%) responded in favor of legalization of prostitution, despite a majority (61%) indicating that they agree or strongly agree that prostitution exerts adverse impacts on prostitutes.

Data for Progress and YouGov Blue conducted a poll in 2019 with a nationally representative sample of 1,048 voters (Luo, 2020). The 2019 Data for Progress and YouGov Blue poll represents the first poll where a majority of a nationally representative United States sample responded in support of decriminalizing sex work. Participants were asked to respond to the following: “Would you [support or oppose] decriminalizing sex work as New Zealand did in 2003? This would remove criminal penalties for adults to sell and pay for consensual sex while also maintaining laws that criminalize violence.” Of the 1,048 participants surveyed, 52% indicated that they strongly or somewhat support decriminalization, 35% indicated that they somewhat or strongly oppose decriminalization, and 13% responded that they were not sure. Similar to results found in earlier surveys, men (58%), Democrats (64%), and individuals younger than 45 (66%) were more likely to strongly support or somewhat support legalization compared to women (45%), Republicans (39%), and individuals older than 45 (43%).

Participants were also asked about attitudes regarding vice policing: “Vice policing units often enforce laws against consensual sex work. One strategy they use is undercover stings and raids, in which plainclothes officers pose as potential customers, solicit sex workers and then arrest them. Do you [support or oppose] defunding vice policing dedicated to criminalizing sex work?” Men (52%), Democrats (59%), and individuals younger than 45 (58%) were more likely to strongly support or somewhat support defunding vice policing dedicated to criminalizing sex work compared to women (46%), Republicans (40%), and individuals older than 45 (44%).

2020s Polling

The 2010s witnessed a gradual increase in support for legalizing and decriminalizing consensual sex work. Only one national poll (Topos Partnership & Keating Research, 2020) could be found for the 2020s. The Topos Partnership and Keating Research 2020 poll indicated

lower levels of support for legalization and decriminalization compared to previous polls (i.e., Luo, 2020; Mancini et al., 2020; Marist Poll, 2016; Moore, 2015, 2016; Osse, 2012; Quinnipiac University Poll, 2008). Topos Partnership and Keating Research conducted a poll in 2020 with nationally representative sample of 1,000 voters in the United States (Topos Partnership & Keating Research, 2020). Of the 1,000 voters surveyed, 59% responded in support of full criminalization of prostitution (all parties involved are subject to criminal penalties), 44% responded in support of criminalizing buyers and third parties only (e.g., the Nordic Model), 30% responded in support of fully decriminalizing prostitution for all parties involved, and 38% responded in support of having prostitution be a fully legal, licensed and regulated industry.

Implications and Recommendations

Some scholars and activists, such as Ine Vanwesenbeeck, have argued that there is nothing wrong with consensual sex work, providing that “it takes place under humane conditions, is fully consensual, worker-controlled, free from discrimination and violence, and no more exploitative than the average job would ideally be” (Vanwesenbeeck, 2017, p. 1638). Others have further argued that anything short of full decriminalization continues to subject sex workers to numerous issues, including risks to their physical, mental, and financial well-being (e.g., Kallock, 2019; Mac & Smith, 2018). Criminalizing some aspects of the process of selling sex (e.g., criminalizing the buyer and/or third party) can reduce access to safe sex work for the sex worker because one or more of the parties with whom a sex worker conducts business need to operate outside of the law to buy or manage sex work due to risk of criminal penalties. Policy has typically reflected attitudes that selling sex is amoral and people (primarily women) who are involved as sex workers need discipline or rehabilitation (Campbell et al., 2017; Carline, 2012). Rehabilitation and sex work exit strategies are typically framed as helpful for sex workers within

legislative policy, even when alternate employment is not offered and criminal penalties are imposed if sex workers choose not to engage with rehabilitation programs (Kallock, 2019; Mac & Smith, 2018).

Public Health Implications of Various Approaches to Sex Work Legislation

Sex workers, sex worker-led organizations, and researchers have discussed numerous negative health and human rights implications for sex workers due to structural stigmatization and criminalization of consensual sex work (Goldenberg et al., 2021). The negative implications for health and human rights of sex workers due to sex work criminalization include increased rates of abuse and sexual assault, particularly by law enforcement; income disparities; increased risk of mental health concerns and substance abuse; increased risk of sexually transmitted infections (STIs), including human immunodeficiency virus (HIV); reduced access to health care and other social services; denial of self-determination and agency; and limited implementation of exit strategies/alternate forms of employment (Goldenberg et al., 2021; Vanwesenbeeck, 2017). To address these public health inequities, sex workers and researchers have put forth evidence-based recommendations that include decriminalization of sex work, formal legal recognition of sex work as a legitimate form of work, and ensured access to health care, legal support, community support, and other resources, regardless of citizenship status (Goldenberg et al., 2021, pp. 6-9).

Physical Violence and Sexual Assault

Sex workers experience disproportionately high rates of violence compared to the general population, with an estimated 45% to 75% of cisgender women sex workers having experienced physical and/or sexual violence at least once while conducting business as a sex worker, most often from clients, predators posing as clients, and law enforcement (Argento et al., 2021;

Deering et al., 2014). In societies where sex work is criminalized, sex workers are typically hesitant to report incidences of violence to law enforcement out of fear of stigma, abuse, and criminal charges, which often perpetuates cycles of violence experienced by many sex workers (Argento et al., 2021). Lifetime prevalence of intimate partner violence experienced by sex workers is greater than 70% in some areas of the world, with some sex workers reporting cycles of violence are perpetuated due to partners who threaten to report them as sex workers to law enforcement (Argento et al., 2021; Deering et al., 2014). Furthermore, in the United States, it is estimated that sex workers are 17 times more likely to be murdered compared to the general population (Decker et al., 2015).

Researchers and activists have identified numerous factors that increase sex workers' risk of experiencing violence, with frequency and severity of violence significantly associated with criminalization of sex work (Decker et al., 2015; Deering et al., 2014). Criminalization of sex work is often associated with higher rates of punitive policing practices and gender inequity, and decreased access to safe work environments, community and organizational support systems, and workplace protections/labor rights. Even in countries where partial criminalization models are adopted (e.g., Canada, Sweden), sex workers still report high incidences of violence (Krusi et al., 2014; Levy & Jakobsson, 2014). In areas of the world where sex work has been fully decriminalized (i.e., New Zealand, New South Wales), working conditions, workplace safety, and access to police protection and legal recourse have significantly improved for a majority of sex workers (Abel et al., 2009; Bruckert & Hannem, 2013).

Economic Disparities

Economic disparities (e.g., limited alternative job opportunities, low pay/nonlivable wages for available job opportunities, limited access to education and employment advancement

opportunities) often contribute to individuals becoming sex workers (West et al., 2021). Researchers have found that economic disparities for transgender women sex workers may be greater compared to cisgender sex workers and that these disparities have likely worsened since the passing of FOSTA/SESTA, disparities that include higher likelihood of homelessness and inability to obtain livable wages (Turner et al., 2021). Criminalization of sex work can further exacerbate financial struggles experienced by many sex workers through clients who refuse to pay (knowing that sex workers do not have legally recognized labor rights or legal recourse) or financial extortion (e.g., bribes) by law enforcement to avoid criminal penalties. Sex workers who conduct work out of venues (e.g., brothels) where sex work is legalized/regulated may have access to more clients and a more stable revenue stream, but they are often required to pay fees to third parties (e.g., managers, security staff, phone operators) and such fees can be exorbitant/exploitative (O'Doherty, 2011; West et al., 2021). Criminalization and legalization, as opposed to decriminalization, treats sex work as different or less legitimate than other forms of employment, thereby reducing sex workers' agency regarding choice of workplace and increasing sex workers' risk of financial exploitation and disenfranchisement (West et al., 2021).

Mental Health and Substance Use Implications

Although current research is limited, legislative policy governing consensual sex work has significant implications for sex workers' mental health. In a meta-analysis of psychological health of cisgender women sex workers, Yuen and colleagues (2016) found that 53.9% to 70.1% of the sex workers in the included studies reported high levels of depression, 37.7% reported experiencing suicidal ideation, 18.7% to 28.3% attempted suicide, and approximately 25% reported low quality of life. Criminalization of sex work in Canada has contributed to the incarceration of sex workers and law enforcement restrictions on where sex work can or cannot

be conducted, experiences that are associated with significantly poorer mental health for sex workers in Canada (Duff et al., 2017; Socias et al., 2015). Sex work criminalization has also been associated with poorer mental health for sex workers in China (Zhang et al., 2016) and posttraumatic stress disorder for sex workers in Australia (Roxburgh et al., 2006). In a systematic review of research on health vulnerabilities experienced by transgender sex workers, Santana and colleagues (2021) found that transgender sex workers have reported high rates of depression, anxiety, and self-harm resulting from experiencing discrimination both as transgender individuals and as sex workers.

Research suggests that high percentages of sex workers engage in illicit substance use, with some sex workers engaging in sex work to support their drug use (Iversen et al., 2021). Iversen and colleagues conducted a meta-analysis of illicit substance use among sex workers that included 86 studies spanning 46 countries, with 70 of the studies focusing on the experiences of cisgender women sex workers, 13 on cisgender men sex workers, six on transgender sex workers, and five on multiple population groups (Iversen et al., 2021). Globally, approximately 35% of sex workers have reported use of illicit substances at least once during their lifetime. In the United States, prevalence of lifetime and recent (within past 12 months) illicit substance use ranged from 43.8% to 97.7% for cisgender women sex workers. For cisgender men sex workers, prevalence of illicit substance use ranged from 43.5% to 67.7%. Global prevalence for transgender sex workers (no studies conducted in the United States) ranged from 4.9% to 53.6%. Santana and colleagues (2021) found even higher prevalence of substance use in their review of health vulnerabilities experienced by transgender sex workers, estimating that 77% of transgender sex workers engaged in substance use among the studies included in their review. It

is important to recognize that Santana and colleagues' review included legal and illegal substance use.

STI/HIV Risk

Sex workers experience high rates of HIV prevalence around the world, with most research centering on cisgender women who are sex workers (Viswasam et al., 2021). In a 2018 meta-analytic review, Shannon and colleagues found a 10.4% global prevalence of HIV for cisgender women sex workers (Shannon et al., 2018), which is significantly higher than the estimated global HIV prevalence of 0.7% in the general population (UNAIDS, 2021; World Health Organization [WHO], 2021). Shannon and colleagues' (2018) global findings match estimated HIV prevalence rates of 10% and higher for cisgender women sex workers in the United States (Paz-Bailey et al., 2016). Furthermore, the burden of HIV experienced by cisgender women sex workers has remained unchanged for at least the past decade when comparing results from numerous studies conducted since the early 2000s (see review in Viswasam et al., 2021). In areas of the world where sex work is criminalized, including in the United States, the criminalization of sex work has driven sex workers to conduct business in isolated locations to reduce risk of criminal penalties, thereby increasing their health risks across numerous health variables, including increased risk of HIV and other STIs (Viswasam et al., 2021).

The findings in a recent meta-analysis of associations between sex work laws and sex workers' health showed that repressive policing practices (e.g., sexual coercion, extortion, arrest) were associated with higher odds of sex workers having HIV and/or other STIs (Platt et al., 2021). Possible explanations for this finding (in addition to sex workers conducting business in isolated locations) include that criminalization reduces the ability of sex workers to consistently

engage with health services and limits community programming aimed at helping sex workers (Viswasam et al., 2021). Researchers, sex workers, and sex work advocacy organizations have called for decriminalization to reduce the HIV burden experienced by sex workers, with the bulk of the burden experienced by cisgender and transgender women sex workers (Shannon et al., 2018; Vanwesenbeeck, 2017; Viswasam et al., 2021).

Reduced Access to Health Care

Criminalization and stigmatization of sex work have been found to be significantly associated with barriers to health care access experienced by sex workers (Bekker et al., 2015; Lazarus et al., 2012; Vanwesenbeeck, 2017). One of the most prominent forms of stigmatization that creates gaps in health care access for sex workers is the prevailing, harmful view of sex workers as “vectors of disease,” a view that many public health officials and society-at-large generally still hold (Shapiro & Duff, 2021). In a study involving 252 cisgender women sex workers in Canada, Lazarus and colleagues (2012) found that stigma associated with working as a sex worker significantly increased the likelihood of experiencing barriers to health care access, independent of socio-demographic variables and interpersonal and workplace safety risks.

Some of the biggest barriers to health care access for sex workers are connected with access to sexual and reproductive health care (Shapiro & Duff, 2021). In some countries that adopt full criminalization approaches to sex work legislation, including in many areas of the United States, possession of condoms has been used as “evidence” to subject individuals to criminal charges related to prostitution or assumption of loitering for the purposes of prostitution, criminal charges that disproportionately impact transgender women and sex workers of color (Mac & Smith, 2018; Shapiro & Duff, 2021). Criminalization of condom possession reduces access to and utilization of condoms during sex work, thereby significantly increasing sex

workers' risk of HIV, other STIs, and unwanted pregnancy (Mac & Smith, 2018). Sex workers' access to reproductive health services is further undermined by legislation that targets reproductive rights, such as continued attempts to restrict or criminalize abortion access in various states throughout the United States (Shapiro & Duff, 2021).

The health care needs of transgender sex workers are even less acknowledged and understood compared to the needs of cisgender women sex workers (Shapiro & Duff, 2021). Transgender sex workers experience a high prevalence of STIs (Shannon et al., 2018), but studies often focus on transgender women (who are sometimes grouped together with cisgender men) and the experiences and needs of transgender men and nonbinary individuals have been almost entirely overlooked (Shapiro & Duff, 2021). Aggarwal and colleagues (2021) conducted a review of research on health care access barriers experienced by transgender women sex workers. The researchers found that experiences of transphobia, lack of access to pre-exposure prophylaxis (PrEP), lack of access to health insurance, and overall distrust of the health care system are some of the most common health care access barriers experienced by transgender women sex workers (Aggarwal et al., 2021). Aggarwal and colleagues (2021) also identified health care needs for transgender women sex workers that are often unmet, including access to HIV and STI prevention and treatment services, access to culturally competent providers (e.g., providers who are gender-affirming), and access to gender-affirming hormone therapy.

Denial of Agency

Many countries and jurisdictions that criminalize sex work adopt the abolitionist assumption that all sex work is exploitative and morally wrong, with some further arguing that individuals who choose to be sex workers are “not rational, or they are victims of coercion or deception” (see Ditmore, 2008). Criminalization of sex work thereby denies individuals’

professional and bodily agency regarding choice and involvement in sex work (Vanwesenbeeck, 2017). Denial of the rationality of sex workers has also contributed to exclusion of sex workers from policy discussions regarding legislation that will or has impacted their physical, mental, and financial well-being. Researchers, sex workers, and sex work-advocacy organizations have argued for direct collaboration between sex workers and governmental bodies to create legal frameworks that reflect the reality of the diversity of individuals involved in sex work and the diversity of reasons why individuals become involved in sex work (e.g., Mac & Smith, 2018; Wagenaar, 2014).

Limited Exit Strategies

Legislation designed to criminalize and abolish sex work often intends to help sex workers exit sex work, but formal exit strategies (e.g., providing alternative forms of employment) are often limited and criminalization can make it more difficult to leave sex work (Mac & Smith, 2018; Vanwesenbeeck, 2017). For example, in Sweden and the Netherlands, funding and governmental support for social interventions designed to help individuals exit sex work has been shown to be extremely insignificant and alternate forms of employment provided are either nonexistent or pay unlivable wages (Florin, 2012; Vanwesenbeeck, 2011). Under a criminalization framework, many sex workers are frequently subjected to criminal charges and associated fines and/or incarceration. Frequent incarceration leads to difficulties in finding stable housing and creates a “revolving door” that perpetuates involvement in sex work due to unavailability of other employment opportunities that would provide living wages for individuals with criminal records (Vanwesenbeeck, 2017). Furthermore, sex workers are typically highly stigmatized in regimes that criminalize sex work, stigma that contributes to social isolation and

exclusion from many social and community support services (Mac & Smith, 2018; Vanwesenbeeck, 2017).

Impacts of the COVID-19 Pandemic

The COVID-19 pandemic has disproportionately negatively affected already marginalized and vulnerable populations, and preliminary research suggests that sex workers have also experienced significant negative impacts due to the pandemic (e.g., Callander, Goodwin, et al., 2021; Callander, Meunier, et al., 2021; Goldenberg et al., 2021; Rogers et al., 2021; Shareck et al., 2021). Rogers and colleagues (2021) surveyed 46 sex workers in the New England area between April and May 2020. The majority of sex workers surveyed reported that COVID-19 has had a moderate or major impact on their lives (69.6%), 47.8% reported having somewhat or a lot fewer clients, and nearly 20% reported an increase in substance use to cope with pandemic-related stressors. Rogers and colleagues' (2021) qualitative findings revealed that some sex workers surveyed also implemented precautionary measures (e.g., refusing to see clients who do not wear protective equipment), switched to online-only sex work (e.g., web-camming, erotic videos), or even stopped conducting sex work altogether. Callander, Goodwin, and colleagues (2021) conducted qualitative interviews with 17 sex workers and six service providers (e.g., physician, nurse, social worker) who had extensive experience working with sex workers in the United States. Although the sample size is limited, participants described loss of or threats to work opportunities, access to sex work venues, access to health services, and housing. Participants also discussed resources that helped with coping with the changes induced by the pandemic, including social support, digital skills, health knowledge, employment outside of sex work, and personal resilience.

Sex workers outside of the United States have also been significantly affected by the COVID-19 pandemic. Research findings from a popular international website used by cisgender men, transgender women, and transgender men sex workers indicated a significant reduction in active profiles and client engagement from January to May 2020, with some sex workers switching to provide online-only sex work services (Callander, Meunier, et al., 2020). In Canada, many cisgender women sex workers have lost their main source of income, experienced riskier work conditions, and/or encountered housing struggles due to shelter-in-place orders if safe housing was not previously available (Shareck et al., 2021). Tan and colleagues (2021) researched the experiences of 171 sex workers in Singapore and found that many sex workers have experienced increased food insecurity, housing insecurity, and decreased access to health care services. Furthermore, transgender women sex workers were found to have increased likelihood of experiencing food insecurity and decreased health care access compared to cisgender women and cisgender men sex workers (Tan et al., 2021).

Directions for Future Research

A continually growing body of research suggests significant health and financial benefits for the decriminalization of sex work. To supplement existing research and advocacy, there is a need to further examine the effects of recent legislation and the COVID-19 pandemic, among other domains. Although preliminary research suggests that the COVID-19 pandemic has negatively affected sex workers, the existing research is extremely limited, especially research conducted within the United States. Furthermore, advocates and researchers have discussed the negative potential and actual impacts of FOSTA/SESTA on the health of sex workers (e.g., Blunt & Wolf, 2020), but additional research is needed to determine the scope and severity of how sex workers have been affected by the legislation. The effectiveness of FOSTA/SESTA at addressing

human trafficking also needs to be addressed given that lawmakers have asserted that this is the original/primary intent of the bills and the fact that FOSTA/SESTA has only been used once in criminal court (Gezinski & Gonzalez-Pons, 2022). Recent pro-sex worker legislation (e.g., decriminalization in Baltimore; Rouhani et al., 2021) has generated positive effects for sex workers and the general public (e.g., reduced incarceration, increased criminal justice cost savings). Researchers and policy makers should evaluate the effectiveness of existing (e.g., New Hampshire HB 123 granting legal protections when sex workers report sexual assault) and future pro-sex work legislation in other areas of the country to determine whether decriminalization is a viable policy for expanding to other cities and states.

Illinois and National Policy Recommendations

A variety of policy recommendations have been proposed to address disparities experienced by many sex workers. An extensive number of researchers, sex workers, and sex worker advocacy organizations (e.g., Argento et al., 2021; Goldenberg et al., 2021; Krusi et al., 2021; Shapiro & Duff, 2021; Viswasam et al., 2021) have proposed recommendations based on existing evidence that include: (a) decriminalizing all aspects of sex work; (b) recognizing sex work as work; (c) ensuring access to health care services to meet sex workers' health needs, including immigrant sex workers; (d) ending law enforcement and immigration surveillance and harassment of sex workers, clients, and third parties; and (e) creating collaborative partnerships with sex worker-led organizations and health care systems, policymakers, academics, and other community organizations.

Based on the existing research, policy that aims to decriminalize sex work is recommended because decriminalization, compared to other legislative approaches to sex work, prioritizes sex workers' financial well-being, physical and mental health, and bodily and

professional agency. Preliminary research on decriminalization within the United States (e.g., in Baltimore; Rouhani et al., 2021) has found that decriminalization can create numerous benefits for sex workers and for society more broadly, including reduced incarceration for sex workers and reduced criminal justice costs without decreases in public safety or public perceptions of safety. Legislation calling for the creation of task forces to continue researching the negative effects of legislation that is harmful to many sex workers, such as FOSTA/SESTA, is needed. Bills similar to the Safe Sex Workers Study Act (H.R. 5448, 2019; S. 3165, 2020) need to be proposed, voted on, and enacted to pave the way for the research that will help shed further light on the issues many sex workers are facing in the United States.

Legal and social recognition of sex work as legitimate work is also necessary for effective decriminalization and destigmatization of sex work. Regulation of sex work under labor law, as opposed to criminal law, will afford sex workers the same protections as workers in other professions (e.g., protections from workplace abuse, access to safe working conditions, guarantees of fair wages, health benefits). Furthermore, policy changes are needed to address confluences of sex work and human trafficking that allow for the criminalization of human trafficking without simultaneously criminalizing consensual sex work (Tripp, 2019). In order to safeguard the health and financial well-being of sex workers, policy that changes regulation of sex work from criminal law to labor law is necessary.

Furthermore, in addition to benefits to sex workers' livelihoods, researchers suggest that decriminalization of sex work and treating sex work as a legitimate profession will also have significant positive economic benefits. Baltimore is a real-world example that demonstrates significant criminal justice savings, without decreases in public safety or concern, that resulted from decriminalization of sex work (Rouhani et al., 2021). Researchers have also analyzed

potential economic benefits of decriminalizing sex work in Washington, D.C., including increased income tax revenue, monetary savings for the criminal justice system, and monetary savings for health care systems (due to reduction in violence and reduction in HIV and other STIs; Srsic et al., 2021).

Conclusions

Despite the growing body of evidence of numerous benefits of sex work decriminalization, in-person consensual sex work is still criminalized throughout the United States. Many sex workers, advocates, and researchers have demonstrated numerous negative effects of partial and full criminalization of sex work. Even in areas of the United States where sex work is legal through regulation (i.e., rural counties in Nevada), sex workers are subjected to extremely strict licensure restrictions and brothel policies (e.g., lockdown policies) that contribute to significant reductions in sex worker agency. The issues experienced by many individuals involved in in-person consensual sex work have been further exacerbated by the frequent conflation of sex work and human trafficking. Addressing human trafficking is an incredibly important issue, but doing so should not come at the expense of harming and further disenfranchising sex workers who are involved in consensual sex work, especially for sex workers who do not have access to other employment options that produce a living wage. In areas where sex work has been decriminalized, including within in the United States (e.g., Baltimore), the decriminalization of sex work has been significantly associated with reductions in incarceration, reductions in criminal justice costs, increases in the health and well-being of sex workers, increases in sex worker access to fair wages and safe work environments, and more. Therefore, it is important for lawmakers to work with sex workers and advocacy organizations to

create policies that protect the health of sex workers, while also creating economic and public health benefits for society more broadly.

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Appendix A: Sex Work Legislation in Illinois

Bill / Statute	Title / Status	Description
720 ILCS 5/11-14	<p>Prostitution</p> <p>Illinois Compiled Statutes</p> <p>Public Act 096-1551 effective July 1, 2011</p> <p>Public Act 098-0538 effective August 23, 2013</p> <p>Public Act 098-0164 effective January 1, 2014</p> <p>Public Act 098-0756 effective July 16, 2014</p> <p>Public Act 099-0109 effective July 22, 2015</p>	<p>Section 11-14 (720 ILCS 5/11-14) covers committing an act of prostitution, solicitation of a sexual act, and promoting prostitution.</p> <p>Any individual who performs “any act of sexual penetration” or “fondling of the sex organs” with another person in exchange for “anything of value” is subject to a Class A misdemeanor.</p>
IL SB1872	<p>Criminal Code Prostitution Penalty</p> <p>Public Act 098-0538 effective August 23, 2013</p>	<p>Committing an act of prostitution is classified as a Class A misdemeanor in all situations.</p> <p>Prior to Public Act 098-0538, committing an act of prostitution was classified as a Class 4 felony if conducted within 1,000 feet of a school and a Class A misdemeanor in all other situations</p>
IL SB2136	<p>Expungement Prostitution / Act to Expunge Felony Prostitution Records</p> <p>Public Act 102-0639 effective August 27, 2021</p>	<p>The public act allows sex workers to expunge previous felony charges that occurred prior to the reduction of prostitution charges to a misdemeanor under Public Act 098-0538 (2013). Ongoing drug testing is required for individuals seeking expungement.</p>

<p>720 ILCS 5/11-14.1</p>	<p>Solicitation of a Sexual Act</p> <p>Illinois Compiled Statutes</p> <p>Public Act 098-1013 effective January 1, 2015</p> <p>Public Act-099-0143 effective July 27, 2015</p>	<p>It is a Class A misdemeanor to engage in solicitation (i.e., offering anything of value in exchange for sexual activity with a person that is not their spouse)</p>
<p>720 ILCS 5/11-14.3</p>	<p>Promoting Prostitution</p> <p>Illinois Compiled Statutes</p> <p>Public Act 098-1013 effective January 1, 2015</p>	<p>Promoting prostitution includes any acts that advance the process of prostitution and/or result in profit from prostitution. Promoting prostitution that involves adults is a Class 4 felony, or Class 3 felony conducted within 1,000 feet of a school.</p> <p>If the promotion of prostitution involves individuals “with a severe or profound intellectual disability”, the offense is a Class X felony if conducted within 1,000 feet of a school and a Class 1 felony in all other circumstances.</p>
<p>720 ILCS 5/11-14.4</p>	<p>Promoting Juvenile Prostitution</p> <p>Illinois Compiled Statutes</p> <p>Public Act 099-1043 effective July 27, 2015</p>	<p>If the promotion of prostitution involves individuals under the age of 18, the offense is a Class X felony if conducted within 1,000 feet of a school and a Class 1 felony in all other circumstances</p>
<p>720 ILCS 5/11-18</p>	<p>Patronizing a Prostitute</p> <p>Illinois Compiled Statutes</p> <p>Public Act 098-1013 effective January 1, 2015</p>	<p>Patronizing a prostitute includes engaging “in an act of sexual penetration” or “fondling of sex organs” with a prostitute, and being in a “place of prostitution” with the intent of engaging in sexual acts.</p> <p>An individual who patronizes a sex worker/prostitute is subject to a Class 4 felony, or a Class 3 felony if it occurs within 1,000 feet of a school.</p>

		If the sex worker/prostitute has “a severe or profound intellectual disability”, the individual who patronizes the sex worker/prostitute is subject to a Class 3 felony, or a Class 2 felony if it occurs within 1,000 feet of a school.
720 ILCS 5/11-18.1	Patronizing a Minor Engaged in Prostitution Illinois Compiled Statutes Public Act 099-1043 effective July 27, 2015	If the sex worker/prostitute is under the age of 18, the individual who patronizes the sex worker/prostitute is subject to a Class 3 felony, or a Class 2 felony if it occurs within 1,000 feet of a school.
740 ICLS 128/ IL SB 3108	Trafficking Victims Protection Act Illinois Compiled Statutes Public Act 100-0939 effective August 17, 2018	Victims of involuntary servitude, sex trafficking, or labor trafficking may seek civil damages and remedies from individuals or entities that subjected them to/maintained them in the sex trade or involuntary servitude
IL SB 1599	Human Trafficking Task Force Public Act 102-0323 effective August 6, 2021	The public act provides composition and duties of the Human Trafficking Task Force, which has a deadline of June 30, 2024, to provide a report on human trafficking in Illinois to the General Assembly and Governor.
IL SB 1600	Human Trafficking Recognition Public Act 102-0324 effective August 6, 2021	Amends the Lodging Services Human Trafficking Recognition Training Act. The public act now requires employees of restaurants and truck stops to be trained in the recognition of human trafficking. Restaurants and truck stops are required to have protocols for reporting observed human trafficking to the appropriate authority.
IL SB 2220	Human Trafficking Omnibus Re-referred to Assignments as of April 16, 2021	Amends the Illinois Police Training Act to include training in investigating domestic minor sex trafficking.

		<p>Amends the Abused and Neglected Child Reporting Act to provide that a child shall be considered abused regardless of the perpetrator of the abuse if the child is a human trafficking victim.</p> <p>Amends the Juvenile Court Act of 1987 to provide immediate expungement of juvenile court and law enforcement records of minors who are human trafficking victims involved in prostitution.</p> <p>Amends the Criminal Code of 2012 to provide that a person who is a victim of involuntary sexual servitude of a minor is deemed a crime victim and is eligible for protections afforded to crime victims.</p> <p>Amends the Code of Criminal Procedure of 1963 to permit a motion to vacate an adjudication of delinquency of a human trafficking victim who engaged in prostitution.</p> <p>Amends the Sex Offender Registration Act to make violations concerning trafficking in persons, involuntary servitude, and related offenses registrable offenses under the Act.</p> <p>Amends the Crime Victims Compensation Act to provide that a trafficking victim who is under 18 years of age is not subject to the filing requirements of the Act and is not subject to the eligibility requirements of the Act.</p>
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