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# What's Best For Women: Examining the Impact of Legal Approaches to Prostitution in Cross-National Perspective and Rhode Island

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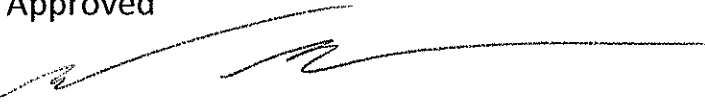
An Honors Thesis Submitted in Partial Fulfillment  
of the Requirements for Honors in Justice Studies

The Faculty of Art and Sciences

Rhode Island College


2012

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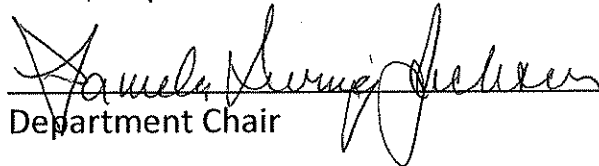
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## Abstract

This research analyzes legal approaches to prostitution on a cross-national level in order to determine if legal methods that regulate prostitution have an effect on prostitution. In order to examine these concepts we first identify the legal approaches in the United States, Germany, the Netherlands, and Sweden. Following this analysis, the effects of these legal approaches are reported. Instead of working from a strictly sociological standpoint, this project focused greatly on the legal aspects that affect prostitution.

This paper shows that legal approaches to prostitution do not have as great an impact on prostitution numbers as might be expected. There are also concerns about the validity of prior research on prostitution. From observing prostitution arrest data, it is possible to conclude that although indoor prostitution has been criminalized, there has been little change in the number of arrests for engaging in prostitution and virtually no change in arrests for promoting and assisting in prostitution. Advertising for sexual services in Rhode Island still exists. This leads to the conclusion that the legal changes to the prostitution laws in Rhode Island have not greatly impacted the prevalence of prostitution. In realizing this, I seek to revise theory, which is tied to prohibitionist approaches, specifically deterrence theory.

This study concluded that more reliable research needs to be done in order to gather accurate numbers on the amount of prostitutes. Moreover, reconsidering traditional views on deterrence theory may lead to the reduction of prostitution. While legal approaches to prostitution may have some effect on prostitution prevalence, non-legal solutions, such as partnerships between government and non-profit agencies, which provide healthcare, employment training, mental and emotional support services, substance abuse treatment, safe sex supplies and court diversionary services may have a greater impact.

# I. Introduction

The main goal of this paper is to provide a comparative analysis of national-level and state-level policies on prostitution. These policies include differing levels of decriminalization, legalization and prohibition. This analysis compares policies in the United States, specifically, Rhode Island, Germany, the Netherlands and Sweden. The purpose of comparing these countries is to gain an overall view of the differing approaches to prostitution in modern, Western countries. I also seek to determine the effectiveness of these differing prostitution policies through analyzing the reasons for initiating a certain policy, changes in public opinion and any evidence of prostitution decline or growth. The purpose of studying the effectiveness of these differing national policies is to determine if the United States and Rhode Island are using effective methods to curtail prostitution or if there is another more effective approach.

Approaches to prostitution in Rhode Island are central to this paper, especially due to the recent changes in prostitution law in Rhode Island. Indoor prostitution is now criminalized in Rhode Island and I seek to determine if these legal changes have had any impact on prostitution. In realizing that the American criminal justice system focuses on prohibiting unwanted acts in hope of deterring them, this paper also focuses on revising deterrence theory so that it is more effective. No previous research has focused on prostitution in Rhode Island since the legal changes that occurred in 2009.

This paper recognizes that legal approaches to prostitution may not be enough to create positive change for prostitutes. By using theories of objectivity and deterrence, theoretical notions surrounding the research of prostitution are developed. Better research will create better outcomes for prostitutes and society as a whole. Ultimately, recommendations are given to revise prohibitionist prostitution policy. I also identify non-legal approaches to prostitution, such as government and non-profit programs because of the limits to the legal approaches identified throughout this paper.

## II. Examining Legal Models for Approaching Prostitution

### a. Defining Prostitution

#### **Prostitution**

Prostitution has often been called the world's oldest profession and has typically been defined simply as sex in return for money. Today, however, scholars, organizations and government

entities have varying definitions of prostitution. According to *Black's Law Dictionary*, prostitution is defined as “The act or practice of engaging in sexual activity for money or its equivalent; commercialized sex” (Garner 2004: 1259). Rhode Island General Law §11-34.1-2 states “A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee” (RIGL 2009). Under this statute sexual conduct is defined as “sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital intrusion or intrusion by any object into the genital opening or anal opening of another person's body, or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the sexual desire of either person” under §11-34.1-1 (RIGL 2009). A fee is “any thing of monetary value, including but not limited to money, given as consideration for sexual conduct” (RIGL 2009).

The International Labour Organization, the official labor organization of the United Nations, in a report by Lin Lim, urged countries to recognize prostitution as an economic sector and thus moved from the word prostitution to sex work. Sex work garners profits similar to other large economic sectors (Kaban 1998). Definitions of prostitution used by scholars vary as well, from “the provision of sexual services in exchange for some form of payment, such as money, drink, drugs, or other consumer goods” (Plant 1990: 14) to the much broader definition of “a business transaction understood as such by the parties involved and in the nature of a short term contract in which one or more people pay an agreed price to one or more people for helping them attain sexual gratification by various methods” (Bennett and Perkins 1985: 4).

It is also important to note, for the purpose of this research that words like prostitution and prostitute are gendered vocabulary. The majority of the time, the term prostitute refers to a female and prostitution refers to a female acting for “the purposes of men’s sexual gratification” (Outshoorn 2005: 147). This paper uses the terms prostitute and prostitution primarily to refer to females engaged in such activities, although still recognizing that male prostitution does exist.

## **b. Difficulty Studying Prostitution**

Due to the clandestine nature of prostitution, it is difficult to pinpoint reliable statistics on the subject (Weitzer 2007, Kangaspunta 2003). Some publications use unreliable data based on a few cases; many are steeped in political bias that casts doubt on the validity of their claims (Weitzer 2007). The United States Government Accountability Office (GAO) states that prostitution estimates are questionable: “The accuracy of the estimates is in doubt because of methodological weaknesses, gaps in data, and numerical discrepancies” (GAO 2005). Most research is funded by international government or non-governmental organizations (NGOs) and thus research may be skewed in order



to meet the needs of certain policies and ideologies. “Pure research studies and detailed research evaluations continue to be extremely rare, and a limited number of established social scientists are involved” (Kelly 2005: 236).

Most published studies say little about the methods they used to collect data (Kelly 2002). For example, researchers who conduct interviews with women rarely define how they located these women or designed their study. Multi-country studies do not present comparative analysis of similarities and differences in numbers and patterns (Kelly 2005). Thus, I seek to provide a more clear analysis of cross-national data and policies.

### **c. Approaches to Regulating Prostitution**

#### **Decriminalization**

Decriminalization of prostitution refers to “the repeal of prostitution-related criminal law” (Barnett, Casavant & Hindle 2008). “Decriminalization eliminates all laws and prohibits the state and law-enforcement officials from intervening in any prostitution-related activities or transactions, unless other laws apply” (Hughes 2004). Abolitionists like Hughes believe that decriminalization would make prostitution even more prevalent by eliminating practically all restraints on it. Opponents of this view believe that it promotes practices that are inherently bad for women. Janice Raymond, who is also a part of CATW, explicitly gives ten reasons why prostitution should not be legalized, suggesting that decriminalization is a “gift to pimps, traffickers and the sex industry.” Legalization also “does not control the sex industry. It expands it...and women in systems of prostitution do not want the sex industry legalized or decriminalized” (Raymond 2003). Despite these claims, research has only been done using convenience samples and truly representative research on violence in prostitution is not readily available (Weitzer 2007). Melissa Farley, who advocates for the full abolition of prostitution, claims that it is cruel to say that decriminalization or legalization will protect women because these approaches allow for prostitution to continue. Thus, according to Farley, prostitutes will still be in danger of violence and abuse (Farley 2004).

However, a myriad of sex worker's rights groups, such as the English Collective of Prostitutes, The Sex Worker's Project, U.S. PROS, and COYOTE (Calling Off Your Old Tired Ethics) believe that prostitution should be decriminalized. For example,

The International Prostitutes Collective has been campaigning for the abolition of the prostitution laws, which criminalize sex workers and our families, and for economic alternatives and higher benefits and wages—no woman, child or man should be forced by poverty or violence into sex with anyone. (Prostitutes Collective n.d.).

Norma Jean Almodovar of the International Sex Worker Foundation for Art, Culture and Education states that decriminalization of sex work would allow for sex workers to report violent victimization and would make it easier for law enforcement officers to find underage prostitutes (Almodovar n.d.). Sex workers rights groups believe decriminalization reduces the social stigma of prostitution and allow for sex workers to receive respect for their rights. In general, decriminalization can allow for the regulation of prostitution. Regulation means that governments can license prostitutes and brothels, call for mandatory health checks, tax prostitute income and restrict sex work to certain municipal areas (Banach and Metzenrath 2000: 9).

### **Legalization**

Legalization refers to the regulation of prostitution through criminal law or some other type of legislation. This approach treats prostitution as a legal occupation, but nevertheless controls it by a set of rules that govern who can work and under what circumstances they may do so. Typically, governments that have adopted the legalization approach regulate the trade through work permits, licensing and/or tolerance zones. (Barnett, Casavant & Hindle 2008: 3)

Proponents of legalization claim that crimes associated with prostitution can be reduced and legalization will protect sex workers and the public from infection and violence by introducing regulations on sex work (Mossman 2007). Supporters of legalized prostitution believe regulation will help reduce harm. The legality of prostitution would allow for women to report abuse and allow for trafficked women to look for help without fear of imprisonment.

Sex workers' rights groups differ in their specific ideologies, but collectively they tend to argue that sex work should be considered a legitimate profession and "the primary harm of prostitution is social stigma against prostitution" (Farley 2004). Groups such as the Scarlet Alliance claim that legalization with regulation hurts sex workers. Policies such as "registration should never apply to individual sex workers as it is an invasion of basic human rights and perpetuates stigmatization" (Banach & Metzenrath 2000). Some sex workers' rights advocates also argue that testing for sexually transmitted diseases will stigmatize sex workers and that restricting brothels can push sex workers into dangerous situations by forcing them to work—unprotected—on the streets. They also argue that requiring permits for brothels and sex workers will deny the worker basic economic security. Sex workers rights groups advocate instead for peer-based education conducted through sex worker organizations (Banach & Metzenrath 2000).

### **Prohibition**

Prohibition makes all prostitution illegal and holds every party liable for criminal penalties. Under the system of prohibition, there is no regulation of prostitution and every type of

prostitution is a criminal act (Outshoorn 2004: 8). For example, the United States of America takes a prohibitionist stance on prostitution, though states in the United States are responsible for developing their own prostitution laws. Prostitution is only legal in a small number of rural counties in Nevada.

According to the Sex Workers Project, a sex worker rights organization, prohibition against sex work does not help in ending prostitution. In fact, the criminalization of prostitution is said to lead sex workers into more vulnerable situations. Sex workers are already often homeless, struggling with drug abuse and poor. Prohibition turns social issues into criminal issues (Cusick and Goodyear 2007). Prohibition does not meet the needs of prostitutes who are more often than not in need of social services, not imprisonment (Ditmore and Thukral 2003: 10). Prohibition of prostitution is said to exacerbate harms (Anderson 2002: 748).

Prohibitionist approaches to prostitution are usually found in societies that prize the symbolic value of the law and prefer to keep vices underground. Moral notions of the wrongness of an activity translated into prohibiting these acts (Nadelmann 1990: 516). Proponents of the prohibition of prostitution claim that prohibition protects sexual autonomy (Anderson 2002: 750). Treating sex as commerce can undermine sexual autonomy by changing the incentives to have sex, the control over sexual practices and the pressures on sexual attitudes and values (Anderson 2002: 762).

The goal of prohibitionists is to abolish the sex industry through criminalization (Weitzer 2010: 17) According to some prohibitionists, decriminalization and legalization can increase levels of violence towards prostitutes, further encourage men to buy sex, and increase sex trafficking (Weitzer 2010: 23). Furthermore, proponents of prohibition believe that the prohibition of prostitution prevents the deterioration of neighborhoods, supports moral behaviors, and prevents greater amounts of trafficking (Ditmore 2006: 369).

### **Deterrence Theory in the System of Prohibition**

In the United States, the stated goal of the prohibition of prostitution is to deter prostitutes and their clients from engaging in the act of prostitution (Scott n.d.: 10). Deterrence theory is built on the notion that individuals will be deterred from criminal behavior if legal sanctions are perceived to be certain, swift, and severe (Hawkins and Williams 1986). Deterrence-based policy aims to reduce the amount of offending and to increase public safety (Kennedy 2009: 1). Models of deterrence rely on the idea that offenders have some degree of rationality (Kennedy 2009: 19), and thus that their rational thought processes will lead them to avoid offending when penalties are

more costly than the benefits of offending. Therefore, criminal deterrence relying on punishment that is certain, swift, and appropriately severe may deter some offending (Kennedy 2009: 9). However, when offenders do not know what sanctions they face, the system of deterrence cannot work (Kennedy 2009: 29). In the United States, prohibition may work if the theory of deterrence is reworked to allow for more certainty and swiftness.

#### **d. Prostitution Laws in Cross-National Context**

The purpose of identifying and analyzing prostitution policy in the United States, Germany, the Netherlands and Sweden is to provide a basis for differing approaches to prostitution laws within a Western context. Germany, the Netherlands and Sweden were chosen for this study because of their social and cultural similarities to the United States, and also their differing approaches to prostitution. We seek to discover what legal approaches work best to reduce prostitution and assist prostituted women. We first look to the United States in order to provide a background on prostitution laws in general. Louisiana and Nevada are used to illustrate the continuum of differing prostitution laws in the United States.

#### **United States**

In the United States prostitution is completely criminalized/prohibited, except for in rural areas of Nevada. Federal law only outlaws prostitution in certain circumstances, such as child prostitution, crossing state lines for prostitution, running a prostitution business, or prostitution on military bases. The decision to criminalize or decriminalize prostitution in general has been left up to the States. Therefore, penalties and regulations vary from state to state. In Nevada, the only place in the United States where prostitution is legal, both selling and buying sex is decriminalized in certain licensed houses (Nevada Code § 201). The power to license businesses and regulate prostitution is in the hands of boards of county commissioners (Nevada Code § 269). Prostitutes are required to have mandatory health checks and are also required to pay taxes (Nevada Code § 201). Street prostitution is outlawed and advertising sexual services is also against the law in Nevada (Nevada Code § 201).<sup>1</sup>

Nevada's approach remains unique. Rather than reviewing the legal status of prostitution in all 50 states, we will contrast Nevada with Louisiana, a state with a particularly strict approach to prostitution. Later in this paper, Rhode Island's approach—a more moderate one—will be discussed. Most U.S. states fall somewhere between the Rhode Island and the Louisiana approaches.

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<sup>1</sup> The entire text of the Nevada Prostitution law can be found in Appendix D.

Until June 2011, Louisiana state law allowed for police officers and prosecutors to decide if a prostitute would be charged for prostitution as a misdemeanor or felony (Flaherty 2011). Under the misdemeanor route, prostitutes would simply have to pay a fine and possibly serve jail time (Flaherty 2011). However, if the prostitute was convicted for a felony under the state's "Crime Against Nature" law, the prostitute would have to register as a sex offender (Flaherty 2011, Lee 2011). The words "SEX OFFENDER" were printed under the prostitutes' picture on their identification cards (Lee 2011). Police had the ultimate discretion on which prostitutes were charged for felonies and misdemeanors (Flaherty 2011).

The Louisiana Justice Institute claims that police discretion to decide which prostitute is charged under which law is a civil rights violation and makes the justice system separate but equal (Lee 2011). More often than not, poor minority women were arrested under the "Crime Against Nature" law and labeled as felons (Lee 2011). These women have a tougher time finding employment, supporting their families, and getting out of prostitution (Flaherty 2011). As of June 2011, sex offender registration for convicted prostitutes ended. Louisiana State Representative Charmaine Marchand Stiaes sponsored the bill that moved all prostitution convictions to a misdemeanor level, which makes it easier for prostitutes to expunge their records and also reduces stigmatization (Flaherty 2011).

### **Rhode Island**

For over three decades, indoor prostitution was decriminalized in Rhode Island—the only other state besides Nevada in which prostitution has been legal in modern era. Decriminalization was an accidental effect of amendments made to Rhode Island General Law §11-34-5 in 1980, after criminal cases brought against prostitutes continued to be dismissed on constitutional grounds. In the culminating case, *COYOTE v. Roberts*, COYOTE (Calling Off Your Old Tired Ethics) representatives claimed that Rhode Island's broad law discriminated against women by arresting them and punishing them more often than men (*COYOTE*, 520, 1980). "Of the 1,097 people arrested for prostitution-related offenses [between 1974 and 1977], 77% were women and 23% were men" (Shapiro 2009: 38). The Providence Police Department and Rhode Island lawmakers in turn claimed that they were making more arrests because of continued citizen complaints about street workers and disruptive johns (*COYOTE*, 520, 1980). Before the case was decided the Rhode Island legislature amended R.I.G.L. §11-34-5 in May 1980, causing *COYOTE v. Roberts* to become moot.<sup>2</sup>

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<sup>2</sup> The 1980 Rhode Island General Laws § 11-34 relating to prostitution and the amended 2009 Rhode Island General Laws relating to prostitution can be found in Appendix E.

However, a decision was handed down that spoke to the scope of the new amendment and ordered the recovery of COYOTE's legal fees. The Rhode Island District Court, in an opinion written by Senior District Judge Raymond J. Pettine, described the pre-May 1980 law:

R.I.G.L. §11-34-5, as construed by the Rhode Island Supreme Court, purported to outlaw all extramarital sexual intercourse, and all "unnatural" methods of copulation regardless of whether the participants were married. Thus, the prohibition against prostitution was but one segment in a broad scheme of regulation of sexual behavior. The State's power to prohibit particular types of sexual conduct between married persons is extremely questionable after *Griswold v. Connecticut* (*COYOTE v. Roberts*).

In essence, the law was too broad, and thus unconstitutional. However, the Court held:

...that the [amended] statute is now directed at suppressing specifically that type of sexual activity commonly regarded as "prostitution." More significant for present purposes, the amendments appear to have decriminalized the sexual act itself, even when undertaken for remuneration. Thus, it appears to the Court that Section 11-34-5 now outlaws only certain preliminary or preparatory activities (securing, transporting, receiving into a house or conveyance, etc.), and then only when pecuniary gain is somehow involved. (*COYOTE v. Roberts*)

The amended statute focused less on controlling sexual intercourse, in general, but more on constraining the definition of prostitution. The amendment focused on removing prostitution from the street and quieting the residents of Providence, who had continually witnessed the effects of street prostitution on their communities. Instead of its prior classification as a felony, prostitution was classified as a petty misdemeanor punished by fine. This change was made with the goal of streamlining the process of getting prostitutes off the street. Instead of having a long legal court process as in a felony criminal case, with a misdemeanor prostitute could be charged and moved off of the streets quickly. (Shapiro 2009). This law focused predominately on street prostitution, and Rhode Island legislatures did not pay so much attention to indoor prostitution. The new amendments in the Rhode Island General Law removed language about committing sex acts in a private place (Shapiro 2009). This omission led to the decline of street prostitution, but also to a significant rise in indoor prostitution.

One of the most popular forms of indoor prostitution after 1980 was the "spa," which are predominately staffed by Asian women (Shapiro 2009). The "spa" loophole came to light in 2003, when Providence police raided four "spa" brothels and arrested seven women and one man. Investigators found that the women had traveled from multiple states to work as prostitutes in Rhode Island, and these women were charged with soliciting prostitution (Arditi 2009). Attorney Michael J. Kiselica, who was representing the owners of two brothels, Midori and Oriental Garden

Spas, cited a 1998 Rhode Island Supreme Court Case, *State v. DeMagistris* (Arditi 2009), which found that the Rhode Island prostitution law prohibiting solicitation was “primarily to bar prostitutes from hawking their wares in public—whether this is done by strutting up and down a public street or by calling out to passersby from the shadowed stoop of a privately owned building” (*State v. DeMagistris*). Attorney Kiselica also cited Judge Pettine's analysis of the 1980 amended prostitution law Kiselica argued that the Rhode Island state laws on prostitution could not be applied to indoor prostitution. This argument won the case and the indoor prostitution loophole was officially exposed. Police continued to try to shut down brothels, but to no avail (Arditi 2009).

Between 2003 and 2009, issues surrounding the loophole became more apparent and pervasive. Complaints that the loophole allowed for underage women to be strippers were widely publicized (Milkovits 2009), and police could not effectively regulate spas or protect women who may have been victims of human trafficking (Associated Press 2009). Rhode Island law enforcement agencies found ways to go around the loophole, such as arresting women in suspected spa brothels that did not have licenses to give massages. However, the Rhode Island Health Department did not have enough staff to inspect every supposed spa (Breton and Milkovits 2005). These issues led Rhode Island state lawmakers to propose a law, which would have closed the indoor prostitution loophole in 2005. However, this bill failed due to resistance from anti-criminalization groups (Arditi 2009). In 2009, prostitution in all forms was criminalized with the passing of H5044 and S0007 in the Rhode Island Legislature (General Assembly 2009). Representative Joanne Giannini, who represented District 7 in the City of Providence, primarily sponsored this legislation. From 2005 until 2009, she introduced bills to criminalize indoor prostitution in Rhode Island in each legislative session. Representative Giannini considered the criminalization of prostitution in all forms as a way to help women (Waterman 2009). Since the law was changed, police have been able to raid supposed brothels, create undercover operations, and investigate internet sex sites, thus arresting and charging women and men with violation of the new state law (Mooney and Ziner 2009).

## **Germany**

In Germany, prostitution is currently legalized, although there are restrictions on prostitution as a business. The Act Regulating the Legal Situation of Prostitutes (Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten)<sup>3</sup> was enacted in January 2002. The new German law changed provisions of civil, labor, social insurance, and criminal law (Laskowski 2002:

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<sup>3</sup> This act can be found in English translation in Appendix A (translated by Darek Niklas).

479). In terms of the civil code, the new prostitution act redefined prostitution as a legitimate profession. Previously, German courts viewed prostitution as an immoral act. However, the 2002 Prostitution Act allowed for sex workers to become part of the economy, although prostitutes are not allowed to advertise sexual services. Labor law has been changed because prostitutes now are considered workers or employees. Social insurance law now allows prostitutes to gain health insurance through the government. Lastly, the 2002 Prostitution Act also decriminalized brothels, which caused a significant change in criminal law statutes (Laskowski 2002: 481).

Before the German Prostitution Act came into force, prostitution was not illegal in Germany, but there were many restrictions. Running a brothel was considered illegal and prostitution was considered immoral by legal precedent. This situation left prostitutes with little rights (Kavemann 2007: 4). Prostitutes had no access to health insurance, pimping was illegal, advertising was illegal, and prostitutes' contracts were considered null and void (Kavemann 2007: 5). Exclusion zones pushed prostitutes into very small working areas. Additionally, health checks were compulsory (Kavemann 2007: 7-8). The purpose of the 2002 Prostitution Act was to

- (1) improve the legal status of prostitutes,
- (2) improve the social position of prostitutes,
- (3) improve working conditions, and
- (4) make it easier for prostitutes to leave prostitution. (Kavemann 2007: 10)

### **The Netherlands**

The Netherlands, brothels were completely banned before the year 2000. The Netherlands lifted its ban on brothels in 2000 and introduced a licensing system for them (Dutch Ministry of Foreign Affairs 2010: 4). In order for brothels to be licensed, prostitutes must not be required to consume alcohol, safe sex must be practiced, and prostitutes must have the right to refuse clients or particular sexual acts (Coy, Davenport, Kelly 2009: 24). Thus, Article 250b and 432 of the Dutch Criminal Code were repealed and replaced by article 250a, which prohibits the exploitation of prostitutes<sup>4</sup> (Dutch Ministry of Foreign Affairs 2010: 1). The aim of establishing these new guidelines for prostitution was to better monitor prostitution, curb forced prostitution, protect minors from exploitation and safeguard prostitutes' rights (Kavemann 2007: 37). Prostitution remains legal, but requires a type of employment license. As in Germany, prostitution is treated as a type of special labor (Daalder 2007:14). According to the Ministry of Security and Justice (2004), the new legislation was intended to

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4 Appendix B: Section 250b and 432, as well as 250a of the Dutch Criminal Code.



- (1) protect prostitutes from commercial exploitation,
- (2) fight involuntary prostitution and trafficking,
- (3) combat sexual abuse against juveniles,
- (4) advance the position of individuals working as prostitutes,
- (5) eliminate criminal involvement in the prostitution industry, and
- (6) limit the number of non-European Union residents working as prostitutes in the Netherlands.

Dutch authorities are responsible for ensuring that sex workers have access to health care with no sanctions for their sex work activities; sex workers are also encouraged to have regular health checkups (Dutch Ministry of Foreign Affairs 2010: 7). Police are not allowed to keep a register of sex workers because it violates laws against personal privacy (Dutch Ministry of Foreign Affairs 2010: 10). Sex workers are also eligible for unemployment benefits if they must stop working for reasons beyond their control. Thus, sex workers are required to pay taxes into social security (Dutch Ministry of Foreign Affairs 2010: 13-14).<sup>5</sup>

### **Sweden**

Unlike the Netherlands and Germany, where prostitution has been legalized and then regulated, Sweden has decided to legalize the sale of prostitution, but ban the purchase of sexual services through The Swedish Law that Prohibits the Purchase of Sexual Services.<sup>6</sup> Sweden's Act banning the purchase of sexual services was enacted in 1998. Under this act, prostitutes are seen as victims. Prostitution is thus a "gross violation of a woman's integrity" (Ministry of Labour 1998). The goals of Sweden's act were to promote equality for women, protect women from violence against men, win public support to combat prostitution, and, in the long term, abolish prostitution completely (Kavemann 2007: 39). In Sweden, prostitution is seen as the sale and purchase of women, and thus as an act of violence against women (Kavemann 2007: 36). In this case, prostitutes are not required to have mandatory health checks (Ben-Noah, Kivela and Mor 2011: 17). The Swedish law that Prohibits the Purchase of Sexual Services bans purchasing of prostitution by males in all circumstances (Ekberg 2004: 1192). Swedish courts have imposed punishments of up to 150 days in prison for prostitution purchasers (Ekberg 2002: 1192).

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<sup>5</sup> It is important to note that these benefits do not apply to migrant of foreign-born workers.

<sup>6</sup> Appendix C: The Swedish Law that Prohibits the Purchase of Sexual Services.

## **e. Effects of Prostitution Laws**

In examining the effects of prostitution laws in Rhode Island, Germany, the Netherlands and Sweden, specific evidence is provided in order to be able to generalize about legal effects. First, newspaper and/or public opinion polls are used to gain an understanding of the impact of legal approaches to the social and moral demands of each respective country or state. Second, evidence of reductions or increases in prostitution are cited through arrest and prosecution statistics. Sex advertisements are also cited when discussing Rhode Island in order to determine if indoor prostitution still exists after its criminalization in 2009.

### **Rhode Island**

According to sponsors of H5044 and S0007, the purpose outlawing indoor prostitution was not to punish women, but rather prevent the spread of disease and to help women who are forced into the prostitution business (*Providence Journal* 2009). On the other side of the debate, groups such as the American Civil Liberties Union and Direct Action for Rights and Equality state that arresting women who engage in prostitution to support their families would cause children to be sent into foster care and would increase state expenditures. Criminalizing prostitution may also be punishing women who in fact have been forced into prostitution, but who are too afraid to speak out (*Providence Journal* 2009). Despite these ongoing arguments about the purposes and potential consequences of prohibiting prostitution in Rhode Island, the most fundamental question is whether the legal changes have made any difference in the extent of prostitution in Rhode Island.

### **Rhode Island Prostitution Statistics**

In order to effectively determine if criminalizing indoor prostitution has had an effect on prostitution numbers, statistics on prostitution arrests from 2006 to 2010 in Rhode Island and its neighboring states have been compiled in Table 1 below. Although arrest statistics do not fully show the full breadth of the amount of prostitution, they offer a glimpse into whether law enforcement is using the new law as an opportunity to make a greater number of arrests. Arrest statistics from the Uniform Crime Reports only show crimes known to police, which resulted in arrests. According to the Congressional Research Service's Report for Congress on how crime is measured in the United States, several conclusions were made about the limitations of Uniform Crime Report data on crime. First, the Uniform Crime Reports only includes crime data that are known; in the case of prostitution specifically, this includes only arrest data known to and collected by police themselves (James 2008: 18). Statistics are gathered for Massachusetts and Connecticut in order to determine if the arrest statistics in Rhode Island are within a multi-state trend or are

specific to Rhode Island.

We can assume there are many unreported cases of prostitution that are not included in the data. Additionally, because of political pressure, law enforcement may manipulate data to decrease the amount of reported crime (James 2008: 18). The concepts used by different law enforcement bodies to define certain crimes may also lead to inaccuracies in data reporting on the national level (James 2008: 19). Though crime statistics can be flawed in these ways, they are still a gateway to understanding whether law enforcement is stepping up enforcement of certain crimes. Thus, arrest data can be used to investigate whether Rhode Island’s criminalization of indoor prostitution in 2009 has resulted in an increase in the number of prostitution arrests in the state.

**TABLE 1. PROSTITUTION/COMMERCIALIZED VICE ARRESTS IN CONNECTICUT, MASSACHUSETTS, RHODE ISLAND AND THE UNITED STATES FROM 2006-2010.**<sup>7</sup>

	2006	2007	Change	2008	Change	2009	Change	2010	Change
<b>Connecticut</b>	481	479	-2 0.41%	523	+44 9.2%	346	-177 33.8%	445	+99 28.6%
<b>Massachusetts</b>	823	1098	+275 33.4%	1229	+131 11.9%	836	-393 32%	905	+69 8.3%
<b>Rhode Island</b>	215	128	-87 40.5%	216	+88 68.8%	97	-119 55.1%	103	+6 6.2%
<b>U.S. Total</b>	79,673	77,607	-2,066 2.6%	75,004	-2,603 3.35%	71,355	-3,649 4.9%	62,668	-8,687 12.2%

Note: The data from this table comes the Federal Bureau of Investigation Uniform Crime Reports Table 69 from 2006-2010.

Since the 1980s, American crime rates as a whole have been declining (Ouimet 2004, Zimring 2007, Blumstein & Rosenfield 2008). So it is important to remember that prostitution arrest statistics exist within the continuum of American crime statistics as a whole. As Table 1 shows, between 2006 and 2010 prostitution arrests consistently fluctuated year to year. From 2006 to 2007 in Connecticut and Rhode Island there was a 0.41 percent and 40.5 percent reduction in prostitution arrests, respectively. Massachusetts deviated from this pattern with an increase of 33.4 percent in prostitution arrests. In general, from 2007 to 2010, Connecticut, Massachusetts, and Rhode Island followed a consistent pattern of arrest increases and decreases, in which each state had similar increases or decreases in arrests. In 2009, every state studied above had a significant increase in prostitution arrests. However, the total amount of prostitution in the United States

<sup>7</sup> Statistical significance cannot be computed as this is population rather than sample data.

decreased year by year from 2006 to 2010. Thus, the data does not tell a consistent story about changes in prostitution arrests—nor do they demonstrate a clear change in arrest practices after the change in Rhode Island prostitution law.

There are some potential explanations for the data in Table 1. 2008 may have had more arrests in Rhode Island because people were actively thinking about the upcoming legal changes in 2009, while the reduction in prostitution arrests in Rhode Island in 2009 could be due to the fact that prostitutes were nervous about how much police would crackdown on prostitution, especially indoors.

In Table 2 below, prostitution arrests in Rhode Island between 2006 and 2010 are broken down by city or town. Cities that did not have any reported prostitution arrests between 2006 and 2010 are excluded from the table. The table includes arrest numbers for Engaging in Prostitution as well as for Assisting and Promoting Prostitution. Similar to the Connecticut, Massachusetts, and Rhode Island state-level data, the largest overall increase in prostitution arrests was in 2008.

The cities with over five persons arrested for either engaging in or promoting prostitution are Central Falls, Pawtucket, Providence, Warwick, and Woonsocket. The Rhode Island Family Life Center’s study on prostitution details how prostitution has been and continues to be prevalent in the cities of Central Falls, Pawtucket, Providence, and Woonsocket (Horton 2009:4). According to the Family Life Center’s study, prostitution is so highly concentrated in these areas because of the extent of poverty (Horton 2009:5). The study also detailed that 23 percent of all women brought to jail have been arrested on prostitution charges (Horton 2009:5). As shown in Table 2 below, the majority of prostitution arrests are for engaging in prostitution, not for assisting or promoting prostitution. Thus the women who use prostitution as a way to survive are criminalized while their customers are largely left to continue buying.

**TABLE 2. RHODE ISLAND PROSTITUTION ARRESTS BY CITY/TOWN (2006-2010).**

		2006	2007	2008	2009	2010
<b>Central Falls</b>	Pandering	38	45	16	13	8
	Assisting & Promoting	2	0	2	3	
<b>Charlestown</b>	Pandering	0	0	0	0	0
	Assisting & Promoting	1	0	0	0	0
<b>Cranston</b>	Pandering	0	0	1	0	1
	Assisting & Promoting	0	0	0	1	0
<b>Cumberland</b>	Pandering	0	0	0	0	0
	Assisting & Promoting	0	1	0	0	0
<b>East Providence</b>	Pandering	0	0	0	0	0
	Assisting & Promoting	0	0	0	0	2
<b>Lincoln</b>	Pandering	0	0	2	0	0
	Assisting & Promoting	0	0	0	0	0

<b>Middletown</b>	Pandering	0	0	1	2	1
	Assisting & Promoting	0	0	0	0	0
<b>Newport</b>	Pandering	0	0	0	2	0
	Assisting & Promoting	1	0	0	0	0
<b>North Kingstown</b>	Pandering	0	0	0	0	0
	Assisting & Promoting	0	0	1	0	0
<b>Pawtucket</b>	Pandering	21	10	8	5	11
	Assisting & Promoting	1	0	0	0	
<b>Providence</b>	Pandering	115	103	181	52	44
	Assisting & Promoting	0	4	5	3	10
<b>Tiverton</b>	Pandering	0	0	0	0	1
	Assisting & Promoting	0	0	1	1	0
<b>Warren</b>	Pandering	0	0	0	0	1
	Assisting & Promoting	1	0	0	0	0
<b>Warwick</b>	Pandering	1	0	1	5	5
	Assisting & Promoting	0	0	0	2	2
<b>West Warwick</b>	Pandering	0	0	0	1	0
	Assisting & Promoting	0	0	0	0	0
<b>Westerly</b>	Pandering	1	0	0	0	0
	Assisting & Promoting	0	0	0	0	0
<b>Woonsocket</b>	Pandering	60	34	26	14	12
	Assisting & Promoting	1	0	0	0	2
<b>RI Total</b>	Pandering	N/A	192	236	101	86
	Assisting & Promoting	N/A	9	13	20	20

Note: Data from this table is gathered from the Rhode Island State Police Uniform Crime Report Statistics (2006-2010)<sup>8</sup>

### Advertisements for Sexual Services

From a simple online search of “massage parlors,” “happy endings,” and “spas in Rhode Island” there is a wealth of information on where and how much it is to buy a sexual a service in Rhode Island. Just as in Melanie Shapiro’s findings from her study of prostitution and trafficking in Rhode Island in 2009, the “massage parlors” are overwhelmingly filled with Asian female workers (Shapiro 2009: 51). On the website, *Adult Search*, there are seventeen locations of individual erotic massage parlors listed in Providence, Pawtucket, and Central Falls (Adult Search 2012). Each massage parlor listing includes an address, phone numbers, user ratings, and hours, as well as the cost of services and the preferred type of payment (cash or credit card). The massage parlor with the highest rating on the website is called the North Main Street Spa and is located at 1185 North

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<sup>8</sup> Table 1 and Table 2 identify how many prostitution-related crimes are known to police. These statistics do not cover the information about the number of subsequent prosecutions and convictions of prostitutes and johns. This information was attempted to be found through the Attorney General’s Banner and West Law databases. There was no information found on the specific number of arrests versus convictions. However, the women who were convicted appeared to be reoffenders and usually received a short jail sentence (a year or less) and/or a fine under \$1,000. Anecdotal evidence from employees of the Attorney General’s Office leads me to conclude that a large majority of prostitution arrests do not result in prosecution.

Main Street in Providence, Rhode Island. One patron named “Seato03,” described the spa as having “Nice massages and always happy at the end.” Ten out of the seventeen spas listed on the website had reviews dating from 2012, while all the spas listed had reviews dating as late as 2010. All the spas are listed as being open seven days a week until eight o’clock at night or as late as three o’clock in the morning (Adult Search 2012).

Another similar website, Erotic MP (Massage Parlor), had very similar listings of the same seventeen massage parlors. On this website, One Spa, located on Broad Street in Providence had over ninety reviews, with the most recent review on February 13, 2012 (Erotic MP 2012). The Erotic MP website even notes which girl provided the service that is being reviewed. It is apparent from these listings that “erotic” massage parlors which offer sexual services are still operating in Rhode Island. Although Craigslist has officially ended the advertising of sexual services in the Rhode Island section of their website, many still offer services to “gentlemen,” such as “sensual” and “erotic” massages, which allude to the offering of actual sexual services (Craigslist 2012a, Craigslist 2012b).<sup>9</sup>

Additionally, the *Providence Phoenix*, a weekly local print publication, also offers adult advertisements, including those for sexual services. These advertisements are published both in print and online, and they offer escorts, sensual massage, and other sexual services. The latest advertisement online was posted on February 16, 2012 and offered a “fun and friendly Swedish bombshell” (Providence Phoenix 2012b). Advertisements in the February 10-16, 2012 print publication included several advertisements of “all Asian spas” (Providence Phoenix 2012a). Once again, from these advertisements and continued posts in 2012, it can reasonably be inferred that the prostitution industry is still alive in Rhode Island. If these individuals and businesses were not offering sexual services, it would be unlikely that they would advertise on erotic websites and in adult publications.

Although there is no clear evidence that these businesses or people are performing sexual acts, the fact that these businesses are listed on erotic and adult sex search websites is a point of concern. Police may have a difficult time in closing down such businesses because they lack concrete proof that individuals are performing sexual acts in return for money. Investigating illegal prostitution businesses requires undercover law enforcement officers, recording devices, and planning in order to provide proof. These operations are expensive and also take resources away

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<sup>9</sup> Two examples of Craigslist advertisements for sexual services are located in Appendix F.

from other law enforcement operations. Thus, it is clear that even when laws are changed, law enforcement may not be fully equipped to take advantage of the new prohibitionist provisions.

### Germany

According to the German government, the Act Regulating the Legal Situation of Prostitutes (Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten) was intended to counteract legal discrimination against prostitutes and provide social protection, such as health insurance and unemployment assistance, while helping women to get out of prostitution (German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth 2010). In an attempt to follow through with this last goal, the German Ministry for Family Affairs started DIWA, a federal pilot project to “phase out” prostitution in 2011. The DIWA program targets prostitutes and provides them with vocational training and career transition assistance. The program is now available in Berlin, Nuremberg, and Freiburg, Germany (German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth 2011).

German news media depict differing views of the German Prostitution law. German newspapers such as the *Spiegel International Online* and *Welt* have published stories of companies using prostitution parties as a business incentive (Patalong 2011, Frundt 2011). Additionally, another German newspaper, *Der Tagesspiegel*, reported that one in three university students in Berlin would possibly use sex work to finance their studies (Stephan 2011). Similarly, *Deutsche Welle* reported that students may make up to \$4,300 a month in order to pay back debt and finance their studies (Graupner 2011). Stories such as these promote an image of prostitution as moving into mainstream, acceptable German society (Heinemann 2011).

Berlin’s Social Research Institute studied the effects of the German Prostitution Law in 2007 and found that the predicted positive and negative effects of the law did not manifest as originally assumed (Kavemann 2007: 14). To first determine if the Prostitution Act was effective, the Social Research Institute determined how many prostitutes actually knew about the law. Out of 305 prostitutes surveyed, 241 (79 percent) knew the Prostitution Act existed. Additionally, 63.5 percent knew they had a right to health insurance and 57.7 percent of prostitutes surveyed knew they could use social and pension insurance (Kavemann 2007: 15). According to the survey, 62 percent of prostitutes surveyed thought that the Prostitution Act was definitely a good thing, while 77 percent of brothel owners made the same claim. Only 7 percent of prostitutes thought the act was definitely unnecessary and 32 percent saw the act definitely or probably having an impact (Kavemann 2007: 16).

In terms of employment contracts and social insurance, which prostitutes in Germany can legally enter in, prostitutes commented that if they were officially recognized as prostitutes they could never have another job. Of the prostitutes surveyed, about 87 percent had health insurance, but a “disproportionate number of prostitutes who responded to the survey were insured in private health insurance companies rather than statutory health insurance” (Kavemann 2007: 19) In contrast, in the general German population, 89 percent have statutory insurance, while 9 percent have private insurance (Kavemann 2007: 19). Kavemann concluded that from 2002 to 2004, it was not possible to claim that the Prostitution Act provided a substantial amount of health and employment security. On the other hand, she noted that security might not be found in social security, but in improved working conditions and a reduction in negative stigmas (Kavemann 2007: 21). Although the Prostitution Act does not explicitly call for improved working conditions, doing so would greatly improve the situation of prostitutes (Kavemann 2007: 27).

In terms of the impact of the Prostitution Act on prosecutions, most public prosecution services (except one) and police stations (except five) surveyed or interviewed agreed the new Prostitution Act was better than the old version. The study noted that there were issues in implementing and regulating the Prostitution Act, which were due to lack of political will, lack of an implementation strategy, focus on employment relationships, lack of information, and the effect of stigmatization (Kavemann 2007: 30-33). In conclusion, programs to follow through with the intentions of the law, such as improving prostitute working conditions, de-stigmatizing prostitutes, and helping women get out of prostitution have not be implemented. Only isolated examples of government agencies implementing the intention of the act exist (Kavemann 2007: 34). Kavemann argues for several additions to the Prostitution Act in order for the law to successfully attain its intended goals. First, legislators would need to create certain prostitution restrictions, such as zoning laws as compatible with the Prostitution Act. Secondly, clear and explicit funding would be needed to create centers for prostitutes and especially for foreigners working in prostitution. Thirdly, a monitoring procedure to check on working conditions, along with examples for employment contracts, might further improve working conditions (Kavemann 2007: 35).

### **The Netherlands**

In 2000, when the Netherlands lifted the ban on brothels, the government wanted to de-stigmatize prostitutes while increasing measures aimed at preventing involuntary prostitution (Carrigg 2008). Because of this, federal and local government agencies took on the burden of regulating brothels and making sure licensing requirements have been fulfilled (Kavemann 2007: 37). The Dutch Association of Local Authorities and the Ministry of Justice and Internal Affairs sent



out a model for implementing the Dutch Act legalizing brothels and protecting prostitutes. From this model, advisory centers, self-help organizations, and exit programs have been developed to help prostitutes (Kavemann 2007: 37). In the Dutch Ministry of Security and Justice's Report on the Dutch Prostitution Policy, prostitutes interviewed noticed improved hygiene and working conditions overall in brothels. Prostitutes also are better protected because they can refuse clients, choose not to drink alcohol, and resist performing certain sexual acts. Prostitutes are also now more aware that violence and exploitation are illegal under the Dutch Act (Dutch Ministry of Security and Justice 2004). Furthermore, Dutch brothel owners and buyers form professional associations (Raymond 2004).

According to the 2002 Veldkamp opinion poll, two thirds of the Dutch population supported the government in making "prostitution a legal economic sector" and improving the position of prostitutes. The majority of people surveyed also noted that foreign prostitutes should have the same rights as other women (Bindel and Kelly 2003).

Although the Dutch Act has had successes, there have also been some less desirable effects. In some locations, local authorities have removed permits for street prostitution, which forced self-employed prostitutes into brothels and/or busy city centers. Because government agencies focused so heavily on licensed brothels, there is now a wider gap between legal and illegal prostitution sectors (Kavemann 2007: 38). There has been an explosion in the underground prostitution industry. It is estimated that only four percent of prostitutes in the Netherlands are registered and the rest are underground. Also, the working conditions of migrant sex workers have become even worse (Ministry of Security and Justice 2004). Because sex workers have to register with the police, some believe this puts them more at risk because it removes their anonymity (Barnett, Casavant and Hindle 2003, Bindel and Kelly 2003).

Bindel and Kelly (2003) note that over 50 percent of prostitutes in the Netherlands come from outside of Europe and 75 percent are thought to live in the Netherlands illegally. The Dutch prostitution policy seems to favor citizens of the European Union<sup>10</sup>, so non-citizens may be forced underground (Barnett, Casavant, and Hindle 2003). The legalization policy in the Netherlands has seemed to put people at higher risk for trafficking and forced prostitution (Carrigg 2008). While the number of legal brothels has been halved, it is not known whether the disappearance legal of brothels has occurred because they are going out of business or if the brothels are now operating

illegally (Norwegian Ministry of Justice 2004).

## **Sweden**

Sweden's prostitution law, which came into effect in 1999, allows for prostitutes to sell sex, but makes it illegal for sex to be purchased. The Swedish prostitution law focuses on ending prostitution, which is considered a form of violence against women (Barnett, Casavant, and Hindle 2003). Thus, even before the inception of the 1999 prostitution law, Sweden funded education, alternative employment, and other outreach programs in order to get women out of prostitution (Barnett, Casavant and Hindle 2003). When the law was put into effect, 782,000 euros were allotted to police districts for training and implementation of the law. There has been a reduction in street prostitution and in customers purchasing prostitution services. Scholars argue that Sweden's approach to prostitution has deterred traffickers (Bindel and Kelly 2003). Only about 500 women are trafficked into Sweden annually (Poulin 2005). Furthermore, Swedish men who buy prostitution outside of Sweden can be prosecuted by the Swedish government (Bindel and Kelly 2003). In general, the Swedish law is seen as very successful, especially in comparison to its neighbors (Waltman 2011).

According to the Swedish National Board of Health and Welfare's third report on prostitution in Sweden, out of seventeen police authorities surveyed, five stated that they know of people that have purchased sexual services, seven stated they believe people have purchased sexual services, and two said there was no known incidence in their district (Eriksson and Gavanoas 2007). Most police authorities are unsure if the quantity of purchasing has decreased. Police authorities also stated that there need to be tougher penalties for the purchase of sex, as well as the provision of additional financial resources for training officers to recognize trafficking and prevent purchasing: "They believe there is too much focus on victims and that more attention needs to be paid to the perpetrators" (Eriksson and Gavanoas 2007: 23). Authorities also need more training on how to work with prostitute support centers (Eriksson and Gavanoas 2007).

Researchers at the Stockholm Prostitution Centre claim that prostitution initially disappeared in Sweden after the enactment of the prostitution law and then gradually came back to a lesser extent. In 2005, there were supposedly 200 prostitutes in Stockholm and only 150 in 2006 (Eriksson and Gavanoas 2007). In Malmo, Sweden, there were 130 sellers of sexual services in 2000 and only 66 in 2006. In such, it seems that the total number of prostitutes has decreased every year since the enactment of the Swedish Prostitution law. In contrast, it seems as though online prostitution is on the rise. Instead of buyers seeking services on the street, in brothels or through

escort services, men now look for prostitutes in online adult advertisements (Eriksson and Gavanoas 2007).

Just because street prostitution has declined does not mean that prostitution has been reduced overall. Information on indoor prostitution is limited (Dodillet and Ostergren 2011). However, one prostitute interviewed during the 2007 Swedish study claimed that the number of buyers has barely changed (Eriksson and Gavanoas 2007). The intended effect of the law was to reduce the stigma and number of women in prostitution, while also protecting people in forced prostitution. Although we do know that the number of prostitutes declined right after the law was enacted, we do not know if the amount of prostitution has declined because of the law itself or because prostitutes have gone underground and thus less prostitution is recorded. It is apparent that unintended effects of the law, such as clients being less willing to report incidents of trafficking and prostitutes being less visible to support centers, have become more urgent problems (Norwegian Ministry of Justice 2004). Prostitutes still have difficulty being heard in public forums and stigmas still exist (Eriksson and Gavanoas 2007).

The Swedish law is said to have a normative effect on the general population. In general, the law has caused the general population to become more accepting of sex work. According to the Swedish Board of Youth Affairs, four out of ten youth believed it was acceptable for people to have sex for money if both parties consent. Also, 11.4 percent of the 20,000 boys and girls surveyed said they knew someone who had sex for money;

Therefore the proportion who actually sold sex may be closer to 10 percent than 2 percent. In relation to the claims made by the official evaluation, several of the respondents point out that these figures must be interpreted as a liberal attitude to prostitution, not the other way around. (Dodillet and Ostergen 2011: 18).

Discrepancies between perceived and actual numbers are difficult to reconcile because prostitution is hidden and has become increasingly more hidden in Sweden. To effectively determine if legislation has changed prostitution practices it is important to consider multiple sources of data collected by national interests and international groups.

## IV. Conclusion

Throughout our study of prostitution in Germany, the Netherlands, Sweden and the United States, we have examined decriminalization-based, legalization-based, and prohibition-based approaches to prostitution. As a whole, there is no one legal approach to prostitution that is clearly more effective than the others. For example, in a Swedish study on the effects of the changing

prostitution laws in Sweden there was no causal connection found between legislation and changes in prostitution (Eriksson and Gavanas 2007: 46). In realizing this, reworking the prohibitionist goal of using law as a deterrent may be attainable, although with reforms to the theory of deterrence.

Limits to the legal approaches to prostitution, as well as issues with scholarly objectivity only add to the difficulty of identifying appropriate approaches to prostitution. As with most social phenomena, the law has limits. On a basic level, law is a regulatory and symbolic function. Thus, law governs social interactions and sets standards for social behavior, while representing a collective identity (Claes, Devroe and Keirsbilck 2009: 4-6). The regulatory function of law is limited in modern society. The law has a limited capacity to monitor social interactions effectively (Claes, Devroe and Keirsbilck 2009: 5). Additionally, the law's symbolic function is becoming more limited because norms do not always have a collective meaning in our globalizing world (Claes, Devroe and Keirsbilck 2009: 16-17). With these diminishing functions to traditional law, non-legal solutions may be key to bettering the status of prostitutes and reducing prostitution as a whole.

### **The Question of Objectivity**

Although there are many individuals and organizations that research prostitution, the reliability and validity of this body of research is questionable. Researchers have different ideological reasons for researching prostitution and these ideological frameworks may exert considerable influence on published research findings. Even where research is intended to be objective, it may move towards subjectivity in its conclusions.

According to sociologist Howard Becker:

When sociologists undertake to study problems that have relevance to the world we live in, they find themselves caught in a crossfire. Some urge them not to take sides, to be neutral and do research that is technically correct and value free. Others tell them their work is shallow and useless if it does not express a deep commitment to a value position (Becker 1967: 239).

Researchers may be accused of political bias when their research shows evidence that a subordinate group is in conflict with a superordinate group within a hierarchal relationship (Becker 1967: 240). For our purposes, prostitutes are the subordinate group who are in conflict with law enforcement and government entities, which are the superordinate group. Researchers are accused of political bias when they focus on the plight of the subordinate in the hierarchal relationship (Becker 1967: 241). The superordinate may accuse researchers of bias when their analysis questions authority. On the other hand, representatives of subordinate groups might accuse researchers of bias when research questions these representatives (Becker 1967: 247). On the

whole, it seems that there can be “no balanced picture until we have studied all of society simultaneously” (Becker 1967: 247). Becker concludes that this is unlikely to happen (Becker 1967: 247). Although accusations of bias may be unavoidable, Becker argues that researchers should focus on topics that interest them, use theoretical and technical resources to avoid distortions of findings, and make conclusions carefully (Becker 1967: 247).

Similarly, in Max Weber’s 1918 lecture, “Science as a Vocation,” Weber claims that science cannot be free of presuppositions. Although reason and logic may be free from presuppositions, what science deems is worthy of knowing about is not. Science is not able to answer how we should live, but only can give results of specific research (Weber 1946: 143). In the area of jurisprudence, science cannot answer whether there should be a law about something, but only can speak on existing and actual legal principles (Weber 1946: 144). Thus, in disciplines such as sociology, which interpret science and deal with politics, “one does not hide one’s personal standpoint; indeed to come out clearly and make a stand is one’s damned duty” (Weber 1946: 145). For our purposes, this standpoint shows that sociological research may always be susceptible to bias. However in realizing this, greater emphasis needs to be put on developing research methods that carefully examine the political and social implications of specific conclusions.

### **Reworking Deterrence Theory**

Deterrence traditionally focuses on the seriousness of sanctions (Kennedy 2009: 31). The basic “consequences of apprehension for criminal behavior” include (1) economic deprivation, (2) loss of privilege, (3) institution confinement, (4) physical pain or death, and (5) social stigmatization (Kennedy 2009: 31). These consequences may be formal (government) sanctions or informal (social) sanctions. There is little evidence that formal sanctions actually work to deter criminal offending (Kennedy 2009: 34). On the other hand, there is strong evidence supporting the power of informal sanctions (Kennedy 2009: 38). Feelings of shame, embarrassment, social disapproval and loss of respect from peers deters offenders from reoffending or offending in the first place (Kennedy 2009: 38). Informal sanctions work when the offender is invested in social capital and has committed time to social relationships (Kennedy 2009: 39). Offenders who do not have strong social ties to society have less to lose by offending.

In conclusion, according to Kennedy, the traditional framework of deterrence needs to be reworked. There is reason to believe that deterrence matters, but formal sanctions may not deter offending as much as we would like to believe. Arrest and sentencing are not the key to formal deterrence, but simple discovery by authorities or informal figures (Kennedy 2009: 40). The

notions of certainty and severity also need to be reworked. The criminal justice system lacks certainty. Many crimes are left undiscovered by law enforcement or authorities simply ignore crimes (Kennedy 2009: 54). Additionally, the severity of a sanction is not nearly as important of an element of deterrence as many people believe. Sometimes probation can mean more to an offender than a prison sentence (Kennedy 2009: 41). Basically, the severity of a sanction differs from person to person (Kennedy 2009: 41). According to Mark R. E. Kleiman, in his book *When Brute Force Fails*, severity is actually the enemy of certainty and swiftness. A more severe punishment, such as a longer sentence, will be more fiercely fought by an offender in trial, which then slows the criminal justice process (reducing swiftness) and makes punishment less certain (Kleiman 2009: 95). Increasing the probability of punishment (certainty) by making punishments less severe and punishing more offenders for shorter amounts of time may increase the deterrent effect (Kleiman 2009: 95).

The criminal justice system needs to begin emphasizing the role of information and communication with potential offenders (Kennedy 2009: 41). Direct communication with repeat offenders as well as with potential offenders about future punishment has been shown to reduce amounts of offending (Kleiman 2009: 107-108). When potential offenders know what will happen if they engage in criminal behavior, the law will have more of a deterrent effect. Additionally, if the criminal justice system begins to view deterrence theory in context of the group (collectivities), the deterrent effect of laws may be even greater (Kennedy 2009: 75).

### **Deterrence in the Context of Prostitution in the United States**

Throughout our study of prostitution laws and the subsequent effects of these laws, there has been little evidence that legislation alone impacts the amount of prostitution (the number of clients and working prostitutes). Kennedy's analysis of the concept of deterrence confirms that laws by themselves do not greatly add to the deterrence effect. In Rhode Island, it is unknown if the amount of prostitution has declined because of the criminalization of indoor prostitution in 2009, but we do know the number of arrests has not changed greatly. Thus, we can conclude that legal approaches to prostitution are not even influencing law enforcement to increase the pressure of formal sanctions in order to deter prostitution. The certainty and possible swiftness of punishment cannot be in effect without law enforcement action. This lack of action on the part of law enforcement reduces the probability of deterrence having any effect of the behavior of prostitutes or johns. Given the limits of legal deterrence in the case of prostitution, more may be accomplished by providing social services to prostitutes and educating law enforcement about the issues underlying prostitution.

## **Programs for Women in Prostitution**

There are several organizations and programs dedicated to helping women in prostitution, but improvements still need to be made. These women need more support and assistance in order to exit prostitution and find more rewarding lives. Many non-profit organizations are committed to helping prostitutes, but very few government entities have committed themselves to doing so. If organizations receive more funding to operate programs, the United States may need to spend less money on introducing prostitutes to the criminal justice system. In realizing that legal solutions to prostitution may be ineffective, especially under the traditional theory of deterrence, programs to help prostitutes may be a non-legal way to approach prostitution.

Below, we will examine programs that have had some measured success in several American communities. Although programs will vary based on location, the programs discussed below can help government entities and non-profit organizations build programs of their own in order to eliminate prostitution or simply better the lives of prostitutes.

Project R.E.N.E.W. (Revitalizing and Engaging Neighborhoods by Empowering Women) is a collaborative initiative to reduce prostitution in Pawtucket and Central Falls, specifically around the Barton Street Area (Pawtucket Citizens Development Corporation 2009). The project provides services, such as substance abuse treatment, employment training, and direct street outreach in order to remove prostitutes from the street. The program claims that in the Barton Street area, there has been an eighty percent reduction in prostitution (Horton 2009:7).

Twenty-one women were surveyed by Project R.E.N.E.W. in 2007 in order to gain a better view of what influences participation in prostitution. Though the small sample size means the findings may not be representative of the larger population of women who engage in prostitution, the results still illustrate many of the concerns important to programs seeking to help women leave prostitution. Ninety-five percent of the women surveyed had used drugs in the past year. Seventy-nine percent of these women wanted to quit using drugs. Seventy percent were homeless in the past year and eighty percent had children (Horton 2009:7). Many of the women surveyed were abused before they entered prostitution. In general, these women were extremely poor, plagued by drug use, and remained stuck in a life of prostitution (Horton 2009:7). Fifty-five percent of the women had been arrested for prostitution, an experience that leaves them with even less opportunity to get out: a criminal record can cause discrimination in housing, employment, and education (Horton 2009:8). In contrast, men who bought prostitutes were rarely arrested and were even less likely to be imprisoned, even though the prostitutes studied said they saw an average of

six men per day (Horton 2009:8).

In Arizona, DIGNITY House (Developing Individual Growth and New Independence Through Yourself) provides extensive services to women and girls who are working as prostitutes (Catholic Charities Community Services Arizona 2011). The first component of DIGNITY is their diversion program. The City of Phoenix and DIGNITY pinpoint women who have been arrested for prostitution and who can benefit from diversionary services. These women participate in self-exploration education, which helps build self-esteem by providing support and treatment. Job training and job placement are also provided. The women who finish the diversion program have their charges dismissed (Catholic Charities Community Services Arizona 2011). Eighty-nine percent of women who completed the program did not reoffend. The second component of DIGNITY is street outreach, which provides information, food, clothing, hygiene products, and other resources to women engaged in prostitution (Catholic Charities Community Services Arizona 2011). The DIGNITY House also offers a year-long residential program to women who are prostitutes. This program offers emotional support, counseling, substance abuse treatment, education, and life-skills building. Ninety-three percent of the women who complete the residential program do not reoffend.

The programs discussed above provide examples of how social services, coupled with less severe sanctions, can influence the extent of prostitution in a local area. At the DIGNITY House program in Arizona, the connection between the City of Phoenix and the Catholic Charities Community Services organization was essential to the reduction of women in prostitution. Without one side doing their part, the entire program would have fallen apart. Programs like DIGNITY House give prostituted women the chance to connect to a group and have the social capital necessary for deterrence. The United States' tough stance on prostitution does not necessarily change the amount of prostitution. Women who engage in prostitution are lacking sufficient housing, healthcare, employment, and job training, and they often have issues with drugs. Women in these situations need to feel wanted and valuable to society and social service programs may offer a place for prostituted women to develop into individuals outside of prostitution.

In Rhode Island, we know about a small portion of the women who currently engage in prostitution, but there is much to be discovered. From personally viewing prostitution cases that have been brought through Rhode Island courts, it seems that a considerable portion of the women



who prostitute are persistent recidivists.<sup>11</sup> Instead of these women simply being run through the criminal justice system with fines or jail time, there could be a great reduction in repeat offenses if women who engage in prostitution were introduced to alternatives through social services such as those discussed above.

Women do not enter prostitution because they have a career aspiration to sell sex, but rather they do so out of economic necessity. Stronger community support for prostitutes through social services and diversionary programs, as well programs of community sanctions for the men who buy prostitution, could help reduce the extent of prostitution in local communities while simultaneously making trafficking victims more visible and thus more able to receive help. Lastly, instead of focusing anti-prostitution efforts at the federal and state level, focusing on the creation of legislation and service programs at the local, municipal level may also help in reducing prostitution. A one-size fits all approach to prostitution law may restrict what localities can do to reduce prostitution. A focus on localizing efforts to combat prostitution may have better results because local residents have a better idea of what their neighborhoods need in order to reduce prostitution. If local residents are invested in the issue, there may be actual results.

### **Approaches for Deterring Men Who Contribute to the Prostitution Industry**

Apart from the women who engage in prostitution, more needs to be done to stop men from buying prostitutes. It seems as though Rhode Island may be starting to take this idea seriously, given Attorney General Kilmartin's Dear John letter (Smith 2011). By both informally sanctioning and assuring formal sanctions for men who buy prostitution, legal deterrence is more likely to work. If men did not buy sex, there would be no reason for most women to enter into prostitution. Law enforcement needs to focus more on identifying johns and implementing informal sanctions. The use of reintegrative shaming may be key in deterring men from buying prostitutes. Shame is embedded in the concept of the self and the view others have of oneself plays into the essence of one's identity (Karp 1998: 279). Shame penalties work by making an offender aware that external moral codes were violated (Karp 1998: 280). Thus, offenders who are subject to shaming will feel that their social bonds are threatened and more likely to make noncriminal decisions in the future (Karp 1998: 280). Some examples of shaming that have the potential to work in reducing the purchasing of prostitution services are publishing names of men arrested for solicitation in the newspaper or posting identities online, as well as having them participate in programs which

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<sup>11</sup> Prostitution cases were viewed using the Banner database. These cases do not represent all the cases that have been introduced into Rhode Island courts, but give an idea of what type of women offend and how often they offend current prostitution laws.

inform them about the issues of prostitution and their own role in contributing to this issue. Advertising the role johns play into prostitution on billboards, in newspapers, and in schools may also reduce the number of men who decide to buy a prostitute. Instead of simply using the fear of the law to impact the amount of men who buy prostitutes, fear of embarrassment, shame, and social disapproval can be used to reduce the amount of men seeking prostitutes. Men buying prostitutes do not necessarily need harsher punishments, but need to be more vulnerable to community exposure.

An investigation into various approaches to responding to prostitution has shown that there is no one clearly effective model for reducing the prevalence of prostitution. However, new approaches to deterrence theory do provide suggestions for how jurisdictions might recast their prostitution-reduction efforts in the United States. A focus on informal sanctions may reduce both the number of prostitutes who sell sex and the number of men who buy sex. A focus on informing the public about what will happen to someone who engages in any stage of the sex trade, whether buying, selling, or pimping, will also add to the deterrent effect—as it is, after all, hard to be deterred from a practice if unaware of the potential sanctions. Law enforcement agencies also need to develop more positive avenues of communication with prostitutes in order to prevent the abuse of prostitutes. As long as punishment of prostitutes remains more likely than punishment of traffickers, pimps, and men who purchase prostitution, prostitutes will be unlikely to come forward to aid in the investigation and prosecution of such criminals.

### **Suggestions for Future Research**

In order to better serve women in prostitution, there needs to be better research in the area of sex work. Research is too often subject to the bias of differing political and social ideologies (Weitzer 2010: 20). Sampling procedures in research are often invisible (Weitzer 2010: 20). Assumptions and generalizations are made across different types of sex work (Weitzer 2010: 18). Research done by advocacy groups to forward policy objectives does little to create a true view of prostitution (Weitzer 2010: 18). Prostitution research should focus on collecting empirical data on the effects of differing approaches to prostitution. Research should also involve larger samples of prostitutes. With a larger sample, there is less room for sampling error, and it may be easier to detect instances of bias. Although random sampling is impossible, prostitution research should include rigorous and impartial interviews of sex workers in differing geographic locations (Weitzer 2010: 19). This will allow researchers to compare the effects of prostitution on sex workers on a larger, more random scale. Lastly, research should use control groups made up of non-prostitutes in order to compare experiences thoroughly (Weitzer 2010: 20).

Although all of these proposed solutions may work to reduce the amount of prostitution in Rhode Island and throughout the United States, these recommendations may be difficult to pursue without a change in America's view of the law as a moral policeman. Law is often based on moral values and there are rarely simple solutions to moral questions (Wacks 2008: 74). Sometimes law coincides with morals and sometimes the law prohibits actions, which are not considered immoral (Wacks 2008: 68). However, sometimes the law needs to step away from moral values and work towards what is best for society. Despite criminalizing prostitution in the United States from the view that prostitution is inherently bad, prostitution still exists. By changing laws and possibly turning away from full prohibition, reductions in prostitution may be possible. Instead of focusing on our moral stance on prostitution, policy should focus on how to effectively reduce the practice.

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## Appendices

### **Appendix A: The Act Regulating the Legal Situation of Prostitutes**

*(Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten)*

As Translated by Rhode Island College Professor Darek Niklas

§ 1 When sexual services have been provided for a previously agreed remuneration, the payment is a legally valid claim. This applies also to a person who is ready to provide such paid services for a specific period of time, especially under an employment contract.

§ 2 The claim cannot be transferred and is valid only in one's own name. The claim from § 1 first sentence can be legally pursued only in case of complete non-fulfillment, the one from the second sentence also in case of partial non-fulfillment, concerning the period of time that was agreed upon. Except for the provisions of § 362 of the Civil Code and the issue of expiration any other considerations and circumstances are excluded.

§ 3 In the case of a prostitute the limited managerial authority related to the job performance does not limit the right to benefits from gainful employment.

## **Appendix B: Dutch Criminal Code: (1) 250 repeals; (2)250a addition**

### (1) Article 250 (REPEALED)

1. Any person who intentionally causes or encourages his minor child, foster child or adopted child, his ward, a minor entrusted to him for care, education or supervision, or a servant or subordinate who is a minor, to commit an indecent act with another person, shall be liable to a term of imprisonment not exceeding four years or a fourth-category fine.
2. Any person who intentionally causes or encourages a minor whom he knows or may reasonably be expected to know to be a minor to commit an indecent act with another person, other than in the cases defined at 1, shall be liable to a term of imprisonment not exceeding three years or a fourth-category fine.
3. If the offender has made a habit of committing the indictable offence, the terms of imprisonment may be increased by one third.

### Article 250a

1. Guilty of traffic in men shall be liable to a term of imprisonment not exceeding six years or a fifth category fine:

1. any person who, by means of violence or other means, or threat of violence or other means, or by misusing authority or influence derived from the actual state or affairs, or by means of deception brings another person to prostitution, or takes steps under aforementioned conditions whom he knows or may reasonably be expected to know that that person comes in the prostitution;
2. any person who recruits, takes or kidnaps a person with the aim to bring that person in another country in the prostitution;
3. any person who brings another person in the prostitution or acts with regard to a person whom he knows or may reasonably be expected to know that that person comes in the prostitution, if that person is a minor.

2. Liable to a term of imprisonment not exceeding eight years or a fifth-category fine shall be:

1. traffic in men by two or more combined persons;
2. traffic in men with regard to a person under the age of sixteen;
2. traffic in men, if violence or other means, described in paragraph 1, causes grievous bodily harm.
4. Traffic in men by two or more combined persons under the conditions, described in paragraph 2, sub 2. and 3., shall liable to a term of imprisonment not exceeding ten years or a fifth-category fine.

### (2) New Article 250a (unofficial translation)

#### Section 1

Any person who:

1. by force or some other physical act, by threats of violence or of any other physical act, by misuse of authority arising from the actual state of affairs or by deception, induces another person to make him/herself available for the performance of sexual acts with a third party for remuneration or, under the said circumstances, takes any action which he or she knows or may reasonably be expected to know will result in that other person's making him/herself available for performing those acts;
2. recruits, takes with him or her or abducts a person with a view to inducing that person to make him/herself available for performing sexual acts with a third party for remuneration in another country;

3. induces another person to make him/herself available for performing sexual acts with a third party for remuneration or takes any action which he or she knows or may reasonably be expected to know will result in that other person making him/herself available for performing those acts when the other person is a minor;
4. willfully profits from sexual acts of another person with a third party for remuneration, while he or she knows or must reasonably assume that that other person is making him/herself available for performing those acts under the circumstances referred to in para. 1;
5. willfully profits from sexual acts of another person with a third party for a remuneration, if the other person is a minor;
6. forces another person by violence or some other physical act or threat of violence or other physical act or by misuse of authority arising from the actual state of affairs or by deception to benefit him or her from the proceeds of his or her sexual acts with a third party. shall be guilty of trafficking in persons and as such liable to a term of imprisonment not exceeding six years and a fifth category fine, or either of these penalties.

#### Section 2

The following offenses shall be punishable with a term of imprisonment not exceeding eight years and a fifth category fine or either of these penalties:

1. trafficking in persons by two or more persons acting in concert;
2. trafficking in persons in respect of a person who is under the age of sixteen;
3. trafficking in persons if force or some other physical act as referred to in paragraph 1 results in serious physical injury.

#### Section 3

Trafficking in persons by two or more persons acting in concert under the circumstances referred to in section 2, para. 2 or 3, shall be punishable by a term of imprisonment not exceeding ten years and a fifth category fine or either of these penalties.

## **Appendix C: The Swedish Law Prohibiting the Purchase of Sexual Services**

### **(Chapter 6)**

#### Section 1

A person who by assault or otherwise by violence or by threat of a criminal act forces another person to have sexual intercourse or to undertake or endure another sexual act that, having regard to the nature of the violation and the circumstances in general, is comparable to sexual intercourse, shall be sentenced for rape to imprisonment for at least two and at most six years.

This shall also apply if a person engages with another person in sexual intercourse or in a sexual act which under the first paragraph is comparable to sexual intercourse by improperly exploiting that the person, due to unconsciousness, sleep, intoxication or other drug influence, illness, physical injury or mental disturbance, or otherwise in view of the circumstances in general, is in a helpless state.

If, in view of the circumstances associated with the crime, a crime provided for in the first or second paragraph is considered less aggravated, a sentence to imprisonment for at most four years shall be imposed for rape.

If a crime provided for in the first or second paragraph is considered gross, a sentence to imprisonment for at least four and at most ten years shall be imposed for gross rape. In assessing whether the crime is gross, special consideration shall be given to whether the violence or threat was of a particularly serious nature or whether more than one person assaulted the victim or in any other way took part in the assault or whether the perpetrator having regard to the method used or otherwise exhibited particular ruthlessness or brutality.

#### Section 2

A person who, otherwise than as provided in Section 1 first paragraph, induces another person by unlawful coercion to undertake or endure a sexual act, shall be sentenced for sexual coercion to imprisonment for at most two years.

This shall also apply to a person who carries out a sexual act other than provided for in Section 1 second paragraph with a person, under the conditions otherwise specified in that paragraph.

If a crime provided for in the first or second paragraph is considered gross, a sentence to imprisonment for at least six months and at most six years shall be imposed for gross sexual coercion. In assessing whether the crime is gross, special consideration shall be given to whether more than one person assaulted the victim or in any other way took part in the assault or whether the perpetrator otherwise exhibited particular ruthlessness or brutality.

#### Section 3

A person who induces another person to undertake or endure a sexual act by serious abuse of that person's position of dependency on the perpetrator shall be sentenced for sexual exploitation of a person in a position of dependency to imprisonment for at most two years.

If the offence is gross, a sentence to imprisonment for at least six months and at most four years shall be imposed for gross sexual exploitation of a person in a position of dependency. In assessing whether the crime is gross, special consideration shall be given to whether more than one person assaulted the victim or in any other way took part in the assault or whether the perpetrator otherwise exhibited particular ruthlessness.

#### Section 4

A person who has sexual intercourse with a child under fifteen years of age or who with such a child carries out another sexual act that, having regard to the nature of the violation and the circumstances in general, is comparable to sexual intercourse, shall be sentenced for rape of a child to imprisonment for at least two and at most six years.

This also applies to a person who commits an act provided for in the first paragraph against a child who has attained the age of fifteen but not eighteen and who is the perpetrator's offspring, or is being brought up by or has a comparable relationship with the perpetrator, or for whose care or supervision the perpetrator is responsible by decision of a public authority.

If a crime provided for in the first or second paragraph is considered gross, a sentence to imprisonment for at least four and at most ten years shall be imposed for gross rape of a child. In assessing whether the crime is gross, special consideration shall be given to whether the perpetrator used violence or threat of a criminal act or whether more than one person assaulted the child or in any other way took part in the assault or whether the perpetrator having regard to the method used or the child's young age or otherwise exhibited particular ruthlessness or brutality.

#### Section 5

If, in view of the circumstances associated with the crime, a crime provided for in Section 4 first or second paragraph is considered less serious, a sentence to imprisonment for at most four years shall be imposed for sexual exploitation of a child.

#### Section 6

A person who carries out a sexual act other than provided for in Sections 4 and 5 with a child under fifteen years of age, or with a child who has attained the age of fifteen but not eighteen and for whom the perpetrator is responsible as provided for in Section 4 second paragraph, shall be sentenced for sexual abuse of a child to imprisonment for at most two years.

If the offence is gross, a sentence to imprisonment for at least six months and at most six years shall be imposed for gross sexual abuse of a child. In assessing whether the crime is gross, special consideration shall be given to whether more than one person assaulted the victim or in any other way took part in the assault or whether the perpetrator having regard to the method used or the child's young age or otherwise exhibited particular ruthlessness or brutality.

#### Section 7

A person who, otherwise than as previously provided in this Chapter, has sexual intercourse with his or her own child or its offspring, shall be sentenced for sexual intercourse with an offspring to imprisonment for at most two years.

A person who, otherwise than as previously provided in this Chapter, has sexual intercourse with a full blood sibling shall be sentenced for sexual intercourse with a sibling to imprisonment for at most one year.

The provisions of this Section do not apply to a person who has been made to commit the act by unlawful coercion or other improper means.

#### Section 8

A person who promotes or exploits performance or participation in sexual posing by a child under fifteen years of age shall be sentenced for exploitation of a child for sexual posing to a fine or imprisonment for at most two years.

This also applies to a person who commits such an act against a child who has attained the age of fifteen but not eighteen if the posing is by its nature likely to damage the child's health or development.

If the offence is gross, a sentence to imprisonment for at least six months and at most six years shall be imposed for gross exploitation of a child for sexual posing. In assessing whether the crime is gross, special consideration shall be given to whether the crime has concerned a large-scale activity, brought significant financial gain or involved ruthless exploitation of the child.

#### Section 9

A person who, otherwise than as previously provided in this Chapter, induces a child under eighteen years of age to undertake or endure a sexual act in return for payment, shall be sentenced for purchase of a sexual act from a child to a fine or imprisonment for at most two years. The provision of the first paragraph also apply if the payment was promised or given by another person.

#### Section 10

A person who, otherwise than as previously provided in this Chapter, sexually touches a child under fifteen years of age or induces the child to undertake or participate in an act with sexual implications, shall be sentenced for sexual molestation to a fine or imprisonment for at most two years.

This also applies to a person who exposes himself or herself to another person in a manner that is likely to cause discomfort, or who otherwise by word or deed molests a person in a way that is likely to violate that person's sexual integrity.

#### Section 11

A person who, otherwise than as previously provided in this Chapter, obtains a casual sexual relation in return for payment, shall be sentenced for purchase of sexual service to a fine or imprisonment for at most six months.

The provision of the first paragraph also apply if the payment was promised or given by another person.

#### Section 12

A person who promotes or improperly financially exploits a person's engagement in casual sexual relations in return for payment shall be sentenced for procuring to imprisonment for at most four years.

If a person who, holding the right to the use of premises, has granted the right to use them to another, subsequently learns that the premises are wholly or to a substantial extent used for casual sexual relations in return for payment and omits to do what can reasonably be requested to terminate the granted right, he or she shall, if the activity continues or is resumed at the premises,



be considered to have promoted the activity and shall be held criminally responsible in accordance with the first paragraph.

If a crime provided for in the first or second paragraph is considered gross, imprisonment for at least two and at most eight years shall be imposed for gross procuring. In assessing whether the crime is gross, special consideration shall be given to whether the crime has concerned a large-scale activity, brought significant financial gain or involved ruthless exploitation of another person.

#### Section 13

Criminal responsibility as provided for in this Chapter for an act committed against someone under a given age shall also be required of a perpetrator who did not realize, but had reasonable grounds for assuming, that the other person had not attained that age.

#### Section 14

A person who has committed an act under Section 5 or Section 6 first paragraph against a child under fifteen years of age or under Section 8 first paragraph or Section 10 first paragraph shall not be held criminally responsible if it is obvious that the act did not involve any abuse of the child in view of the slight difference in age and development between the person who committed the act and the child and the circumstances in general.

#### Section 15

An attempt to commit rape, gross rape, sexual coercion, gross sexual coercion, sexual exploitation of a person in a position of dependency, gross sexual exploitation of a person in a position of dependency, rape of a child, gross rape of a child, sexual exploitation of a child, sexual abuse of a child, gross sexual abuse of a child, exploitation of a child for sexual posing, gross exploitation of a child for sexual posing, purchase of a sexual act from a child, purchase of sexual service, procuring and gross procuring shall be dealt with in accordance with the provisions of Chapter 23.

This also applies to preparation for and conspiracy to commit rape, gross rape, rape of a child, gross rape of a child, gross exploitation of a child for sexual posing and gross procuring together with failure to reveal such a crime

## **Appendix D: Nevada Codes Relating to Prostitution**

**NRS 269.173 Application for license, certificate or permit must include social security number of applicant. [Effective until the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]** An application for the issuance of a license, permit or certificate to practice a profession or occupation pursuant to NRS 269.170 must include the social security number of the applicant.

(Added to NRS by 1997, 2045)

**NRS 269.175 Power to license, regulate or suppress certain businesses.** Except as otherwise provided in NRS 576.128, the boards of county commissioners may in any unincorporated town in their respective counties license, tax, regulate, prohibit and suppress all tippling houses, dramshops, public card tables, raffles, hawkers, peddlers, pawnbrokers, gambling houses, disorderly houses and houses of ill fame.

[Part 1:48:1881; A 1889, 43; 1903, 55; 1919, 408; 1943, 65; 1951, 455]—(NRS A 1985, 265; 1997, 3172)

**NRS 269.180 Issuance of licenses: Terms and amounts.** The boards of county commissioners may in any unincorporated town in their respective counties provide by ordinance for the issuance of all licenses mentioned in this chapter or authorized to be issued, and fix the terms and sums for licenses.

[Part 1:48:1881; A 1889, 43; 1903, 55; 1919, 408; 1943, 65; 1951, 455]—(NRS A 1985, 265)

**NRS 269.182 Pawnbrokers: Licensing; additional license required if motor vehicles accepted as collateral; fee.**

1. If the town board or board of county commissioners requires a license to engage in business as a pawnbroker in an unincorporated town, it shall also require an additional license if the pawnbroker accepts motor vehicles as pledged property or in any other manner allows the use of a motor vehicle as collateral for a loan. A license authorizing a pawnbroker to accept motor vehicles as pledged property must not be issued to a person who does not have a license to engage in business as a pawnbroker.

2. The board shall charge and collect an additional fee of not more than \$500 for each license authorizing a pawnbroker to accept motor vehicles as pledged property, and shall issue the license upon payment of the prescribed fee.

(Added to NRS by 1993, 2324)

**NRS 201.295 Definitions.** As used in NRS 201.295 to 201.440, inclusive, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.

2. "Child" means a person less than 18 years of age.

3. "Prostitute" means a male or female person who for a fee engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

4. "Prostitution" means engaging in sexual conduct for a fee.

5. "Sexual conduct" means any of the acts enumerated in subsection 3.

(Added to NRS by 1979, 302; A 1987, 2028; 1997, 295; 2009, 575)

**NRS 201.300 Pandering: Definition; penalties; exception.**

1. A person who:

(a) Induces, persuades, encourages, inveigles, entices or compels a person to become a prostitute or to continue to engage in prostitution;

(b) By threats, violence or by any device or scheme, causes, induces, persuades, encourages, takes, places, harbors, inveigles or entices a person to become an inmate of a house of prostitution or assignation place, or any place where prostitution is practiced, encouraged or allowed;

(c) By threats, violence, or by any device or scheme, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, or having legal charge, takes, places, harbors, inveigles, entices, persuades, encourages or procures a person to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution;

(d) By promises, threats, violence, or by any device or scheme, by fraud or artifice, by duress of person or goods, or abuse of any position of confidence or authority or having legal charge, takes, places, harbors, inveigles, entices, persuades, encourages or procures a person of previous chaste character to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of sexual intercourse;

(e) Takes or detains a person with the intent to compel the person by force, threats, menace or duress to marry him or her or any other person; or

(f) Receives, gives or agrees to receive or give any money or thing of value for procuring or attempting to procure a person to become a prostitute or to come into this state or leave this state for the purpose of prostitution,

È is guilty of pandering.

2. A person who is found guilty of pandering:

(a) An adult:

(1) If physical force or the immediate threat of physical force is used upon the adult, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(2) If no physical force or immediate threat of physical force is used upon the adult, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) A child:

(1) If physical force or the immediate threat of physical force is used upon the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$20,000.

(2) If no physical force or immediate threat of physical force is used upon the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.

3. This section does not apply to the customer of a prostitute.

[1:233:1913; 1919 RL p. 3379; NCL § 10537]—(NRS A 1959, 7; 1967, 477; 1977, 1054; 1979, 1430; 1995, 1201; 1997, 295)

**NRS 201.310 Pandering: Placing spouse in brothel; penalties.**

1. A person who by force, fraud, intimidation or threats, places, or procures any other person to place, his or her spouse in a house of prostitution or compels his or her spouse to lead a life of prostitution is guilty of pandering and shall be punished:

(a) Where physical force or the immediate threat of physical force is used upon the spouse, for a category C felony as provided in NRS 193.130.

(b) Where no physical force or immediate threat of physical force is used, for a category D felony as provided in [NRS 193.130](#).

2. Upon the trial of any offense mentioned in this section, either spouse is a competent witness for or against the other spouse, with or without the other's consent, and may be compelled so to testify. [2:233:1913; 1919 RL p. 3380; NCL § 10538]—(NRS A 1967, 478; 1979, 302, 1431; 1995, 1202)

**NRS 201.320 Living from earnings of prostitute; penalty.**

1. A person who knowingly accepts, receives, levies or appropriates any money or other valuable thing, without consideration, from the proceeds of any prostitute, is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#).

2. Any such acceptance, receipt, levy or appropriation of money or valuable thing upon any proceedings or trial for violation of this section, is presumptive evidence of lack of consideration. [3:233:1913; 1919 RL p. 3380; NCL § 10539]—(NRS A 1967, 478; 1979, 303; 1995, 1202)

**NRS 201.330 Pandering: Detaining person in brothel because of debt; penalties.**

1. A person who attempts to detain another person in a disorderly house or house of prostitution because of any debt or debts the other person has contracted or is said to have contracted while living in the house is guilty of pandering.

2. A person who is found guilty of pandering:

(a) An adult:

(1) If physical force or the immediate threat of physical force is used upon the adult, is guilty of a category C felony and shall be punished as provided in [NRS 193.130](#).

(2) If no physical force or immediate threat of physical force is used upon the adult, is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#).

(b) A child:

(1) If physical force or the immediate threat of physical force is used upon the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$20,000.

(2) If no physical force or immediate threat of physical force is used upon the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.

[4:233:1913; 1919 RL p. 3380; NCL § 10540]—(NRS A 1967, 479; 1979, 303, 1431; 1995, 1202; 1997, 296)

**NRS 201.340 Pandering: Furnishing transportation; penalties.**

1. A person who knowingly transports or causes to be transported, by any means of conveyance, into, through or across this state, or who aids or assists in obtaining such transportation for a person with the intent to induce, persuade, encourage, inveigle, entice or compel that person to become a prostitute or to continue to engage in prostitution is guilty of pandering.

2. A person who is found guilty of pandering:

(a) An adult:

(1) If physical force or the immediate threat of physical force is used upon the adult, is guilty of a category C felony and shall be punished as provided in [NRS 193.130](#).

(2) If no physical force or immediate threat of physical force is used upon the adult, is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#).

(b) A child:

(1) If physical force or the immediate threat of physical force is used upon the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$20,000.

(2) If no physical force or immediate threat of physical force is used upon the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.

3. A person who violates subsection 1 may be prosecuted, indicted, tried and convicted in any county or city in or through which he or she transports or attempts to transport the person.

[5:233:1913; 1919 RL p. 3380; NCL § 10541]—(NRS A 1967, 479; 1977, 1055; 1979, 1432; 1995, 1202; 1997, 297)

**NRS 201.350 Venue for trial of offenses constituting pandering.** It shall not be a defense to a prosecution for any of the acts prohibited in NRS 201.300 to 201.340, inclusive, that any part of such act or acts shall have been committed outside this state, and the offense shall in such case be deemed and alleged to have been committed, and the offender tried and punished, in any county in which the prostitution was consummated, or any overt act in furtherance of the offense shall have been committed.

[6:233:1913; 1919 RL p. 3381; NCL § 10542]

**NRS 201.351 Forfeiture of assets derived from or relating to pandering child; temporary restraining order to preserve property subject to forfeiture; use of proceeds derived from forfeiture.**

1. All assets derived from or relating to any violation of NRS 201.300 to 201.340, inclusive, in which the victim of the offense is a child when the offense is committed are subject to forfeiture pursuant to NRS 179.121 and a proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.121, inclusive.

2. In any proceeding for forfeiture brought pursuant to NRS 179.1156 to 179.121, inclusive, the plaintiff may apply for, and a court may issue without notice or hearing, a temporary restraining order to preserve property which would be subject to forfeiture pursuant to this section if:

(a) The forfeitable property is in the possession or control of the party against whom the order will be entered; and

(b) The court determines that the nature of the property is such that it can be concealed, disposed of or placed beyond the jurisdiction of the court before a hearing on the matter.

3. A temporary restraining order which is issued without notice may be issued for not more than 10 days and may be extended only for good cause or by consent. The court shall provide notice and hold a hearing on the matter before the order expires.

4. Any proceeds derived from a forfeiture of property pursuant to this section and remaining after the distribution required by subsection 1 of NRS 179.118 must be deposited with the county treasurer and distributed to programs for the prevention of child prostitution which are designated to receive such distributions by the district attorney of the county.

(Added to NRS by 2009, 574)

**NRS 201.352 Additional fine for pandering child and conspiring to pander child.**

1. If a person is convicted of a violation of any provision of NRS 201.300 to 201.340, inclusive, and the victim of the violation is a child who is:

(a) At least 14 years of age but less than 18 years of age when the offense is committed, the court may, in addition to the punishment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than \$100,000.

(b) Less than 14 years of age when the offense is committed, the court may, in addition to the term of imprisonment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than \$500,000.

2. If a person is convicted of a violation of any provision of NRS 201.300 to 201.340, inclusive, the victim of the offense is a child when the offense is committed and the offense also involves a conspiracy to commit a violation of NRS 201.300 to 201.340, inclusive, the court may, in addition to the punishment prescribed by statute for the offense of a provision of NRS 201.300 to 201.340, inclusive, and any fine imposed pursuant to subsection 1, impose a fine of not more than \$500,000.

3. The provisions of subsections 1 and 2 do not create a separate offense but provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

(Added to NRS by 2009, 574)

### **NRS 201.354 Engaging in prostitution or solicitation for prostitution: Penalty; exception.**

1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. Except as otherwise provided in subsection 3, a person who violates subsection 1 is guilty of a misdemeanor.

3. A person who violates subsection 1 by soliciting a child for prostitution is guilty of a category E felony and shall be punished as provided in NRS 193.130.

(Added to NRS by 1987, 2027; A 1991, 462; 2009, 1245)

### **NRS 201.356 Test for exposure to human immunodeficiency virus required; payment of costs; notification of results of test.**

1. Any person who is arrested for a violation of NRS 201.354 must submit to a test, approved by regulation of the State Board of Health, to detect exposure to the human immunodeficiency virus. The State Board of Health shall not approve a test for use that does not provide the arresting law enforcement agency with the results of the test within 30 days after a person submits to the test. If the person is convicted of a violation of NRS 201.354, the person shall pay the sum of \$100 for the cost of the test.

2. The person performing the test shall immediately transmit the results of the test to the arresting law enforcement agency. If the results of the test are negative, the agency shall inform the court of that fact. If the results of the test are positive, the agency shall upon receipt:

(a) Mail the results by certified mail, return receipt requested, to the person arrested at his or her last known address and place the returned receipt in the agency's file; or

(b) If the person arrested is in the custody of the agency, personally deliver the results to him or her and place an affidavit of service in the agency's file.

Ê If before receiving the results pursuant to this subsection, the person arrested requests the agency to inform him or her of the results and the agency has received those results, the agency shall deliver the results to the person arrested, whether positive or negative, and place an affidavit of service in the agency's file.

3. The court shall, when the person arrested is arraigned, order the person to reappear before the court 45 days after the arraignment to determine whether the person has received the results of the test. The court shall inform the person that the failure to appear at the appointed time will result in

the issuance of a bench warrant, unless the order is rescinded pursuant to this subsection. If the court is informed by the agency that the results of the person's test were negative, the court clerk shall rescind the order for reappearance and so notify the person. If, upon receiving notice from the agency that the results of the test were positive, the person notifies the court clerk in writing that he or she has received the results, the clerk shall inform the court and rescind the order for reappearance for that determination.

4. The court shall, upon the person's reappearance ordered pursuant to subsection 3, ask the person whether he or she has received the results of the test. If the person answers that he or she has received them, the court shall note the person's answer in the court records. If the person answers that he or she has not received them, the court shall have the results delivered to the person and direct that an affidavit of service be placed in the agency's file.

5. If the person does not reappear as ordered and has not notified the court clerk of his or her receipt of the results of the test in the manner set forth in subsection 3, the court shall cause a bench warrant to be issued and that person arrested and brought before the court as upon contempt. The court shall also proceed in the manner set forth in subsection 4 to ensure that the person receives the results of the test.

(Added to NRS by 1987, 2027; A 1989, 924)

### **NRS 201.358 Engaging in prostitution or solicitation for prostitution after testing positive for exposure to human immunodeficiency virus: Penalty; definition.**

1. A person who:

(a) Violates [NRS 201.354](#); or

(b) Works as a prostitute in a licensed house of prostitution,

Ê after testing positive in a test approved by the State Board of Health for exposure to the human immunodeficiency virus and receiving notice of that fact is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. As used in this section, "notice" means:

(a) Actual notice; or

(b) Notice received pursuant to [NRS 201.356](#).

(Added to NRS by 1987, 2027; A 1989, 589, 925; 1995, 1203)

### **NRS 201.360 Placing person in house of prostitution; penalties.**

1. A person who:

(a) Places another in the charge or custody of a third person with the intent that the other person engage in prostitution or who compels the other person to reside with him or her or with any third person for purposes of prostitution, or who compels another person to reside in a house of prostitution;

(b) Asks or receives any compensation, gratuity or reward, or promise thereof, for or on account of placing in a house of prostitution or elsewhere a person for the purpose of causing that person to cohabit with someone who is not the person's spouse;

(c) Gives, offers or promises any compensation, gratuity or reward, to procure a person to engage in any act of prostitution in any house of prostitution, or elsewhere, against the person's will;

(d) Is the spouse, parent, guardian or other legal custodian of a person under the age of 18 and permits, connives at or consents to the minor's being or remaining in any house of prostitution;

(e) Lives with or accepts any earnings of a common prostitute, or entices or solicits a person to go to a house of prostitution to engage in sexual conduct with a common prostitute;

(f) Decoys, entices, procures or in any manner induces a person to become a prostitute or to become an inmate of a house of prostitution, for purposes of prostitution, or for purposes of employment, or for any purpose whatever, when that person does not know that the house is one of prostitution; or

(g) Decoys, entices, procures or in any manner induces a person, under the age of 21 years, to go into or visit, upon any pretext or for any purpose whatever, any house of ill fame or prostitution, or any room or place inhabited or frequented by any prostitute, or used for purposes of prostitution, È is guilty of a felony.

2. A person who violates the provisions of subsection 1 shall be punished:

(a) Where physical force or the immediate threat of physical force is used upon the other person, for a category C felony as provided in NRS 193.130.

(b) Where no physical force or immediate threat of physical force is used, for a category D felony as provided in NRS 193.130.

[1911 C&P § 180; RL § 6445; NCL § 10127]—(NRS A 1967, 479; 1979, 303, 1432; 1995, 1203)

### **NRS 201.380 Restriction on location of houses of ill fame; penalty.**

1. It shall be unlawful for any owner, or agent of any owner, or any other person to keep any house of ill fame, or to let or rent to any person whatever, for any length of time whatever, to be kept or used as a house of ill fame, or resort for the purposes of prostitution, any house, room or structure situated within 400 yards of any schoolhouse or schoolroom used by any public or common school in the State of Nevada, or within 400 yards of any church, edifice, building or structure erected for and used for devotional services or religious worship in this state.

2. Any person violating the provisions of subsection 1 shall be punished by a fine of not more than \$500.

[419:63:1947; 1943 NCL § 6084.429] + [420:63:1947; 1943 NCL § 6084.430] + [1911 C&P § 245; RL § 6510; NCL § 10193] + [1911 C&P § 247; RL § 6512; NCL § 10195]—(NRS A 1967, 480)

### **NRS 201.390 Property on principal business streets not to be rented for purposes of prostitution; penalty.**

1. It is unlawful for any owner or agent of any owner or any other person to keep, let or rent for any length of time, or at all, any house fronting on the principal business street or thoroughfare of any of the towns of this state, for the purpose of prostitution or to make or use any entrance or exit way to any house of prostitution from the principal business street or thoroughfare of any of the towns of this state.

2. Any person violating the provisions of subsection 1 shall be punished by a fine of not more than \$500.

[1911 C&P § 246; RL § 6511; NCL § 10194] + [1911 C&P § 247; RL § 6512; NCL § 10195]—(NRS A 1967, 481; 1979, 304)

**NRS 201.400 General reputation competent evidence.** In the trial of all cases arising under the provisions of NRS 201.380 and 201.390, evidence of general reputation is competent evidence as to the question of the ill fame of any house alleged to be so kept, and to the question of the ill fame of any person.

[1911 C&P § 248; RL § 6513; NCL § 10196]—(NRS A 1979, 304)

1. It is unlawful for any person engaged in conduct which is unlawful pursuant to paragraph (b) of subsection 1 of NRS 207.030, or any owner, operator, agent or employee of a house of prostitution, or anyone acting on behalf of any such person, to advertise the unlawful conduct or any house of prostitution:

(a) In any public theater, on the public streets of any city or town, or on any public highway; or



(b) In any county, city or town where prostitution is prohibited by local ordinance or where the licensing of a house of prostitution is prohibited by state statute.

2. It is unlawful for any person knowingly to prepare or print an advertisement concerning a house of prostitution not licensed for that purpose pursuant to NRS 244.345, or conduct which is unlawful pursuant to paragraph (b) of subsection 1 of NRS 207.030, in any county, city or town where prostitution is prohibited by local ordinance or where the licensing of a house of prostitution is prohibited by state statute.

3. Inclusion in any display, handbill or publication of the address, location or telephone number of a house of prostitution or of identification of a means of transportation to such a house, or of directions telling how to obtain any such information, constitutes prima facie evidence of advertising for the purposes of this section.

4. Any person, company, association or corporation violating the provisions of this section shall be punished:

(a) For the first violation within a 3-year period, by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment.

(b) For a second violation within a 3-year period, by imprisonment in the county jail for not less than 30 days nor more than 6 months, and by a fine of not less than \$250 nor more than \$1,000.

(c) For a third or subsequent violation within a 3-year period, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

[1:109:1913; 1919 RL p. 3379; NCL § 10535]—(NRS A 1967, 481; 1979, 305, 604; 1995, 2299)

#### **NRS 201.440 Unlawful to permit illegal advertising of houses of prostitution; penalties.**

1. In any county, city or town where prostitution is prohibited by local ordinance or where the licensing of a house of prostitution is prohibited by state statute, it is unlawful for any person, company, association or corporation knowingly to allow any person engaged in conduct which is unlawful pursuant to paragraph (b) of subsection 1 of NRS 207.030, or any owner, operator, agent or employee of a house of prostitution, or anyone acting on behalf of any such person, to advertise a house of prostitution in his or her place of business.

2. Any person, company, association or corporation that violates the provisions of this section shall be punished:

(a) For the first violation within a 3-year period, by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment.

(b) For a second violation within a 3-year period, by imprisonment in the county jail for not less than 30 days nor more than 6 months, and by a fine of not less than \$250 nor more than \$1,000.

(c) For a third or subsequent violation within a 3-year period, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

[2:109:1913; 1919 RL p. 3379; NCL § 10536]—(NRS A 1967, 481; 1979, 305, 605; 1995, 2300)

## **Appendix E: R.I. General Laws Concerning Prostitution and/or Sex Trafficking**

R.I.G.L. Section 11-34-5 Until May 1980

Transportation for indecent purposes Streetwalking Harboring prostitution. It shall be unlawful for any person to secure, direct or transport, or offer to secure, direct or transport another for the purpose of prostitution, or for any other lewd or indecent act; or to loiter in or near any thoroughfare or public or private place for the purpose of inducing, enticing, soliciting, or procuring another to commit lewdness, fornication, unlawful sexual intercourse or any other indecent act; or to commit or in any manner induce, entice, or solicit, or procure a person in any thoroughfare, or public or private place or conveyance to commit any such act; or to receive or offer or agree to receive any person into any place, structure, house, building, room, or conveyance for the purpose of committing any such acts, or knowingly permit any person to remain therein for any such purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated herein.

Any person found guilty under this section, shall be subject to imprisonment in the adult correctional institutions not to exceed five (5) years.

R.I.G.L. Section 11-34-5 and 11-34- 8 (May 1980)

### **§11-34-5: TRANSPORTATION FOR INDECENT PURPOSES—HARBORING**

**PROSTITUTION.**—It shall be unlawful for any person for pecuniary gain, to secure, direct or transport, or offer to secure, direct or transport another for the purpose of prostitution, or for any other lewd or indecent act; or to receive or offer to agree to receive any person into any place, structure, house, building, room, or conveyance for the purpose of committing any such acts, or knowingly permit any person to remain herein for any such purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated herein.

**§ 11-34-8: LOITERING FOR INDECENT PURPOSES**—It shall be unlawful for any person to stand or wander in or near any public highway or street, or any public or private place, and attempt to stop motor vehicles, for the purpose of prostitution or other indecent act, or to patronize or induce or otherwise secure a person to commit any such act. Any person found guilty under this section shall be deemed guilty of a petty misdemeanor and shall be subject to imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$500), or both.

R.I.G.L. Section 11-34.1: Commercial Sexual Activity (2009)

**§ 11-34.1-1 Definitions.** – The following words and phrases, when used in this chapter, have the following meanings:

(1) "Sexual conduct" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital intrusion or intrusion by any object into the genital opening or anal opening of another person's body, or the stimulation by hand of another's genitals for the purposes of arousing or gratifying the sexual desire of either person.

(2) "Commercial sexual activity" means any sexual conduct which is performed or promised in return for a fee.

(3) "Fee" means any thing of monetary value, including but not limited to money, given as consideration for sexual conduct.

**§ 11-34.1-2 Prostitution.** – (a) A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not exceeding six (6) months, or to a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.

(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term of not more than one year, or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.

(c) Any proceeds derived directly from a violation of this section are subject to seizure and forfeiture and further proceedings shall be had for their forfeiture as is prescribed by law in chapter 21 of title 12.

(d) In any prosecution for a violation under this section it shall be an affirmative defense if the accused was forced to commit a commercial sexual activity by:

(1) Being threatened or, subjected to physical harm;

(2) Being physically restrained or threatened to be physically restrained;

(3) Being subject to threats of abuse of law or legal process;

(4) Being subject to destruction, concealment, removal or confiscation, of any passport or other immigration document, or any other actual or purported governmental identification document; or

(5) Being subject to intimidation in which the accused's physical well being was perceived

as threatened.

**§ 11-34.1-3 Procurement of sexual conduct for a fee.** – (a) A person is guilty of procuring or attempting to procure sexual conduct for the payment of a fee if they engage or seek to engage in sexual conduct for any type of fee and/or pay or agree to pay any type of fee for sexual conduct, regardless of the time, place or location of the procurement, attempted procurement, payment, attempted payment or conduct. Any person found guilty under this section shall be deemed guilty of a misdemeanor and shall be subject to imprisonment for a term not exceeding one year, or to a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.

(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term not exceeding one year, or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.

**§ 11-34.1-4 Loitering for prostitution.** – (a) It shall be unlawful for any person to stand or wander in or near any public highway or street, or any public or private place, and attempt to engage passersby in conversation, or stop or attempt to stop motor vehicles, for the purpose of prostitution or other commercial sexual activity. Any person found guilty of the crime of loitering for prostitution shall be subject to a sentence of up to six (6) months incarceration or by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or both.

(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term not exceeding one year, or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.

**§ 11-34.1-5 Expungement of certain criminal records.** – (a) Records defined in § 12-1.3-1 of any person convicted, placed on probation, or whose case was filed pursuant to § 12-10-12, for a violation of § 11-34.1-2 or § 11-34.1-4 may be expunged one year after completion of that person's sentence.

(b) The motion shall be filed in accordance with a chapter 12-1.3 and may be granted in the court's discretion regardless of the person's first offender status.

**§ 11-34.1-6 Soliciting from motor vehicles for indecent purposes – Forfeiture of motor vehicle.** – (a) It shall be unlawful for any person, while an operator or passenger in a motor vehicle to stop, or attempt to stop another vehicle or pedestrian, or to engage or attempt to engage

persons in another vehicle or pedestrians in conversation, for the purposes of prostitution or other indecent act, or to patronize, induce, or otherwise secure another person to commit any commercial sexual activity. Any person found guilty under this section shall be subject to a sentence of up to six (6) months incarceration or a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or both.

(b) Any person found guilty of a subsequent offense under this section shall be subject to imprisonment for a term of not more than one year and a fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000). No fine imposed under this section may be suspended.

(c) The motor vehicle being unlawfully operated as defined in this chapter by a person convicted of a second or subsequent offense of soliciting from a motor vehicle for indecent purposes pursuant to this chapter which vehicle is owned by the operator, may be seized by the law enforcement agency and forfeited at the discretion of the court. Any funds received from the forfeiture shall be deposited in the victim's of crimes indemnity fund (VCIF).

**§ 11-34.1-7 Pandering or permitting prostitution – Not allowed.** – (a) It shall be unlawful for any person, by any promise or threat, by abuse of person, or by any other device or scheme, to cause, induce, persuade, or encourage a person to become a prostitute or to come into this state or leave this state for the purpose of prostitution. It shall be unlawful for any person to receive or give, or agree to receive or give, any money or thing of value for procuring or attempting to procure any person to become a prostitute or to come into this state or leave this state for the purpose of prostitution.

(b) It shall be unlawful for any person to knowingly permit, allow, transport or offer or agree to receive any person into any place, structure, house, building, room, or business for the purpose of committing any commercial sexual activity, or knowingly permit any person to remain in the premises for those purposes, or to, in any way, aid or abet or participate in any of the acts or things enumerated in this chapter. It shall also be unlawful for any person, knowing a person to be a prostitute, who shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of commercial sexual activity, from moneys loaned, advanced to, or charged against the prostitute by a landlord, manager, owner of a spa or business or any other place where commercial sexual activity is practiced or allowed, or who shall share in the earnings, proceeds or moneys shall be guilty of the crime of permitting prostitution.

(c) Every person who commits any of the offenses described in subsection (a) of this

section, or who assists, abets, or aids another to commit any of those offenses, shall be guilty of pandering. For the first offense that person shall be punished by imprisonment for not less than one year and not more than five (5) years and a fine of not less than two thousand dollars (\$2,000), nor more than five thousand dollars (\$5,000). For every subsequent offense that person shall be punished by imprisonment for not less than three (3) years and not more than ten (10) years and a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000).

**§ 11-34.1-8 Venue of pandering or permitting prostitution prosecutions.** – It shall not be a defense to any prosecution of any of the offenses described in this chapter that the offense or any part of the offense shall have been committed outside the state, and any offense described in this chapter may be alleged to have been committed. The offender may be prosecuted and punished in any county in which the offender or the person upon or against whom the offense was committed may be found, or in which the offense was consummated, or in which any overt acts in furtherance of the offenses shall have been committed.

**§ 11-34.1-9 Spouse as witness in pandering or permitting prostitution.** – In any prosecution for any offense under this chapter, any person shall be a competent witness against the offender in relation to any offense committed by the offender upon or against him or her, or by the offender against or upon another person or persons in his or her presence, notwithstanding that person may have been married to the offender before or after the commission of the offense, and notwithstanding that person may be called as witness during the existence of the marriage or after its dissolution.

**§ 11-34.1-10 Reputation testimony as evidence.** – In the trial of any person charged with a violation of this chapter, testimony concerning the reputation of the place where the violation occurred or of persons who frequent or reside in it shall be admissible in evidence in support of the charge.

**§ 11-34.1-11 Examination and treatment for venereal disease.** – Any person convicted for any violation of this chapter or of any other statute relating to lewd or lascivious behavior or unlawful sexual intercourse, and who shall be confined or imprisoned in any correctional institution for more than ten (10) days, may be examined by the department of health for venereal disease, through duly appointed, licensed physicians as agents. Any person that is examined may be detained until the result of the examination is duly reported. If found with venereal disease in an infectious stage, the person shall be treated, and if a menace to the public, quarantined, in accordance with rules and regulations, not inconsistent with law, of the director of health, who is

authorized to formulate and issue them. Refusal to comply with or obey the rules or regulations shall constitute a misdemeanor and be punishable by fine not to exceed two hundred fifty dollars (\$250), or a sentence of incarceration of up to three (3) months, or both.

**§ 11-34.1-12 Human Immunodeficiency Virus (HIV).** – (a) Any person convicted of a violation of any provisions of this chapter shall be required to be tested for Human Immunodeficiency Virus (HIV). No consent for the testing shall be required.

(b) The department of health shall maintain sites for providing both anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by the department of health, shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance, offer a sliding scale for payment for all other individuals and, in the case of confidential testing, screen for ability to pay through a third-party insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions performing the test shall offer free testing, counseling and referral for indigent parties and other individuals without health insurance.

(c) All persons tested under this section shall be provided pre-test and post-test counseling by individuals trained by the department of health, as an HIV testing counselor, in accordance with regulations promulgated by the department of health; provided, that the counseling shall be in accordance with acceptable medical standards.

(d) All persons who are tested under this section, who are determined to be injecting drug users, shall be referred to appropriate sources of substance abuse treatment by the HIV testing counselor and/or the attending practitioner as follows:

(1) Those persons who test positive for HIV infection shall be given priority for those outpatient substance abuse treatment programs that are sponsored or supported by the appropriate state agency responsible for these services.

(2) Those persons who are injecting drug users and test negative for HIV infection shall be referred, by the HIV testing counselor and/or attending practitioner, to the appropriate state agency responsible for these services for earliest possible evaluation and treatment.

**§ 11-34.1-13 Reporting.** – On or before January 15, 2010, and semi-annually thereafter, each law enforcement agency in this state shall file with the Governor, the Attorney General, the Speaker of the House of Representatives and the President of the Senate a report concerning the agency's enforcement of this chapter during the preceding six (6) month period. Each semi-annual

report shall contain, but need not be limited to, the following information:

(1) The number of persons arrested pursuant to subsection 11-34.1-2(a), subsection 11-34.1-2(b), § 11-34.1-3, § 11-34.1-4, subsection 11-34.1-6(a), subsection 11-34.1-6(b) and subsection 11-34.1-7 of this chapter;

(2) Of those arrested, the number of persons convicted, placed on probation, whose case is filed pursuant to § 12-10-12, whether those persons pled guilty or nolo contendere or were found guilty after trial by judge or jury;

(3) The fines and/or sentences of those persons identified pursuant to subdivision (2) of this section; and

(4) A summary of the amounts of fines levied and the lengths of sentences identified pursuant to subdivision (3) of this section.

**§ 11-34.1-14 Severability.** – If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.



## Appendix F: Craigslist Advertisements

### 1. Sensual Erotic and Calming (MA RI Border)

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Date: 2012-01-23, 3:14PM EST

Reply to: [cwbyc-2814316332@serv.craigslist.org](mailto:cwbyc-2814316332@serv.craigslist.org) [Errors when replying to ads?]

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hi gentlemen my girls and i offer erotic sensual full body massage service beleive me theres nothing like it interested call 508 514 0399 or shoot us an email for an appointmentyou wont be disappointed thanks guys

Location: MA RI Border

It's NOT ok to contact this poster with services or other commercial interests

PostingID: 2814316332

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### 2. SENSUAL MASSAGE (RI,MA)

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Date: 2012-01-29, 8:58PM EST

Reply to: [373sr-2791238790@serv.craigslist.org](mailto:373sr-2791238790@serv.craigslist.org) [Errors when replying to ads?]

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HELLO GENTLEMAN,I offer massages ranging from sensual, deep tissue, hot body oil, body scrub and swedish massages.If interested please contact me at: (401)215-8269

Location: RI, MA

It's NOT ok to contact this poster with services or other commercial interests

PostingID: 2791238790