



Office of Utah for Rational Sex Offense Laws

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Representative Ryan D. Wilcox
Utah House of Representatives
350 North State, Suite 350
Salt Lake City, UT 84114
Via email: ryanwilcox@le.utah.gov

Position Statement on H.B. 116 Criminal Fines Amendments

Dear Representative Wilcox,

Utah for Rational Sex Offense Laws (UTRSOL) respectfully opposes H.B. 116 in its current form. While we share the goal of addressing exploitation and protecting vulnerable individuals, this legislation's reliance on mandatory minimum fines without corresponding support infrastructure, judicial discretion, or evidence-based interventions creates a punitive framework that research suggests will not effectively reduce exploitation or improve public safety outcomes.

Key Concerns:

Elimination of Judicial Discretion Prevents Justice

H.B. 116's mandatory minimum fines remove judges' ability to consider individual circumstances, creating one-size-fits-all penalties that cannot account for critical distinctions between cases. The bill treats first-time offenders the same as repeat offenders, applies identical penalties to cases involving trafficking victims and consensual adult transactions, and prevents courts from considering defendants' financial circumstances and ability to pay. Judges lose the discretion to weigh mitigating factors that distinguish levels of culpability or to determine whether coercion or exploitation was actually present in a given case.

Mandatory minimums have consistently been shown to increase incarceration when defendants cannot pay fines, disproportionately impact low-income offenders, and fail to reduce recidivism compared to individualized sentencing approaches.¹ These rigid penalty structures also create perverse incentives for defendants to plead to lesser charges, potentially obscuring trafficking

1. Giles, T. (2023). The government revenue, recidivism, and financial health effects of criminal fines and fees (SSRN Scholarly Paper No. 4568724). Social Science Research Network. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=456872

cases that deserve enhanced prosecution.² Judges should retain discretion to impose appropriate penalties based on the specific facts of each case, including the severity of harm, presence of exploitation, and defendant's individual circumstances.

No Distinction Between Exploitation and Consensual Adult Conduct

The bill applies identical \$5,000 mandatory fines whether the offense involves a trafficking victim subjected to force, fraud, or coercion, or an independent adult engaging in consensual commercial sexual activity. This approach treats vastly different moral and legal culpabilities identically, failing to prioritize prosecution of actual exploitation and coercion. Such uniform treatment may discourage trafficking victims from cooperating with law enforcement if they fear their clients will face identical penalties regardless of the victim's circumstances, and it does not incentivize defendants to distinguish between exploited and non-exploited individuals.

Criminal penalties should be calibrated to the actual harm caused, with enhanced penalties specifically targeting those who exploit trafficking victims or minors. By treating all patronizing offenses identically, H.B. 116 misses the opportunity to send a clear legal signal that exploitation and coercion merit substantially greater condemnation and punishment than other conduct.

Absence of Evidence-Based Support Services

H.B. 116 allocates zero funding for exit programs for individuals seeking to leave prostitution, housing assistance for trafficking victims, substance abuse treatment and mental health services, job training and economic opportunity programs, or victim services and trauma-informed care. Research consistently demonstrates that punishment alone does not reduce prostitution or trafficking, and that effective interventions require comprehensive support systems.

Studies show that lack of economic options is the primary barrier to exiting prostitution, making economic alternatives essential to any serious anti-exploitation effort.³ Homelessness and housing insecurity are major drivers of survival sex work, requiring housing stability as a foundation for exit pathways.⁴ Substance abuse and mental health issues require clinical intervention, not fines, and the success of demand-reduction models in other jurisdictions relies on robust social services, not just criminalization.

2. Rhodes, W. M. (1979). Plea bargaining: Its effect on sentencing and convictions in the District of Columbia. *Journal of Criminal Law and Criminology*, 70(3), Article 5. <https://scholarlycommons.law.northwestern.edu/jclc/vol70/iss3/5>

3. Kumar, S., & Ramesh, P. (2024). Barriers for exiting sex work: An exploration on female sex workers (FSW) in Puducherry, India. *Asian Journal of Social Science Research*, 4, Article 21. <https://doi.org/10.1186/s44155-024-00080-6>

4. Macon, C., & Tai, E. (2022). Earning housing: Removing barriers to housing to improve the health and wellbeing of chronically homeless sex workers. *Social Sciences*, 11(9), 399. <https://doi.org/10.3390/socsci11090399>

Any legislation claiming to address exploitation must include funded support services that create viable pathways out of prostitution and provide alternatives to commercial sex work. Without these evidence-based components, H.B. 116 functions primarily as punitive legislation rather than a comprehensive approach to protecting vulnerable individuals.

Financial Penalties Create Cycles of Harm

The \$5,000 mandatory fines imposed on individuals often already in precarious economic situations push offenders deeper into debt and financial instability, creating incentives to continue illegal economic activity to pay fines. These penalties result in suspended licenses, wage garnishment, and other collateral consequences that impede legitimate employment, and they may be uncollectable, creating unfunded mandates on courts and collection systems.

Research shows that high fines and fees correlate with increased recidivism, not decreased offending.⁵ Financial penalties without ability-to-pay considerations violate constitutional principles established in *Bearden v. Georgia*, and collections efforts drain court resources while often proving ineffective.⁶ Criminal fines should be structured proportionally and with ability-to-pay considerations to avoid creating poverty traps that perpetuate the very conditions that make individuals vulnerable to exploitation in the first place.⁷

No Demonstrated Deterrent Effect

H.B. 116 assumes increased fines will deter offending, but research on mandatory minimums shows minimal deterrent effect compared to certainty of consequences.⁸ Prostitution-related offenses are often driven by factors such as addiction, economic desperation, and exploitation that monetary penalties do not address.⁹ Additionally, no data has been presented showing Utah's current fine structure is inadequate.

We ask you to share what evidence suggests current penalties are insufficient, what data indicates that increasing fines from their current levels to \$5,000 will reduce offending, and whether other jurisdictions have seen measurable reductions in prostitution-related offenses from similar fine increases. Policy changes should be grounded in empirical evidence, not assumptions about deterrent effects that research does not support.

5. Finlay, K., Gross, M., Lieberman, C., Luh, E., & Mueller-Smith, M. G. (2023). The impact of criminal financial sanctions: A multi-state analysis of survey and administrative data (NBER Working Paper No. 31581). National Bureau of Economic Research. <https://doi.org/10.3386/w31581>

6. *Bearden v. Georgia*, 461 U.S. 660 (1983). <https://supreme.justia.com/cases/federal/us/461/660/>

7. Marsh, A., & Gerrick, E. (2015). Why motive matters: Designing effective policy responses to modern debtors' prisons. *Yale Law & Policy Review*, 34, 93–145. <https://digitalcommons.law.yale.edu/ylpr/vol34/iss1/5>

8. The Sentencing Project. (2024, February 14). How mandatory minimums perpetuate mass incarceration and what to do about it. The Sentencing Project. <https://www.sentencingproject.org/fact-sheet/how-mandatory-minimums-perpetuate-mass-incarceration-and-what-to-do-about-it/>

9. Shannon, K., et al. (2011). "Homelessness Among a Cohort of Women in Street-Based Sex Work: The Need for Safer Environment Interventions." *BMC Public Health*. <https://pmc.ncbi.nlm.nih.gov/articles/PMC3170620/>

Alternative Approaches UTRSOL Would Support

We would support legislation that enhances penalties specifically for exploitation by creating graduated penalties with the highest sanctions for those who patronize trafficking victims, use force or coercion, or target minors. Such legislation should preserve judicial discretion by allowing judges to impose fines within statutory ranges based on individual circumstances, criminal history, and presence of aggravating factors.

Effective legislation would fund support services by allocating resources to exit programs, housing assistance, treatment services, and economic opportunity programs that research shows reduce exploitation. It would implement evidence-based interventions such as comprehensive "john schools," treatment diversion programs, and robust victim services that have been proven to reduce demand while supporting vulnerable individuals. The legislation should distinguish between different levels of culpability by creating clear legal distinctions between those who exploit trafficking victims and those engaged in consensual adult transactions, and it should include accountability measures requiring data collection on outcomes, recidivism rates, fine collection rates, and impact on trafficking prosecutions.

Conclusion

UTRSOL shares your commitment to protecting vulnerable individuals from exploitation. However, H.B. 116's current approach of mandatory fines without support services, elimination of judicial discretion, and no distinction between exploitation and consensual conduct is unlikely to achieve these goals and may cause unintended harm.

We respectfully urge you to consider amendments that would preserve judicial discretion for individualized sentencing, enhance penalties specifically for exploitation while distinguishing consensual adult conduct, include funded support services proven to reduce vulnerability and create exit pathways, and base policy on empirical evidence rather than assumptions about deterrent effects.

We welcome the opportunity to discuss these concerns and work collaboratively toward legislation that effectively addresses exploitation while avoiding the documented harms of mandatory minimum penalties.

Sincerely

Utah for Rational Sex Offense Laws

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