

**BEFORE THE
COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
COUNCILMEMBER CHARLES ALLEN, CHAIRMAN**



**PUBLIC HEARING
on**

Bill 23-318, the Community Safety and Health Amendment Act of 2019

**STATEMENT OF RENATA KENDRICK COOPER
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Thursday, October 17, 2019, 10:00 a.m.

**Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Chairman Allen and Members of the Council:

Thank you for the opportunity to appear today, on behalf of the United States Attorney's Office for the District of Columbia, to share the Office's views regarding Bill 23-318, the Community Safety and Health Amendment Act of 2019.

The issue regarding whether to decriminalize prostitution and related criminal statutes is not new. Indeed, lawmakers and human rights organizations across this country and the world have been considering this issue for some time. Thus, the United States Attorney's Office, whose mission is to help ensure public safety, lauds the Council's efforts to address this issue through a proposal for which the primary stated purpose is "to promote public health and safety." However, given the strong interest of our Office and the U.S. Department of Justice in prosecuting sex trafficking and preventing the exploitation of vulnerable persons, we have serious concerns that full decriminalization of prostitution and related offenses would adversely affect the ability of law enforcement to investigate and prosecute sex traffickers and thereby adversely affect the public health and safety of some of the most vulnerable members of our community: sex trafficking survivors.

To understand why Bill 23-318 would make it more difficult to prosecute human trafficking, it is important to understand the difficulties of detecting human trafficking and obtaining sufficient evidence to charge and successfully prosecute the trafficker as well to understand how the trafficker's influence on the victim thwarts law enforcement anti-trafficking efforts.

The U.S. Attorney's Office aggressively investigates and prosecutes human traffickers. As the Chair of the D.C. Human Trafficking Task Force for the last 15 years, our prosecutors and advocates are highly skilled at working with trafficking victims, investigating these crimes, and

prosecuting traffickers. Based on our experience, it is difficult to uncover evidence of human trafficking, primarily because most victims are extremely reluctant to cooperate in the government's investigation of their trafficker. As a result, law enforcement must develop evidence of trafficking through other means, including initially investigating and prosecuting the potential trafficker for lesser offenses.

The control that traffickers exert over their victims is well known. Traffickers of both adults and children frequently employ extensive "grooming" techniques with the goal of making their victims dependent on the traffickers. These grooming techniques include, among other things, targeting vulnerable individuals (who may have a history of sexual abuse); seeking to create a relationship of dependency; punishing the victim for violating the rules of the trafficker; buying gifts for trafficking victims or employing other means to create the illusion of a friendship or caregiving role; and pitting one victim against another. Once the trafficker has created isolation and dependency, abuse will begin, often with a trafficker demanding that the victim engage in sex with others to obtain money to repay some debt allegedly owed to the trafficker. The trafficker's goal is to maintain control of the victim, often through physical, sexual, and/or verbal abuse. Because of the control and dependency dynamic, victims may be loyal to their traffickers and abusers, and may be unwilling to cooperate with law enforcement, including being unwilling to provide information about the scope, manner, and means of the trafficker's operation.

As introduced, the Bill would decriminalize the offense of procuring so long as "the arrangement involves no force, fraud, coercion, or any violation of the Prohibition Against Human Trafficking Amendment Act of 2010." But as we have indicated, the government may rely on an array of offenses for its trafficking investigation, including relying on potential lesser charges as a

basis to obtain search warrants for items yielding information regarding social media platforms used to perpetuate trafficking and information regarding locations where trafficking may occur.

In addition to affecting investigations and prosecutions of violent traffickers of adults, full decriminalization will affect *child* trafficking investigations and prosecutions. As with evidence of violent trafficking of adults, it is similarly extremely difficult to identify and locate child trafficking victims and to develop sufficient evidence to prosecute their traffickers successfully. Traffickers in children frequently do not promote their victims to potential buyers as children. Rather, traffickers often advertise these child victims as adults, and some buyers may even believe them to be adults. Law enforcement may have suspicions that a child is being trafficked, but may not have sufficient proof. In such scenarios, it is also common for law enforcement to rely on search warrants for offenses other than trafficking. This is because in order to obtain a search warrant, law enforcement must have probable cause to believe that a perpetrator has committed an offense, and at an early stage of an investigation, the evidence of child sex trafficking may not rise to that level. Such search warrants allow law enforcement to investigate the charge contemplated by the search warrant, as well as to conduct appropriate additional investigation to ascertain if the perpetrator is procuring a child, or if the perpetrator is involved in trafficking. The proposed Bill, therefore, would remove an anti-trafficking law enforcement tool.

The Bill as introduced would decriminalize both the sale and purchase of sex, which likely will increase the demand for commercial sex in the District of Columbia. If the purchasers of sex can go unpunished and unchecked, the sex marketplace will grow, as will its profits – thereby making the District of Columbia more attractive to traffickers looking to exploit the newly created market. To support the higher demand, traffickers will need to acquire more supply and exploit new victims. To meet that demand, traffickers will likely recruit children and adults by use of

force, fraud, and coercion. Further, some victims of sex trafficking report that the buyers of sex can be just as violent and cruel as traffickers. Normalizing the purchase of sex will convey the message that the purchase of sex is acceptable in the District and embolden sex buyers.

Other jurisdictions' experiences with the decriminalization of prostitution counsel against the approach in the Bill as introduced. There has been discussion of an alternative approach, often called the "Nordic model," in which the sale, but not the purchase, of sex would be decriminalized. The theory underpinning this approach is that individuals have a right to sell their own body, but no right to exploit someone else's body. Although the U.S. Attorney's Office believes that the Nordic model is preferable to full decriminalization, we have concerns about the practical impact of that model as well. If the sale of sex is decriminalized, the U.S. Attorney's Office is concerned that more individuals who want to engage in commercial sex will come to the District, which will increase the demand for commercial sex here. The U.S. Attorney's Office is concerned that as both supply and demand for commercial sex grow, trafficking will increase steadily as well. Traffickers will continue to seek out vulnerable individuals and recruit them, and the more people engage in commercial sex work in the District, the more individuals traffickers will recruit. Again, reducing the demand for the purchase of sex is essential to any strategy to prevent sex trafficking.

The U.S. Attorney's Office is concerned foremost about public safety and the wellbeing of all individuals in our community. We believe that this Bill will undermine public safety, and will significantly impede our ability to investigate and prosecute those who traffic vulnerable members of our community. We appreciate the opportunity to appear before the Committee, and look forward to working with the Committee, and the various stakeholders who have appeared here today, as we continue to discuss this important issue of public safety in the District.