

May 16, 2023

Senate Chair James B. Eldridge  
Joint Committee on the Judiciary  
State House, Room 511-C  
Boston, MA 02133

House Chair Michael S. Day  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

**Re: Fenway Health support of H.1758 and S.1046 *An Act to prevent human trafficking and improve the health and safety of sex workers***

Dear Chair Eldridge, Chair Day, and members of the Joint Committee on the Judiciary,

Fenway Health would like to go on record IN SUPPORT of H.1758 and S.1046 *An Act to prevent human trafficking and improve the health and safety of sex workers* and we urge you to report this bill favorably.

Founded in 1971, Fenway Health advocates for and delivers innovative, equitable, accessible health care, supportive services, and transformative research and education. We center LGBTQIA+ people, BIPOC individuals, and other underserved communities to enable our local, national, and global neighbors to flourish. We are motivated by the belief that healthcare is a right, not a privilege. AIDS Action, the public health division of Fenway Health, aims to fight HIV health inequities by eliminating new infections, maximizing healthier outcomes for those infected and at risk, and tackling the root causes of HIV/AIDS.

Fenway Health's Violence Recovery Program (VRP) provides counseling, support groups, advocacy, and referrals to survivors of domestic violence, sexual violence, hate violence, and police misconduct. When the issue of sex work decriminalization first came to our desk, we consulted with our VRP staff. They were adamant about their support of this issue and had many accounts of clients and patients whose traumatic experiences could have been prevented by the measures outlined in this bill.

AIDS Action—the Public Health Division of Fenway—houses a Sexual Health and Prevention Outreach program which offers free screening for HIV, hepatitis C, and other common sexually transmitted diseases, such as syphilis, gonorrhea, and chlamydia. We also offer case management and medical referrals. Our staff have also confirmed that the stigma around sex work is an additional barrier for people to receive healthcare. It is critical that people engaged in sex work have access to prevention, testing, and treatment for HIV and other STIs without stigma and fear of discrimination.

Our ACCESS Drug User Health Program is a needle exchange with a brick-and-mortar site in Cambridge and a mobile outreach van. In addition to clean supplies, they also provide Narcan, harm reduction information, HIV/Hep C/STI testing, weekly access to clinical services, walk-in behavioral health services, and referrals to housing and legal services. ACCESS staff have also confirmed that their clients who are engaged in sex work for survival need access to resources that give them a “way out” if and when they want it. This bill addresses this need in a concrete

way, with the creation of the Human Trafficking Prevention Project through low-barrier resources such as housing, childcare, and training opportunities.

Common nightwalking, otherwise known as loitering for the purposes of prostitution, allows the police to make arrests based on time, location, and gender presentation; it is a statute that is used to target and arrest trans people. These arrests result in negative health impacts.<sup>1</sup> Targeting by law enforcement and negative health impacts both occur at disproportionate rates in already marginalized populations, particularly for black people and people of color.<sup>2 3</sup> The harm from these disparities is exacerbated by the limited access to resources for people who engage in sex work (both in healthcare and in public safety) due to stigma. This limited ability to access support creates a much larger window of vulnerability to violence (from clients and from law enforcement).

This bill repeals common nightwalking, establishes limited amnesty through a good Samaritan provision, creates the Human Trafficking Prevention Project, and calls for a committee to *study* full decriminalization of sex work.

We support the full decriminalization of sex work. However, stigma and mis-information around sex workers is so deeply embedded in our society that we are supporting S.1046 / H.1758 as a gesture of compromise to those who would oppose our mission. We made this choice in favor of incremental progress and gathering as much information as possible for the legislature to make informed decisions around sex work in the future.

Full decriminalization calls for the lifting of criminal penalties for both sex workers and their clients, customers, or “buyers.” S.1046 / H.1758 does not call for full decriminalization of sex work. It repeals language from several sections of GL 272 imposing criminal penalties on “common nightwalkers” and provides for existing convictions to be expunged. It adds new language to protect those reporting a crime in good-faith from being charged for possession of controlled substances, sex for fee, loitering, soliciting, conspiracy for any of the above, or violation of parole. The goal is to provide as many safety measures as possible for those engaged in sex work—often in a precarious environment, with the inability to report violence or harm for fear of arrest. When one involved party is still at risk of criminal prosecution, the path to access safety measures narrows. S.1046 / H.1758 *does* call for a commission to study the possibilities offered by full decriminalization: more autonomy for sex workers to hold harmful employers accountable, to screen clients for STIs, and to avoid and report sexual harassment and abuse.

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<sup>1</sup> Hoefinger H, Musto J, Maciotti PG, Fehrenbacher AE, Mai N, Bennachie C, Giametta C. Community-Based Responses to Negative Health Impacts of Sexual Humanitarian Anti-Trafficking Policies and the Criminalization of Sex Work and Migration in the US. *Social Sciences*. 2020; 9(1):1. <https://doi.org/10.3390/socsci9010001>

<sup>2</sup> Fagan J, Braga A, Brunson R, Pattavina A. An Analysis of Race and Ethnicity Patterns in Boston Police Department Field Interrogation, Observation, Frisk, and/or Search Reports. 2015. <https://s3.amazonaws.com/s3.documentcloud.org/documents/2158964/full-boston-police-analysis-on-race-and-ethnicity.pdf>

<sup>3</sup> Egede L, Walker R. Structural Racism, Social Risk Factors, and Covid-19 — A Dangerous Convergence for Black Americans. *New England Journal of Medicine*. 2020; 383(12). <http://www.nejm.org/doi/10.1056/NEJMp2023616>

Those who oppose full decriminalization often conflate human trafficking with sex work, which is dangerous. It both denies and further stigmatizes adult consensual sex workers and closes off avenues for providing them safety, support, and access to healthcare. The profound human suffering that occurs in the world of sex trafficking should not be diminished; categorizing it with adult consensual sex work does exactly that: diminishes the extent of true exploitation that the most vulnerable in our communities suffer.

Finally, as an AIDS Service Organization, we must stress the importance of the organizing principle “nothing about us without us” and emphasize the importance of involving people with lived and living experience in the process of developing any kind of regulation of sex work. The commission described in this bill must bring those voices to the table and incorporate their perspectives in meaningful ways.

**H.1758 and S.1046 *An Act to prevent human trafficking and improve the health and safety of sex workers*** addresses basic needs for people engaged in sex work, identifies ways to reduce violence, engages a historically hard-to-reach population in healthcare, provides a framework of resources to serve those who are at risk of human trafficking, and will gather data and information on sex work, led by grassroots advocates and health and human rights experts. Similar to rules and regulations that are applied to many other professions with the goal of safety—this bill brings these issues into the light, aims to reduce stigma, and in doing so, improve public health and safety for everyone. Please support this bill, grant it a favorable report, and continue to consider Fenway Health as a resource.

Thank you.

Sincerely,

Carrie Richgels  
Manager of Policy and Advocacy  
Fenway Health