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FACT SHEET 2015

HB 1363

## Texas Should Not Re-Victimize Individuals Convicted of Prostitution *Felony Convictions Further Traumatize Many Who Are Victims Of Human Trafficking*

### REMOVING FELONY CONVICTION FOR PROSTITUTION RECOGNIZES HUMAN TRAFFICKING ROOTS IN SEXUAL EXPLOITATION

While not all human trafficking is done for the purpose of sexual exploitation – and not all prostitution is the result of trafficking – the two are inextricably entwined. In 2009, Texas created the Texas Human Trafficking Prevention Task Force (THTPTF), which was meant to spotlight and provide recommendations to address the dehumanizing and destructive results of trafficking. According to data provided by the Task Force in its 2014 report, **Texas saw 737 human trafficking incidences and 210 human trafficking-related arrests between January 1, 2007, and December 14, 2014, with 85 convictions.**<sup>1</sup> In addition, the Texas Department of Criminal Justice (TDCJ) reported that, as of August of 2014, there were 98 individuals serving sentences for human trafficking-related offenses or compelling prostitution.<sup>2</sup>

Separate from those reported figures, the *Austin American-Statesman* estimated that during the summer of 2012, **TDCJ had 350 individuals serving sentences for prostitution convictions without one person having been convicted for solicitation of prostitution services.**<sup>3</sup> This amplifies a comment in the Task Force’s 2012 report, that human trafficking is “largely driven by the principles of supply and demand.”<sup>4</sup> The terrible truth is that it is the supply part of the equation at issue here – when trafficking of humans is done for sexual exploitation, it is the prostitutes, the victims, who are convicted and punished, not those who pay for their services.

**Almost all prostitutes share many common characteristics, among them substance abuse, mental illness, homelessness, and above all, a history of sexual abuse and profound trauma.** Over and over, studies demonstrate that the women and children who are trafficked and forced to turn to prostitution, along with the disenfranchised youth who exchange sex for favors and get trapped in that lifestyle, are victims of sexual abuse who feel they have no other choice. According to one study of youth prostitution, “There is no curriculum that can provide an abused and frightened fourteen-year-old with the cognitive ability and refusal skills to outthink a 26-year-old offering love, money, and to take care of them.”<sup>5</sup>

The 2001 legislation (HB 460) that made prostitution a felony offense in Texas has not helped to keep the public safe, which is the philosophical foundation of our criminal laws, nor has it addressed victimization. **In fact, keeping prostitution a felony has only served to drive those who are trapped in prostitution further into the shadows while allowing those who solicit prostitution to go unpunished.** It is a clear example of a policy driven by public opinion rather than systematic analysis. The collateral consequences of a criminal conviction – decreased opportunities for legitimate employment, denial of adequate housing, limited access to medical and mental health services – make leaving a life of prostitution exponentially more difficult when that conviction is a felony. In addition, the overwhelming majority of arrests for prostitution-related offenses are of women, making this particular felony one that further marginalizes females.

### KEY FINDINGS

- It costs an average of \$15,000 to \$18,500 annually to house an individual in a state jail or prison in Texas, while participation in a community-based rehabilitation program costs only \$4,300 per individual per year. **The repeal of the 2001 law and the increased use of prostitution diversion programs could result in savings of over \$4 million annually, money that could instead be funneled into much needed treatment programs.**<sup>6</sup>

*Continued on reverse.*

## KEY FINDINGS, CONTINUED

- 65 percent to 95 percent of those in prostitution were sexually assaulted as children.<sup>7</sup>
- A nine-country study of prostitution found that 68 percent of the prostitutes studied exhibited Post-Traumatic Stress Syndrome (PTSD) symptoms in the same range as treatment-seeking combat veterans, battered women seeking shelter, and refugees from state-sponsored torture.<sup>8</sup>
- Laws against prostitution criminalize both men and women engaging in prostitution, but they clearly discriminate against women. A Boston study showed that 92 percent of prostitution-related arrests were of women; a similar study in Chicago showed that 89 percent of all arrests for prostitution were of women.<sup>9</sup>

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 1363 BY REPRESENTATIVE JOHNSON

- **HB 1363 will encourage those arrested for prostitution to receive treatment for addiction issues and their history of trauma.** In 2013, the Legislature passed SB 484, authorizing the creation of county-level programs that would offer an array of counseling to individuals charged with prostitution. While contingent upon funding, these programs offer an innovative and necessary component of any statewide effort to create a new approach to prostitution.
- **HB 1363 will serve to help fulfill the recommendations set forth by the Texas Human Trafficking Prevention Task Force.** The Task Force recommends that the Texas Legislature recognize that “human trafficking victims – through force, fraud, or coercion – sometimes commit illegal acts during their victimization.”<sup>10</sup> These acts are considered criminal and occur most often in the context of sex trafficking. HB 1363 will recognize that difficulty and will not further victimize individuals, overwhelmingly women, instead allowing them to continue their lives without the added burden of a felony conviction.

## **Citations**

<sup>1</sup> The Human Trafficking Prevention Task Force Report, 2014. Presented to the Texas Legislature, Dec. 2014. p. 3. Available at [https://www.texasattorneygeneral.gov/files/agency/20142312\\_htr\\_fin.pdf](https://www.texasattorneygeneral.gov/files/agency/20142312_htr_fin.pdf)

<sup>2</sup> Ibid, p. 3.

<sup>3</sup> Ward, M. “Texas rethinks law making repeat prostitution a felony.” Austin American-Statesman, Aug. 26, 2012. Available at <http://www.statesman.com/news/news/state-regional-govt-politics/texas-rethinks-law-making-repeat-prostitution-a-fe/nRNmt/>

<sup>4</sup> The Human Trafficking Prevention Task Force Report, 2012. Presented to the Texas Legislature, Dec. 2012. p. 7. Available at [https://www.texasattorneygeneral.gov/files/agency/20121912\\_htr\\_fin\\_3.pdf](https://www.texasattorneygeneral.gov/files/agency/20121912_htr_fin_3.pdf)

<sup>5</sup> Boyer, D. (2008). “Who pays the price? Assessment of youth involvement in prostitution in Seattle.” Report by the City of Seattle, Human Services Department. p. 8. Available at <http://www.prostitutionresearch.com/Boyer%20Who%20Pays%20the%20Price.pdf>

<sup>6</sup> Ward, M. “Texas rethinks law.”

<sup>7</sup> Farley, M. (2004). “Prostitution is sexual violence.” *Psychiatric Times*. Available at <http://www.psychiatristimes.com/sexual-offenses/prostitution-sexual-violence>

<sup>8</sup> Alvares, Cotton, Farly, et al. (2003). “Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder.” *Journal of Trauma Practice*. Available at <http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf>

<sup>9</sup> Hughes, D. (2005). “Combating Sex Trafficking: Advancing Freedom for Women and Girls.” *Keynote Address, Northeast Women’s Studies Association Annual Conference*. Available at [http://www.prostitutionresearch.com/Hughes%20combating\\_sex\\_trafficking.pdf](http://www.prostitutionresearch.com/Hughes%20combating_sex_trafficking.pdf)

<sup>10</sup> The Human Trafficking Prevention Task Force Report, 2014.