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FACT SHEET 2013

H.B. 2863

## Texas Should Improve First Offender Prostitution Prevention Programs

### *Amending First Offender Prostitution Programs to Expand Eligibility to Participate and to Offer Targeted Education and Counseling Services Will Lead to Cost Savings and Healthier Communities*

#### PUNITIVE APPROACHES TO PROSTITUTION ARE COSTLY AND INEFFECTIVE, THREATENING PUBLIC HEALTH AND SAFETY

Texas incarcerates sex workers at a higher rate than most other states.<sup>1</sup> This punitive approach has not significantly deterred individuals from prostitution or decreased the number of prostitution arrests. Instead, Texas' policies have resulted in high costs associated with policing, prosecuting, and incarcerating these individuals, and they have created collateral consequences for the arrested individuals themselves and the communities where prostitution occurs.<sup>2</sup> Indeed, individuals face lifelong barriers associated with conviction, including limited access to housing and employment, while communities struggle to address populations that are under-employed or homeless, and thus draining local budgets.

Prostitution diversion programs have a proven track record of success in offering individuals a safe, permanent exit from prostitution, while simultaneously saving the state and counties much-needed funds and positively impacting both public health and public safety. **Currently, various first offender programs in Texas are open only to individuals who solicit sex workers. We urge legislators to open participation in such programs to sex workers themselves,** as well as add offense-specific counseling and education to participant programs. Without assistive services in place, it is not easy for prostitutes to simply abandon their primary means of support.

#### KEY FINDINGS

- As per a 2001 Texas law, prostitution is a felony if an individual has been convicted of the offense on three or more occasions. In the summer of 2012, an *Austin American-Statesman* study estimated that there are **currently 350 individuals serving time in state jail or prison due to prostitution convictions.**<sup>3</sup>
- It costs an average of \$15,500 to \$18,500 annually to house an individual in a state jail or prison, 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>4</sup>
- Individuals become involved with prostitution for a variety of reasons. It may be a conscious, voluntary decision; it may be a means of survival; or it may have been forced upon them. The men and women who engage in sex work are **far more likely to suffer from mental illness, drug and alcohol addiction, and past trauma** than both the general population and many other individuals entering the criminal justice system; if left untreated, these conditions will result in continuous relapses, re-offending, and re-incarceration, at further taxpayer expense.<sup>5</sup>
- **Unfortunately, current laws related to prostitution have failed to adequately address the problems related to prostitution, and have actually made it more difficult for prostitutes to leave the profession,** since once a prostitute has a criminal record, finding legitimate work becomes that much more difficult. In addition, the criminalization of prostitution forces prostitutes to retreat even further from public view, making an already vulnerable population even more susceptible to violence and abuse.

*Continued on reverse.*

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS: SUPPORT H.B. 2863 BY REPRESENTATIVE CARTER

In order to significantly reduce the number of individuals working as prostitutes and to save long-term taxpayer dollars associated with arrest and incarceration, H.B. 2863 expands first offender program participation to those convicted of offering (not just soliciting) prostitution, and it provides for tailored assistance based on the particular offense committed.

- **H.B. 2863 expands the eligible individuals who are able to participate in first-time prostitution diversion programs, saving the state much-needed funds and making communities safer and healthier.** Under current law, only those who have committed prostitution under section 43.02(a)(2) of the Penal Code are eligible to enroll in certain first offender prostitution programs. H.B. 2863 further expands eligibility to those who have committed prostitution under section 43.02(a)(1), which includes individuals offering, agreeing, or engaging in sexual conduct for a fee. This bill will help to reduce long-term costs associated with policing, prosecuting, and incarcerating individuals who commit prostitution.
- **H.B. 2863 improves the outcomes of first offense prostitution diversion programs by adding provisions for counseling, services, and classroom instruction to participants.** Separate and appropriate assistive services will significantly increase the success rate of prostitution diversion programs by informing participants of the risks involved with prostitution – whether offering or soliciting prostitution – and they will help to encourage other life choices to be responsible, law-abiding citizens.

## References

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- <sup>1</sup> Mike Ward, "Texas Rethinks Law Making Repeat Prostitution a Felony," *Austin American-Statesman*, August 25, 2012.
  - <sup>2</sup> Dominique Roe-Sepowitz, Kristine Hickle, Martha Perez Loubert, & Tom Egan, "Adult Prostitution Recidivism: Risk Factors and Impact of a Diversion Program," *Journal of Offender Rehabilitation* 50, no. 5 (1990): 272-85.
  - <sup>3</sup> Ward, "Texas Rethinks."
  - <sup>4</sup> *Ibid.*
  - <sup>5</sup> Melissa Farley & Howard Barkan, "Prostitution, Violence, and Posttraumatic Stress Disorder," *Women & Health* 27, no. 13 (1998): 37-49.