NOT DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Board Of Immigration Appeals

IN THE MATTER OF

**R-S-S-,**

**A#WITHHELD**

*Respondent.*

Appeal from an Immigration Judge decision

**BRIEF OF AMICUS, AMERICAN IMMIGRATION LAWYERS ASSOCIATION**

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## Introduction

R-S-S- paid money to another for sex. In doing so, he engaged in a commercial transaction more than two millennia old that is presently regulated in the United States with a quirky patch of state, federal and international rules. *See* Melissa Hope Ditmore, *Encyclopedia of Prostitution and Sex Work*, Vol. 1 (Greenwood Press, 2006) at xxxiii (historical timeline). It has long been presumed (a presumption that this brief challenges) that if the sex worker whom R-S-S- patronized were a noncitizen, she could be deported for having committed a crime involving moral turpitude. *Matter of W-*, 4 I&N Dec. 401 (Cen. Office 1951).[1] The individual who induced the sex worker into the trade, if any, is involved in a turpitudinous offense. *Matter of S-L-*, 3 I&N Dec. 396 (Cen. Office 1948). The person who hustles up clients for the

[1] If she were seeking admission to the United States, the noncitizen sex worker might be inadmissible under § 212(a)(2)(D) of the Act, a statutory rule with controversial and contested historical antecedents. *See* Ariela R. Dubler, *Immoral Purposes: Marriage and the Genus of Illicit Sex,* 115 Yale L.J., 756, 766 n29 (2006) (summarizing scholarship on whether early-twentieth-century reformers identified a true problem or stirred up an unfounded moral panic.)



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sex worker is engaged in an offense of moral turpitude. *Matter of Lambert*, 11 I&N Dec. 340 (BIA 1965) And, whomever operates the location of the sexual assignation might also be charged with an offense involving moral turpitude. *Matter of P-*, 3 I&N Dec. 20 (1947). But what to do with R-S-S- himself, then?

Figuring out how to resolve R-S-S-'s situation under our nation's immigration laws requires that we also figure out if we have properly resolved the situation of the sex worker. Amicus, the American Immigration Lawyers Association, proffers this brief to explain why, though it may be criminal in some parts of the country to engage in sex for pay, it is *not* a crime involving moral turpitude. Simple prostitution, as we define and explain below, does not involve moral turpitude. It is neither turpitdunous to pay for sex nor to offer sex for pay. Neither the sex worker nor client engages in behavior that is base or vile. Consensual, adult sexual relations, even those with a commercial element, should not be punished with deportation for either



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individual involved in the exchange, the sex worker or client.[2]

## Statement of interest of amicus

The American Immigration Lawyers Association ("AILA") is a national association with more than 11,000 members throughout the United States, including lawyers and law school professors who practice and teach in the field of immigration and nationality law. AILA seeks to advance the administration of law pertaining to immigration, nationality and naturalization; to cultivate the jurisprudence of the immigration laws; and to facilitate the administration of justice and elevate the standard of integrity, honor and courtesy of those appearing in a representative capacity in immigration and naturalization matters. AILA's members practice regularly before the Department of Homeland Security and before the Executive Office for Immigration Review, as well as before the United States District Courts, Courts of Appeal, and Supreme Court.

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[2] AILA gratefully acknowledges the writing and research assistance of Angie Ferrer, a law student at Lewis & Clark Law School in Portland, Oregon, in drafting this brief.



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## Argument

There are three critical reasons why the long held presumption that simple prostitution is a crime involving moral turpitude is incorrect. First, it is based on an archaic and mistaken understanding of consensual adult sexual relations that is incompatible with contemporary social norms. Second, an exhaustive review of the criminal codes of the 50 states indicates that the motivation for criminalizing simple prostitution is to prevent public disorder not public immorality. Third, international norms, as demonstrated by a comparative analysis of the laws and experiences of other nations, indicates that simple prostitution is neither base nor depraved. Accordingly, the BIA should hold that simple prostitution is not categorically a crime involving moral turpitude for the sex worker or client.[3]

We address each issue in turn. We take no position on the merits of the respondent's claim.

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[3] There are likely good reasons why third-parties who live off of the earnings of sex workers or induce others into commercial sex engage in offenses of moral turpitude. *See infra* at A (setting forth definition of third-party). As shown in Appendix B, most states separately criminalize activities of third-parties.



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## A. Definitions

Our framework for this brief begins with laying out with precision the definition of certain terms. The term "prostitution" may encompass a wide range of activity and may refer to the conduct of a number of different actors. In this brief, unless we address the elements of a criminal offense, we describe "commercial sex" as a private transaction in which consenting adults negotiate and perform sexual activity for something of value. *See* Ditmore, *Encyclopedia of Prostitution and Sex Work*, at xxvi. This brief assumes that, unless specified, a commercial sex transaction is a private, consensual act that does not violate any laws other than those that may prohibit the transaction itself.[4]

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[4] AILA is a strong and active participant in ending all forms of human trafficking. AILA actively engages its members in trainings on identifying and representing victims of trafficking, collaborates with allied organizations on anti-trafficking initiatives, and advocates for additional protections for trafficking victims. Our review of the 50 states legislation clearly indicates that trafficking crimes are defined differently and prosecuted separately from simple commercial sex work offenses. *See* Appendix B (state prostitution laws); Shared Hope International, *The Protected Innocence Challenge: State Report Cards on the Legal Framework of Protection for the Nation's Children* at 107 (2011) (collecting state anti-human trafficking laws).



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The term "sex worker" refers to an adult who negotiates and engages in consensual sexual activity in exchange for something of value as part of a private commercial transaction. Consent is a key element in this definition. For the purposes of this brief, any use of the term "sex worker" assumes that the party is of age and capable of providing consent. The term "sex worker" does not refer to any minor, any individual incapable of providing consent, or any individual who is coerced into engaging in sexual activity.

The terms "customer" and "client" refer to an individual who offers something of value in exchange for consensual commercial sexual activity with a sex worker. The customer or client "solicits" sex for himself when he offers to engage or engages in a commercial sex transaction.[5] The terms "customer" and "client"

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[5] Our pronoun usage reflects reality, though we intend the pronouns in this brief to be gender-neutral. *But see Matter of R-M-*, 7 I&N Dec. 392 (BIA 1957). In *Matter of R-M-*, the Board interpreted the prostitution ground of inadmissibility, presently codified at § 212(a)(2)(D), that excludes aliens who procure prostitutes or persons for the purpose of prostitution. The Board explained that it "is well established that the term 'prostitute' relates solely to a person of the female sex." *Id.* at 395. The prostitution ground has a unique history and different purpose



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do not refer to any individual who engages in nonconsensual sexual activity. For example, it does not include a person who rapes or assaults another individual, or to a person who engages in sexual activity with a minor or an individual incapable of consent. The terms also do not refer to a person who solicits or procures a sex worker for another individual, or who solicits or procures a client for a sex worker.

"Third-parties" are individuals who are neither sex workers nor clients, but who seek to benefit financially from commercial sex transactions. Third-party beneficiaries may include pimps, brothel owners, managers and operators, as well as any other parties who receive a profit from a commercial sex transaction.

"Procurement" occurs when a third-party obtains a sex worker for another. In some case decisions, procurement is used interchangeably with solicitation. Our research indicates that

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than the inadmissibility and deportability grounds involving crimes of moral turpitude. *See Matter of Gonzalez-Zoquiapan*, 24 I&N Dec. 549 (BIA 2008) (describing the unique statutory history of the prostitution ground of inadmissibility.)



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this usage is incorrect and has lead to confusion in adjudications.[6]

"Pandering" occurs when a third-party lives off the income of a sex worker. In street culture, the term "pimp" commonly refers to an individual, usually a man, who procures and panders.

We define "simple prostitution" as the generic criminal offense that proscribes a consenting adult from offering or providing sex to another adult in exchange for value or proscribes a consenting adult from exchanging or offering to exchange something of value to another adult for sex. Some jurisdictions criminalize differently the acts of the sex worker and the client. In those jurisdictions, when a client commits the crime of simple prostitution it is commonly referred to as "patronizing" a sex worker or "soliticting" a sex worker. In those same jurisdictions, the sex worker commits the crime of "prostitution". Under our definition of "simple prostitution" we do not distinguish between the acts of the sex worker or client because both parties are consenting adults and therefore, it does not matter in the final analysis as to whether simple prostitution involves moral

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[6] *See*, *e.g.*, *Matter of Ainsley Donovan Peckoo*, 2010 WL 2846299 at *1 (BIA, June 21, 2010).



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turpitude.[7]

### B. The Historical Underpinnings of Simple Prostitution as a Crime Involving Moral Turpitude

Did R-S-S- commit a reprehensible crime by paying (or offering to pay) another to have sex with him? The question naturally arises because, after all, if offering sex for pay is a reprehensible act would it also be reprehensible to pay for the sex?[8] And this is where we begin our analysis. To answer the

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[7] The narrow question presented in this case is whether patronizing a sex worker involves moral turpitude. *See* Appendix A (invitation to submit amicus brief on the question of "does the offense of solicitation of prostitution for oneself involve a reprehensible act[?]"). This brief addresses the larger question of whether simple prostitution (which in our definition includes both the sex worker and the client's actions) is a crime involving moral turpitude because there is no logical or rationale means for viewing the regulation of the sex worker and client differently. *See* Ronald Weitzer, *Prostitution Control in America: Rethinking Public Policy*, 32 Crime, Law & Social Change 83, 94-99 (1999). The resolution of both questions is an important and recurring one to the administration of the nation's immigration laws and the Board may address both questions here. *See Matter of Garcia-Garcia*, 25 I&N Dec. 93, 94 n2 (BIA 2009).

[8] It is a fair enough question and it is a question that the Ninth Circuit recently addressed and found that it takes two to tango: "The base act is the intended results of the base request or offer." *Rohit v. Holder*, 670 F.3d 1085, 1090 (CA9 2012). The Ninth



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question posed in the Board's supplemental order regarding solicitation, a preliminary question needs answered: whether simple prostitution for the sex worker inherently involves moral turpitude?

Perhaps assuming that it was so obvious that it has never needed explanation, a review of the published administrative immigration decisions of the Board, the Central Office, and the Attorney General does not reveal any reasoning *why* simple prostitution is a crime involving moral turpitude. For example, the decision in *Matter of W-* held, without explanation or authority, that it "is well established that the crime of practicing prostitution involves moral turpitude." 4 I&N Dec. at 402.[9] In

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Circuit is wrong because it assumed that the Board's law about simple prostitution was right. *Id.* at 1090-91. Even though it is a published decision, the Board is not bound by *Rohit* because it merely deferred to the Board's interpretations of the ambiguous term "crime involving moral turpitude" and, in fact, deferred to an unpublished disposition of the Board. Certainly, the Board never feels bound by its own unpublished dispositions. Thus, *Rohit* merely demonstrates the importance of both questions presented in this brief and is not a statement of binding law on the Board.

[9] *Matter of W-* was decided by the Central Office and published as a precedent. The Board has historically treated Central Office decisions as precedent. *See Matter of Alfonzo-Bermudez*, 12 I&N



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*Matter of S-L-*, 3 I&N Dec. at 397, prostitution was described as having a "turpitudinous nature" without explaining why. *Matter of Lambert* which dealt with third-party activities was premised on but did not explain why simple prostitution involved moral turpitude. 11 I&N Dec. at 341-42. According to the cumulative index to the Administrative Decisions Under Immigration and Nationality Laws of the United States, there has not been a published opinion on prostitution vis a vis a crime involving moral turpitude for more than 50 years. A lot has changed in 50 years and while the published administrative decisions tell us nothing about their assumption that simple prostitution was reprehensible, the historical underpinnings of the assumption are easily discerned elsewhere.

**1. United States v. Bitty**

On August 4, 1907, John Bitty was arrested by the federal government when he disembarked from a steamer arriving in New York City from England. He was charged with violating § 3 of the Immigration Act of 1907's importation clause for bringing

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Dec. 225, 226 (BIA 1967) (citing to *Matter of W-* as binding precedent).



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Violet Sterling, a 21-year old English woman, to the United States to be his mistress, or as she was later described, his "concubine". *See* Ariela R. Dubler, *Immoral Purposes: Marriage and the Genus of Illicit Sex*, 115 Yale L.J. 756, 771-772 (2005-2006). The trial court concluded that being a concubine or mistress was very different than being a prostitute and thus it was not immoral. *United States v. Bitty,* 155 F. 938, 939 (C.C.S.D.N.Y. 1907). It was the "indiscriminate sex *and* monetary exchange" that made prostitution immoral. Drubler, *Immoral Purposes*, 115 Yale L.J. at 772 (examining *Bitty*) (emphasis added). It was, in other words, the commodification of sex that made simple prostitution an immoral crime.[10]

The Supreme Court disagreed. 28 S.Ct. 396, 401 (1908). Finding the statute to be clear, Justice Harlan writing for a unanimous court held that prostitution for federal purposes of the immigration statute "refers to women who, for hire *or without hire*, offer their bodies to indiscriminate intercourse with men."

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[10] For analytical purposes, it is of little moment that *Bitty* dealt with a criminal charge of "immoral purpose" under the 1907 Act and not an immigration charge. A crime of moral turpitude is, by definition, an immoral crime.



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*Id.* (emphasis added). It was not the remuneration that made prostitution immoral. In the Supreme Court's view, the commodification of sex was not the issue at all. Rather prostitution was depraved because it affronted marriage. *Id.* Justice Harlan explained that "[t]he lives and example of [prostitutes] are in hostility to the idea of the family as consisting in and springing from the union for life of one man and one woman in the holy estate of matrimony[.]" *Id.* (internal quote omitted). Traditional marriage was "the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement." *Id.* Simple prostitution, in light of its harm to marriage by permitting sexual relations outside of marriage *with or without hire*, was depraved. In other words: sex workers led married men astray.[11]

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[11] *See* Druber, *Immoral Purposes*, 115 Yale L.J. at 781-782 ("The marital bond was not always strong enough to prevent husbands from succumbing to the temptations of immoral sex, thereby destroying families."); David Richards, *Commerical Sex and the Rights of the Person: A Moral Argument for the Decriminalization of Prostitution*, 127 U. Pa. L. Rev. 1195, 1219 (1979) (interpreting *Bitty* as holding that "the gravamen of the moral evil…is that a



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### 2. Immigration Authorities & Simple Prostitution

This turpitudinous view of simple prostitution – sex outside of marriage that harms the marital union – replicated itself several times in the immigration authorities. For example, the blue-ribbon Dillingham Commission, described that the fundamental moral harm of simple prostitution was its "infection of innocent wives and children by dissipated husbands and through the mental anguish and moral indignation aroused by marital unfaithfulness, has done more to ruin homes than any other single cause." U.S. Immigration Comm'n, *Importing Women for Immoral Purposes: A Partial Report from the Immigration Commission on the Importation and Harboring of Women for Immoral Purposes*, S. Doc. No. 61-196 at 7 (1909).

The Attorney General of the United States, when queried for an advisory opinion on whether marriage to an American man prevented the deportation of a woman who had entered the United States in violation of the immoral purpose provision of the

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*woman* should engage in sex not only unchastely but *indiscriminately*, in complete isolation from sentimental attachments of a kind perfected in monogamous marriage.")



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Immigration Act of 1907, explained that "character is not immutable, and while acts of prostitution are indicative of bad character, the entering of a prostitute into the lawful state of matrimony indicates a reformation and present good character, which it is the duty of society to encourage." *See, e.g., Alien Woman Married to An American Citizen*, 27 Op. Att'y Gen. 507, 520 (1909).

It was sex outside of marriage that was the mischief of simple prostitution. *Bitty*, 208 S.Ct. at 401. The view that simple prostitution was immoral because married men would "dissipate" themselves with sex workers thus became fixed. And thus, this view copied itself into our deportation and inadmissibility jurisprudence in *Matter of W-*, *Matter of P-*, *Matter of S-L-*, and *Matter of Lambert*. And no one, it seems, has challenged that assumption since then.

### C. Contemporary Views of Adult Consensual Sexual Relations.

Contemporary social views of sex outside of marriage have changed since *Bitty*'s defense of female chastity and good character. Sexual relations outside of marriage are not (and



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probably never were) base, vile or depraved. Almost 8 million unmarried couples live together in the United States. U.S. Census Bureau, *Households and Families: 2010*, 2010 Census Briefs at 5, Table 2 (April 2012). In the last ten years alone, the American unmarried household population grew 41 percent which is "four times as fast as the overall household population." *Id.* at 3. Sex outside of marriage "is highly normative behavior." *See* Lawrence B Finer, *Trends in Premarital Sex in the United States, 1954-2003*, 122 Public Health Reports 73, 76 (Jan-Feb. 2007). "Almost all individuals of both sexes have intercourse before marrying, and the proportion has been roughly similar for the past 40 years." *Id.* Our criminal laws are evolving in response. *See, e.g.,* Laura A. Rosenbury & Jennifer E Rothman, *Sex In and Out of Intimacy*, 59 Emory L.J. 809, 816 (2010) ("Most states have abandoned or are in the process of abandoning criminal prohibitions on fornication, adultery, and unmarried cohabitation[.]").[12]

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[12] In the landmark case, *Lawrence v. Texas*, 539 U.S. 559 (2003), the Supreme Court specifically did not address the question of simple prostitution. However, the fact that there is now occurring a serious discussion whether consensual sex for pay may be *constitutionally protected* says a lot about whether we presently



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As our contemporary view of sex outside of marriage has changed, so to must the view of moral turpitude found to be inherent in simple prostitution. "[T]he nature of a crime is measured against contemporary moral standards and may be susceptible to change based on the prevailing views in society." *Matter of Torres-Varela*, 23 I&N Dec. 78, 83 (BIA 2001). It is time for our immigration jurisprudence to evolve as well.

**1. Simple Prostitution as a Public Order Crime.**

The most common complaint about simple prostitution is the tangible environmental effects that sexual commerce has on the street, not moral indignation. *See* Weitzer, *Rethinking Public Policy*, 32 Crime, Law & Soc. Change at 84-85. The majority view of the public is that simple prostitution on the street-level is bad because it results in arguing, fighting, littering, traffic congestion and mistaken propositions. *Id.* It is seen not as depraved crime, rather it is a quality of life crime. Indeed, a quarter to half of the American population supports legalization of sex work to reduce impacts on public order and public health. *Id.* at 87-88; *cf. id.* at

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view it as reprehensible. *See* Rosenbury & Rothman, *Intimacy*, 59 Emory L.J. at 815-820.



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91-93 (describing how there is "relatively little public opposition to indoor prostitution" because it has little impact on the host community). *Cf.* John Lowman, Dep't of Justice Canada, Research & Statistics Division, *Identifying Research Gaps in the Prostitution Literature* at 6 (March 2001) (explaining that in Canada, the "visibility of prostitution appears to be the primary concern driving law enforcement efforts.")

This is not to posit that simple prostitution ought to be legalized. Indeed, with the notable exception of Nevada, it is universally criminalized across the United States. *See* Appendix B. Rather, the point to be made is that simple prostitution, as a criminal offense, does not contain any inherent element of immorality. Instead, it is commonly perceived to be a regulatory offense directed at maintaining public order, not public morals.[13]

We conducted an exhaustive review of the statutes

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[13] To be sure, there is a lot of illegal and immoral conduct that operates at the margins of the commercial sex industry. But that does not make simple prostitution base, vile or depraved. As a parallel: there is a lot of depraved activity that surrounds the illegal drug trade, but simple possession of a controlled substance (though it is a deportable offense) is not a turpitudinous offense. *Matter of Abreu-Semino*, 12 I&N Dec. 775 (BIA 1968).



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regulating commercial sex throughout the 50 states. All states draw a clear line between simple prostitution and other commercial sex offenses that have a grave or depraved nature because it involves pandering, procuring, minors, or trafficking. *See* Appendix B.

**2. Comparative Views On Simple Prostitution**

Nevada is not the only jurisdiction to take the view that commercial sex, particularly simple prostitution, is a licit activity. *See* Ronald Weitzer, *New Directions in Research on Prostitution*, 43 Crime, Law & Soc. Change 211, 214-220 (2005). Like the State of Nevada, other countries including Canada, The Netherlands, and New Zealand have legalized commercial sex.

In Canada, "prostitution itself is legal. There is no law that prohibits a person from selling sex, and no law that prohibits another from buying it." *Canada (Attorney General) v. Bedford*, 2012 ONCA 186, ¶ 2 (Mar. 26, 2012); Laura Barnett, Law & Gov't Div., *Prostitution in Canada: International Obligations, Federal Law, and Provincial and Municipal Jurisdiction*, Parliamentary Information & Research Service 6-11 (Feb 2008) (describing



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current law and legislative history). "Essentially, although consensual sex between two adults for consideration is not in itself punishable in law, other events surrounding the act of prostitution are prohibited." *Id.* at 6. It is an offense in Canada only to negotiate for sex in public. Criminal Code, R.S.C. § 213 (Can. 2012). *See, e.g.,* Barnett, *Prostitution in Canada*, at 22-26 (providing example licensing statutes for off-street commercial sex establishments).

In New Zealand, commercial sex was decriminalized and legalized in 2003, with several amendments and structural reforms since then. *See* Gillian Abel, *The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers*, Report to the Prostitution Law Review Committee 22 (Nov. 2007). The Netherlands has a highly regulated approach to commercial sex. *See* A.L. Daalder, *Prostitution in the Netherlands since the lifting of the brothel ban, Netherlands Ministry of Security & Justice* (Research & Documentation Centre) 39-45 (2007). Some countries, such as the United Kingdom, France, and Japan have *decriminalized* commercial sex in policy or in practice.


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*See* Dana Lynn Radatz, *Systematic Approach to Prostitution Laws: A Literature Review and Further Suggestions* 42-44 (2009) (Masters Theses and Doctoral Dissertations, Paper 231) (available at http://commons.emich.edu/theses/231) (collecting studies).

This is all to say that there is nothing inherently that shocks the conscience, at least as viewed by these jurisdictions, in consensual adults engaging in sexual relations for pay.

## Conclusion

The Board should hold that simple prostitution is not categorically a crime involving moral turpitude.

Respectfully submitted,

_____

Stephen W. Manning

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## Certificate of Service

I, Stephen W Manning, certify that on September 11, 2012, I served a true and correct copy of the attached brief on the parties below by first class regular mail.

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AILA InfoNet Doc. No. 12091749. (Posted 09/17/12)

# Appendix B: State Prostituton Laws

| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | **First Circuit** | | |
| **Maine** | 17a § 853-A Engaging in Prostitution: Class E crime. If Second conviction in 2 yrs, then it's a Class D crime. | 17a § 853-B Engaging a Prostitute: Class E crime. If Second conviction in 2 yrs, then it's a Class D crime | 17a § 852 Aggravated Promotion of Prostitution | Class B Crime |
| | | 17a § 855 Patronizing Prostitution of Minor: Class D crime unless the offender knows that the person is a minor, then it's a Class C crime. | 17a § 853 Promoting Prostitution | Class D Crime |
| **Massachusetts** | 272 §53A(a): Up to 1 year jail and/or fine of up to $500. | 272 §53A(b): Up to 2.5 yrs jail and/or fine of $1000 - $5000. | 272 § 2: Enticing Away Person for Prostitution or Sexual Intercourse | Up to 3 yrs prison or one year jail and/or fine up to $1000 |
| | | 272 §53A(c): If child prostitute, up to 10 yrs prison or 2.5 yrs jail and/or fine $3000 - $10,000. | 272 § 4A: Inducing Minor Into Prostitution | 3-5 yrs prison, $5000 fine |
| | | | 272 § 4B: Living Off or Sharing Earnings of Minor Prostitute | 5 yrs prison, $5000 fine |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | 272 § 6: Owner of Place Inducing or Suffering Person to Resort in Such Place for Sexual Intercourse | 5 yrs prison, $5000 fine |
| | | | 272 § 7: Support From, or Sharing, Earnings of Prostitute | 5 yrs prison, $5000 fine |
| | | | 272 § 8: Soliciting for a Prostitute | Up to 2 years jail and/or fine of $1000 - $5000 |
| | | | 272 § 12: Procuring a Person to Practice or Enter a Place for Prostitution | Fine of $100-$500 or 3 months - 2 yrs jail. But if the offender is an employment agency, the fine is only $50 - $200. |
| | | | 272 § 13: Detaining, or Drugging to Detain, Person in a Place of Prostitution | Up to 5 yrs prison or 1-2.5 years jail or fine $100-$500 |
| | | | 272 § 24: Keeping house of Ill fame | Jail up to 2 yrs |
| **New Hampshire** | § 645:2(a) Prostitution and Related Offenses: Misdemeanor | § 645:2(f) Prostitution and Related Offenses: Misdemeanor | § 645:2 Prostitution and Related Offenses: (induce, transport, live off of proceeds, permit prostitution) | Misdemeanor unless child prostitute, then felony |
| **Rhode Island** | § 11-34.1-2 Prostitution: Misdemeanor with sentence enhancements for subsequent offenses | § 11-34.1-3 Procurement of Sexual Conduct for a Fee: Misdemeanor with sentence enhancements for subsequent offenses | § 11-34.1-7: Pandering or Permitting Prostitution | 1-5 yrs in jail and $2000-$5000 fine, more for subsequent offenses |


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|---|---|---|---|---|
| | § 11-34.1-4 Loitering for Prostitution: Up to 6 months in jail and/or fine $250-$1000, more for subsequent offense | § 11-34.1-6 Soliciting from Motor Vehicles for Indecent Purposes: Up to 6 months jail and/or fine of $500-$1000, more for subsequent offense plus vehicle forfeited | § 11-67-6: Sex Trafficking of a Minor | Felony |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | **Second Circuit** | | |
| **Connecticut** | § 53a-82 Prostitution: Class A Misdemeanor | §53a-83 Patronizing a Prostitute: Class A Misdemeanor | §53a-192a Trafficking in Persons | Class B Felony |
| | | § 53a-83a Patronizing a Prostitute from a Motor Vehicle: Class A Misdemeanor | § 53a-86 Promoting Prostitution in First degree | Class B Felony |
| | | | § 53a-87 Promoting Prostitution in the Second Degree | Class C Felony |
| | | | § 53a-88 Promoting Prostitution in the Third Degree | Class D Felony |
| | | | §53a-89 Permitting Prostitution | Class A Misdemeanor |
| | | | § 53a-90a Enticing a Minor | Class D,C or B Felony |
| **New York** | § 230.00 Prostitution: Class B Misdemeanor | § 230.04 Patronizing a Prostitute in the Third Degree: Class A Misdemeanor | § 230.19 Promoting Prostitution in a School Zone | Class E felony |
| | § 230.03 Prostitution in a School Zone - Class A Misdemeanor | § 230.05 Patronizing a Prostitute in the Second Degree: (if customer over 18 and prostitute less than 14 yrs old) Class E felony | § 230.20 Promoting Prostitution in the Fourth Degree | Class A Misdemeanor |


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|---|---|---|---|---|
| | | § 230.06 Patronizing a Prostitute in the First Degree: (If prostitute is less than 11 yrs old) Class D felony | § 230.25 Promoting Prostitution in the Third Degree | Class D felony |
| | | | § 230.30 Promoting Prostitution in the Second Degree | Class C felony |
| | | | § 230.32 Promoting Prostitution in the First Degree | Class B felony |
| | | | § 230.33 Compelling Prostitution | Class B felony |
| | | | § 230.34 Sex Trafficking | Class B felony |
| | | | § 230.40 Permitting Prostitution | Class B Misdemeanor |
| **Vermont** | 13 § 2632(a)( 8) Prohibited Acts: fine up to $100 or jail up to 1 year, more for subsequent offenses | 13 § 2632(a)(8) Prohibited Acts: fine up to $100 or jail up to 1 year, more for subsequent offenses | 13 § 2635 Slave Traffic: (but defined as inducing, enticing, procuring, etc.) | jail 1-10 years and/or fine $200-$2000 |
| | | | 13 § 2636 Unlawful Procurement | jail 1-10 yrs and/or fine $200-$2000 |
| | | | 13 § 2367 Appropriating or Levying upon Earnings of Prostitute | jail 1-10 yrs and/or fine $200-$2000 |


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|---|---|---|---|---|
| | | | 13 § 2632 Direct, take or transport or offer or agree to take or transport a person to a place, structure, building or conveyance or to any other person knowingly for purpose of prostitution | |
| | | | 13 § 2632 Knowingly permit a place, structure, building or conveyance owned by the person or under the person's control to be used for the purpose of prostitution, lewdness or assignation; | |
| | | | 13 § 2602 Lewd or Lascivious conduct with a child | jail and fines |


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|---|---|---|---|---|
| **Third Circuit** | | | | |
| **Delaware** | 11 § 1342 Prostitution: Class B Misdemeanor unless near school, residence, church then Class A Misdemeanor | 11 § 1343 Patronizing a Prostitute Prohibited: Misdemeanor with more for if near school, residence, church, etc. | 11 § 1351 Promoting Prostitution in the Third Degree | Class F Felony |
| | | | 11 § 1352 Promoting Prostitution in the Second Degree | Class E Felony |
| | | | 11 § 1353 Promoting Prostitution in the Third degree | Class C Felony |
| | | | 11 § 1355 Permitting Prostitution | Class B Misdemeanor |
| **New Jersey** | § 2C:34-1(b)(1) Prostitution and Related Offenses: First offense disorderly persons offense, subsequent is crime in Fourth Degree | § 2C:34-1(b)(1) Prostitution and Related Offenses: First offense disorderly persons offense, subsequent is crime in Fourth Degree | § 2C:34-1(b)(3) Prostitution and Related Offenses: (promoting prostitution of a child) | Crime of Second degree |
| | § 2C:34-1.1 Loitering for the Purpose of Engaging in Prostitution: disorderly persons offense | § 2C:34-1(b)(7) Prostitution and Related Offenses: knowingly engaging in prostitution with a minor - crime of the third degree | § 2C:34-1(b)(5) Prostitution and Related Offenses: (compels prostitution, promotes prostitution of spouse, knowingly engages with a person under 18) | Crime of Third Degree |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | § 2C:34-1 Prostitution and Related Offenses: (Owning business, procuring or encouraging someone to become a prostitute) | Crime of Fourth degree |
| **Pennsylvania** | 18 § 5902(a) Prostitution: Misdemeanor in Third degree, Second degree for third offense, First degree for Fourth or more offense, felony of Third degree if knowingly HIV positive | 18 § 5902(e) Patronizing Prostitutes: Misdemeanor in Third degree, Second degree for third offense, First degree for Fourth or more offense, felony of Third degree if knowingly HIV positive | 18 § 5902(b) Promoting Prostitution | Felony of Third degree for owning or managing a business, procuring an inmate for a house, encouraging, inducing, compelling another to be a prostitute, promoting prostitution of spouse or child or knowing that a person is HIV positive. |
| | | | 18 § 5902(d) Living off Prostitutes | Misdemeanor in Second degree if soliciting a person to patronize a prostitute, procuring a prostitute for a patron |
| | | | 18 § 5902(b.1) Promoting Prostitution of a Minor | Felony of Third Degree |


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|---|---|---|---|---|
| **Fourth Circuit** | | | | |
| **Maryland** | § 11-306(a)(1) House of Prostitution: Misdemeanor | § 11-306(a)(5) House of Prostitution: Misdemeanor | § 11-303 Pandering | Misdemeanor, felony if minor |
| | | | § 11-306(a)(2) House of Prostitution: (keeping a house of prostitution) | Misdemeanor |
| | | | § 11-304 Receiving Earnings of a Prostitute | Misdemeanor |
| | | | § 11-305 Abduction of Child Under 16 | Misdemeanor |
| **North Carolina** | § 14-204(7) Prostitution and Various Acts Abetting Prostitution Unlawful: Class 1 Misdemeanor, with sentence enhancements for second offense | § 14-204(7) Prostitution and Various Acts Abetting Prostitution Unlawful: Class 1 Misdemeanor, with sentence enhancements for second offense | § 14-43.11 Human Trafficking | Class F felony if adult, Class C felony if a minor |
| | § 14-204.1 Loitering for the Purpose of Engaging in Prostitution: Class 1 Misdemeanor | Note: Definition of "prostitution" includes the "offering or receiving of the body for sexual intercourse for hire," so it includes both the sex worker and the customer | § 14-43.13 Sexual Servitude | Class F felony if adult, Class C felony if a minor |


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|---|---|---|---|---|
| | | § 14-204(5) Prostitution and Various Acts Abetting Prostitution Unlawful: procure or solicit - Class 1 misdemeanor with sentence enhancements for second and subsequent offense | § 14-204 Prostitution and Various Acts Abetting Prostitution Unlawful: (permitting, transporting, procuring, operating a place of prostitution) | Class 1 Misdemeanor, with sentence enhancements for second offense |
| **South Carolina** | § 16-15-90(1) Prostitution: up to $200 fine or up to 30 days prison, sentence enhancement for subsequent offenses | § 16-15-90(3) Prostitution: up to $200 fine or up to 30 days prison, sentence enhancement for subsequent offenses | § 16-15-140 Committing or Attempting Lewd Act Upon a Child under 16: | Felony |
| | | | § 16-3-930 Trafficking in Persons | felony |
| | | | § 16-15-415 Promoting Prostitution of a Minor | felony |
| | | | § 16-45-425 Participating in Prostitution of a Minor: (patronizing) | Felony |
| | | | § 16-15-100 Prostitution; Further Unlawful Acts: (procure a female inmate for a house of prostitution, induce, threaten, accept money from a prostitute) | Fine up to $200 or prison up to 30 days, enhancements for subsequent offenses |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | § 16-15-90 Prostitution: (aid or abet prostitution knowingly, procure or solicit for the purpose of prostitution, keep or set up a house of ill fame, permit prostitution) | Fine up to $200 or prison up to 30 days, enhancements for subsequent offenses |
| **Virginia** | § 18.2-346(A) Being a Prostitute or Prostitution: Class 1 Misdemeanor | § 18.2-346(B) Being a Prostitute or Prostitution: Class 1 Misdemeanor | § 18.2-347 Keeping, Residing in or Frequenting a Bawdy Place | Class 1 Misdemeanor |
| | | | § 18.2-348 Aiding Prostitution or Illicit Sexual Intercourse | Class 1 Misdemeanor |
| | | | § 18-2.349 Using Vehicles to Promote Prostitution or Unlawful Sexual Intercourse | Class 1 Misdemeanor |
| | | | § 18.2-355 Taking, Detaining, Etc. Person for Prostitution | Class 4 felony |
| | | | § 18.2-356 Receiving Money for Procuring Person | Class 4 felony |
| | | | § 18.2-357 Receiving Money From Earnings of Male or Female Prostitute | Class 4 felony |


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|---|---|---|---|---|
| **West Virginia** | § 61-8-5(b) Houses of Ill Fame and Assignation: county jail 60 days - 6 mos and fine $50-$100, more for second offense | § 61-8-5(b) Houses of Ill Fame and Assignation: county jail 60 days - 6 mos and fine $50-$100, more for second offense and even more for subsequent offenses | § 61-8-8 Receiving Support from Prostitution; Pimping | County jail 6 mos - 1 yr and fine $100-$500. Subsequent offense more. Felony if prostitute is a minor. |
| | | | § 61-8-5 Houses of Ill Fame and Assignation: (owning house of prostitution, renting, transporting, aiding, abetting, etc.) | county jail 6 mos - 1 yr, fine $100-$250, more for subsequent offenses. |
| | | | § 61-8-6 Detention of Person in Place of Prostitution | county jail 6 mos - 1yr, fine $100-$500. Subsequent offense more. Felony if detainee is a minor. |
| | | | § 61-8-7 Procuring for House of Prostitution | County jail 6 mos - 1 yr and fine $100-$500, subsequent more. Felony if prostitute is a minor. |


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|---|---|---|---|---|
| **Fifth Circuit** | | | | |
| **Louisiana** | 14 § 82 Prostitution: fine up to $500 and/or up to 6 mos imprisoned. More for subsequent offenses. If with a person under 18, penalty increases, and if under 14 increases more. | 14 § 82 Prostitution: fine up to $500 and/or up to 6 mos imprisoned. More for subsequent offenses. If with a person under 18, penalty increases, and if under 14 increases more. | 14 § 82.1 Prostitution; Persons under 18: (engaging in intercourse, consenting to minor's entrance into prostitution) | up to $50,000 fine, imprisoned at hard labor for 15-50 years. More if prostitute is under 14. |
| | | | 14 § 83 Soliciting For Prostitutes: (soliciting, inviting, directing, or transporting a person to any place w/the intention of promoting prostitution) Note: This is not soliciting for oneself | fine up to $500 and/or imprisoned up to 6 mos. More if person being solicited is under 18, even more if under 14. |
| | | | 14 § 83.1 Inciting Prostitution | fine $1000 and/or imprisoned for up to a year. More for under 18, even more for under 14. |
| | | | 14 § 83.2 Promoting Prostitution | fine up to $5000 and/or imprisoned up to 2 yrs. More for minors |
| | | | 14 § 83.4 Massage; Sexual Conduct Prohibited | fine up to $500 and/or imprisoned up to 6 mos. |


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|---|---|---|---|---|
| | | | 14 § 84 Pandering | fine up to $5000 and/or imprisoned up to 5 yrs, more for minors |
| | | | 14 § 85 Letting premises for Prostitution | fine up to $5000 and/or imprisoned up to 6 mos, more for minors |
| | | | 14 § 86 Enticing Persons into Prostitution | imprisonment 2-10 yrs, more for minors |
| | | | 14 § 46.3 Trafficking of Children for Sexual Purposes | prison w/hard labor and fines |
| **Mississippi** | § 97-29-49 Prostitution: fine up to $200 and/or up to 6 mos in county jail | § 97-29-49 Prostitution: fine up to $200 and/or up to 6 mos in county jail | § 97-3-54.1 Human Trafficking | imprisonment up to 20 yrs, or up to 30 if minor |
| | | | § 97-5-5 Enticing Child Under 14 | up to 10 years prison, up to 1 year county jail and/or fine up to $1000 |
| | | | § 97-29-49 Prostitution: (aid or abet prostitution, keep or set up a house of ill fame, permit prostitution, etc.) | fine up to $200 and/or up to 6 mos county jail |
| | | | § 94-29-51 Procuring Prostitutes | fine up to $200 and/or up to 6 mos county jail |


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|---|---|---|---|---|
| **Texas** | § 43.02 Prostitution: Class B Misdemeanor, Class A for Second and Third offense, state jail felony for Fourth time. | § 43.02 Prostitution: Class B Misdemeanor, Class A for Second and Third offense, state jail felony for Fourth time. More serious felony if person solicited is minor. | § 43.03 Promotion of prostitution | Class A Misdemeanor |
| | | | § 43.04 Aggravated Promotion of Prostitution | Felony in the Third degree |
| | | | § 43.05 Compelling Prostitution: (includes minor) | Felony Second degree, or First degree for minor |


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|---|---|---|---|---|
| **Sixth Circuit** | | | | |
| **Kentucky** | § 529.020 Prostitution: Class B Misdemeanor | Currently no law for clients of sex workers. HB 350 introduced in 2012 to strengthen trafficking laws and make it a crime to patronize prostitute. Bill makes patronizing a Class A Misdemeanor, unless child prostitute | § 529.040 Promoting Prostitution | Class A Misdemeanor unless brothel or multiple sex workers, in which case Class D felony |
| | § 529.080 Loitering for Prostitution Purposes: violation for first offense, Class B Misdemeanor for second and subsequent offenses | | § 529.070 Permitting Prostitution | Class B Misdemeanor |
| | | | § 529.100 Human Trafficking | Class C, B or A felony |
| **Michigan** | § 750.448 Soliciting and Accosting: Misdemeanor, increase for subsequent offenses | § 750.449a Engaging or Offering to Engage Services of Female for Purpose of Prostitution, Lewdness or Assignation: Misdemeanor, increase for subsequent offenses | § 750.457 Accepting Earnings of Prostitute | felony |


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|---|---|---|---|---|
| | | | § 750.449 Receiving or Admitting Person to Place or Vehicle for Prostitution | Misdemeanor, increase for subsequent offenses |
| | | | § 750.450 Aiding, Assisting or Abetting | Misdemeanor, increase for subsequent offenses |
| | | | § 750.452 Maintaining House for Purpose of Prostitution | felony |
| | | | § 750.454 Leasing House Used for Prostitution | Misdemeanor |
| | | | § 750.455 Pandering | Felony |
| | | | § 750.456 Placing Wife in House of Prostitution | felony |
| | | | § 750.458 Detaining Female in House of Prostitution for Debt | felony |
| | | | § 750.459 Transporting Female for Prostitution | felony |
| **Ohio** | § 2907.25 Prostitution; Prostitution After Positive HIV Test: Misdemeanor of the Third degree, or felony of Third degree if knowingly HIV positive | § 2907.24 Soliciting; Solicitation After Positive HIV Test: Misdemeanor of Third degree, or felony of the Third if knowingly HIV positive | § 2907.22 Promoting Prostitution | Felony in the Fourth, unless minor involved, then Felony in the Third |


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|---|---|---|---|---|
| | | Note: This is yellow because while it is separate from other commercial-sex-related conduct, it includes solicitation while knowingly HIV positive which would probably be a CIMT because it includes the element of scienter. | § 2907.21 Compelling Prostitution | Felony in the Third degree, Second degree for person 16-18, First degree for under 16 |
| | | | § 2907.23 Procuring | Misdemeanor First degree |
| **Tennessee** | § 39-13-513 Prostitution: Class B Misdemeanor unless near church or school, then Class A Misdemeanor | § 39-13-514 Patronizing Prostitution: Class B Misdemeanor, unless near church or school, then Class A Misdemeanor. If minor or mentally disabled, Class E felony | § 39-13-515 Promoting Prostitution | Class E felony |
| | § 39-13-516 Aggravated Prostitution: Class C felony if knowingly HIV positive | | | |


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|---|---|---|---|---|
| **Seventh Circuit** | | | | |
| **Illinois** | § 5/11-14 Prostitution: Class A Misdemeanor, but Class 4 felony if near school or if repeat offenses | § 5/11-14.1 Solicitation of a Sexual Act: Class A Misdemeanor unless minor or mentally disabled, then Class 4 felony | § 5/11-14.3 Promoting Prostitution | Class 4 felony unless near a school or repeat offense, then Class 3 felony. |
| | | § 5/11-18 Patronizing a Prostitute: Class 4 felony, unless near a school or repeat offense then it's Class 3 felony | § 5/11-14.4 Promoting Juvenile Prostitution | Class 1 Felony or Class X felony |
| | | | § 5/11-18.1 Patronizing a Minor Engaged in Prostitution | Class 3 felony unless near school or repeat offense, then Class 2 felony |
| **Indiana** | § 35-45-4-2 Prostitution: Class A Misdemeanor unless 2 prior offenses, then Class D felony | § 35-45-4-3 Patronizing a Prostitute: Class A Misdemeanor unless 2 prior offenses, then Class D felony | § 35-45-4-4 Promoting Prostitution - | Class C felony or Class B felony if minor |
| **Wisconsin** | § 944.30 Prostitution: Class A Misdemeanor | § 944.31 Patronizing Prostitutes | § 944.32 Soliciting Prostitutes: "whoever intentionally solicits or causes any person to practice or establishes any person in a place of prostitution" (like procuring?) | Class H Felony |
| | | | § 944.33 Pandering | Class F Felony |


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|---|---|---|---|---|
| | | | § 944.34 Keeping Place of Prostitution | Class H Felony |
| | | | § 948.08 Soliciting Child for Prostitution | Class D Felony |


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|---|---|---|---|---|
| **Eighth Circuit** | | | | |
| **Arkansas** | § 5-70-102 Prostitution: Class B Misdemeanor, or Class A Misdemeanor for subsequent offenses | § 5-70-103 Sexual Solicitation: Class Misdemeanor, Class A Misdemeanor for subsequent offenses | § 5-70-104 Promoting Prostitution, First Degree | Class D Felony |
| | | | § 5-70-105 - Promoting Prostitution, Second Degree | Class A Misdemeanor |
| | | | § 5-70-106 Promoting Prostitution, Third Degree | Class B Misdemeanor |
| **Iowa** | § 725.1 Prostitution: aggravated Misdemeanor | § 725.1 Prostitution: aggravated Misdemeanor | § 725.2 Pimping | Class D Felony |
| | | | § 725.3 Pandering | Class D felony or Class C felony if minors |
| | | | § 725.4 Leasing Premises for Prostitution | serious Misdemeanor |
| **Minnesota** | § 609.324(Subd.6 & 7) Patrons; Prostitutes; Housing Individuals Engaged in Prostitution: Misdemeanor or gross Misdemeanor if in public place | § 609.324(Subd. 2, 3, 5) Patrons; Prostitutes; Housing Individuals Engaged in Prostitution: Misdemeanor or gross Misdemeanor if in a public place - gross Misdemeanor | § 609.322 Solicitation, Inducement, and Promotion of Prostitution; Sex Trafficking | up to 25 yrs imprisonment and $60,000 fine, depending on whether child |
| | | | § 609.3243 Loitering with Intent to Participate in Prostitution | Misdemeanor |


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|---|---|---|---|---|
| | | | § 609.33 Disorderly House: (own, operate, manage, etc.) | gross Misdemeanor |
| | | | § 609.324(Subd.1) Patrons; Prostitutes; Housing Individuals Engaged in Prostitution: (engaging in, hiring or agreeing to hire minor to engage in prostitution) | up to 20 yrs imprisonment and/or $40,000 fine |
| | | | § 609.324(Subd.1a) Patrons; Prostitutes; Housing Individuals Engaged in Prostitution: (Housing unrelated minor engaged in prostitution) | up to one year imprisonment and/or up to $3000 |
| **Missouri** | § 567.020 Prostitution: Class B Misdemeanor unless knowingly HIV positive, then Class B Felony. | § 567.030 Patronizing Prostitution: Class B Misdemeanor. If child over 14 but under 18, Class A Misdemeanor. If 14 or younger, Class D felony | § 567.050 Promoting Prostitution in the First Degree: (force, drugs or promotes a child under 16) | Class B Felony |
| | § 567.110 Persistent Prostitution Offender: Class D Felony | § 567.110 Persistent Prostitution Offender Class D Felony | § 567.060 Promoting Prostitution in the Second Degree | Class C Felony |
| | | | § 567.070 Promoting Prostitution in the Third Degree | Class D Felony |
| | | | § 567.085 Promoting Travel for Prostitution | Class C Felony |


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|---|---|---|---|---|
| **Nebraska** | § 28-801 Prostitution: Class II Misdemeanor for first and second offenses, Class I Misdemeanor for subsequent offenses | § 28-801.01 Solicitation of Prostitution: Class I Misdemeanor for first offense, Class IV Felony for subsequent offenses. | § 28-802 Pandering | Class IV Felony for first offense, unless child then Class III Felony. Subsequent offenses Class III Felony |
| | | | § 28-804 Keeping a Place of Prostitution | Class I Misdemeanor |
| | | | § 28-805 Debauching a minor | Class I Misdemeanor |
| **North Dakota** | § 12.1-29-03 Prostitution: Class B Misdemeanor | § 12.1-29-06 Hiring an Individual to Engage in Sexual Activity: Class B Misdemeanor | § 12.1-29-01 Promoting Prostitution | Class A Misdemeanor or Class C Felony |
| | | | § 12.1-29-02 Facilitating Prostitution | Class A Misdemeanor, or if child or spouse Class C Felony |
| **South Dakota** | § 22-23-1 Prostitution: Class 1 Misdemeanor | § 22-23-9 Hiring for Sexual Activity: Class 1 Misdemeanor | § 22-23-2 Promoting Prostitution | Class 5 Felony |
| | | | § 22-23-8 Pimping, Renting for Prostitution | Class 6 Felony |


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|---|---|---|---|---|
| **Ninth Circuit** | | | | |
| **Alaska** | § 11.66.100 Prostitution: Class B Misdemeanor | § 11.66.100 Prostitution: Class B Misdemeanor, unless client is over 18 and SW is under 18, then Class C Felony | § 11.66.110 Sex Trafficking in the First Degree: (induce through force, induce person under 20 to engage in prostitution (not customer)) | Class A Felony or UnClassified felony |
| | | | § 11.66.120 Sex Trafficking in the Second Degree: (managing prostitution enterprise other than place of prostitution, procures a patron for a prostitute or facilitates travel w/commercial sex activity as enticement for the travel) | Class B Felony |
| | | | § 11.66.130 Sex Trafficking in the Third Degree: (manage, own, etc. a place of prostitution), induces a person 20 or older to engage in prostitution, receives money from prostitution (not the sex worker) | Class C Felony |
| | | | § 11.66.135 Sex Trafficking in the Fourth Degree: (institutes, aids or facilitates prostitution not covered above) | Class A Misdemeanor |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | § 11.41.360 Human Trafficking in First Degree | Class A Felony |
| | | | § 11.41.365 Human Trafficking in Second Degree | Class B Felony |
| **Arizona** | § 13-3214 Prostitution: Class 1 Misdemeanor, or a Class 5 Felony if four or more offenses | § 13-1002 Class 3 Misdemeanor - Note that this statute covers soliciting others to commit a crime. | § 13-3201 Enticement of Persons for Purpose of Prostitution: ("A person who knowingly entices any other person into a house of prostitution...for the purpose of prostitution w/another person") | Class 6 Felony |
| | § 13-3208 Keeping or Residing in House of Prostitution; Employment in Prostitution: (Knowing employee at house of prostitution) Class 1 Misdemeanor | § 13-3214 Prostitution: Class 1 Misdemeanor, or a Class 5 Felony if four or more offenses | § 13-3202 - Procurement by False Pretenses of Person for Purpose of Prostitution | Class 6 Felony |
| | | | § 13-3203 - Procuring or Placing Persons in House of Prostitution | Class 5 Felony |
| | | | § 13-3204 - Receiving Earnings of a Prostitute | Class 5 Felony |
| | | | § 13-3205 - Causing Spouse to Become a Prostitute: (Force or coercion) | Class 5 Felony |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | § 13 -3206 - Taking Child for Purposes of Prostitution | Class 4 Felony or Class 2 if under 15 yr |
| | | | § 13-3207 - Detention of Persons in House of Prostitution for Debt | Class 5 Felony |
| | | | § 13-3208 - Keeping or Residing in House of Prostitution: (Operating or maintaining house of prostitution) | Class 5 Felony |
| | | | § 13-3209 - Pandering | Class 5 Felony |
| | | | § 13-3210 - Transporting Persons for Purpose of Prostitution or Other Immoral Purposes | Class 5 Felony |
| | | | § 13-3212 - Child Prostitution | Class 2 Felony w/sentence enhancements |
| | | | § 13-1307 - Sex Trafficking | Class 2 Felony w/sentence enhancements |
| **California** | § 647(b) Disorderly Conduct: Misdemeanor | § 647(b) Disorderly Conduct, Misdemeanor | § 267 Abduction; Person Under 18 for Purpose of Prostitution | state prison and fine up to $2,000 |
| | § 647F Prostitution...Blood Test AIDS Positive: If knowingly HIV positive, felony | § 647F Prostitution...Blood Test AIDS Positive: If knowingly HIV positive, felony | § 266 Inveiglement or Enticement of Unmarried Female Under 18 for Purposes of Prostitution | jail or prison and/or fine up to $2000 |
| | | | § 266a Abduction or Procurement by Fraudulent Inducement for Prostitution | state prison and fine up to $2,000 |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | § 266e Purchasing Person for Purposes of Prostitution or Placing Person for Immoral Purposes | felony |
| | | | § 266f Sale of Person for Immoral Purposes | felony |
| | | | § 266g Placement or Permitting Placement of Wife in House of Prostitution | felony |
| | | | § 266h Pimping and Pimping a Minor | felony |
| | | | § 266i Pandering and Pandering with a Minor | Felony |
| | | | § 266j Procurement of Child Under Age 16 for Lewd or Lascivious Acts | felony |
| **Hawaii** | § 712-1200(1)(a) Prostitution: petty Misdemeanor | § 712-1200(1)(b) Prostitution: petty Misdemeanor | § 712-1202 Promoting Prostitution in the First Degree: (compel or induce by force, etc. or profits from prostitution of a person under 18.) | Class A Felony |
| | | | § 712-1230 - Promoting Prostitution in the Second Degree: (profiting from prostitution) | Class B Felony |
| | | | § 712-1206 Loitering for the Purpose of Engaging in or Advancing Prostitution | Violation or petty Misdemeanor |
| | | | § 712-1208 Promoting Travel for Prostitution | Class C Felony |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| **Idaho** | § 18-5613 Prostitution: Misdemeanor until Third offense, then Felony | § 18-5614 Patronizing a Prostitute: Misdemeanor until Third offense, then Felony | § 18-5601 - Interstate Trafficking in Prostitution: (not forced) | Felony |
| | | | § 18-5602 - Procurement | Felony |
| | | | § 18-5603 - Receiving Pay for Procurement | Felony |
| | | | § 18-5604 - Paying for Procurement | Felony |
| | | | § 18-5605 - Detention for Prostitution | Felony |
| | | | § 18-5606 - Accepting Earnings of Prostitute | Felony |
| | | | § 18-5608 - Harboring Prostitutes | Felony |
| | | | § 18-5609 - Inducing Person Under Eighteen Years of Age into Prostitution | Felony |
| | | | § 18-5611 - Inducing Person Under Eighteen Years of Age to Patronize a Prostitute | Felony |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| **Montana** | § 45-5-601 Prostitution: fine not to exceed $500 and/or jail not to exceed 6 mos. | § 45-5-601 Prostitution: fine not to exceed $1,000 and/or jail not to exceed 1 yr. for first offense, higher possible fines and/or longer jail for subsequent offenses. Huge sentence enhancements for patronizing a child prostitute. | § 45-5-602 Promoting Prostitution | Fine not to exceed $50,000 and/or jail not to exceed 10 yrs. Huge sentence enhancements for child prostitution |
| | | Note: sentence enhancements only for a child prostitute, so modified categorical would not resolve | § 45-5-603 Aggravated Promoting Prostitution | Up to life in prison |
| **Nevada** | § 201.354 Engaging in Prostitution or Solicitation for Prostitution: Misdemeanor | § 201.354 Engaging in Prostitution or Solicitation for Prostitution: Misdemeanor unless child prostitute, then Class E felony | § 201.300 Pandering | Category B,C or D felony depending on age of sex worker and if force used |
| | | | § 201.310 Pandering: Placing Spouse in a brothel | Category C or D Felony, depending on whether force used |
| | | | § 201.320 - Living From Earnings of Prostitute | Category D Felony |
| | | | § 201.360 - Placing Person in House of Prostitution | Category C or D felony, depending on whether force used |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| | | | (Additional laws for engaging in prostitution after a positive HIV test, for unlawful advertising of prostitution, etc. | |
| **Oregon** | § 167.007 Prostitution: Class A Misdemeanor | § 167.008 Patronizing a Prostitute: Class A Misdemeanor but sentence enhancements if child prostitute | § 167.012 Promoting Prostitution | Class C Felony |
| | | | § 167.017 Compelling Prostitution | Class B Felony |
| **Washington** | § 9A.88.030 Prostitution: Misdemeanor | § 9A.88.110 Patronizing a Prostitute: Misdemeanor | § 9A.88.070 Promoting Prostitution in First Degree | Class B Felony |
| | | | § 9A.88.080 Promoting Prostitution in the Second Degree | Class C Felony |
| | | | § 9A.88.085 Promoting Travel for Prostitution | Class C Felony |
| | | | § 9A.88.090 Permitting Prostitution | Misdemeanor |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| **Tenth Circuit** | | | | |
| **Colorado** | § 18-7-201 Prostitution Prohibited: Class 3 Misdemeanor | § 18-7-202 Soliciting for Prostitution: Class 3 Misdemeanor | § 18-7-202 Soliciting for prostitution: (Also includes arranging meetings for others) | Class 3 Misdemeanor |
| | § 18-7-201.7 Prostitution with Knowledge of Being Infected with Acquired Immune Deficiency Syndrome: Class 5 felony | § 18-7-205 Patronizing a Prostitute: Class 1 Misdemeanor | § 18-7-203 Pandering | Inducing - Class 5 felony. Arranging - Class 3 Misdemeanor |
| | | § 18-7-205.7 Patronizing a Prostitute with Knowledge of Being Infected with Acquired Immune Deficiency Syndrome: Class 6 felony | § 18-7-204 Keeping a Place of Prostitution | Class 2 Misdemeanor |
| | | | § 18-7-206 Pimping | Class 3 felony |
| **Kansas** | § 21-6419 Prostitution: Class B nonperson Misdemeanor | § 21-6421 Patronizing a Prostitute: Class C Misdemeanor | § 21-6420 Promoting prostitution | Class A person Misdemeanor, unless minor then security level 7 or security level 6 person felony, or an off-grid person felony if child under 14. |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| **New Mexico** | § 30-9-2 Prostitution: Petty Misdemeanor, unless second or subsequent offense, then Misdemeanor | § 30-9-3 Patronizing Prostitutes: Petty Misdemeanor, unless second or subsequent offense, then Misdemeanor | § 30-9-4 Promoting Prostitution | fourth degree felony |
| | | | § 30-9-4.1 Accepting Earnings of a Prostitute | fourth degree felony |
| | | | § 30-9-1 Enticement of a Child | Misdemeanor |
| | | | § 30-9-11 Criminal Sexual Penetration | Felony, grading depending on age of victim |
| | | | § 30-9-13 Criminal Sexual Contact of a Minor | felony, grading depending on age of victim |
| **Oklahoma** | 21 § 1029(A)(1) Engaging in Prostitution, etc.: (penalties in § 1031) Misdemeanor unless knowingly HIV positive or within certain distance of school or church, then felony | 21 § 1029(A)(2) Engaging in Prostitution, etc.: (penalties in § 1031) - Misdemeanor unless knowingly HIV positive, within certain distance of school or church, or child prostitution, then felony | 21 § 1025 Bawdy House, etc. | Misdemeanor |
| | | | 21 § 1028 Setting up or Operating Place of Prostitution, etc. | misdemeanor |


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|---|---|---|---|---|
| **Utah** | § 76-10-1302 Prostitution: Class B Misdemeanor, or if second or subsequent offense Class A Misdemeanor | § 76-10-1303 Patronizing a Prostitute: Class B Misdemeanor | § 76-10-1305 Exploiting Prostitution | Felony of the third degree |
| | § 76-10-1309 Enhanced Penalties- HIV Positive Offender: (if knowingly HIV positive) third degree felony | § 76-10-1309 Enhanced Penalties- HIV Positive Offender: (if knowingly HIV positive) third degree felony | § 76-10-1304 Aiding Prostitution | Class B Misdemeanor, or Class A Misdemeanor for second and subsequent offenses |
| | § 76-10-1313 Sexual Solicitation: Class B Misdemeanor | § 76-10-1313 Sexual Solicitation: Class B Misdemeanor | § 76-10-1306 Aggravated Exploitation of Prostitution | Felony of the second degree |
| **Wyoming** | § 6-4-101 Prostitution: Misdemeanor | § 6-4-102 Soliciting an Act of Prostitution: Misdemeanor | § 6-4-103 Promoting Prostitution | felony |


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| State | Sex Worker | Client | Other - Description | Penalty |
|---|---|---|---|---|
| **Eleventh Circuit** | | | | |
| **Alabama** | § 13A-12-121(a) Prohibited Activities: Class A Misdemeanor | § 13A-12-121(b) Prohibited Activities: Class A Misdemeanor | § 13A-12-111 Promoting Prostitution in the First Degree | Class B felony |
| | | | § 13A-12-112 Promoting Prostitution in the Second Degree | Class C felony |
| | | | § 13A-12-113 Promoting Prostitution in the Third Degree | Class A Misdemeanor |
| | | | § 13A-12-121(b) Prohibited Activities: (Cause or aid a person to engage in prostitution, solicit patrons for prostitution, receive proceeds from prostitution, operate a house of prostitution) | Class A Misdemeanor |
| **Florida** | § 796.07(e) Prohibiting Prostitution, Etc.: First offense - Misdemeanor of the second degree. Second offense - Misdemeanor of first degree, Third offense - felony of the third degree | § 796.07(f) and (i) Prohibiting Prostitution, Etc.: First offense - Misdemeanor of the second degree. Second offense - Misdemeanor of first degree, Third offense - felony of the third degree | § 796.03 Procuring Person Under Age of 18 for Prostitution | Felony of the second degree |
| | | | § 796.035 Selling or Buying of Minors into Prostitution | Felony of the first degree |


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|---|---|---|---|---|
| | | | § 796.04 Forcing, Compelling or Coercing Another to Become a Prostitute | Felony of the third degree |
| | | | § 796.05 Deriving Support from Proceeds of Prostitution | Felony of the third degree |
| | | | § 796.06 Renting Space to be Used for Prostitution | Misdemeanor in the Second degree for first defense, Misdemeanor in the First degree for subsequent offenses |
| | | | § 796.07 Prohibiting Prostitution, Etc.: (own, establish or operate place of prostitution, procure for another, transport for prostitution, aid or abet prostitution) | First offense - Misdemeanor of the second degree. Second offense - Misdemeanor of first degree, Third offense - felony of the third degree |
| **Georgia** | § 16-6-9 Prostitution: Misdemeanor | § 16-6-12 Pandering: (counts for soliciting for oneself) Misdemeanor of a high and aggravated nature, or if a child it is a felony | § 16-6-10 Keeping a Place of Prostitution | |
| | § 16-6-16 Masturbation for hire - Misdemeanor | § 16-6-15 Solicitation of Sodomy - Misdemeanor or felony if solicited person is under 18 | § 16-6-11 Pimping | Misdemeanor of a high and aggravated nature, or if a child it Is a felony |
| | | | § 16-6-12 Pandering | Misdemeanor of a high and aggravated nature, or if a child it Is a felony |


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|---|---|---|---|---|
| | | | § 16-6-14 Pandering by Compulsion | imprisonment 1-10 years |


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