

**Testimony Regarding S.B. 153 – An Act Providing a Safe Harbor for Exploited Children**

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Select Committee on Children

February 23, 2010

Dear Senator Musto, Representative Urban, and distinguished Members of the Select Committee on Children:

We are testifying today on behalf of Connecticut Voices for Children, a research-based public education and advocacy organization that works statewide to promote the well-being of Connecticut's children, youth, and families.

**Connecticut Voices for Children supports S.B. 153, with revisions as attached.**

**I. Child prostitution occurs in Connecticut.**

Each year, an estimated 100,000 to 300,000 adolescents are involved in prostitution in the United States.<sup>1</sup> These children usually enter into prostitution, on average, sometime between the ages of twelve and thirteen years old, and consequently enter a world of physical, sexual, emotional, and mental degradation.<sup>2</sup> These children are not just found in New York City or Boston, but exist in Connecticut as well. In January 2009, a multi-state trafficking ring exploiting as many as twenty women, including minors, was discovered and disbanded through the efforts of the Bridgeport, Milford, and Stratford Police Departments, as well as the FBI and Connecticut State Police.<sup>3</sup> Since April 2008, twenty-five Connecticut youth have been identified as victims of sex trafficking by the Department of Children and Families (DCF). Further information about the number of children involved in prostitution and sex trafficking is limited, due to a lack of reporting requirements on this issue.

In general, after interviewing several assistant public defenders, child welfare staff, and service providers throughout the state of Connecticut, it seems that Connecticut law enforcement and government officials do tend to treat these children as victims rather than as criminals. We have found minimal evidence to suggest that prostituted children are often found guilty of prostitution or given harsh sentences. However, although rare, Connecticut law does allow child victims of commercial sexual exploitation to be prosecuted for the crime of prostitution.

**II. Connecticut Voices for Children supports the intent of S.B. 153; we believe children engaged in prostitution are *victims* of sexual exploitation and not criminals on account of their prostitution.** The majority of U.S. children involved in prostitution are runaways and are past

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<sup>1</sup> Shelby Schwartz, "Harboring Concerns: The Problematic Conceptual Reorientation of Juvenile Prostitution Adjudication in New York," *Columbia Journal of Gender and Law* (2008), 2.

<sup>2</sup> Kate Brittle, "Child Abuse by Another Name: Why the Child Welfare System is the Best Mechanism in Place to Address the Problem of Juvenile Prostitution," *Hofstra Law Review* (2008), 2.

<sup>3</sup> US Department of Justice, "Leader of Expansive Multi-State Sex-Trafficking Ring Sentenced," *Drug Week* (January 9, 2009).

victims of sexual abuse, physical abuse, neglect, and/or other forms of trauma.<sup>4</sup> These youth are manipulated by adults to engage in sexual acts in return for a fee and are coerced into continued prostitution by sophisticated psychological, emotional, and physical means.<sup>5</sup> As these children are victims of sexual and trafficking crimes, and due to their age would also be eligible for treatment under Connecticut's child welfare system,<sup>6</sup> Connecticut Voices for Children believes that these children should be treated as victims, rather than criminals. Thus, we support the intent of SB 153, which aims to make it more difficult for minors to be prosecuted for this crime and also hopes to connect these children with services. Yet, we would prefer that an alternative version of the bill be passed (see attached), which we believe better prevents children from being prosecuted for prostitution and more closely connects these vulnerable children to needed mental and physical health services.

**III. S.B. 153, as written, states that youth ages 16 and under who are being prosecuted on prostitution charges will be presumed to have been coerced into prostitution.** The child will be presumed to be a victim of trafficking of persons. In existing statutes, a child can use the fact that they were coerced as an affirmative defense, i.e., the burden of proof lies on the child and her attorneys to prove that she was coerced.<sup>7</sup> S.B. 153 simply changes the law so that the *presumption* is that she was coerced, and the opposing party has the burden of proving that the child was *not* coerced.

**IV. While S.B. 153 attempts to protect exploited youth from adjudication, the bill is insufficient to truly protect and serve these vulnerable children.** Under S.B. 153, a child may legally still be arrested, detained pre-trial, charged, and prosecuted for prostitution. Arresting a child for prostitution and possibly detaining her is traumatic for the child and conveys that she is somehow "bad" and "criminal." It is also possible for the presumption to be rebutted and a child adjudicated delinquent for prostitution. While children accused of prostitution would be presumed to be victims of trafficking under S.B. 153, the bill does not set forth how these children would receive services for trafficking victims and does not prohibit further prosecution.

**V. While Connecticut laws do allow children to be prosecuted for prostitution, in practice prostituted youth are most often diverted from the court system and are often referred to or provided with needed social services. Amending S.B. 153 as attached would bring Connecticut statutes in line with Connecticut's already progressive approach on-the-ground to serving these youth.** Currently, DCF and local police departments divert and serve prostituted children. On January 13, 2010, DCF adopted a protocol to identify and serve child victims of

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<sup>4</sup> Urbina, Ian. *For Runaways on the Street, Sex Buys Survival*. New York Times, Oct. 27, 2009. Section A, pg. 1.

<sup>5</sup> Kate Brittle, "Child Abuse by Another Name: Why the Child Welfare System is the Best Mechanism in Place to Address the Problem of Juvenile Prostitution," *Hofstra Law Review* (2008), 6, 7.

<sup>6</sup> Connecticut General Statutes Sec. 17a-93. Available at: <http://cga.ct.gov/2009/pub/chap319a.htm>

<sup>7</sup> Connecticut General Statutes Sec. 53a-82. Reads: "(a) A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. (b) In any prosecution for an offense under this section, it shall be an affirmative defense that the actor was coerced into committing such offense by another person in violation of section 53a-192a. (c) Prostitution is a class A misdemeanor." Available at: <http://cga.ct.gov/2009/pub/chap952.htm>.

Connecticut General Statutes Sec. 53a-192a. Available at: <http://cga.ct.gov/2009/pub/chap952.htm>.

trafficking.<sup>8</sup> Under the protocol, law enforcement officials suspecting that a child is a victim of commercial sexual exploitation inform DCF. A DCF social worker and law enforcement officers collaborate to investigate the situation, and the child is evaluated at a local hospital. DCF makes a determination as to the most appropriate next steps, the child's placement needs, and the child's service needs. In other cases, some local police departments have been reported to directly refer children to services.

**VI. In order to codify Connecticut's existing practices and to address the current limitations of S.B. 153, we propose three revisions to the bill.** (See proposed revision attached.)

**Firstly, we recommend that the bill directly state that no child shall be prosecuted for a prostitution offense under Connecticut's penal code.** This will ensure that child sex trafficking victims will not endure the further trauma and stigmatization of arrest for prostitution and possible detention.

**Secondly, we believe that the wording of the bill should more directly link child sex trafficking victims to the services and protections provided to victims of human trafficking, rather than just identifying these children as victims of human trafficking.** Children who have been commercially sexually exploited are better served by meeting the various needs of victims of trafficking: mental health services, safe housing, medical care, and others.<sup>9</sup> Our version of the bill directly states that child sex trafficking victims should receive the same services and protections awarded to trafficking victims.

**Thirdly, we would like to see the benefits of the law applied to all minors under the age of eighteen, instead of seventeen as proposed in SB 153.** We believe that including all prostituted children under the age of eighteen would more closely bring this bill into line with other Connecticut laws. A seventeen-year-old Connecticut youth cannot vote, serve on a jury, get a marriage license on his or her own, or enter a casino. Moreover, the Department of Children and Families, which would be the likely social service provider for child victims of sex trafficking, states that youth can receive services from its agency until age eighteen.<sup>10</sup> As of 2012, Connecticut's Raise the Age law will also acknowledge that children under the age of eighteen should be treated as juveniles.<sup>11</sup> Amending this bill to apply to all commercially sexually exploited children under the age of eighteen would be more consistent with Connecticut's current laws.

Based on our research, the actions of Connecticut's police force, child welfare agency, and justice system have shown Connecticut to be a leader in the treatment of commercially sexually exploited children as victims, not criminals. By codifying Connecticut's historical non-prosecution of child sex trafficking victims and active provision of services to these children, we hope to ensure that child

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<sup>8</sup> Connecticut Department of Children and Families. *Intake and Investigative Response to Human Trafficking of Children*. Policy 31-10-6.1. Available online at: <http://www.ct.gov/dcf/cwp/view.asp?a=2639&Q=453920>.

<sup>9</sup> Kate Brittle, "Child Abuse by Another Name: Why the Child Welfare System is the Best Mechanism in Place to Address the Problem of Juvenile Prostitution," *Hofstra Law Review* (2008), 11.

<sup>10</sup> Connecticut General Statutes Section 17a-93. Available at: <http://cga.ct.gov/2009/pub/chap319a.htm>

<sup>11</sup> Connecticut General Statutes Section 46b-120. Available at: <http://cga.ct.gov/2009/pub/chap815t.htm - Sec46b-120.htm>.

victims of commercial sexual exploitation throughout the state, now and in the future, will have the same beneficial access to social services rather than punishment.

**Accordingly, Connecticut Voices for Children supports the proposed bill, S.B. 153, with the reservation that it be amended as in the attached revision.**

Deletions are in brackets.  
Additions are underlined.

AN ACT PROVIDING A SAFE HARBOR FOR EXPLOITED CHILDREN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 53a-82 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2010):

(a) A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the actor was coerced into committing such offense by another person in violation of section 53a-192a.

[(c) In any prosecution of a person under the age of seventeen for an offense under this section, there shall be a presumption that the actor was coerced into committing such offense by another person in violation of section 53a-192a.]

(c) No person under the age of eighteen shall be prosecuted for an offense under this section.

(d) Any person under the age of eighteen who engages or agrees or offers to engage in sexual conduct with another person in return for a fee shall be eligible for all protections and services provided to victims of human trafficking.

[(d)] e Prostitution is a class A misdemeanor.