



## Arresting Demand: Disaggregating Prostitution Laws

### Summary

As states and municipalities continue to understand that the demand for illegal commercial sex drives sex trafficking, many are adopting policies better equipped to targeting demand. This paper provides examples of two legislative changes that jurisdictions should adopt to reduce sex-buying. While there are many other promising practices that focus on demand, these are the most crucial. As Demand Abolition identifies other high-impact strategies, additional guidelines will be published.

### Disaggregating statutes and language<sup>1</sup>

In most jurisdictions, those caught in the act of buying or selling sex are charged with the same crime, making sex buyers and sellers equal in the eyes of the law. But these two populations are not equal.

A vast majority of prostituted people are the victims of force, fraud, coercion, or a total lack of options. Their buyers, however, are fully willing participants in the illegal sex trade; choosing to buy sexual access to vulnerable people to satisfy their own urges. Sex buyers are the driving force of all commercial sexual exploitation—including sex trafficking—and should be held appropriately accountable. The just way to reflect the different nature of these two offenses is to assign them different penalties and terminology.

A disaggregated prostitution statute recognizes that buying sex is fundamentally different and more serious than selling it. As such, the disaggregated buying statute should carry stiffer penalties and use language that recognizes the act of buying as “sexual exploitation.” In doing so, the law then acknowledges the true power dynamic in the buyer/seller relationship, and recognizes that by purchasing sex the buyer is causing harm to the prostituted persons.

### Disaggregation examples

#### **Prostitution**

Prostitution is performing sexual intercourse for hire, or offering or agreeing to perform sexual intercourse for hire where there is an exchange of value.<sup>2</sup>

#### **Sexual exploitation**

Sexual exploitation is knowingly entering or remaining in a place where sexual intercourse is being sold or offered for sale with intent to purchase and engage in sexual intercourse.<sup>3</sup>

---

1 A Disaggregated Statute Criminalizes The Act Of Buying A Commercial Sex Act As A Distinct Section In A Criminal Code.

2 See Also Kan. Stat. Ann. § 21-6419.

3 See Also Kan. Stat. Ann. At § 21-6421. For Examples See Tenn. Code Ann. §§ 39-13-513, 514.; Ill. Comp. Stat. 720 § 5/11-14, 14.1

## Criminal ordinance for sexual exploitation

A person is guilty of commercial sexual exploitation if:

- 1 He pays, offers to pay, or agrees to pay some form of valuable consideration to engage in sexual conduct or sexual contact with another
- 2 He solicits or requests another person to engage in sexual conduct with him in return for valuable consideration commits the crime of commercial sexual exploitation if the person pays, or offers or agrees to pay, a fee to engage in sexual conduct or sexual contact<sup>4</sup>

## Example of higher penalties for purchasing

§ 230.00 Prostitution.

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.

*Prostitution is punishable up to 90 days in county or city jail*

§ 230.04 Patronizing a person for prostitution in the third degree.

A person is guilty of patronizing a person for prostitution in the third degree when he or she patronizes a person for prostitution.

*Patronizing a person for prostitution in the third degree is punishable up to a year in the county or city jail.*<sup>5</sup>

## Classifying sex-buying as sexual offense or offense against the person

States often classify sex-buying either as an offense against public order and decency,<sup>6</sup> or as an offense against morality.<sup>7</sup> But given the fact that prostituted people often suffer physical and emotional harm as a result of being purchased, sex-buying should instead be classified as a sexual offense<sup>8</sup> and grouped with other sexual offenses like promoting prostitution, patronizing a minor engaged in prostitution, or commercial sexual abuse of a minor.<sup>9</sup> Alternatively, states could also classify buying as an offense “against the person,” in recognition of the fact that buying does more than challenge social mores—it inflicts harm on individuals.<sup>10</sup>

## To learn more, contact Demand Abolition

If you have any questions about how you can advocate for disaggregated prostitution laws in your jurisdiction or are interested in seeing additional examples, please contact Ian Kitterman, Policy Manager for Demand Abolition, at [ikitterman@demandabolition.org](mailto:ikitterman@demandabolition.org)

---

<sup>4</sup> For Similar Examples, *See Also* Or. Rev. Stat. § 167.008 (2015) And Seattle, Wash. Crim. Code § 12A.10.040 (2015).

<sup>5</sup> N.Y. Penal §§ 230.00 & 230.04 *See Also* Colo. Rev. Stat. §§18-7-205 & 18-7-202 (Where Prostitution Is Punishable Up To 6 Months In Jail But Patronizing Is Punishable For 6 To 18 Months Of Jail And A Fine Of Up To \$5,000

<sup>6</sup> *See*, E.g., N.j. Stat. Ann. § 2C:34-1 (2015); Or. Rev. Stat. § 167.007 (2015); Tex. Pen. Code Ann. § 43.02(A), (C)(3);

<sup>7</sup> *See*, E.g., Ala. Code § 13A-12-120, 121 (2015); Miss. Code Ann. § 97-29-49 (2015); Nev. Rev. Stat. § 201.354 (2015);

<sup>8</sup> *See*, E.g., Brottsbalken [Brb] [Penal Code] 6:11 (Swed.); Ga. Code Ann. § 16-6-9; Ill. Comp. Stat. 5/11-14; Minn. Stat. Ann. Ch. 609; N.m. Stat. Ann. § 30-9-2 (West 2015); Ohio Rev. Code Ann. § 2907.24 (West 2015); Tenn. Code Ann. § 39-13-514 (2015).

<sup>9</sup> *See Generally*, Ill. Comp. Stat. 5/11-14.

<sup>10</sup> *Id.*; Tenn. Code Ann. § 39-13-514 (2015) (Sex Offense Against The Person).