

February 25, 2018

As organizations which support the rights, health and wellbeing of individuals who trade sex, the undersigned are firmly against the passage of “Stop Enabling Sex Trafficking Act” SESTA (S. 1693) and “Fight Online Sex Trafficking Act” FOSTA (H.1865). This legislation will cause harm without improving anti-trafficking efforts. Passage of this legislation will put the most vulnerable in our communities at higher risk of violence and victimization. We reject legislation that threaten the lives and safety of individuals trading sex - people who are disproportionately LGBTQ, immigrant, and people of color trying to survive. This legislation will target peers and communities who use the internet for harm reduction and anti-violence work, and isolate people who trade sex, increasing vulnerability to violence and victimization.

Meaningful anti-trafficking work should not make those in the sex trade more susceptible to violence and exploitation. After the closure of RedBook or Rentboy.com, sex workers became even more vulnerable and economically precarious. Both FOSTA and SESTA promote the closing of those websites and chill the possibility for organizations to create internet-based platforms which service providers and communities use to distribute and access harm reduction and safety information and techniques.

Under the current language in the Communications and Decency Act, prosecutors have every tool required to go after third parties, including websites, who have engaged in trafficking in persons. The proposed changes made by SESTA open this to a wider civil liability without clear guidelines for how to obey the law. These costly lawsuits could easily imperil any website which caters to, or even acknowledges, people who trade sex. This including websites which:

- Host ads, enabling safer conditions and screening for violence
- Host harm reduction information and mechanisms, including safety and health tips for workers
- Create community for people who trade sex to share information

We anticipate that this will have a chilling effect on websites and organizations providing valuable safety information, community and peer support. Denying these resources exacerbate the risk of violence and victimization of sex workers, including those experiencing exploitation.

Websites which hold that information are also vital resources for trafficking investigations. Pushing the sex trade further underground means that it will be harder to identify potential victims, find an electronic trail for which to build cases, and resurrect information to access post-conviction relief. SESTA disincentivizes websites from holding or creating a digital footprint, destroying these valuable tools for law enforcement and service providers.

Further, shutting down websites that sex workers use to screen clients more safely through ads does not deter people from trading sex. To the contrary, this only drives sex workers to find clients through street-based work where they face higher rates of violence, HIV, Hep C and STI

transmission, and exploitation. And those with fewer options will inevitably be the most impacted. The impact of this legislation is that trafficking victims will see more trauma and violence and have fewer opportunities for identification by law enforcement.

The House-backed bill, FOSTA, takes this one step further and criminalizes anyone using those platforms - including sex workers and trafficking victims - and expands this to prostitution, as opposed to the narrower crime of sex trafficking. By expanding the Mann Act, which criminalizes the transportation of a person across state lines for the purpose of prostitution, to encompass all of the internet means that all harm reduction tools, which almost always involve connecting to peers and community for safety and information, makes people criminally liable for up to ten years in prison. Under FOSTA, sharing information about violence, victimizers, HIV/STI transmission when engaged in sex work would put a person at risk for criminal prosecution. We have already seen these activities criminalized to the detriment of those trading sex, and very often criminalizing trafficking victims themselves. Improving anti-trafficking efforts does not mean expanding the umbrella to crimes which require no force, fraud or coercion, and this expansion undermines the original intent of the law.

Currently, there are no standards for what is expected of internet-based platforms when trafficking in the sex trade is suspected. This legislation does not get us closer to that goal, and instead makes it harder for trafficking investigators, prosecutors or service providers to connect with potential victims and sex workers better able to protect themselves from exploitation. Meaningful legislation would empower stakeholders - sex workers, internet platforms, law enforcement, the legal community and service providers - to come together and build those expectations in a way which mitigates harm.

As organizations which believe in supporting the safety and lives of those engaged in the sex trade, we condemn these efforts and encourage Congress to focus their efforts on harm reduction. These moves criminalize the survival of our communities, especially those with compounding marginalizations which make resources even more difficult to obtain.

Sincerely,