espu2_01Dear Senate Public Safety Legal Analysis,

Please consider the following in created informative analysis for SB 1388 and I would like to testify before the committee regarding SB 1388 on April 22, 2014

We oppose SB 1388 because laws and policies on prostitution should be based on the best available evidence about what works to protect health and rights. They should optimize sex workers’ ability to realize the right to due process under the law, the right to privacy, the right to form associations, the right to be free of discrimination, abuse, and violence, and the right to work in just and favorable conditions. We should have a meaningful role in the design, implementation, and monitoring of any laws and policies that affect us and SB 1388 falls short in these areas.

1. SB 1388 isn’t based on any evidence. “Rigorous empirical research is strikingly absent from the anti-trafficking movement” said Kimberly Mehlman-Orozco, Ph.D. serves as Executive Director of The Justice Institute (TJI), a research non-profit focused on issues related to human trafficking, immigration, and social justice. <http://www.diplomaticourier.com/news/topics/politics/2105-devoid-of-research-an-evaluation-of-human-trafficking-interventions>
2. The new ‘Commercial Sexual Exploitation of Children Services Fund’ for counseling in SB 1388 raises serious questions about what criteria will be required for counselors. For example, in 2012 Bay Area Women Against Rape basically blamed a rape victim for being raped because the perpetrator targeted her as a sex worker. Since these ‘peer councilors’ at BAWAR are men in their 50’s counseling teenage girls they contact while riding along in anti prostitution sting operations raises serious concern about 1) arresting minors for prostitution which is contrary to the 2013 Violence Against Women reauthorization Act, which ‘prohibit the charging or prosecution’ of those under 18 years of age. (pp101 <http://www.gpo.gov/fdsys/pkg/BILLS-113s47enr/pdf/BILLS-113s47enr.pdf> ) and 2) the need to provide competent state certified social workers instead of ‘peer counselors. Upon the rape victim’s complaint about the ill treatment she received from BAWAR in December of 2012, Sonaia Banales, the chief Victims Services Branch of Cal EMA stated that there is no statutory or programmatic educational requirement for employees of Cal EMA-funded rape crisis centers besides a 40 hour class. She also stated that there is no formal redress process for any ill treatment by these types of counselors. I have provided a copy of those redacted emails.
3. SB1388 provide no mechanisms for police accountability, oversight or grievance process against the community-based nonprofit organizations who would be the recipients of the new high fines.
4. SB 1388 falls short in that it only provides counseling when according to a study by John Jay College of Criminal Justice in Manhattan found that when asked what it would take to get , *youth* to give up prostitution, many kids expressed a desire for stable, long-term housing.
5. SB 1388 titles itself as ‘human trafficking bill’ but really its aim is to expand the anti prostitution definition to "commercial sex act" which could have far reaching unintended consequences as it could be applied to legal pornography. Renaming our work without our permission is a human rights violation.
6. Re-criminalizing the customers of prostitutes will not reduce trafficking because that phenomena is driven by poverty, race and institutionalized gender inequalities of which any further criminalization of our labor will not be addressed in SB 1388.
7. SB 1388 relies on the continued failed policy of criminalizing condoms as evidence which impedes sex workers’ ability to negotiate condom use with clients according to the UN General Assembly. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS): Report of the Secretary-General. Human Rights Council, 16th session. UN doc. no. A/HRC/16/69, 20 Dec. 2010.
8. By re-criminalizing our customers right to negotiate, SB 1388 criminalizes our right to negotiate which will forces many of us to work in hidden or more remote places where we will be more vulnerable to violence. A similar anti communications law that had this effect was unanimously struck down by the Canada high court as unconstitutional in December 2013. If passed SB 1388 will face the similar legal challenge. <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13389/index.do>
9. Additionally, further criminalizing our customers undermines erotic service providers' independence, adds layers of negative stigma and discrimination onto us and erases our voices. All of which impedes any discussion about ways to end human trafficking if that is in fact a real concern of SB 1388.
   1. SB1388 is contrary to United Nations Human Rights Committee statement on March 28, 2014 that demanded that the US government ought to ensure that sex workers and people profiled as such are afforded their constitutional rights when arrested under ostensible ‘anti-trafficking’ initiatives, and the government must monitor anti-trafficking funds to ensure they are not being used to violate civil rights (UN General Assembly. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS): Report of the Secretary-General. Human Rights Council, 16th session. UN doc. no. A/HRC/16/69, 20 Dec. 2010.) Anti trafficking initiatives involving arrests for ‘manifesting prostitution’ were recently exposed in the Monica Jones’ case in Phoenix Arizona where upon arrest, she was taken to Project Rose which is operated in a basement of church run by Catholic Charities and deprived of her rights to due process.
10. Legislation regarding us ought to implement the Obama Administration’s statement in the Universal Periodic Review of Human Rights in 2010 "We agree that no one should face violence or discrimination in access to public services based on sexual orientation or their status as a person in prostitution",  <http://www.state.gov/j/drl/upr/157986.htm>

Sincerely, Maxine Doogan 4/20/2014

Erotic Service Providers Union, San Francisco, California

415-265-3302