

Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024

Submission No: 66
Submitted by: The University of Queensland, School of Public Health
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Submitter Comments:

6 March 2024

School of Public Health

Committee Secretary
Housing, Big Build and Manufacturing Committee
Parliament House
George Street
Brisbane Qld 4000

By mail and email: HBBMC@parliament.qld.gov.au

Dear Ms Galbraith,

Re: Submission in support of the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024

This letter is submitted to you by academics from The University of Queensland, School of Public Health, a globally respected institution ranked 39th in the world in 2023 for its contribution to public health teaching and research ¹. The primary signatories to this letter have extensive sex work research experience, including reporting for the Western Australian Department of Health ², the government of New Zealand ³, and peer reviewed publications and recent research with sex workers in Queensland ^{4,5}. Associate Professor Lisa Fitzgerald, a signatory to this letter, played a key role in the review of decriminalisation of sex work in New Zealand.

We strongly commend the above-named Bill tabled in parliament on 15 February 2024 and urge you to support its passage into law as expeditiously as possible, with a commencement date no later than 1 July 2024.

¹ <https://www.shanghairanking.com/rankings/gras/2023/RS0402>

² Selvey, L. A., Hallett, J., Lobo, R. A., McCausland, K. L., Bates, J., & Donovan, B. (2017). *Western Australian law and sex worker Health (LASH) Study: A summary report to the Western Australian Department of Health* <https://espace.curtin.edu.au/bitstream/handle/20.500.11937/88796/2016%20LASH%20Australia.pdf?sequence=2>

³ Abel, G., Fitzgerald, L., Healy, C., & Taylor, A. (2010). *Taking the crime out of sex work: New Zealand sex workers' fight for decriminalisation*. The Policy Press, University of Bristol.

⁴ Brennan, R. P., Fitzgerald, L., Dean, J. A., & Selvey, L. (2023). 'Change creates change' - older female sex workers' experiences through the early COVID-19 pandemic. *Culture, Health & Sexuality, ahead-of-print*, 1-17. <https://doi.org/10.1080/13691058.2023.2224869>

⁵ Jones, J., Dean, J., Brookfield, S., Forrest, C., & Fitzgerald, L. (2018). *Factors influencing transgender and male sex worker access to sexual health care, HIV testing and support study (TaMS) report*. <https://respectqld.org.au/wp-content/uploads/Documents/TaMS-Report-2018.pdf>

Decriminalising sex work will bring Queensland in line with other Australian jurisdictions that have already decriminalised sex work (New South Wales in 1995, Northern Territory in 2019, Victoria in 2022).

Extensive evidence demonstrates that decriminalisation of sex work is public health best practice. It is the best regulatory approach to overcome the human rights and public health harms associated with policing of sex work, including increased violence against sex workers, barriers to access health care, justice and other services, and abuse of police powers ⁶. Such issues have remained problematic in Queensland under the police regulated licensing model implemented in response to the Fitzgerald Inquiry into Police Misconduct the late-1980s ⁷. Ongoing stigmatisation and discrimination against sex workers in Australia remains a public health concern ^{8,9,10}. Further, these outdated sex work laws may be in conflict with the *Human Rights Act 2019* (Qld) ¹¹.

We acknowledge the thorough consultation and work done by the Queensland Law Reform Commission, Respect Inc, DecrimQld and other bodies to inform the recommendations and drafting instruction for this well-considered legislative reform, building upon lessons learned in other jurisdictions. Key strengths of the bill that we support from a public health perspective include:

- The full repeal of the Chapter 22A of the Criminal Code 1899 (Qld)
- The full repeal of the Prostitution Act 1999 (Qld)
- Amendments to strengthen Anti-Discrimination protections and regulations that prevent local councils from circumventing the intentions and protections of this reform
- The shift of sex work workplace health and safety from police oversight to Queensland's work health and safety regulator

⁶ Platt, L., Grenfell, P., Meiksin, R., Elmes, J., Sherman, S. G., Sanders, T., Mwangi, P., & Crago, A. L. (2018). Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies. *PLoS Medicine*, 15(12), e1002680. <https://doi.org/10.1371/journal.pmed.1002680>

⁷ Sullivan, B. (2008). Working in the sex industry in Australia: The reorganisation of sex work in Queensland in the wake of law reform. *Labour & Industry*, 18(3), 73-92. <https://doi.org/10.1080/10301763.2008.10669375>

⁸ Broady, T., Brener, L., Hopwood, M., Cama, E., & Treloar, C. (2020). Stigma indicators monitoring project: Summary report phase two. <https://doi.org/10.26190/5ebca29f38662>

⁹ Treloar, C., Stardust, Z., Cama, E., & Kim, J. (2021). Rethinking the relationship between sex work, mental health and stigma: a qualitative study of sex workers in Australia. *Soc Sci Med*, 268, 113468-113468. <https://doi.org/10.1016/j.socscimed.2020.113468>

¹⁰ Stardust, Z., Treloar, C., Cama, E., & Kim, J. (2021). 'I wouldn't call the cops if I was being bashed to death': Sex work, whore stigma and the criminal legal system. *International Journal for Crime, Justice and Social Democracy*, 10(3), 142-157. <https://doi.org/10.5204/ijcjsd.1894>

¹¹ Adams, G., Hydon, J., & Hayward, S. (2021). *Human Rights Act 2019* (Qld) Legislative Review. https://law.uq.edu.au/files/74052/REP_PBC_RespectInc_HumanRightsLegislativeReview_FIN_20200706.pdf

- No additional sex work-specific criminal offences being introduced as sex workers are already subject to criminal law in Queensland
- Review of the legislative reform

We support the public health recommendations outlined in the Queensland Law Reform Commission report (pp 84-96)¹². As recommended in the report we also support the ability for sex workers to work together as peer support and education provides valuable health and safety benefits to sex workers including information and skill sharing, developing confidence, boundary setting and the management of self-stigma¹³. Having the opportunity to debrief with peers is an effective strategy for the management of the emotional labour demands of customer facing occupations¹⁴.

There are some further clarifications that we suggest to facilitate the equitable implementation of this important reform:

Part 9: Amendment of Work Health and Safety Act 2011 -- Review of the legislation

We support the review of this legislation after a minimum of 4-5 years of operation (s 275A Review). While arguably, legislative reforms rarely attract the scrutiny of a regulatory review, sex work can evoke strong moral and ideological positionings. Public health focused research must be at the centre of the review and evaluation of this reform¹⁵. The review must be appropriately designed using community participatory, co-designed approaches. It should be peer-reviewed (both academically and by sex workers) and published. Best-practice participatory research methodologies are essential for ethical research with marginalised populations, and in Queensland, would include strong partnership with Respect Inc^{16,17}.

¹² Queensland Law Reform Commission. (2023). Sex work industry review (R 80).

https://www qlrc.qld.gov.au/___data/assets/pdf_file/0003/763383/qlrc-report-80-a-decriminalised-sex-work-industry-for-queensland-vol-1-.pdf

¹³ Benoit, C., Belle-Isle, L., Smith, M., Phillips, R., Shumka, L., Atchison, C., Jansson, M., Loppie, C., & Flagg, J. (2017). Sex workers as peer health advocates: Community empowerment and transformative learning through a Canadian pilot program. *International Journal for Equity in Health*, 16(1). <https://doi.org/10.1186/s12939-017-0655-2>

¹⁴ McCance, A. S., Nye, C. D., Wang, L., Jones, K. S., & Chiu, C.-y. (2013). Alleviating the burden of emotional labor: The role of social sharing. *Journal of Management*, 39(2), 392-415. <https://doi.org/10.1177/0149206310383909>

¹⁵ Abel, G., Fitzgerald, L., Healy, C., & Taylor, A. (2010). *Taking the crime out of sex work: New Zealand sex workers' fight for decriminalisation*. The Policy Press, University of Bristol.

¹⁶ Jeffreys, E. (2010). Sex worker-driven research: Best practice ethics. *Dialogue e-Journal*, 8(1), 1-20. <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=c807a4bdb59bc5927835a3940af21eef583a6e0>

¹⁷ Baum, F. E. (2016). Power and glory: Applying participatory action research in public health. *Gaceta Sanitaria*, 30(6), 405-407. <https://doi.org/10.1016/j.gaceta.2016.05.014>

Community participatory research and evaluation was conducted in New Zealand, in partnership with the New Zealand Prostitutes Collective and experienced public health sex work academics, for the review of the Prostitution Reform Act 2004.

Prior to the decriminalisation of sex work in New Zealand, there were heightened concerns that decriminalisation would cause an increase in the overall number of sex workers, including street-based, and young people engaged in sex work. The evidence contained in the independent evaluation commissioned by the NZ Ministry of Justice showed all these concerns to be unfounded^{18,19}.

The review scope in Queensland should focus on factors associated with workplace health and safety, and mitigation of discrimination and stigma. There will be a period of transition during which time the changes to legislation are communicated and implemented, so evaluation would need to take place after that time. Sufficient time and funding will need to be allocated to enable robust participatory processes in research methodology, data collection from sex workers and key stakeholders across Queensland, as well as time for analysis and write up of the evaluation report and accompanying peer reviewed publications of findings.

Part 2: Amendment of Anti-Discrimination Act 1991 – Strengthening protections

We support the amendment in Schedule 1 changing ‘lawful sexual activity’ to ‘sex work activity’. However, we question whether it is necessary to introduce a new qualifier that limits the definition of sex work activity to ‘adult’ persons for the purposes of anti-discrimination protections, as doing so seems to remove a pre-existing protection. There remain multiple criminal offences associated with involving a minor in sex work (s217 of the Criminal Code) so there appears to be no benefit, and potential risks in excluding minors from anti-discrimination protections.

Part 6: Amendment of Liquor Act 1992

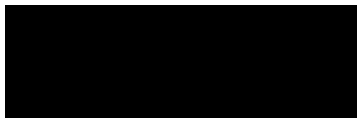
We support the amendments to part 6 but acknowledge the unfortunate exclusion of adult entertainment from the scope of the Queensland Law Reform Commission review. This exclusion leaves inconsistencies and inequities that require further review and legislative reform to remove police from their regulatory role in this work sector.

¹⁸ Abel, G., Fitzgerald, L., & Brunton, C. (2009). The impact of decriminalisation on the number of sex workers in New Zealand. *Journal of Social Policy*, 38(3), 515-531. <https://doi.org/10.1017/S0047279409003080>

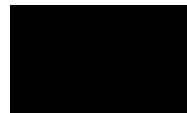
¹⁹ Abel, G. M., & Fitzgerald, L. J. (2008). On a fast-track into adulthood: An exploration of transitions into adulthood for street-based sex workers in New Zealand. *Journal of Youth Studies*, 11(4), 361-376. <https://doi.org/10.1080/13676260802104808>

Finally, we commend again the extensive work already completed and urge the expedited enactment of this important legislation with a commencement date of 1 July 2024. We are happy to be contacted if you have further questions.

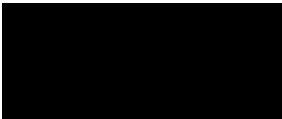
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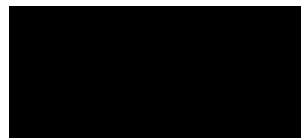
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