



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of HB276 Prohibit Receiving the Proceeds of Prostitution Sponsor Representatives Powell and Schmidt

Chair LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide testimony on behalf of the Office of the Ohio Public Defender (“OPD”) in opposition of House Bill 276 (“HB276”). I am Niki Clum, the legislative policy manager for the OPD.

As this committee knows, HB276 criminalizes receiving “money or any other thing of value knowing that the money or other thing of value was earned from a sexual activity for hire or as a result of” human trafficking. The offense is a felony of the third degree and a felony of the second degree if the individual doing the sexual activity was under eighteen. For context, the offense of prostitution is a misdemeanor of the third degree.¹ Soliciting another to engage in sexual activity for hire, being the “John,” is a misdemeanor of the third degree.² Loitering to engage in prostitution is a misdemeanor of the third degree.³ Procuring a prostitute for another or enticing another to patronize a brothel is a misdemeanor of the first degree with increasing penalties depending on the age of the individual engaging in the sexual activity for hire.⁴ Engaging in prostitution by enticing or procuring another to engage in sexual activity for hire is a misdemeanor of the first degree.⁵ Promoting prostitution, which involves establishing, operating, or controlling a brothel or controlling the activities of a prostitute, is a felony of the

¹ R.C. 2907.25

² R.C. 2907.24

³ R.C. 2907.241

⁴ R.C. 2907.23

⁵ R.C. 2907.231

fourth degree with increasing penalties in certain circumstances.⁶ Compelling prostitution, which involves forcing an individual to engage in prostitution by overcoming their will by force, fear, duress, or intimidation, is a felony of third degree with increasing penalties depending on the age of the victim.⁷ Finally, human trafficking is a felony of the first degree.⁸ While OPD believes these law sufficiently cover all illegal aspects of prostitution, and more criminalization results in more stacking of charges, OPD's primary opposition with HB276 is that it makes the offense of receiving proceeds from prostitution a felony of the third degree.

The Ohio Prosecuting Attorneys Association (OPAA) testified that this bill is necessary because compelling prostitution and human trafficking require prosecutors to prove the person who engaged in sexual activity for hire was compelled to do so.⁹ OPAA testified this bill could be used to prosecute a hotel or accountant who is assisting in the sexual activity for hire enterprise.¹⁰ OPAA is correct that the scope of HB276 is quite broad. While the bill is meant to target persons who are knowingly engaging in conduct that condones, while also profiting from, prostitution; it also catches others who do not necessarily condone the conduct but do in fact know a person is engaged in prostitution. Such as, a landlord, convenience store owner, or even a health care provider.

OPD opposes HB276 because it punishes receiving the proceeds from prostitution the same as someone convicted of compelling prostitution. However, the culpability is significantly less as the person who receives the proceeds of prostitution was not convicted of compelling

⁶ R.C. 2907.22

⁷ R.C. 2907.21

⁸ R.C. 2905.32

⁹ Ohio Prosecuting Attorneys Association, House 276 Proponent testimony, October 26, 2021, 26:00, <https://ohiochannel.org/video/ohio-house-criminal-justice-committee-10-26-2021>.

¹⁰ Id. at 26:40.



someone to engage in sexual activity for hire against their will by force, fear, duress, or intimidation. HB276 does not even require culpability on par with promoting prostitution, a felony of the fourth degree, which requires someone to operate or control the sexual activity for hire. Under HB276 the penalty does not fit the crime. Receiving the proceeds of prostitution is more akin to enticement or solicitation to patronize a prostitute¹¹ or engaging in prostitution¹², both misdemeanors of the first degree. Like these offenses, the individual knows that illegal prostitution is occurring and is interacting with it, however, the individual is not controlling or compelling the sexual activity for hire.

Historically, we blamed the victim — the prostitute — for prostitution.¹³ We now better understand the true nature of prostitution. We should continue to educate the public about realities of compelling prostitution and human trafficking in order to reduce demand. Ohio's current law has a system of increasing penalties as the individual's behavior becomes more culpable. HB276 would disrupt that system by over penalizing receiving the proceeds of prostitution. OPD recommends this committee consider making the offense of receiving proceeds of prostitution a misdemeanor of the first degree.

Thank you for the opportunity to provide testimony. I am happy to answer any questions at this time.

¹¹ R.C. 2907.23

¹² R.C. 2907.231(B) "No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person."

¹³ Brandon Addeo, *Proposed legislation targets human traffickers, people who buy sex*, Sandusky Register, November 8, 2019, <https://sanduskyregister.com/news/25141/proposed-legislation-targets-human-traffickers-people-who-buy-sex/>, paraphrasing Tracy McGinley, Director of Bowling Green State University's Criminal Justice Program.

