



Parliament of
South Australia

REPORT
OF THE
SELECT COMMITTEE
ON
THE STATUTES AMENDMENT
(REPEAL OF SEX WORK OFFENCES) BILL 2020

*Authorised to be published and distributed by the President of the Legislative Council,
The Hon. J.S.L. Dawkins, on 16 February 2022,
pursuant to Resolution of the Legislative Council on 1 December 2021*

Second Session, Fifty-Fourth Parliament 2020-2022

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Appointment and Terms of Reference

On 3 February 2021, the Statutes Amendment (Repeal of Sex Work Offences) Bill 2020 – introduced to the Legislative Council on 8 April 2020 by the Hon T. A. Franks MLC following its Second Reading was referred to a Select Committee of the Legislative Council to inquire into and report.

Membership

Membership of the Committee:

Hon Tammy Franks MLC (Chairperson)
Hon Nicola Centofanti MLC
Hon John Darley MLC (from 8 September 2021)
Hon Heidi Girolamo MLC (from 24 August 2021)
Hon Irene Pnevmatikos MLC
Hon Clare Scriven MLC
Hon David Ridgway MLC (until 30 June 2021)

Secretary to the Committee: Mr Anthony Beasley

Research Officer to the Committee: Ms Sue Markotić

Conduct of the Inquiry

During March 2021, the Committee advertised its inquiry in *The Advertiser*, *InDaily* and all regional newspapers inviting stakeholders to make written submissions or register their interest in appearing before the Committee and presenting evidence. Details of the inquiry, including links to the Bill and the inquiry's terms of reference, were placed on the Parliament's website.

In total, the Committee received 148 submissions (including one video submission). Of this total:

- 71 were for the Bill
- 74 were against the Bill
- 3 did not state a position.

Also 420 emails were received via one click politics.

The Committee commenced hearing evidence on 31 May 2021. The Committee met on 10 occasions to hear evidence from 29 separate groups of witnesses, most of whom had also provided written submissions.

Lists of submissions received and witnesses who appeared before the Committee are provided in Appendices A and B.

Objectives of the Bill

The Statutes Amendment (Repeal of Sex Work Offences) Bill aims to decriminalise all aspects of prostitution (referred to as Sex Work in the Bill) by repealing relevant sections of the *Criminal Law Consolidation Act 1935* (SA) and *Summary Offences Act 1953* (SA).

Criminal Law Consolidation Act 1935

The Bill seeks to amend the *Criminal Law Consolidation Act 1935*¹ (SA) by:

- Deleting the definition of ‘common prostitute’ from s 5(1) of the Act.²
- Deleting s 270(1)(b) from the Act which refers to an offence of ‘keeping a bawdy house’.
- Inserting the wording ‘offences relating to prostitution’ to Schedule 11 of the Act under the heading ‘abolition of certain offences’ to remove this as an offence.

Summary Offences Act 1953

The Bill seeks to amend the *Summary Offences Act 1953*³ by:

- Deleting the definition of ‘prostitute’ from s 4(1).⁴
- Deleting the word ‘prostitutes’ from s 21.
- Removing sections 25, 25A and 26 which read as follows:

25—Soliciting

A person who—

- (a) in a public place, or within the view or hearing of any person in a public place, accosts or solicits a person for the purpose of prostitution; or
 - (b) loiters in a public place for the purpose of prostitution,
- is guilty of an offence.

Maximum penalty: \$750.

25A—Procurement for prostitution

- (1) A person must not engage in procurement for prostitution.

Maximum penalty:

For a first offence—\$1 250 or imprisonment for 3 months.

For a subsequent offence—\$2 500 or imprisonment for 6 months

- (2) A person engages in procurement for prostitution if the person—
 - (a) procures another to become a prostitute; or
 - (b) publishes an advertisement to the effect that the person (or some other person) is willing to employ or engage a prostitute; or
 - (c) approaches another person with a view to persuading the other person to

¹ <https://www.legislation.sa.gov.au/lz/path=/c/a/criminal%20law%20consolidation%20act%201935>

² It is worth noting the term ‘prostitute’ is defined in the *Summary Offences Act 1953*, s 4(1), as ‘any male person who prostitutes his body for fee or reward’. [Emphasis added]. The use of *his*, a masculine pronoun, to define ‘prostitute’ seems nonsensical particularly because the definition was almost exclusively intended to refer to women. It does, however, reflect the widespread sexism in legal language at the time in which the legislation was introduced.

³ <https://www.legislation.sa.gov.au/lz/path=/c/a/summary%20offences%20act%201953>

⁴ This is the same definition that appears in the *Criminal Law Consolidation Act 1935* s 5(1).

accept employment or an engagement as a prostitute.

- (3) In this section—
advertisement includes a notice exhibited in, or so that it is visible from, a public place.

26—Living on the earnings of prostitution

- (1) A person who knowingly lives, wholly or in part, on the earnings of prostitution of another person is guilty of an offence.
Maximum penalty: \$2 500 or imprisonment for 6 months.
- (2) In proceedings for an offence against subsection (1), the fact that a person lives with, or is habitually in the company of, a prostitute and has no visible lawful means of support is, in the absence of proof to the contrary, proof that that person is knowingly living on the earnings of prostitution.

- Removing Part 6 relating to, among other things, keeping and managing brothels and police powers of entry and search of brothels.

Penalties

The current penalties under relevant legislation range from fines to terms of imprisonment depending on the offence type.

The relevant offences under the *Summary Offences Act 1953* carry lower penalties than those offences under the *Criminal Law Consolidation Act 1936*. For example, the penalty for the offence of ‘solicitation’ is a maximum fine of \$750.⁵ A person who ‘knowingly lives, wholly or in part, on the earnings of prostitution of another person’ is guilty of an offence where the penalty can range from a maximum fine of \$2,500 or imprisonment for 6 months.⁶ However, the offence of ‘keeping a bawdy house’⁷ carries a maximum term of 2 years imprisonment.

Committee Statement

Members of the Committee held divergent views, with some being supportive of the Bill, while others were not.

A majority position on the substantive contents of a report could not be established, nor could the Committee make any recommendation in regard to the passing of the Bill.

⁵ *Summary Offences Act 1953* (SA) s 25.

⁶ *Summary Offences Act 1953* (SA) s 26.

⁷ *Criminal Law Consolidation Act 1935* s 270(1)(b).

Acknowledgements

The Select Committee extends its thanks to those who provided information and evidence to its inquiry.

A handwritten signature in black ink, appearing to read 'T. A. Franks', written in a cursive style.

Hon. T. A Franks

Chairperson

15 February 2022

APPENDIX A - WITNESSES

Prof Nicola Spurrier, Chief Public Health Officer, Health Regulation and Protection, SA Health

Ms Rebecca Sandford, President Law Society of South Australia

Ms Lisa Teburea, Executive Director Public Affairs, Local Government Association

Ms Tracey Hutt, Director, Workforce Education and Development, SHINE SA

Dr Caroline Norma

Australian Christian Lobby

Mr Christopher Brohier, Director

Ms Wendy Francis, Women's Advocate

Ms Roslyn Phillips

Ms Ashlyn Vice

Coalition Against Trafficking in Women Australia

Dr Kaye Quek

Ms Courtney Edwards

Seeds of Affinity Inc Pathways for Women

Dr Michele Jarldorn, Chair

Ms Linda Fisk, Co-ordinator

Ms Sandra Dann

SIN

Ms Kat Morrison, General Manager

Ms Brass Brown, Women's Project

Ms Chloe Black, Social Media Officer

Ms Roxana Diamond, Board Member

Rev Peter Sandeman

Ms Roxana Diamond

Assoc. Prof. Dr Joanna Howe

Mr Craig Murray, Playnice

The Mills Family

SIDAC

Ms Georgia Thain

Mr Alan Fairley

Ms Claire O'Connor SC

Ms Fiona Patten, MLC Victoria

Mr Matthew Roberts, Sex Work Law Reform Victoria

Ms Loretta Polson

Sex workers

Ms Jessie MacGillivray, Mac and Co Lawyers

Women Ending Exploitation by Prostitution

Ms Amanda Brohier

Ms Ali Kulatea

Assistant Commissioner Linda Fellows, Operations Support Service, South Australia Police

Dr Helen Pringle, Feminist Legal Clinic

Ms Simone Watson, NorMac

Ms Rebekah Reilly, Spokesperson for South Australians' for Partial Decriminalisation of Prostitution

Ms Melinda Tankard Reist, Movement Director, Collective Shout

APPENDIX B - SUBMISSIONS

The following submissions were received by the Committee and agreed to be published:

No.	Name
1	Sex Worker
2	Lani
3	Kate Toone
4	Caroline Norma
5	Paul Wnuk
6	Louie Vega
7	Dr Barry and Janet Manuel, Healinglife Church and Ministries Inc
8	Malgorzata Schmidt
9	Roscoe Hilton
10	Esther Foncueva
11	B
12	Karen Houghton
13	Olena Zaitseva
14	Pamela Murray
15	Katherine Leane
16	Wahine Toa Rising
17	Angela Vaughan
18	BPW Adelaide
19	— — —
20	Equality Model Information Centre
21	W
22	Kip Fuller
23	SHINE SA
24	Carol Wong
25	Steve Lewis
26	Australian Christian Lobby
27	Coalition Against Trafficking in Women Australia
28	Roslyn Phillips
29	Lucy Wells
30	Australian Services Union
31	Frieda Brown
32	Anonymous
33	Vixen Collective - Dylan O'Hara
34	Ashlyn Vice and Gabriela Beer
35	Harry
36	Charlie Rose
37	Sandra Dann
38	Seeds of Affinity – Pathways for Women Inc, South Australia
39	C
40	Law Society of South Australia
41	Erin Short
42	Thorne Harbour Health
43	Hepatitis SA Inc
44	Bob Jack
45	Various people submitting via the Sex Industry Decrim Action Committee
46	Women's Forum Australia

47	Jessie MacGillivray
48	Kenneth
49	Zonta International
50	Anne Brown
51	Liam Ellis
52	Anonymous
53	playnice
54	Camila Trenergy
55	Coalition for the Abolition of Prostitution
56	Women Ending Exploitation by Prostitution
57	FamilyVoice Australia
59	Lived Experience Leadership & Advocacy Network
60	Soraya
61	Sex Work Law Reform Victoria
62	Assoc. Prof. Dr Joanna Howe
63	Joseph Chu
64	South Australian Rainbow Advocacy Alliance
65	Working Women's Centre
66	Alan Fairley
67	Vanya
68	R
69	Lana
70	YWCA
71	Collective Shout
72	Feminist Legal Clinic
73	Ari Reid
74	Emily's List Australia
75	Local Government Association
76	Prof Nicola Spurrier, Chief Public Health Officer, Health Regulation and Protection, SA Health
77	Francis Evans
78	Sabina Gregoric
79	Chris Glapa
81	Anonymous
82	F Edwards
83	Respect Inc
84	Nate
85	Sue
86	Lisa
88	SIN
89	Roxana Diamond
90	Australian Federation of AIDS Organisations (AFAO)
91	ASHM
92	Dame Diana Johnson MP
93	Relationship Australia
94	Northern Territory Sex Worker Outreach Program (SWOP NT) -Sex Worker Reference Group (SWRG)
95	South Australia Police
96	Pink Cross Foundation Australia
97	Georgia Thain
98	Linda Watson of Linda's House of Hope
99	Loretta Polson
100	Sex Industry Decriminalisation Action Committee (SIDAC)

101	Charlotte Harding
102	M
103	Marie
104	Frances Evans
105	Adam and Frances Evans
106	Natasha Mills
107	Angela Lewis
108	Almerindo Migliore
109	Kahlee Murphy
110	David Ewers
111	Sophie
112	Aileen Bengier
113	Gabriela Beer
114	Ruth Morris
115	Leah Krieg
116	Sharon Perry
117	Lynne Hechter
118	Ian Murphy
119	C Humphries
120	Julie Anne
121	Carolyn Zadow
122	Sam Doecke
123	Jane Schilling
124	Sandy Neidorf
125	Andrew Pollitt
126	Stephen Graham
127	John Lawson
128	Anonymous
129	Joy Baxter
130	Alison Kastelein
131	Lauren Jenzen
132	Ben Kolly
133	Libby Lawson
134	Robyn Graham
135	Stephen and Elaine White
136	A J Lecerenz
137	Lixin Zhu
138	Ed Kastelein
139	Linda Khojasteh
140	Roger Chapman
141	Irena Zagladov
142	Allison Abbott
143	Rebekah Reilly
144	Ernie Van Stralen
145	Anthony Scammell

1 video submission from Trish, Dean and Bradley Mills

Also 420 emails received via one click politics