

Backgrounder

Protection of Communities and Exploited Persons Act

The Government of Canada's comprehensive and "made-in-Canada" approach to address prostitution includes two essential parts—criminal law reform, in response to the Supreme Court of Canada's decision in *Canada v. Bedford*, and support for vulnerable persons to help them leave prostitution. This two-pronged approach aims to criminalize those who fuel and perpetuate the demand for prostitution by purchasing sexual services, and to protect those who sell their own sexual services, vulnerable persons, and Canadian communities from the harms associated with prostitution. These harms include sexual exploitation, violence, and related criminal activities, such as human trafficking, organized crime and drug-related crime.

Objectives of the Proposed Legislation to Address Prostitution

The proposed law has the following objectives:

- Protecting those who sell their sexual services from exploitation;
- Protecting communities from the harms caused by prostitution; and
- Reducing the demand for sexual services.

To achieve these ends, the Government of Canada is proposing new offences and modernizing existing offences.

Proposed New Prostitution-Related Offences

The proposed new prostitution-related offences are aimed at reducing demand for sexual services, protecting those who sell those services from exploitation, and protecting children and our communities from exposure to prostitution.

- **Purchasing sexual services** - This new offence would prohibit the purchase of sexual services and communicating in any place for that purpose. Maximum penalties for purchasing sexual services would be 18 months imprisonment on summary conviction and 5 years imprisonment on indictment. Escalating mandatory minimum fines for first and subsequent offences would also apply. There would be a \$500 fine for a first offence and a \$1,000 fine for a subsequent offence on summary conviction. These fines would be doubled if the offence were committed near parks, schools, religious institutions or other places where children could reasonably be expected to be present.
- **Receiving a financial or material benefit** - This new offence would prohibit profiting from the prostitution of others, including through businesses that sell the sexual services of others online or out of venues such as escort agencies, massage parlours, or strip clubs that also provide sexual services. It would carry a maximum penalty of 10 years imprisonment. Exceptions would be made for non-exploitative relationships.

- **Advertising the sale of sexual services** - This new offence would prohibit advertising the sale of others' sexual services in print media or on the Internet. It would give courts the power to authorize the seizure of materials containing such advertisements, to order an advertisement to be removed from the Internet, and to require the provision of information that would identify and locate the person who posted it. Maximum penalties for advertising the sale of sexual services would be 18 months imprisonment on summary conviction and 5 years imprisonment on indictment.
- **Communicating for the purpose of selling sexual services in public places that are near school grounds, playgrounds or daycare centres** - This new offence would prohibit anyone from communicating for the purpose of selling sexual services in public places that are near school grounds, playgrounds or daycare centres. The maximum penalty for this offence would be 6 months imprisonment.

Reformulating and Modernizing Existing Prostitution-Related Offences

The Government of Canada proposes reformulating and modernizing the following prostitution-related offences:

- **Procuring (also known as "pimping")** - This offence would prohibit a person from recruiting or harbouring another person for the purposes of prostitution. The proposed legislation would increase the current maximum penalty of 10 years imprisonment to 14 years. This offence would be modernized to be consistent with the new offence of receiving a financial or material benefit.
- **Child prostitution (and related offences)** - The proposed legislation would increase the maximum penalty for purchasing sexual services from children to 10 years imprisonment from the current 5 years and increase the mandatory minimum penalty for subsequent offences from six months to one year. The laws around child prostitution would also be modernized to be consistent with the proposed new legislative changes.
- **Child trafficking (and related offences)** - The legislation would increase the minimum and maximum penalties for two child trafficking offences to ensure consistency of penalties between child trafficking and child prostitution offences.

Exceptions to Proposed Prostitution-Related Offences

Prostitution is an inherently dangerous activity that puts those who sell their own sexual services at risk of exploitation. These individuals would be expressly protected from criminal liability that could otherwise result from activities in relation to their own prostitution, except in circumstances where a person communicates in a public place that is near a school ground, playground or daycare centre for the purpose of selling their own sexual services. With this approach, these persons will be more likely to report problems to police, without fear of facing criminal charges for selling sexual services or communicating for that purpose.

The new legislation would clarify that sellers of their own sexual services have the same ability to conduct their own personal affairs as anyone else. The proposed financial or material benefit

offence would not apply to persons who have entered into legitimate living arrangements with prostitutes; for example, spouses or roommates. It would also not apply to children or other dependants. Persons such as pharmacists, accountants or firms and individuals that offer security services would also be exempt from the proposed financial or material benefit offence in certain circumstances that do not involve exploitation.

Other Proposed Amendments to the Criminal Code

To protect potential victims of assault, the proposed legislation would also clarify that it is an offence to possess weapons of restraint with the intent to commit an offence. The Bill would amend the definition of "weapon" in the Criminal Code to include anything used or intended to be used to restrain a person against their will (e.g. handcuffs, rope, duct tape). This amendment would provide greater protection to all potential victims of assault, including to those who sell their sexual services, who are particularly vulnerable to violence and sexual assault.

Programs to Address Prostitution

These measures will be supported by \$20 million in new funding, including to support grassroots organizations dealing with the most vulnerable. Assistance will be provided to those who want to leave this dangerous and harmful activity; therefore, there will be an emphasis on funding programs that can help individuals exit prostitution.

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