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Prostitution Criminal Law Reform: Bill C-36, the *Protection of Communities and Exploited Persons Act*

In force as of December 6, 2014

[PDF Version \(c36faq_eng.pdf\)](#)

Questions and Answers

Frequently Asked Questions (FAQ)

Q1. Is prostitution a legal activity?

A1. No. The effect of Bill C-36 is to criminalize prostitution. Prostitution is a transaction that involves both the purchase and the sale of sexual services. Bill C-36's new offence that prohibits purchasing sexual services makes the prostitution transaction illegal.

This means that purchasing sexual services is illegal and businesses that profit from the prostitution transaction are also illegal.

Q2. Can a person purchase sexual services?

A2. Purchasing sexual services and communicating in any place for that purpose is now a criminal offence for the first time in Canadian criminal law. A person convicted of this new offence may be sentenced to up to 5 years imprisonment if prosecuted on indictment, and 18 months if prosecuted by summary conviction. Mandatory minimum fines also apply, including higher mandatory minimum fines if the offence is committed in a public place that is or is next to parks, schools, religious institutions or places where children can reasonably be expected to be present. A person convicted of purchasing sexual services from a person under the age of 18 years may be sentenced to up to 10 years imprisonment. Mandatory minimum penalties of 6 months imprisonment for a first offence and one year for subsequent offences also apply.

The new purchasing offence applies to transactions that take place over the Internet, such as paying someone to provide a sexual service in front of a webcam.

Q3. Can a person sell sexual services?

A3. The new prostitution laws do not criminalize the sale of sexual services. They also protect those who sell their own sexual services from criminal liability for any part they may play in the prostitution offences that prohibit purchasing sexual services, advertising those services, receiving a material benefit from the prostitution of others or procuring others for the purpose of prostitution.

This means that the new laws do not prevent sellers from taking certain safety measures, should they continue to sell sexual services. These safety measures include selling sexual services, whether independently or cooperatively, from fixed indoor locations, hiring legitimate bodyguards who do not engage in exploitative behaviour and negotiating safer conditions for the sale of sexual services in public places that are not near school grounds, playgrounds or day care centres. Communicating for the purposes of selling sexual services in public places that are or are next to school grounds, playgrounds or day care centres is a criminal offence with a maximum penalty of 6 months imprisonment.

However, purchasers of sexual services are always criminalized for their role in the prostitution transaction. The new prostitution laws are intended to reduce both the purchase and the sale of sexual services.

Q4. The new purchasing offence prohibits “obtaining sexual services for consideration”. What is a “sexual service” and what does “obtaining a sexual service for consideration” mean?

A4. A “sexual service” is a service that is sexual in nature and whose purpose is to sexually gratify the person who receives it. “Obtaining a sexual service for consideration” involves an agreement for a specific sexual service in return for payment or another kind of consideration, including drugs or alcohol. It doesn’t matter whether payment is made by the person who receives the sexual service or by another person.

Activities that amount to “obtaining a sexual service for consideration”, if a person pays for them, include: sexual intercourse; masturbation; oral sex; lap-dancing, which involves sitting in a person’s lap and simulating sexual intercourse; and, sado-masochistic activities, provided that the acts can be considered to be sexually stimulating or gratifying.

Q5. Can a person advertise the sale of their own sexual services?

A5. The new advertising offence criminalizes advertising the sale of sexual services. But the new laws also protect from criminal liability a person who advertises the sale of their own sexual services. This means that the offence applies to people who advertise the sale of others’ sexual services, including in print media, on websites or in locations that offer sexual services for sale, such as erotic massage parlours or strip clubs.

The offence also applies to publishers or website administrators, if they know that the advertisement exists and that it is in fact for the sale of sexual services.

The new laws also allow the court to order the seizure of materials containing advertisements for the sale of sexual services, as well as their removal from the Internet, regardless of who posted them.

Q6. Can a person manage, work for, or otherwise participate in, a business that offers sexual services for sale?

A6. Receiving money or any other material benefit from the prostitution of others in the context of a commercial enterprise that offers sexual services for sale is a criminal offence. Such a commercial enterprise necessarily involves third parties who profit from the sale of others’ sexual services. This means that it is illegal to earn money, for example, by managing or working for a commercial enterprise, such as a strip club, massage parlour or escort agency, knowing that sexual services are

purchased there.

But the new law protects from criminal liability people who receive money from the sale of their own sexual services. If the business does not involve anyone other than sellers of sexual services, who keep only the earnings from the sale of their own sexual services, and people who provide legitimate goods and services to them, the business is not a commercial enterprise. In these circumstances, the only person who commits an offence is the purchaser of sexual services.

Q7. Can a person live with another person who sells sexual services?

A7. The new laws do not prevent people who sell their own sexual services from entering into legitimate family relationships on the same basis as anyone else. This means that a family member or roommate of a person who sells their own sexual services does not commit an offence, unless the family member or roommate exploits the person who sells their own sexual services.

Q8. Can a person sell goods or services to people who sell their own sexual services?

A8. The new laws do not prevent people who sell their own sexual services from entering into legitimate business relationships on the same basis as anyone else. This means that a person who receives money for providing goods or services to a person who sells their own sexual services does not commit an offence as long as the goods or services are offered to the general public on the same terms and conditions and there is no exploitation.

If the person who receives money for providing goods and services to a person who sells their own sexual services does not offer the goods or services to the general public, but the amount of money received reflects the value of the good or service provided, no offence is committed as long as the person who provided the goods or services does not encourage the other person to sell sexual services and there is no exploitation.

Q9. Can a person accept gifts or other things from people who use the earnings they made from selling their own sexual services to buy them?

A9. The new laws do not prevent people who sell their own sexual services from interacting with others on the same basis as anyone else. This means that a person who receives gifts or other things from a person who sells their own sexual services does not commit an offence, as long as there is no exploitation.

Q10. Why do the new laws make prostitution illegal, instead of legalizing prostitution and regulating it?

A10. Recent international studies show that jurisdictions that have decriminalized or legalized prostitution have larger sex industries and higher rates of human trafficking for sexual exploitation than those that seek to reduce the incidence of prostitution. This means that legalizing and regulating prostitution would result in more people being subjected to prostitution. Research shows that the majority of those who sell their own sexual services are women and girls and marginalized groups, such as Aboriginal women and girls, are disproportionately represented. Research also shows that prostitution is an extremely dangerous activity that poses a risk of violence and psychological harm to those subjected to it, regardless of the venue or legal framework in which it takes place, both from purchasers of sexual services and from third parties.

Bill C-36's reforms target those who create the demand for sexual services, and those who capitalize on that demand. This approach is intended to protect the vulnerable people targeted by prostitution, the communities in which prostitution is practised and society itself, by sending a strong message that everyone is entitled to dignity and respect. Prostitution allows men, who are primarily the purchasers of sexual services, paid access to female bodies. Condoning a clearly gendered practice by legalizing and regulating it would demean and degrade the human dignity of all women and girls. The human body is not a commodity to be bought and sold.

For more information on the law reform implemented by Bill C-36 and the research on which it is based, please see: <http://www.justice.gc.ca/eng/rp-pr/other-autre/protect/index.html> ([/eng/rp-pr/other-autre/protect/index.html](http://www.justice.gc.ca/eng/rp-pr/other-autre/protect/index.html)).

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Human Trafficking/Sexual Exploitation, Youth and Child Exploitation in BC Resources/Contacts :

Victim Service Contacts and Assistance to Physicians:

- **Fraser Health Forensic Nurse Service 1-855-814-8194 (24/7)**

-Office to Combat Trafficking in Persons (OCTIP) at 1-888-712-7974 (24/7, interpretation available) or 604-660-5199 email : octip@gov.bc.ca

-Vancouver Rape Relief and Women's Shelter at 604-872-8212; info@rapereliefshelter.bc.ca (24/7)

-Deborah Gates Safe Shelter (Salvation Army) at 1-855-332-4283 (24/7)
info@deborahsgate.ca
website: <https://www.deborahsgate.ca/>

-Resist Exploitation Embrace Dignity (REED) at 604-753-9929 (Faith Based)

-RCMP: Victims of Human Trafficking National Headquarters (Ottawa) at 1-866-677-7267 (24/7)

-Covenant House- crisis program for ages 16-24, at 604-685-7474; info@covenanthousebc.org

-Plea Community Services Society assisting youth at 604-708-2647; onyx@plea.bc.ca (24/7)

-Children of the Street Society in Coquitlam- founder Diane Sowden, at 604-777-7510;
info@childrenofthestreet.com
Extensive RESOURCE LIST FOR EVERY COMMUNITY IN BC

-VictimLinkBC Ministry of Public Safety, BC at 1-800-563-0808 (24/7)

-Youth Against Violence- info@youthagainstviolenceline.com at 1-800-680-4264 (24/7)

-BC Counsel for Families : bccf@bccf.ca at 604-678-8884 (offers parent support groups)

Authorities Contacts:

-New Westminster Police Department Major Crimes Unit (24 hours) *Power-Based Crime Unit under development*

-RCMP Human Trafficking Coordinator for BC/Yukon at 604-598-4603
Contact Jassy Bindra (RCMP) at 778-282-1215; jassy.bindra@rcmp-grc.gc.ca

CrimeStoppers at 1-800-222-TIPS (8477)

-Ministry of Child Protection Services 1-800-663-9122 or 604-660-4927 (24 hours)

or 604-310-1234 if a child in danger would like to reach Ministry of Child and Family Development

- Human Trafficking Screening Protocol (by FHA Forensic Nursing Service):

What type of work do you do? Can you leave your job or situation if you want? Can you come and go as you please? Have you been threatened if you try to leave? Have you been physically harmed in any way? What are your working or living conditions like? Where do you sleep and eat? Do you sleep in a bed, cot or on the floor? Have you been deprived of food, water, sleep or medical care? Do you have permission to eat, sleep or go to the bathroom? Are there locks on your doors and windows so you cannot get out? Has anyone threatened your family? Has your identification for documentation been taken from you? Is anyone forcing you to do anything that you do not want to do?

Evaluation of safety: Are you feeling safe right now? Is it safe for me to talk to you? Do you have any concerns for your safety? Is there anything I can do for you? Are they or their loved ones being threatened?

- Signs of Sex trafficking for parents to look for: new expensive clothing, secretive social life, won't introduce boyfriend, falling grades

- Five Warning Signs of Recruitment: age difference, gifting, lifestyle changes, isolation, gut feeling

- Indicators of human trafficking and sexual exploitation: www.traffickingresourcecenter.org

- Canadian Federal Law: The Protection of Communities and Exploited Persons act (Bill C-36): criminalizes the buyer of sex, the predator, trafficker, and facilitator. Recognizes the seller of sex is a victim; usually female and is not criminalized. Exit strategies are in place to assist the victim out of the sex trade.

- Resources/Books/Videos:

thetraffickedhuman.org is a website that gives an overview of the issue in BC.

Documentaries: "Enslaved and Exploited", "Red Light, Green Light" by Canadian film producers Jared and Michelle Brock.

Books: "Invisible Chains" by Benjamin Perrin, UBC Law Professor. "Half the Sky" by Nicolas Kristoff- New York bestseller describing the global sex trade. "The Natasha's", "The John's" by W5 award winning Canadian journalist Victor Malarek. "Pornland" by international porn researcher Dr. Gail Dines, New York bestseller on porn culture. "No Choice, No Job" by Dr. Janice Raymond-global expert on sex trade research. "Prostitution in Nevada" by Dr. Melissa Farley- a 2 year study of the prostitution culture in Nevada, USA. "Girls Like Us" by Rachel Lloyd- a memoir by a survivor of the sex trade. "Paid For: My Journey through Prostitution" by Rachel Moran describes her prostitution experience in Ireland.

Online: Human trafficking online course from BC OCTIP (Office to Combat Trafficking in Persons). Dr. Jackson Katz TEDtalk on men, violence and silence. Dr. Gail Dines TEDtalk on porn culture. Trisha Baptie TEDtalk- a survivor from the downtown east side. Cybertip.ca- stay safe online. "fightthenewdrug" website addressing youth porn use and addiction. "CNN special report (2015) "Children for Sale: The Fight to End Human Trafficking" by Jada Pinkett Smith.

WHAT CAN I DO AS A PARENT? Here are six things that you can do to help prevent your child from being lured away by a trafficker:

1. Set a high standard of “love” within your home.

The way you define and express love shapes your children’s self-image, confidence and opinions of future relationships. Treat them the way you want their future spouses to treat them. Help them to distinguish between real love and empty promises or cheap gifts.

2. Talk to your children about sexual abuse.

According to the US Department of Justice, every two minutes someone in the US is sexually assaulted, of which 29% are ages 12-17. Let your children know that if anyone has or ever does hurt them, they can talk to you. This is the most important thing you can say. Don’t assume they have not been hurt by sexual violence before. Leave the door open for your child to talk about past circumstances that they haven’t shared with you.

3. Talk to your children about sex trafficking.

Discuss ways children and teens are targeted for sex trafficking. Let them know that traffickers specifically try to woo young girls and boys with promises of a better life – whether it’s promises of love and attention or promises of nice things and trips – these pimps look for ways of exploiting dreams. Traffickers can be male or female, even classmates. Traffickers may even use kids to recruit other kids.

4. Talk to your children about the dangers of social media.

It’s important to provide practical safety tips like: don’t share personal information on the Internet; don’t accept Facebook requests from unknown people; NEVER share naked photos of yourself with anyone; and tell a parent or a trusted adult if you feel threatened or uncomfortable online. Also, children need help in defining friendships. Social media has distorted our children’s understanding of what friendship means. Teach them that a friend is not someone you met yesterday and that a “friend” on Facebook is not the same thing as a friendship.

5. Pay attention to your children.

Monitor your children’s social media accounts, look for ways to meet their friends, their friends’ parents and those they hang out with. Be alert to boyfriends who are much older, or friendships that tend to isolate your child from other friends or family. Notice if your child has new clothing items, makeup products, cell phone or other items and inquire about how they acquired them.

Some Ways to Prevent Your Child from Being Recruited Into Prostitution

- Recruiters frequent malls, movie theaters, bowling alleys, parks, typical teen hang out areas, and around school grounds. Make sure your children are supervised and not alone when in these areas.
- Recruiters are always looking for girls who are alone or isolated; if your child is with a group, she is much less likely to be targeted.
- Make sure your child is not alone when they are going to or from school or other extracurricular activities.
- Check your child's emails, social media, and internet activities. Many recruiters will build a relationship with children through the internet over time in order to gain their trust.
- Screen any boyfriend by checking his age and status in the community. Check with his parents to verify his age, any gang affiliation, or any criminal history. Recruiters are notorious for lying about their age and who they are in order to gain a girl's—and even her parent's—trust.
- Know where your child is all times. It may be annoying to your child, but it also could mean saving their life.
- Adding a GPS tracker to your child's phone is a great form of protection, as it allows you to find out exactly where your child is at any time.
- Have a code word or phrase. For example, saying "I'm fine" means "*Not okay! I need help!*". This way, if they are in the hands of an abductor they can text you this code without raising the suspicion of the abductor or recruiter.
- Use the percentage sign or some unique symbol that will allow your child to text you one quick symbol to tell you they are in trouble.
- Have specific and periodic check in times with your children. Setting a recurring alarm on your child's phone will help them remember to check in. If your child misses a check in time, you can set a response in motion assuming that they are in trouble.
- Ethical Modeling agencies do not typically solicit girls who are alone. Thoroughly screen any solicitation for your child to model or to go somewhere with someone who has not been vetted.
- Talk to your child about what to do if they get into trouble with someone who is threatening them. The basic rule is to never go to the second location once you realize you are in danger. No matter what the threat, advise them to go to a figure of authority *immediately*.
- It is a difficult discussion to have, especially with junior high age children, but 8 to 14 year-olds are the primary targets of recruiters. Children really need to be coached on how to respond to that type of threat if it happens to them.
- If your child is going to a party, make sure that you know it is held at a safe place with the supervision of people you trust. Recruiters for sex trafficking will often frequent parties that teenagers attend and wait until a child is alone, single them out, and actually take them during the party. Many times the recruiter will take them to a back room where any kind of disturbance would not be heard due to the noise of the party.
- Advise your child to never leave any drink, even water, unattended at any party or event. Recruiters will drop what they call a "roofie" into the drink which causes the victim to become submissive to anyone without bringing attention to the situation.

Most importantly, get involved in your child's life and be their parent, not their buddy. They may resist, but it is our job as parents to protect our children from the predators that seek to destroy their lives.

SEX TRAFFICKING is a **BOOMING** industry

DEFINED:

SEX TRAFFICKING occurs when someone uses force, fraud or coercion to cause a commercial sex act with an adult or causes a minor to commit a commercial sex act. A **COMMERCIAL SEX ACT** includes prostitution, pornography and sexual performance done in exchange for any item of value, such as money, drugs, shelter, food or clothes.

It thrives because there is serious demand.

Buyer: fuels the market with their money

Trafficker/pimp: exploits victims to earn revenue from buyers

Victim: includes both girls and boys who are bought and sold for profit

Traffickers find victims through: Social network, Home/neighborhood, clubs or bars, internet, school,

And lure them through promises: Protection, Love, Adventure, Home, Opportunity.

TRAFFICKERS USE: FEAR, VIOLENCE, INTIMIDATION, THREATS
to ensure compliance and meet demand.

The **common age** a child enters sex trafficking is **14-16**; too young and naïve to realize what's happening.

Society may call it **PROSTITUTION**, but Federal Law calls it **SEX TRAFFICKING**.

Because of social stigma or misinformation, victims go:

UNIDENTIFIED (silenced by fear and the control of the trafficker),

MISIDENTIFIED (pigeonholed into treatment for only surface issues).

So

Sex trafficked children are instead treated for:

drug abuse, alcohol abuse, domestic violence, delinquency, teenage pregnancy, STDS, abortion...all masking the true need...FREEDOM.

Identifying Victims of Human Trafficking

- Younger age
- May present fearful, anxious, submissive, tense, nervous, disoriented, aggressive, agitated, hostile and uncooperative
- Multiple sexual partners
- Multiple episodes of STI's
- Inappropriate attire for a health care visit (eg, lingerie)
- Tattoos or other types of branding
- Unusual dynamic between patient and partner (controlling behaviour: speaks for the patient, provides interpretation, won't separate from patient)
- Older male partner
- Signs of sexual abuse: intra-oral bruising, lacerations, vulvar/ perineal bruising, vaginal lacerations, anal lacerations, gynaecological fistulas, cervical and rectal prolapse
- Signs of physical abuse: lacerations, bruises, fractures, burns, fractured teeth
- Delay in care
- Lack of any official identification papers or cards
- No medical Insurance
- Vague answers about their situation
- Inconsistent History
- No eye contact
- No control of their money
- Services paid for by untraceable means (eg. cash, prepaid credit card)
- Malnourishment
- Signs of depression or PTSD
- New expensive clothing
- Drug or alcohol addiction
- Unable to provide home address, unfamiliar with surroundings, truancy, foster care, criminal record/ criminal activity or juvenile detention
- Involved in commercial sex trade
- Patient appears to be monitored by trafficker (through texting, phone calls GPS-enabled phone)