



**Testimony of Becky Straus, Legislative Director
In Opposition to HB 2334
House Judiciary Committee
February 18, 2013**

Chair Barker and Members of the Committee:

HB 2334 is a well-meaning attempt to address the issue of sexual exploitation and sex trafficking in Oregon, but the bill too broadly approaches the issue and may carry unintended consequences beyond its original intent. Thank you for the opportunity to share comments and concerns.

Section 1(1) of the bill removes the intent element from the crime of promoting prostitution, so that a person meets the elements of the crime if he or she “knowingly” performs one of the actions listed in current law.¹ Particularly in the context of ORS 167.012(1)(d), which includes within promoting prostitution “any conduct that institutes, aids or facilitates an act or enterprise of prostitution,” the removal of an intent element could have devastating consequences for persons that the law is intending to protect. For example, a roommate may “facilitate an act... of prostitution” by leaving the door unlocked for her roommate but have no intention of promoting prostitution. HB 2334 would make this roommate subject to a Class C felony conviction. Removing the intent element exposes many more actors than “pimps” to the crime of promoting prostitution.

Section 2 elevates the penalty for attempt to compel prostitution to a Class B felony. Historically under Oregon law an inchoate – or, incomplete – crime carries a penalty that is at least one degree below the penalty for the completed crime. One reason for this difference is in respect for the principle of proportionality in criminal sentencing.² As a policy matter, as well, we believe that it is important that our sentencing scheme distinguishes between an inchoate crime and a completed crime. Our laws should deter a person from completing a crime, even if he or she has taken steps to begin the crime – allowing for a person to stop partway through and receive a lower penalty than if he or she completed the crime.

Finally, we are concerned that HB 2334 brings with it a significant expansion of Measure 11.

¹ Any of the following, with the requisite intent and mental state, can result in a conviction for promoting prostitution under current law: person 1) owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise; 2) induces or causes a person to engage in prostitution or to remain in a place of prostitution; 3) receives or agrees to receive money or other property, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money or other property is derived from a prostitution activity; or 4) engages in any conduct that institutes, aids or facilitates an act or enterprise of prostitution. (ORS 167.012)

² Excessive bail and fines; cruel and unusual punishments; power of jury in criminal case. Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, *but all penalties shall be proportioned to the offense*. In all criminal cases whatever, the jury shall have the right to determine the law, and the facts under the direction of the Court as to the law, and the right of new trial, as in civil cases. (Oregon Constitution, Article I, Sect. 16) (emphasis added)

The crime of compelling prostitution is a Measure 11 crime, carrying a mandatory minimum sentence of 5 years, 10 months in prison. At a time when the Governor has called upon the Legislature to consider reinvestment scarce public safety resources into prevention and treatment, our concern is that HB 2334 may compromise this goal.

Thank you for the opportunity to provide comments. Please let me know if you have questions.