

**Brief to the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-36:
*An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in
Attorney General of Canada v. Bedford and to make consequential amendments to other
Acts, 2nd Session, 41st Parliament, 2014.***

Dave Symington
213-151 west 1st Ave.
Vancouver, BC, V5Y0A5
davesymington@hotmail.com

I am 58 years old. I sustained a spinal cord injury at the age of 19 due to a diving accident in 1975. I was lucky enough to have grown up as an able-bodied, relatively normal child and had the experiences of so-called normal children: going to regular school, socializing with my friends before and after school, going on ski trips, camping, waterskiing, parties and various social events. By being able to participate in normal activities I was able to develop and acquire skills related to dating and intimacy. I became somewhat adept at flirting and dating and having various forms of sexual activity and by the age of 17 I enjoyed sex with regular partners and occasionally one nighters. To a certain extent I took this for granted like most of us do.

When I was injured at the age of 19 I lost all of my physical function below my neck and had no sensation anymore. It became quite apparent to me that my experience of the world had been nearly entirely a physical one up to that point and one of my many new challenges was to figure out what sexuality meant to me now and what forms of sexuality I could possibly find pleasurable. Again, because of my background, I was able to get involved in relationships with people that were experienced, mature, sensitive, and willing to learn and help me discover my new self, including my body. Although this led to numerous years of frustration, this was balanced against some incredibly positive sexual experiences. Even though some of these experiences were more intense than I had ever experienced as an able-bodied person, I still could not fully integrate this new reality and I fought against it as I wanted to have my old life back. Nevertheless, I had support, opportunity and a path to follow. I had a few long-term relationships that were very rewarding and a few shorter term relationships that were also very intense, spiritually and emotionally, as well as physically.

About 10 years ago it became very apparent to me that some people with disabilities don't have the background I do and don't have the opportunities that I have had. Not to say that many people with disabilities don't have fulfilling and rewarding relationships, intimacy, and sexuality in their lives, but those that don't have very few resources to draw upon to help them find a way to satisfying sexual and longer term relationships. For example, I was aware of a boy that was injured playing hockey at the age of 14 who sustained a very high-level spinal cord injury losing

all function and sensation from the top of his neck down. I wondered what would happen with this young man not only in terms of his long-term health issues, his vocational goals, his recreational goals, but also his sexuality.

I began to discuss these issues with some peers of mine who have had similar experiences to me. We started researching what kind of services were available to men and women with disabilities who were wanting to explore their sexuality. When I was first injured, I was in a relationship as had been my experience for a few years before I was injured. I was also lucky enough to have access to sexual health services for people with disabilities that had just started around the time I was injured. We were able to have great conversations and talk about various ways of approaching sexuality with a spinal cord injury plus, I had a girlfriend to help me through this. Although that relationship ended three months after I was injured and I moved back to Ontario for rehabilitation, I continued to be engaged in relationships and again was lucky enough to meet people that were very sensitive to my particular situation and helped me in countless ways to get through it. Researching what services were available 30 years after my injury I found that sexual health services was still providing an invaluable resource but of course were unable to provide any form of *direct* experience for people that were not in relationships and in some cases had never experienced any form of sexual intimacy.

In other jurisdictions around the world I discovered that there were such things as sexual surrogacy, professional bodywork and sex work that focused on the needs of people with disabilities. For example, *Touching Base* (<http://www.touchingbase.org/>) in New South Wales Australia where sex work has been decriminalized and, the *TLC Trust* (<http://www.tlc-trust.org.uk/>) in the United Kingdom where sex work is criminalized by laws that are similar to Canada's. We wondered why that was not available in Canada and what the legal ramifications for providing this kind of service were. It certainly seemed to us that this kind of professional intervention would not be considered in the same category as sex work that was provided through street prostitution and some escort services which, in my experience, were very inconsistent and random in the type of service and experience you can expect. Although in some cases it was possible to find sex workers that were very sensitive and caring about people with disabilities, they were hard to find and didn't advertise specifically for that type of service.

In addition, the type of services sought by people with disabilities may vary widely from what is traditionally thought of as sex work (e.g., intercourse, oral sex, etc.). Because of functional and sensory limitations and/ or dysfunction, many individuals are seeking a type of intimacy that may not even involve the genitalia. Erotic massage, intimate and flirtatious conversation, Tantric work, petting, kissing, cuddling, and fondling are often more popular and requested types of stimulation for this population. Not to say that traditional forms of sexuality or not sought after

and purchased but often times, as I said before, because of changes in function and ability people with certain types of disabilities often have to pursue different forms of sexual pleasure.

We started having conversations with a wider range of people with disabilities and discovered that this was a more common concern and issue than we had expected. We began meeting with various service providers and advocates and activists in the disability field. As well, we met with current and former sex workers who are also very interested in working with this type of client. In many cases they had worked with people with disabilities but felt that they were lacking in the education and experience to properly provide a satisfying experience as well as one that would facilitate their clients personal growth and ability to get involved in an ongoing intimate relationship outside of sex work. Needless to say, our eyes were opened wide to how sensitive, caring and motivated these individuals were to provide a caring, safe, and satisfying experience for their clients with disabilities. Their hearts were very much in the right place! My own concept of what sex work is and who sex workers are was blown out of the water and I now see sex work in a very different and more positive light having had these experiences.

I thought that I needed to "walk the walk" and not having purchased sex in the past, I felt I needed to do this in order to be able to provide adequate and comprehensive information to my peers and other people that were interested in how the system worked and what expectations could be met or not. Although I obviously had sexual experience, I was very anxious going forward with this endeavour and had a variety of experiences both good and bad. I learned how to communicate openly and honestly about what my expectations were and what my disability limitations were as well as my likes and dislikes.

Our next step was to formally convene a small group of like-minded people and form an official group of sorts called EASE (Equitable and Accessible Sexual Expression, www.easecanada.org). We work closely with healthcare professionals, nonprofit organizations, individuals, parents, sex workers and other advocates and try to raise awareness of this issue and provide more adequate services, training, and expertise. We know that many individuals (male and female) are accessing sexual services on an ad-hoc basis and, in some cases having very unsafe and unsatisfying experiences. This will continue regardless of the law. We want to provide comprehensive information and a service that is safe and controlled and will adequately serve the needs of this group of individuals. In addition, we provide peer support and mentoring to facilitate people moving into long-term relationships having acquired the skills necessary to feel more confident about their sexuality, their bodies, their assets and generally what they bring to a relationship.

Bill C36 includes a provision, 286.1(1) which will criminalize the purchase of sexual services. My understanding of the rationale behind this provision is that the Government of Canada believes that the act of purchasing sex is always and inherently exploitative regardless of the fact

that it occurs between consenting adults and in private. This provision is also intended to reduce the demand for paid sex. For some individuals with disabilities, seeking the services of a sex worker is the only way they can explore their sexuality, become comfortable with their bodies, and acquire skills to enable them to pursue romantic, sexual relationships with others. It has become very clear since Bill C36 was tabled that the Government feels that those who pay for sex are violent, exploitative, perverts. While that may be true for a small minority of individuals who choose to prey on sex workers, that is not the case for disabled clients, many of whom are physically incapable of harming another person. Criminalizing the purchase of sexual services will make it even more difficult for persons with disabilities to seek an intimate, sexual experience with an experienced provider, and will in fact put many of these people at great risk of harm, manipulation, and abuse.

Furthermore, provision 286.4 will make it far more difficult for sex workers who wish to provide services to people with disabilities to advertise those services. Advertising is a form of communication and clear communication is incredibly important to both sex workers and persons with disabilities. There are a number of specific skills that may be required, too numerous to fully articulate here. For example, in providing services to someone with a spinal cord injury who may need to be lifted and positioned properly, it is important to know that a sex worker has those skills so that no misunderstandings or injuries occur. In other cases, knowledge and expertise in skin care, bowel and bladder management, alternative communication techniques, osteoporosis, and/or adaptive aids may be required.

I will leave you with EASE's vision:

We envision a world in which:

- People with disabilities are able to connect with providers of sexual and other intimacy services without legal and other barriers.
- People with disabilities are recognized as sexual beings .
- Sexual expression and intimacy are recognized as a basic human right and need.
- Sexuality is recognized as a vital part of everyone's identity.
- Sex workers are valued for their expertise and for providing legitimate services.
- Sex workers are legally protected.