



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### SB 233 – Improving Sex Worker Health & Safety

#### SUMMARY

Senate Bill 233 prohibits the arrest of individuals engaged in sex work when they come forward as a witness or a victim of specified violent and serious crimes. This bill also clarifies that the possession of condoms may not be used as probable cause to arrest someone for sex work.

#### BACKGROUND

People working in prostitution are victims of violent crimes at a disproportionately higher rate. A 2014 study by the University of California, San Francisco and St. James Infirmary found that 60% of sex workers experience some form of violence while working. Specifically, 32% of sex workers reported a physical attack while engaging in sex work, and 29% reported being sexually assaulted while engaging in sex work. Unfortunately, this same report found that when a sex worker interacted with law enforcement as the victim of a violent crime, 40% of their interactions were negative experiences. Moreover, condoms have historically been confiscated and used as a tool to incriminate sex workers for prostitution.

Various bills have sought to protect sex workers from being criminalized and prosecuted. First, AB 336 in 2013 by Assemblymember Ammiano that requires prosecutors to request for condoms to be admitted as evidence in cases that are charging someone with soliciting or engaging in prostitution. Similarly, Assemblymember Friedman passed AB 2243 in 2018, with strong bi-partisan support, granting immunity to sex workers from prosecution for the act of prostitution when they are cooperating as witnesses or testifying as the victim of various violent and serious crimes.

In an effort to improve the overall safety of sex workers and to reduce violence and crimes within the sex industry, the San Francisco Police Department released a bulletin stating that they, as a department, will not arrest someone for sex work when they come forward as the victim or witness of sexual assault, trafficking, stalking, robbery, assault, kidnapping, threats, blackmail, extortion, burglary, or other violent crimes.

#### PROBLEM

The criminalization of prostitution results in sex workers largely not trusting law enforcement due to fear that they will be arrested or mistreated. This is particularly true for people of color, street-based sex workers, and transgender women who face the most harassment and arrests. Data shows that sex workers are a vulnerable population which are more likely to experience violence while working. Sex workers are unlikely to report crimes when they fear that they themselves will be treated as the criminal. While San Francisco has taken strides to implement a common-sense safety policy, California overall creates an unsafe environment for sex workers.

Treating condoms as evidence of sex work exacerbates this unsafe work environment because it discourages sex workers from practicing safe sex. Data from multiple countries link the criminalization of sex work with up to a five-fold increase in the risk of Human Immunodeficiency Virus (HIV) or other sexually transmitted infections. The Human Rights Watch reported that one woman in Los Angeles was so frightened to be caught with condoms by the police that she had to use a plastic bag as a condom to protect herself against HIV and other sexually transmitted infections. Research is clear. It is crucial that sex workers be able to carry condoms without fear that they will be confiscated or used to criminalize them.

#### SOLUTION

SB 233 will ensure that when sex workers are the victim or witness of sexual assault, human trafficking, stalking, robbery, assault, kidnapping, threats, blackmail, extortion, burglary, or another violent crime they should not fear being arrested for prostitution. SB 233 will also be amended to prohibit the use of condoms as evidence of prostitution. Prohibiting the arrest of sex workers who are coming forward as victims or witnesses of various violent crimes and decriminalizing condoms is a sensible approach that police departments, such as San Francisco, have already adopted as a best practice. SB 233 will simply prioritize the health and safety of people engaged in sex work over criminalizing them.

## **SUPPORT**

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- St. James Infirmary
- US PROStitutes Collective
- Erotic Service Providers Legal, Education, and Research Project
- Alexandra Lutnick, PhD
- Sex Worker Outreach Project, Sacramento
- Equality California
- ACLU
- The Harvey Milk LGBTQ Democratic Club
- Positive Women's Network
- SF AIDS Foundation
- Desiree Alliance
- Gender Health Center

## **FOR MORE INFORMATION**

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