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Chapter 141 Reforming the Criminal Justice System and Prioritizing Public Health Prerogatives

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Chapter 141 Reforming the Criminal Justice System and Prioritizing Public Health Prerogatives

Arash Aalem*

Code Sections Affected

Evidence Code §§ 782.1 (new), 1162 (amended); Penal Code § 647.3 (new).
SB 233 (Wiener); 2020 STAT. CH. 141.

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I. INTRODUCTION

In February 2015, 17-year-old sex worker Jasmine Abulsin—formerly known as Celeste Guap—ran away from her pimp when she flagged down Oakland police officer Brendan O’Brien.¹ Instead of finding the 17-year-old’s

* Doctor of Chiropractic; J.D. Candidate, University of the Pacific, McGeorge School of Law, to be conferred May 2022. First, I would like to thank my parents for I stand on the shoulders of their sacrifices. I would also like to thank my little sister and niece for teaching me the meaning of unconditional love. Finally, I would like to thank the Unseen Hand of the Universe for forever guiding my earthly endeavors.

1. Darwin Bond Graham & Ali Winston, *Badge of Dishonor: Top Oakland Police Department Officials Looked Away as East Bay Cops Sexually Exploited and Trafficked a Teenager*, EAST BAY EXPRESS (June 15, 2016), <https://www.eastbayexpress.com/oakland/badge-of-dishonor-top-oakland-police-department-officials-looked-away-as-east-bay-cops-sexually-exploited-and-trafficked-a-teenagerdepartment/Content?oid=4832543> (on file with the *University of the Pacific Law Review*).

parents, the pair “flirted a little.”² Ms. Abulsin said, “[Officer O’Brien] saved me.”³ A few weeks later, the couple exchanged phone numbers and soon began “dating.”⁴

Officer O’Brien allegedly introduced many officers to Ms. Abulsin; several of these officers began inappropriate sexual relationships with her.⁵ Ms. Abulsin has consistently maintained that every officer she had sex with knew she was a sex worker.⁶ Ultimately, more than a dozen Oakland police officers, nearly half a dozen sheriff deputies, and a federal officer had inappropriate contact with Ms. Abulsin.⁷ Prosecutors charged several officers with various crimes, including oral copulation with a minor, misdemeanor prostitution, and felony obstruction.⁸ Ms. Abulsin refused to cooperate, forcing the Alameda District Attorney’s office to drop most charges due to a lack of evidence.⁹ Ultimately, none of the charges resulted in a criminal conviction.¹⁰

In 2017, Ms. Abulsin settled with the City of Oakland for nearly one million dollars.¹¹ The settlement did not include an admission of liability, which led one Councilmember to vote against it because “there is something wrong with this” type of police behavior.¹² Sex workers are among the most vulnerable members of society because they are disproportionately victims of violent crime and police brutality.¹³ Furthermore, sex workers are at a significantly higher risk to contract

2. See *id.* (“‘We flirted a little,’ [Guap] recalled, adding that she told O’Brien her mother was a dispatcher in the department.”).

3. *Id.*

4. See *id.* (“[Guap and O’Brien] exchanged numbers. Shortly afterward, O’Brien and the girl began ‘dating’ – a word Guap used to describe their relationship.”).

5. Brandon Patterson, *6 Things You Should Know About the Police Sex Scandal That Has Oakland Reeling*, MOTHER JONES (June 22, 2016), <https://www.motherjones.com/politics/2016/06/oakland-police-sex-scandal-explainer-libby-shaaf-chief-sean-wendt/> (on file with the *University of the Pacific Law Review*).

6. See Graham & Winston, *supra* note 1 (“Guap . . . said she sometimes slept with cops as a form of protection from arrest or prosecution. Experts in human trafficking . . . [say] this amounts to coercion.”).

7. *Id.*

8. Jay Barmani, *Charges Dismissed for All but One East Bay Officer Connected to Sexual Exploitation of Celeste Guap*, SFIST (Oct. 5, 2017), https://sfist.com/2017/10/05/charges_dismissed_for_all_but_one_e/ (on file with the *University of the Pacific Law Review*).

9. See *id.* (“Judge Jon Rolefson dismissed a case Wednesday against Contra Costa Sheriff’s Deputy Ricardo Perez.”); see also Darwin Bond Graham, *Plea Deal for Ex-Oakland Cop Charged in Sex Abuse Scandal Will Result in No Conviction, Dismissal of Case*, EAST BAY EXPRESS (Feb. 1, 2018), <https://www.eastbayexpress.com/SevenDays/archives/2018/02/01/plea-deal-for-ex-oakland-cop-charged-in-sex-abuse-scandal-will-result-in-no-conviction-dismissal-of-case> (on file with the *University of the Pacific Law Review*) (“Guap declined to testify against the officers.”).

10. See Graham, *supra* note 9 (describing plea deal that resulted in no criminal conviction).

11. Darwin Bond Graham, *Amid Calls to ‘Defund’ Oakland Police, City Settles \$989,000 Claim of Sexually Exploited Teen ‘Celeste Guap’*, EAST BAY EXPRESS (May 31, 2017), <https://www.eastbayexpress.com/SevenDays/archives/2017/05/31/amid-calls-to-defund-oakland-police-city-settles-989000-claim-of-sexually-exploited-teen-celeste-guap> (on file with the *University of the Pacific Law Review*).

12. *Id.*

13. Lucy Platt et al., *Associations Between Sex Work Laws and Sex Workers’ Health: A Systemic Review*

HIV.¹⁴ Fear of arrest and urban myths, like the “3-condom rule,” disincentivize sex workers from reporting violent crimes and using condoms.¹⁵

There is a growing trend among rights groups recommending governments decriminalize prostitution to combat these societal inequities, especially among LGBT rights groups.¹⁶ Still, decriminalizing sex work is one of the most controversial issues in women’s rights circles.¹⁷ Women’s rights advocates who oppose decriminalizing prostitution call themselves “abolitionists.”¹⁸ These abolitionists believe decriminalization will increase human trafficking.¹⁹ This fear has not come to fruition in nations that have decriminalized prostitution.²⁰

The ideological differences among advocacy groups has led to a number of global approaches concerning sex worker decriminalization and public health prerogatives like reducing HIV infections.²¹ Regardless of ideology, statistics that “a prostitute is more likely to have sex with a police officer than to get officially arrested by one” are extraordinarily alarming.²² Sex workers are often the victims of violent crime, but fear of arrest or retribution deters them from reporting these crimes to the police.²³

and Meta-Analysis of Quantitative and Qualitative Studies, PLOS MED., Dec. 11, 2018, at 1, <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680> (on file with the *University of the Pacific Law Review*); see generally HUMAN RIGHTS WATCH, SEX WORKERS AT RISK: CONDOMS AS EVIDENCE OF PROSTITUTION IN FOUR US CITIES 2 (2012), <https://www.hrw.org/report/2012/07/19/sex-workers-risk/condoms-evidence-prostitution-four-us-cities> (on file with the *University of the Pacific Law Review*) (interviewing sex workers who were victims of verbal harassment, public humiliation, and sexual exploitation by law enforcement).

14. HUMAN RIGHTS WATCH, *supra* note 13, at 2.

15. See *id.* at 49 (defining “3-condom rule” as the belief among sex workers that carrying more than two condoms could subject them to arrest for prostitution).

16. See Evan Urquhart, *Decriminalizing Prostitution is Central to Transgender Rights*, SLATE (Feb. 27, 2017, 4:57 PM), <https://slate.com/human-interest/2018/02/decriminalizing-prostitution-is-central-to-transgender-rights.html> (on file with the *University of Pacific Law Review*) (“Criminalization of sex work only compounds the multiple, intersecting biases trans women face with criminal records. . . . If sex work were legal and you weren’t exploited by officers to get out of a ‘crime,’ you’d be more likely. . . . trust the people who were supposed to protect you [from trafficking and abuse].”).

17. Emily Bazelon, *Should Prostitution Be Illegal?*, N.Y. TIMES (May 5, 2016), <https://www.nytimes.com/2016/05/08/magazine/should-prostitution-be-a-crime.html> (on file with the *University of the Pacific Law Review*).

18. See *id.* (“Some opponents of decriminalization call themselves abolitionists, consciously invoking the battle to end slavery as well as the one for equality.”).

19. See *id.* (“Because abolitionists see these women as victims, they generally oppose arresting them. But they want to continue using the criminal law as a weapon of moral disapproval by prosecuting male customers, alongside pimps and traffickers—though this approach still tends to entangle sex workers in a legal net.”).

20. See *id.* (“The abolitionists moved into the fight against global labor trafficking in the 1990s, focusing on sex trafficking, though most estimates suggest that the majority of trafficking victims are forced into domestic, agricultural or construction work.”).

21. See *id.* (explaining legal models of sex work in Sweden, Australia, Germany, and India).

22. See Steven D. Levitt & Sudhir-Alladi Venkatesh, *An Empirical Analysis of Street-Level Prostitution 2* (2007) (unpublished preliminary study) (cited by permission of the author) (on file with the *University of the Pacific Law Review*) (“Combining transaction-level data on street prostitutes with ethnographic observation and official police force data, we analyze the economics of prostitution in Chicago.”).

23. See Kate Shannon et al., *A Systemic Review of the Correlates of Violence Against Sex Workers*, 104

Chapter 141 expands protections for sex workers without fully decriminalizing prostitution and, in doing so, avoids the possibility of an increase to human trafficking.²⁴ The law protects victims or witnesses of certain violent crimes by providing immunity in limited circumstances to promote the reporting of more serious crimes.²⁵ In addition, Chapter 141 promotes public health by encouraging sex workers to use condoms, which helps prevent the public health threat of HIV—especially within high-risk communities.²⁶ Although opponents of decriminalization argue Chapter 141 effectively legalizes prostitution in certain circumstances, the law provides substantial benefits to the criminal justice system and public health.²⁷

II. LEGAL BACKGROUND

Beginning in 1982—with passage of the Victims’ Bill of Rights—the people of California began initiating radical reforms to their criminal justice system.²⁸ The Victims’ Bill of Rights, amended the California Constitution to protect victims of crime.²⁹ The initiative’s most “far-reaching provision” is the Right to Truth-in-Evidence.³⁰ This provision requires California courts to admit all “relevant evidence” unless the evidence violates a defendant’s constitutionally protected rights.³¹ There must be a two-thirds vote in both Legislative houses to amend any part of the Right to Truth-in-Evidence.³²

In recent years, the Legislature has added, repealed, and amended portions of Right to Truth-in-Evidence to better reflect the public health and safety priorities of Californians.³³ Section A explores the importance of reforming the evidence code to exclude possession of condoms as evidence in light of the HIV epidemic.³⁴ Section B discusses other laws that provided immunity to sex workers who were victims of or witnesses to violent crime.³⁵

AM. J. OF PUB. HEALTH e42, e42 (2014) (identifying 28 unique studies).

24. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 3 (Cal. 2019).

25. *Id.*

26. *Id.*

27. *See id.* at 4 (“SB 233 simply prioritizes the health and safety of people engaged in sex work, including human trafficking victims, over their criminalization by prohibiting arrest for misdemeanor prostitution or drug offenses when this population comes forward as victims or witnesses of specified violent crimes.”) (statement of Sen. Scott Wiener).

28. Miguel A. Mendez, *The Victims’ Bill of Rights—Thirty Years Under Proposition 8*, 25 STAN. L. & POL’Y REV. 379, 380 (2014).

29. CAL. CONST. art. 1, § 28(a)(2).

30. Mendez, *supra* note 28.

31. CAL. CONST. art. 1, § 28(f)(2).

32. *Id.*

33. A.B. 336, 2013–2014 Leg., Reg. Sess. (Cal. 2014); A.B. 2243, 2017–2018 Leg., Reg. Sess. (Cal. 2018); S.B. 233, 2018–2019 Leg., Reg. Sess. (Cal. 2019).

34. *Infra* Section II.A.

35. *Infra* Section II.B.

A. Admissibility of Condoms as Evidence in Prostitution Crimes

The Victims' Bill of Rights requires California courts to admit all relevant evidence unless the evidence violates federal law.³⁶ California's Evidence Code defines "relevant evidence" as evidence having any reasonable tendency to prove or disprove a disputed fact that is material to the case.³⁷ Relevant evidence is inadmissible if its probative value is substantially outweighed by undue prejudice.³⁸ Therefore, admissible evidence must not be so improper or unfair that it would waste time, confuse the issues, or mislead the jury.³⁹

In response to the AIDS crisis, the San Francisco Board of Supervisors adopted a policy prohibiting police from confiscating condoms in investigations of prostitution-related crimes.⁴⁰ Furthermore, the policy prohibited local prosecutors from using condom possession as evidence of prostitution-related crimes.⁴¹ Despite this policy, county courts still admitted photographs of condoms as evidence in prostitution cases.⁴²

In the same year, Human Rights Watch released a comprehensive study on the evidentiary use of condoms in four American cities, including Los Angeles and San Francisco.⁴³ The report described problematic police procedures regarding condom evidence and culminated with a recommendation for the California Legislature to ban condoms as evidence for prostitution-related crimes.⁴⁴

The very next year, in 2013, the Legislature passed AB 336 in response to the ongoing HIV public health threat.⁴⁵ Under that law, prosecutors must follow certain procedural steps before introducing condoms as evidence in prostitution-related crimes.⁴⁶ First, the prosecutor must show the relevance of the condom

36. CAL. CONST. art. 1, § 28(f)(2).

37. CAL. EVID. CODE § 210 (West 2020).

38. CAL. EVID. CODE § 352 (West 2020).

39. *Id.*

40. S.F., Cal., Resol. 548-94 (June 20, 1994) (on file with the *University of the Pacific Law Review*); see also HUMAN RIGHTS WATCH, *supra* note 13, at 57 (noting the resolution found "using condoms as evidence discourages condom use and undermines city policy for HIV prevention").

41. S.F., Cal., Resol. 548-94 (June 20, 1994) (on file with the *University of the Pacific Law Review*).

42. See Barbara Taylor, *SF Public Defender Worried Prostitutes Skip Condom Use Over Prosecution Fears*, CBS SF BAY AREA (Aug. 21, 2012, 3:41 PM), <https://sanfrancisco.cbslocal.com/2012/08/21/sf-public-defender-worried-prostitutes-skip-condom-use-over-prosecution-fears/> (on file with the *University of the Pacific Law Review*) ("[T]he public defender has said he's had at least three cases in the past three weeks where photographs of condoms were used as evidence to prosecute prostitutes.").

43. See generally HUMAN RIGHTS WATCH, *supra* note 13 (examining the cities of New York, Washington D.C., Los Angeles, and San Francisco).

44. See generally *id.* (describing problematic and abusive sex worker interactions with police and the "3-condom rule").

45. *Prostitution Offenses: Condom Possession as Evidence Before the S. Comm. on Pub. Safety*, 2014 Leg., 2013–2014 Reg. Sess. 5 (Cal. 2014) (statement of Rep. Tom Ammiano, bill author).

46. A.B. 336, 2013–2014 Leg., Reg. Sess. (Cal. 2014).

evidence by filing a written motion and a sealed affidavit with the court.⁴⁷ If the court accepts the offer of proof, then the defense may question the prosecutor's offer of proof without the jury present.⁴⁸ The court may admit evidence of condom possession if it is relevant and not substantially prejudicial—either improper or unfair—to the defendant.⁴⁹ The condom evidence remains sealed unless an issue on appeal or collateral review directly relates to the offer of proof in the sealed document.⁵⁰

Assembly Member Tom Ammiano—a San Francisco County Supervisor when the city passed its ban on condoms as evidence—authored AB 336.⁵¹ During the HIV epidemic, his experience in an infection hotspot made clear the public health need for evidentiary reform of condoms.⁵² Assembly Member Ammiano hoped to implement institutional reforms because “addressing the epidemic requires understanding the risk environment among vulnerable populations.”⁵³ His experiences helped him realize sex workers are uniquely at risk of contracting HIV and “public policy should reflect the public health goal of ending HIV transmission” within those communities.⁵⁴ AB 336 was the Legislature's first step in reforming the criminal justice system to ensure safe public health practices by sex workers.⁵⁵

B. Immunity for Victims of, or Witnesses to, Violent Crimes

California classifies prostitution as a misdemeanor offense.⁵⁶ Studies over the past thirty years have consistently shown sex workers are disproportionately the victims of violent crime.⁵⁷ In response to these findings and growing public pressure, the California Victim Compensation and Government Claims Board voted to eliminate a 1999 rule prohibiting victims from compensation if they were sex workers.⁵⁸

Furthering the theme of protecting victims, the Legislature passed AB 2243

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. Tom Ammiano, *About*, TOM AMMIANO, <http://www.tomammiano.com/about.html> (last visited June 21, 2020) (on file with the *University of the Pacific Law Review*).

52. Larry Buhl, *Tom Ammiano: Advocate*, A&U MAGAZINE (Feb. 20, 2017), <https://aumag.org/2017/02/20/tom-ammiano-advocate/> (on file with the *University of the Pacific Law Review*).

53. *Prostitution Offenses: Condom Possession as Evidence Before the S. Comm. on Pub. Safety*, 2014 Leg., 2013–2014 Reg. Sess. 5 (Cal. 2014) (statement of Rep. Tom Ammiano, bill author).

54. *Id.*

55. *Id.*

56. CAL. PENAL CODE § 647 (West 2020).

57. See Platt et al., *supra* note 13, at 2 (examining “40 quantitative studies and 94 qualitative studies”).

58. CAL. VICTIM COMP. AND GOV'T CLAIMS BD., OPEN MEETING MINUTES DECEMBER 12, 2013, BOARD MEETING 5 (2013) (on file with the *University of the Pacific Law Review*).

in 2018.⁵⁹ That law protected sex workers who were either victims of or witnesses to a violent crime.⁶⁰ It prevented prosecutors from introducing evidence that the victim or witness had engaged in prostitution.⁶¹ AB 2243 began the process of prioritizing violent crimes over prostitution-related crimes by protecting sex workers who were witnesses to or victims of extortion, stalking, or a violent felony.⁶² AB 2243 and AB 336 laid the necessary foundation for criminal justice reform that Chapter 141 builds upon.⁶³ Chapter 141 is a culmination of criminal justice reform over a 7 year period.⁶⁴

III. CHAPTER 141

Chapter 141 repealed AB 336's procedural steps to introduce condoms in court.⁶⁵ Instead, the new law completely bans the possession of condoms as evidence in prosecutions for prostitution-related crimes.⁶⁶ In addition, Chapter 141 provides that the possession of condoms, in any quantity, is not a basis for probable cause or arrest for prostitution or other related offenses.⁶⁷

This new law expands the protections provided by AB 2246 to include protections for assault, domestic violence, and human trafficking.⁶⁸ Courts may admit evidence of prostitution if the offender was a victim or witness to any of the enumerated felonies in the statute.⁶⁹ Furthermore, Chapter 141 extends AB 2246's immunity protections—which only included prostitution—to include misdemeanor drug use and other prostitution-related crimes.⁷⁰ This law includes immunity for clients of sex workers that are victims or witnesses to a violent crime.⁷¹

59. See A.B. 2243, 2017–2018 Leg., Reg. Sess. (Cal. 2018) (excluding otherwise relevant evidence about victims from a criminal proceeding).

60. *Id.*

61. *Id.*

62. *Id.*

63. Compare A.B. 336, 2013–2014 Leg., Reg. Sess. (Cal. 2014), with A.B. 2243, 2017–2018 Leg., Reg. Sess. (Cal. 2018).

64. See Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020) (enacting protections that took effect January 1, 2020).

65. *Id.*

66. *Id.*

67. *Id.*

68. Compare Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020), with A.B. 2243, 2017–2018 Leg., Reg. Sess. (Cal. 2018).

69. See Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020) (enumerating specific crimes that qualify for immunity as a serious felony as defined in section 11.92.7(c), assault, domestic violence, extortion, human trafficking, sexual battery, or stalking).

70. Compare Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020), with A.B. 2243, 2017–2018 Leg., Reg. Sess. (Cal. 2018).

71. Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020).

IV. ANALYSIS

Whether prostitution should be legal divides religious and political leaders, legal scholars, and women's rights activists.⁷² Nations have taken different approaches to the problems stemming from prostitution: criminalization, partial decriminalization, full decriminalization, and legalization.⁷³ Decriminalizing prostitution is the one of the most controversial and divisive issues in the modern women's rights era.⁷⁴ Historically, one of the core tenets of feminism is that prostitution—even when voluntary—is a source of gender inequality.⁷⁵

Decriminalization advocates challenge this notion and suggest the prohibition on prostitution is a patriarchal limitation on a women's bodily autonomy, which arbitrarily forces voluntary economic activity underground.⁷⁶ Abolitionists argue legalizing prostitution would promote the objectification of women for the fulfillment of male sexual desire and further expand this “inherently demeaning” industry.⁷⁷ Perhaps, the most relevant legal issue is “whether prostitution is more about consent or coercion.”⁷⁸

Section A explores the abolitionist argument that prostitution is “commercial rape” and promotes human trafficking.⁷⁹ Section B discusses Chapter 141's benefits for the criminal justice system, especially in regards to establishing a culture of collaboration between law enforcement and sex workers.⁸⁰ Section C explains how prohibiting condoms as evidence promotes public health goals like reducing HIV infections.⁸¹

72. Bazelon, *supra* note 17.

73. See ADVOCATES FOR HUMAN RIGHTS, SEX TRAFFICKING AND PROSTITUTION: AN OVERVIEW OF FOUR LEGAL RESPONSE MODELS 1 (last visited Aug. 12, 2020), available at https://www.theadvocatesforhumanrights.org/uploads/sextrafficking_and_prostitution_10_15.pdf (on file with the *University of the Pacific Law Review*) (“Partial decriminalization, commonly known as the Nordic Model . . . identifies prostituted individuals as victims and protects them from legal penalties. . . . Full decriminalization removes all laws prohibiting and regulating prostitution including those against facilitating and buying. . . . Legalization differs from decriminalization in that prostitution is legal but regulated and controlled by the government.”).

74. Bazelon, *supra* note 17.

75. *Id.*

76. *Id.*

77. *Id.*

78. See Cheryl Nelson Butler, *A Critical Race Feminist Perspective on Prostitution & Sex Trafficking in America*, 27 J.L. & FEMINISM 95, 111 (2015) (“The debate over whether prostitution is more about consent or coercion has influenced emerging jurisprudence of modern anti-trafficking law.”).

79. *Infra* Section IV.A.

80. *Infra* Section IV.B.

81. *Infra* Section IV.C.

A. The Abolitionist Approach: Prostitution is “Commercial Rape” and Increases Human Trafficking

Abolitionists, like feminist icon Gloria Steinem, do not believe prostitution is ever voluntary.⁸² Instead, abolitionists argue prostitution is “commercial rape” and therefore can never be consensual.⁸³ Under this paradigm, prostitutes are coerced victims, not empowered sex workers.⁸⁴

Steinem detests the term sex worker because it is “unlike any other work,” and describes prostitution as “body invasion.”⁸⁵ A growing number of prosecutors across California have adopted the view that prostitutes are victims of sexual exploitation or forced labor and not criminals or voluntary economic actors.⁸⁶ This logic conflates and confuses voluntary sex work with human trafficking.⁸⁷ This attitude is misguided because it denies sex workers their bodily autonomy and freedom of choice.⁸⁸

There were only two organizations on record opposing Chapter 141: the California District Attorneys Association (“CDA”) and the California State Sheriffs’ Association.⁸⁹ The CDA called the law “bad public policy” that “sets a bad precedent.”⁹⁰ Furthermore, the CDA claimed Chapter 141 was unnecessary because existing laws were “sufficient” to protect sex workers.⁹¹ The organization alleges Chapter 141 goes too far because the new law also protects “buyers of sex trafficking.”⁹²

The CDA alludes to the abolitionist argument that prostitution increases human trafficking.⁹³ Abolitionists often cite a comprehensive 2012 study, which examined nearly 150 countries and found a correlation between the legalization

82. *Prostitution is Commercial Rape, Says Gloria Steinem*, BUS. STANDARD (Jan. 29, 2014), https://www.business-standard.com/article/pti-stories/prostitution-is-commercial-rape-says-gloria-steinem-114012901118_1.html (on file with the *University of the Pacific Law Review*).

83. *Id.*

84. *See id.*; see also Mario Koran, *There’s Virtually No Such Thing as Voluntary Sex Work, Says DA*, VOICES OF SAN DIEGO, at 2 (Apr. 12, 2018), <https://www.voiceofsandiego.org/topics/public-safety/theres-virtually-no-such-thing-as-voluntary-sex-work-says-da/> (on file with the *University of the Pacific Law Review*).

85. *Prostitution is Commercial Rape*, *supra* note 82.

86. *See* Koran, *supra* note 84, at 4 (describing 2015 announcement from the San Luis Obispo district attorney’s office to treat sex workers as victims of exploitation or forced instead of criminals).

87. *Id.* at 3.

88. *See id.* (“You can’t legislate morality. Some people voluntarily want to be sex workers. And you can’t tell them they didn’t make a choice based on your own morals. . . . [S]ome people actually made the decision as a grown adult that [sex work] is what they want to do.” [quoting former San Diego district attorney candidate Genevieve Jones-Wright.]).

89. *See Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 8–9 (Cal. 2019) (showing the San Francisco and Los Angeles District Attorney’s Office and San Francisco Police Department on record supporting the law).

90. *Id.* at 7.

91. *Id.*

92. *Id.*

93. *Id.*; see Koran, *supra* note 84, at 2 (describing growing trend of prosecutors viewing all sex workers as victims).

or decriminalization of prostitution and increased human trafficking inflows.⁹⁴ In the same study, the authors admit their research “might be seen to support those who argue in favor of banning prostitution” but that logic “overlooks potential benefits . . . on those employed in the industry.”⁹⁵

However, the U.S. State Department’s data on prostitution and human trafficking contradicts the idea that legalization or decriminalization of prostitution increases human trafficking.⁹⁶ Some nations that have legalized or decriminalized prostitution still “fully comply” with the State Department’s “minimum standards for the elimination of trafficking in persons.”⁹⁷ While countries like Australia and New Zealand have legalized prostitution, others—like Sweden—have criminalized the purchasing of sex but decriminalized its selling.⁹⁸

Abolitionists exalt Sweden’s approach because they still see all sex workers as victims and hope to decrease the demand for prostitution and human trafficking by criminalizing consumer conduct.⁹⁹ However, this type of legal model may actually be dangerous for sex workers.¹⁰⁰ Buyers—fearing arrest—request driving to remote and unsafe places.¹⁰¹ Another concern is that the police often use investigations into men who have bought sex as a reason to investigate the immigration status of the woman seller.¹⁰²

Chapter 141 does not decriminalize sex work; the law provides immunity to sex workers engaged in prostitution if they are victims or witnesses to a serious crime.¹⁰³ Chapter 141 expands existing legislation to further promote reporting of violent crimes like human trafficking.¹⁰⁴ By extending immunity to all prostitution-related crimes, including buying sex, the Legislature illustrates its

94. See Seo-Young Cho et al., *Does Legalized Prostitution Increase Human Trafficking?*, 41 WORLD DEV. 67, 75–76 (2012) (“Naturally, this qualitative evidence is also somewhat tentative somewhat tentative as there is no ‘smoking gun’ proving that . . . legalization of prostitution definitely increases inward [human] trafficking flows.”).

95. *Id.*

96. See Ronald Weitzer, *The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade*, 35 POL. & SOC’Y 447, 457 (2008) (“The causal link between legal prostitution and trafficking has not been empirically established.”).

97. See U.S. STATE DEP’T, TRAFFICKING IN PERSONS REPORT 36, 40, 48 (2019) (on file with the *University of the Pacific Law Review*) (listing Australia, New Zealand, Sweden, and U.S. as “Tier 1 countries” that meet the standards of “prohibit[ing] severe forms of [human] trafficking . . . and punish acts of such trafficking” set forth in the Victims of Trafficking and Violence Protection Act of 2000).

98. Bazelon, *supra* note 17.

99. See Emily Bazelon, *Why Is Prostitution Illegal?*, SLATE (Mar. 10, 2008), <https://slate.com/news-and-politics/2008/03/why-is-prostitution-illegal.html>. (on file with the *University of the Pacific Law Review*) ([The Nordic Model] treats prostitution as a social evil but views the women who do it as the victims of sexual exploitation . . . It’s the men who use the women . . . [that] should be punished.”).

100. Bazelon, *supra* note 17.

101. *Id.*

102. *Id.*

103. Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020).

104. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

continued commitment to prioritizing violent crimes over less violent or “market” crimes.¹⁰⁵ In doing so, the Legislature avoided explicitly endorsing any level of decriminalization.¹⁰⁶

Providing immunity in limited circumstances may be the best way to decrease human trafficking because it facilitates trust between law enforcement and the community.¹⁰⁷ This will incentivize victims within the community to report crimes.¹⁰⁸ Chapter 141 is good public policy because it no longer disincentivizes sex workers—who are disproportionately victims of or witnesses to violent crime—from reporting serious crimes like human trafficking.¹⁰⁹

B. Chapter 141 Benefits the Criminal Justice System by Promoting the Reporting of Crimes

Sex workers across the country experience “unlawful” policing that includes harassment, public humiliation, and extortion for sex.¹¹⁰ Despite these experiences, conversations about police reform often ignore sex worker issues.¹¹¹ The problem is a culture of policing that makes sex workers uncomfortable with reporting crimes when they are victims.¹¹² By providing immunity to victims and witnesses of violent crime, Chapter 141 promotes a collaborative approach between police and sex workers in their community.¹¹³ Chapter 141 expands previous legislation by extending immunity to misdemeanor drug use and prostitution-related crimes if they witnessed or were victims of a more serious crime.¹¹⁴

Some law enforcement agencies and prosecutors argue the law is poor public policy because it limits law enforcement’s ability to force cooperation with the threat of arrest.¹¹⁵ These opponents argue that “sometimes it takes multiple

105. *Id.*; see R.T. Naylor, *Towards a General Theory of Profit-Driven Crimes*, 43 BRIT. J. CRIMNOL. 81, 85 (2003) (defining “market crimes” as illegal voluntary transfers of goods or services with no identifiable victim other than general society).

106. Prostitution—Privileges and Immunities—Witnesses, 2019 Cal. Legis. Serv. Ch. 141 (West 2020); see also *Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 7 (Cal. 2019) (noting prostitution’s status as a misdemeanor in California).

107. *Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 4 (Cal. 2019).

108. *Id.*

109. *Id.*

110. HUMAN RIGHTS WATCH, *supra* note 13, at 2.

111. *Id.* at 11.

112. *Id.* at 53–54.

113. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

114. *Id.* at 5.

115. See generally Veronica Miracle, *3-Day Human-Trafficking Sting in California Leads to 339 Arrests*, ABC 7 (Jan. 30, 2019), <https://abc7news.com/california-human-trafficking-sting-arrests-sex-work/5112875/> (on file with the *University of the Pacific Law Review*) (illustrating police tactics like the threat of arrest during a sting operation); see also HUMAN RIGHTS WATCH, *supra* note 13, at 18–24 (providing first-hand accounts of sex worker experiences with police).

arrests, sometimes only a couple. It's really hard to break through the fear because of the mental anguish that they go through with the trafficker."¹¹⁶ This argument is fundamentally flawed because it fails to recognize the threat of arrest promotes distrust within the community and disincentives sex workers from reporting violent crimes.¹¹⁷

Another concern from law enforcement is that Chapter 141 incentivizes dishonesty because an individual detained for misdemeanor drug use or a prostitution-related offense can falsely report a crime to get immunity.¹¹⁸ Law enforcement would rather the law require victims corroborate the reported crime before the individual is eligible for immunity.¹¹⁹ However, this logic fails to consider the unique and private nature of sex work and reflects the fractured relationship between law enforcement and sex workers.¹²⁰

Cultivating trust between local law enforcement and voluntary sex workers is especially important because sex work intersects with both race and LGBT rights issues.¹²¹ For example, police often assume transgender individuals are sex workers; the transgender community refers to this phenomenon as "walking while trans."¹²² In a discussion of what it is like to "walk while trans," one person explained, "I don't trust the police. Because when you try to report a crime against you, [the police] mock you and call you names. . . . They say, '[Y]ou're a hooker. Do you have a penis? Do you have a dick? Do you have documents?'"¹²³ The largest survey on transgender experiences in America found 58% of transgender individuals experienced some form of police mistreatment.¹²⁴ The same report found nearly an identical percentage of respondents felt

116. See Miracle, *supra* note 115 (quoting California Highway Patrol Investigator Kerri Rivas).

117. See generally HUMAN RIGHTS WATCH, *supra* note 13, at 53–54 (describing how police tactics like the threat of arrest for condom possession dissuade sex workers from seeking help from law enforcement).

118. *Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 7 (Cal. 2019).

119. *Id.*

120. MARIANNE HESTER ET AL., THE NATURE AND PREVALENCE OF PROSTITUTION AND SEX WORK IN ENGLAND AND WALES TODAY 35 (U. of Bristol 2019), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/842920/Prostitution_and_Sex_Work_Report.pdf (on file with the *University of the Pacific Law Review*) ("The nature of sex work and the stigma often associated with [sex work] means that activities often occur in private. . . . some people involved in sex work do not identify as such, and may not be in contact with support organizations or the police.").

121. HUMAN RIGHTS WATCH, *supra* note 13, at 53–54; Urquhart, *supra* note 16.

122. Urquhart, *supra* note 16.

123. See HUMAN RIGHTS WATCH, *supra* note 13, at 54 (quoting the experience of a Los Angeles sex worker).

124. See SANDY E. JAMES ET AL., THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY 14 (2016), available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (on file with the *University of the Pacific Law Review*) ("This [mistreatment] included being verbally harassed, repeatedly referred to as the wrong gender, physically assaulted, or sexually assaulted, including being forced by officers to engage in sexual activity to avoid arrest.").

uncomfortable interacting with police.¹²⁵ Research shows a causal link between policing behaviors and increasing incidents of physical or sexual violence against sex workers, which further supports the need for institutional reform.¹²⁶

Criminal justice reform requires structural changes, especially for marginalized groups like sex workers and minority groups.¹²⁷ Institutional racism coerces some minorities into sex work.¹²⁸ According to Vednita Nelson, the founder of Break Free, the “lack of culturally sensitive services” for Black women trap them in prostitution.¹²⁹ This includes overly sexualized stereotypes of Black women, limited healthcare services in Black communities, and fewer educational opportunities leading to perpetual poverty.¹³⁰ These intersecting issues illustrate the need for institutional reforms—like Chapter 141—that promote community collaboration.¹³¹

When police officers exploit sex workers, they flagrantly violate community trust—like the Oakland Police Department did with Ms. Abulsin.¹³² At the time, Ms. Abulsin thought cops were “fine” and “cute,” but ultimately it was “one less officer” that was going to arrest her.¹³³ Even when police officers are not intentionally predatory, the power dynamic and culture of policing encourage “inherently exploitative relationships.”¹³⁴

Decriminalization advocates argue the threat of arrest is the reason sex workers do not report crimes, especially when victimized by abusive policing.¹³⁵ Sex workers do not feel comfortable reporting police misconduct “because the same officers are the ones out patrolling, and the girls don’t want to continue to deal with [police harassment].”¹³⁶ Chapter 141 represents the type of institutional reform that can change police behaviors by preventing adversarial policing

125. See *id.* (finding 57% of respondents were “uncomfortable asking the police for help” when necessary).

126. See Platt et al., *supra* note 13 (“Together the qualitative and quantitative evidence demonstrate the extensive harms associated with criminalization of sex work, including laws and enforcement targeting the sale and purchase of sex There is an urgent need to reform sex work related laws and institutional practices.”).

127. See Kate Shannon et al., *Global Epidemiology of HIV Among Female Sex Workers: Influence of Structural Determinants*, 385 LANCET 55, 67 (2015) (concluding that “macrostructural changes are urgently needed to laws and policies,” such as the decriminalization of sex work); Platt et al., *supra* note 13.

128. Butler, *supra* note 78, at 138.

129. Vednita Nelson, *Prostitution: Where Racism & Sexism Intersect*, 1 MICH. J. GENDER & L. 81, 85 (1993).

130. *Id.* at 83–85; Butler, *supra* note 78, at 138.

131. See *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019) (“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.”) (statement of Sen. Scott Wiener).

132. Graham & Winston, *supra* note 1.

133. *Id.*

134. *Id.*

135. See generally HUMAN RIGHTS WATCH, *supra* note 13 (describing how police tactics like the threat of arrest for condom possession dissuade sex workers from seeking help from law enforcement).

136. *Id.* at 53.

practices.¹³⁷ By providing immunity and eliminating the threat of arrest in limited circumstances, Chapter 141 both promotes the reporting of crimes and increases trust between law enforcement and sex workers.¹³⁸

C. Prohibiting Condom Evidence to Combat the HIV Epidemic and Promote Public Health Goals

Globally, sex workers are at a much higher risk of contracting HIV than the general public.¹³⁹ HIV is most commonly transmitted during unprotected sex or drug injections.¹⁴⁰ If untreated, HIV can develop into AIDS—or acquired immunodeficiency syndrome—which can be deadly.¹⁴¹ There is no cure for HIV, but therapies like antiretroviral therapy allow for those affected to live healthy lives without transmitting the virus to their partners.¹⁴²

The 2015 National Transgender Discrimination Survey found 25.9% of sex workers of color were HIV positive compared to only 3.2% of non-sex workers.¹⁴³ The disparity intensifies when examining African Americans: 40.6% of African American sex workers are HIV positive compared to only 7% of non-sex workers.¹⁴⁴ Because sex workers are at a higher risk of contracting HIV, this data illustrates the importance of prohibiting condom possession as evidence to promote condom use among sex workers.¹⁴⁵

To help prevent HIV and other sexually transmitted diseases, both Los Angeles and San Francisco administer condom distribution programs in partnership with the Centers for Disease Control and Prevention.¹⁴⁶ On the surface, a condom distribution program seems like an altruistic policy measure; however, decades of HIV research shows behavioral interventions do not work as well as structural reforms.¹⁴⁷ Condom distribution programs need to “coincide with structural changes, sex worker led interventions, and engagement through

137. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

138. *Id.*

139. Shannon et al., *supra* note 127, at 55.

140. U.S. Dep’t of Health & Human Servs., *What are HIV and AIDS?*, HIV.GOV (June 5, 2020), <https://www.hiv.gov/hiv-basics/overview/about-hiv-and-aids/what-are-hiv-and-aids> (on file with the *University of the Pacific Law Review*).

141. *Id.*

142. *Id.*

143. ERIN FITZGERALD ET AL., *MEANINGFUL WORK: TRANSGENDER EXPERIENCES IN THE SEX TRADE* 6 (2015), available at [https://www.transequality.org/sites/default/files/Meaningful %20Work-Full%20Report_FINAL_3.pdf](https://www.transequality.org/sites/default/files/Meaningful%20Work-Full%20Report_FINAL_3.pdf) (on file with the *University of the Pacific Law Review*).

144. *Id.*

145. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

146. HUMAN RIGHTS WATCH, *supra* note 13, at 44.

147. See Shannon et al., *supra* note 127, at 56 (“Research . . . in the past decade suggest that behavioral and biomedical interventions . . . only have modest effects on the reduction of HIV . . . which has led to calls for . . . HIV prevention that includes structural interventions.”).

community empowerment.”¹⁴⁸ Chapter 141 is a structural reform to the evidentiary code that coincides with condom distribution programs already in place to better promote public health goals like preventing HIV.¹⁴⁹

Without Chapter 141’s reforms, police could establish probable cause for prostitution through condom possession.¹⁵⁰ Allowing condom possession to establish probable cause promotes police profiling; often, this type of profiling affects transgender women.¹⁵¹ Law enforcement tactics include frequenting “tracks”—areas of a city where sex workers congregate—to arrest known prostitutes, especially when carrying condoms.¹⁵² These policing practices inspired the “three-condom rule,” an urban myth, completely unfounded in the law, that carrying more than two condoms at a time is illegal.¹⁵³ One outreach worker believes “this is what the police tell [sex workers], that if they have more than two condoms in their purse, they can be charged with an act of prostitution.”¹⁵⁴

Whether the three-condom rule started with the police or some other source does not matter; the belief in this rule within sex worker communities fuels distrust.¹⁵⁵ These policing tactics disincentivize sex workers from carrying condoms, placing an already high-risk group in more danger of contracting HIV and other sexually transmitted diseases.¹⁵⁶ Chapter 141 promotes the use of condoms among sex workers by removing the fear of arrest or detention based on condom possession.¹⁵⁷

However, the CDAA argues that evidentiary reforms and determinations of probable cause should not be legislated.¹⁵⁸ To support their argument against legislating evidentiary reform, the CDAA cited the California Constitution’s Truth-in-Evidence provision.¹⁵⁹ Ironically, the CDAA’s statement of opposition also included the portion of the law that allows the Legislature to amend the provision by a two-thirds vote.¹⁶⁰ It also asserted that “the determination of what constitutes probable cause to arrest is a matter for law enforcement and judicial interpretation and not for the legislature.”¹⁶¹ This argument ignores the

148. *Id.* at 67.

149. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

150. *Id.*

151. HUMAN RIGHTS WATCH, *supra* note 13, at 49.

152. *Id.*

153. *Id.* at 48–49.

154. *Id.* at 49.

155. *See id.* at 39 (“Clients take fewer condoms than they need because they fear the police.”).

156. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

157. *Id.*

158. *Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 7 (Cal. 2019).

159. *Id.*

160. *Id.*

161. *Id.*

fundamental role of the Legislature, which is to create laws.¹⁶²

The Legislature’s top-down approach provides consistency in the law because some cities, like San Francisco and Oakland, have already passed resolutions banning condom possession as evidence.¹⁶³ Furthermore, in 2012, Human Rights Watch recommended the California Legislature “enact legislation to prohibit possession of condoms as evidence of prostitution and related offenses.”¹⁶⁴ This recommendation led to the passage of AB 336 and culminated with the Legislature enacting Chapter 141 in 2019.¹⁶⁵

V. CONCLUSION

Chapter 141 is good public policy because it promotes condom use and refocuses law enforcement and the courts on serious crimes.¹⁶⁶ Chapter 141 will promote the reporting of serious crimes—like human trafficking—by providing immunity in limited circumstances and cultivating trust between potential witnesses and law enforcement.¹⁶⁷ By providing immunity and prohibiting condom possession as evidence, sex workers no longer need to fear arrest or retribution when reporting crimes.¹⁶⁸ The law’s benefits to the criminal justice system and public health greatly outweigh any potential drawbacks.¹⁶⁹

Prior to Chapter 141, immunity for victims or witnesses of violent crimes only extended to prostitution, and condoms were admissible evidence in certain circumstances.¹⁷⁰ Over the past decade, the California Legislature has shown the willingness to take on difficult criminal justice reforms.¹⁷¹ Qualitative and quantitative data—like the Human Rights Watch report on condom evidence—are the driving force behind Chapter 141’s policy goals.¹⁷² Almost certainly,

162. CAL. CONST. art. IV, § 1.

163. *Sex Workers Applaud Passage of California Senate Bill 233*, ESPLER PROJECT INC (July 2, 2019), <https://esplerp.org/sex-workers-applaud-vote-by-california-assembly-for-passing-sb233/> (on file with the *University of the Pacific Law Review*).

164. HUMAN RIGHTS WATCH, *supra* note 13, at 83.

165. *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019); HUMAN RIGHTS WATCH, *supra* note 13, at 83.

166. *Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 5 (Cal. 2019); *Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019).

167. *Id.*

168. *Id.*

169. *See id.* at 4–5 (recognizing that SB 233 “prioritizes the health and safety of people engaged in sex work, including human trafficking victims” and “bans the use of condoms as evidence of sex work as a sensible, public health approach”); *see also Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019) (arguing that the law creates a safer community by encouraging reports of serious crimes).

170. *Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 4–5 (Cal. 2019).

171. *See id.* (citing changes to legislation in 2013 and 2018 in regards to certain violent crimes).

172. *See id.* (referencing study by Human Rights Watch “which reviewed research literature on sex workers in Los Angeles and San Francisco”).

Chapter 141 will have some unanticipated consequences.¹⁷³ However, the law addresses known problems in our criminal justice and public health systems.¹⁷⁴

Over time, new data and anecdotal experiences of both law enforcement and sex workers will show whether Chapter 141 fulfills its intended, lofty legislative purpose.¹⁷⁵ The law's policy goals are undoubtedly difficult to achieve, but the Legislature has illustrated the political will to change the law when necessary.¹⁷⁶ Chapter 141 is one step along the journey to a more equitable criminal justice system that protects victims and vulnerable communities.¹⁷⁷

173. *See id.* at 7 (Cal. 2019) (discussing arguments against SB 223).

174. *See id.* at 4–5 (Cal. 2019) (discussing that possessing condoms leaves sex workers vulnerable to arrest when approached by law enforcement, but are necessary to decrease transmission of HIV); *see also Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019) (presenting several existing problems the law's author intends the law to address).

175. *See Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 4–5 (Cal. 2019) (explaining the existing dangers and harassment sex workers face regarding condom use); *see also Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019) (explaining the laws goal of creating a safer community).

176. *See Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 4–5 (Cal. 2019) (citing 2013 legislation for admitting condoms into evidence); *see also Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019) (citing 2018 changes to legislature protecting victims of, or witnesses to, certain violent crimes).

177. *See Hearing on S.B. 233 Before the Assemb. Comm. on Pub. Safety*, 2019–2020 Leg., Reg. Sess. 4–5 (Cal. 2019) (explaining the existing dangers and harassment sex workers face regarding condom use); *see also Hearing on SB 233 Before the S. Rules Comm.*, 2019 Leg., 2019–2020 Reg. Sess. 4 (Cal. 2019) (explaining the laws goal of creating a safer community).

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