

File No. 190175

Committee Item No. _____

Board Item No. 46

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: February 26, 2019

Cmte Board

- | | | |
|--------------------------|-------------------------------------|----------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

- | | | |
|--------------------------|-------------------------------------|------------------------------------------------------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>California State Senate Bill No. 233 (SB233) - February 7, 2019</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>SB233 Fact Sheet</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: Brent Jalipa

Date: February 21, 2019

Prepared by: _____

Date: _____

1 [Supporting California State Senate Bill No. 233 (Wiener) - Immunity From Arrest]

2
3 **Resolution supporting California State Senate Bill No. 233, authored by Senator Scott**
4 **Wiener and co-authored by Assembly Members Bill Quirk and Laura Friedman,**
5 **establishing protections for sex workers when reporting a crime and preventing**
6 **condoms from being used as probable cause to arrest those suspected of sex work.**
7

8 WHEREAS, The passage of the Stop Enabling Sex Traffickers Act and Allow States
9 and Victims to Fight Online Sex Trafficking Act (SESTA-FOSTA) led to the closure of websites
10 and online platforms that were once used by people engaging in sex work to screen clients,
11 share knowledge, and report bad behavior, putting them at greater risk of violence, sex
12 trafficking, and other forms of abuse; and

13 WHEREAS, Sex workers have a well-founded fear of arrest or harassment by police
14 officers and this fear prevents them from reporting crimes; and

15 WHEREAS, Those most impacted by violence against sex workers are predominantly
16 women, and women of color, transgender women, the poor, and immigrants are even more
17 disproportionately impacted by this violence; and

18 WHEREAS, Using the number of condoms a person is carrying as probable cause to
19 arrest those suspected of sex work is bad public health policy as it discourages sex workers
20 from practicing safer sex and contributes to the spread of HIV and other sexually transmitted
21 infections; and

22 WHEREAS, Using the number of condoms a person is carrying as probable cause to
23 arrest those suspected of sex work is also bad public safety policy as it discourages those
24 carrying multiple condoms from reporting crimes or otherwise cooperating with law
25 enforcement and puts them at risk for wrongful arrest; and

1 WHEREAS, The Human Rights Commission (HRC) and the Department on the Status
2 of Women (DOSW) alongside community groups like St. James Infirmary worked to change
3 policies regarding sex workers resulting in a first-of-its-kind department-wide bulletin being
4 issued by the San Francisco Police Department (SFPD) in 2017 stating not only that sex
5 workers reporting serious crimes would not face arrest, but that any officer misconduct against
6 sex workers, including retaliation, coercion or coercive intimate acts, is subject to disciplinary
7 and/or criminal action; and

8 WHEREAS, California State Senator Scott Wiener introduced a Senate Bill No. 233
9 (SB233) protecting sex-workers reporting a crime from arrest, harassment, or coercion; and

10 WHEREAS, SB233 also prevents the number of condoms an individual carries as
11 being used as evidence of prostitution and probable cause for arrest; now, therefore, be it

12 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
13 gives its full endorsement of SB233; and, be it

14 FURTHER RESOLVED, The San Francisco Board of Supervisors hereby directs the
15 Clerk of the Board to send a copy of the Resolution to the State Legislature.

Introduced by Senator Wiener
(Principal coauthor: Assembly Member Quirk)
(Coauthor: Assembly Member Friedman)

February 7, 2019

An act to add Section 647.3 to the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as introduced, Wiener. Immunity from arrest.

Existing law criminalizes various aspects of sex work, including soliciting anyone to engage in, or engaging in, lewd or dissolute conduct in a public place, loitering in a public place with the intent to commit prostitution, or maintaining a public nuisance. Existing law, the California Uniform Controlled Substances Act (CUCSA), also criminalizes various offenses relating to the possession, transportation, and sale of specified controlled substances.

This bill would prohibit the arrest of a person for a misdemeanor violation of the CUCSA or other specified sex work crimes, if that person is reporting a crime of sexual assault, human trafficking, stalking, robbery, assault, kidnapping, threats, blackmail, extortion, burglary, or another violent crime. The bill would also state that possession of condoms in any amount, in and of itself, is not probable cause for arrest for specified sex work crimes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 647.3 is added to the Penal Code, to read:

1 647.3. (a) A person who is reporting a crime of sexual assault,
2 human trafficking, stalking, robbery, assault, kidnapping, threats,
3 blackmail, extortion, burglary, or another violent crime shall not
4 be arrested for a crime, including a misdemeanor violation of the
5 California Uniform Controlled Substances Act (Division 10
6 (commencing with Section 11000) of the Health and Safety Code)
7 or a violation of subdivision (a) or (b) of Section 647 or of Section
8 372 or 653.22.
9 (b) Possession of condoms in any amount shall not, in and of
10 itself, be probable cause for arrest for a crime, including a violation
11 of subdivision (a) or (b) of Section 647 or of Section 372 or 653.22.

O



Senator Scott Wiener, 11th Senate District

SB XXX – Sex Workers Protection

SUMMARY

Senate Bill XXX prohibits the arrest of sex workers when coming forward as a witness or a victim of a serious crime. It states also, that the possession of condoms when coming forward about a violent crime cannot be used as probable cause to arrest a sex worker.

BACKGROUND

People working in prostitution experience violent crimes in an alarming amount. 32% of sex workers reported a physical attack while engaging in sex work, and 29% reported being sexually assaulted while engaging in sex work. When sex workers come forward about a violent act that occurred to them or they witnessed one they can then be arrested for prostitution which discourages them from coming forward about these violent crimes.

Under the law currently, the possession of condoms can be used in a case against a person as probable cause that they are a sex worker, and can result in being arrested.

PROBLEM

Under current conditions for sex workers it creates distrust towards law enforcement from the fear of being criminalized. With the fear of being criminalized it creates a public safety issue when these violent crimes are not being reported or solved. Sex workers are being discouraged to report crimes they are a victim of or have witnessed because they are afraid of being arrested. By discouraging sex workers to share information they have it leads to unsolved crimes and nowhere for sex workers to turn to when they experience a violent crime such as burglary, assault, kidnapping, human trafficking, blackmail, threats, robbery, stalking, extortion, or any other violent crime. It creates an unsafe environment for sex workers and delays the processing of unsolved crimes from lack of witnesses.

The problem with using condoms as a probable cause to arrest sex workers is that it discourages sex

workers to practice safe sex. By sex workers becoming hesitant to carry condoms in the fear of being criminalized it increases the chances of getting an HIV or STI. Sex workers are thirteen times more likely to contract HIV, this is why it is crucial for sex workers to be able to carry condoms without fear when coming forth as a witness or victim. The Human Rights Watch reported that one woman in Los Angeles was frightened to carry condoms with her and had to use a plastic bag as a condom to protect herself against HIV and STI's.

SOLUTION

When sex workers become a victim of a violent crime, or witness a violent crime they need to be able to report it without fear being criminalized. By prohibiting the arrest of sex workers who are coming forward as victims or witnesses of violent crimes it will increase the reporting and solving of crimes. It will create a community of trust between law enforcement and sex workers that is necessary for public safety.

By restricting the arrest of sex workers who have condoms on them when they give information about a violent crime it helps to create that community of trust while solving crimes and keeping people safe from STI's and HIV.

SUPPORT

- St. James Infirmary (Sponsor)

FOR MORE INFORMATION

Angela Hill

Email: angela.hill@sen.ca.gov

Phone: (916) 651-4548

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 FEB 12 PM 4:07

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

BY

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only