

SB 233 – New Protections for Sex Workers in California

In 2019, California passed a historic harm reduction bill for sex workers, [SB 233](#). The new law aims to improve the health and safety of people in the sex trade in two ways:

1. Condoms can no longer be used as evidence of prostitution.
2. People can report a crime that they've experienced or witnessed without being arrested or prosecuted for related sex work or misdemeanor drug offenses.

No Condoms as Evidence

Can condoms be used against me for sex work-related crimes?

No. The police cannot confiscate your condoms and use them as probable cause to arrest you for creating a public nuisance, solicitation for prostitution, and/or loitering with the intent of prostitution.¹ Prosecutors cannot use condoms to bring sex work-related charges against you. If the police take your condoms or if prosecutors try to introduce condoms as evidence to prove you were engaged in sex work, contact the [ACLU affiliate](#) in your region or the public defender's office in your county.

How many condoms can I carry on me at a time now?

You are free to carry as many condoms as you need or would like for your own safety and protection.

Did SB 233 decriminalize sex work?

No. Solicitation and other sex work-related offenses are still illegal in the state of California and may be punishable by up to 6 months in jail and a \$1000 fine. SB 233 creates new protections for sex workers by eliminating condoms as evidence, but police officers may still try to use other ways to apprehend you, including the way you are dressed, your gender identity or expression, the time of day, and the neighborhood you are in.

Immunity from Arrest and Prosecution when Reporting a Crime

What does immunity from arrest mean?

Under SB 233, if you report being a victim of or witness to a serious felony, including but not limited to, assault, robbery, kidnapping, domestic violence, extortion, human trafficking, sexual battery, or stalking, you cannot be arrested for the sex work or misdemeanor drug offense you were engaged in at or around the time of the crime.²

Do I have to be the victim of the crime I report to the police to get immunity?

No. SB 233 also grants you immunity if you come forward to report a serious felony that you witnessed to someone else at or around the time you were engaged in sex work or a misdemeanor drug offense.

If I report a crime, and it involves other sex workers who don't want to be a witness, can they be prosecuted?

No. The law stops evidence that a person was engaged in sex work from being used against them. If you report a crime, other people are not required to cooperate as witnesses, so sex workers who don't want to be witnesses cannot be prosecuted for prostitution. However, they could be subpoenaed to testify, and risk arrest if they do not show up to court.

Are clients also granted immunity from prostitution related charges?

Yes. If the clients were a witness or victim to a serious felony around the time they were clients, they should also be protected from arrest or prosecution for prostitution.

¹ CAL. EVID. CODE § 782.1; CAL. PENAL CODE §§ 372; 647 (a)(b); 653.22 (2020).

² CAL. PENAL CODE § 647.3 (2020).

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Know Your Rights: Stopped By Police

What do I do if I'm stopped by the police?

Ask, “Am I free to go?” If they say ‘yes,’ leave calmly. If they say ‘no,’ ask to know why by saying, “Can you tell me why you are stopping me?”

Make sure the officer knows you **do not agree to be searched**. Say “I do not consent to a search.” Police may “pat down” your clothing if they suspect a weapon, but remember they **cannot** take your condoms. If **they confiscate or photograph your condoms**, contact the [ACLU affiliate](#) in your region or the public defender’s office in your county.

If the police arrest you, **exercise your right to remain silent**. Say “I want to remain silent.” You cannot be punished for refusing to answer questions and the police **cannot ask you about your immigration status**.³

Know Your Rights: Reporting a Crime

Do I have to report the crime I witnessed or experienced right away?

No. You can come forward as victim or witness to a serious felony at a later time. However, there are statute of limitations for some crimes, and evidence may disappear, so you may want to get advice from an attorney or victim advocate on how long you have to report.

Can I bring someone with me if I want to report the crime?

Yes. It is a good idea to bring someone with you to make sure you are treated properly when you report. Advocates from a local anti-sexual assault organization or sex worker rights organization may be able to accompany you when you make a report. You can find a local anti-sexual assault organization here: <https://www.calcasa.org/agencies/>. You can find local victim-witness assistance organizations here: <https://victims.ca.gov/victims/localhelp.aspx>.

Do I have to cooperate in the criminal investigation once I report the criminal activity?

No. You can stop cooperating with the investigation at any time without losing your immunity.

Are there questions I shouldn't answer when reporting a crime?

Yes. The police should not ask you and you should not answer questions about your immigration status. If you have other questions about what information to share, you should get advice from an attorney or victim advocate.

What should I do if I am mistreated or abused by the officers who are interviewing me? For example, what if officers ask me for sexual favors?

You can make a complaint about police misconduct. A victim-witness assistance organization may be able help you file complaint. Every police department has its own process for receiving these types of complaints. There may be a civilian oversight board of your police department or there may be an internal process within the police department. Most police departments provide information about how to submit a complaint on their website.

³ CAL. GOV'T CODE § 7284.6 (2018).



LEARN MORE: SexWorkRightsCA.org

ACLU NorCal Legal Intake Line: (415) 621-2488 | ACLU SoCal Legal Intake Line: (213) 977-5253

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