

10/2/2019

Dear Council of the District of Columbia,

We, the 72 undersigned organizations, write to express our strong support for the Community Safety and Health Amendment Act of 2019 (B23-0318). As lesbian, gay, bisexual, transgender, queer (LGBTQ) and allied organizations, we know that the decriminalization of sex work in DC is critical to the health and wellbeing of the LGBTQ community, including by improving public health and decreasing the vulnerability of marginalized sex workers, particularly transgender women of color.

The Community Safety and Health Amendment Act of 2019 would decriminalize consensual sex work for those who are 18 years of age or older¹ and create a task force to monitor the implementation and effects of the act.² The task force would be composed of the Metropolitan Police Department, agencies dedicated to advancing public health, and organizations that advocate for sex worker rights and human rights generally.³ By updating a DC law that serves no valid purpose and is dramatically out of step with current research and knowledge, including about how best to combat the transmission of HIV, the bill would improve safety, public health, and law enforcement's ability to address both violent and property crimes.

Decriminalization Supports the Right to Survival

This bill would decrease rates of violence, including murder, for LGBTQ people and others who face needless threats of violence and extreme risk of violence while engaging in sex work in order to survive. LGBTQ people are far more likely to experience poverty, homelessness, and joblessness than non-LGBTQ people.⁴ In DC, nearly one-fifth of the LGBTQ community is food insecure.⁵ Transgender people in DC are especially likely to experience poverty. Despite our anti-discrimination laws, 48% of employers in DC prefer less qualified cisgender applicants to more qualified transgender applicants.⁶ In a survey of transgender people in DC, 46% of the respondents made below \$10,000 annually; with 57% of trans women of color making below \$10,000 annually compared to 11% of DC residents overall.⁷

¹ Community Safety and Health Amendment Act of 2019, B23-0318, 23rd Council §103(a), <https://static1.squarespace.com/static/528921fce4b089ab61d013d3/t/5cf67430c1669100012769ae/1559655473265/Signed+Community+Safety+and+Health+Amtd+Act+of+2019.pdf>

² *Id.* at §202.

³ *Id.* at §202(b).

⁴ See generally Sandy E. James, et al., *The Report of the 2015 U.S. Transgender Survey* (National Center for Transgender Equality, 2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>; M.V. Lee Badgett, et al., *New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community* (Williams Institute, June 2013), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>.

⁵ Williams Institute, "LGBT Data & Demographics: District of Columbia" (2018), <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT&area=11#demographic>

⁶ DC Office of Human Rights, "Qualified and Transgender" (2015), <https://ohr.dc.gov/node/1122372>

⁷ DC Trans Coalition, "Access Denied: Washington, DC Trans Needs Assessment Report" (2015), <https://dctranscoalition.files.wordpress.com/2015/11/dctc-access-denied-final.pdf>

Because of these disproportionate experiences of poverty, LGBTQ people, especially transgender women of color, are more likely to turn to sex work. In a survey of 600 transgender people in DC, over a third reported having engaged in sex work, with over half of Black and Hispanic respondents reporting a history of sex work.⁸ The decriminalization of sex work in DC would ensure that these already marginalized communities are not being criminalized for engaging in consensual and harmless activity for survival when traditional employment turns them away or fails to pay an adequate wage.

Decriminalization Increases Health While Decreasing Violence and Harassment

Criminalizing a means of survival turns those workers into a target population for victimization and violence. Policing of the sex trade can turn harm-reduction practices (such as carrying condoms) into evidence of a criminal activity. This often forces sex workers to choose between health and avoiding arrest.

Additionally, when people engaged in sex work must seek more secluded areas or areas with reduced police presence, threats to physical safety increase and the ability to screen clients decreases.⁹ The data is stark. In 2015, 12 transgender women and femme-presenting gender nonconforming sex workers were murdered.¹⁰ In 2012, 23% of LGBTQ murder victims were sex workers.¹¹ In DC, the murder of Deeniquia “Dee Dee” Dodds is in recent memory. In 2016, Dodds, a sex worker and transgender woman, was murdered by two men who knew she was a sex worker.¹² Since then, two Black transgender women have been murdered within a mile of where Deeniquia Dodds was killed, in an area prominently known for street-based sex work.¹³ Their names were Zoe Spears and Ashanti Carmon.¹⁴

Criminalization prevents sex workers from reporting crimes, sharing information that could lower the risk of violence, and adequately screening clients. Fear of police harassment and arrest prevents sex workers from reporting violent incidents.¹⁵ Laya Monarez, a former sex worker and

⁸ *Id.*

⁹ Lucy Platt et al., *Associations Between Sex Work Laws and Sex Workers’ Health: A Systematic Review and Meta-Analysis of Quantitative and Qualitative Studies*, PLOS MEDICINE, December, 11, 2018 <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>

¹⁰ SWOP USA, “Fact Sheet: Violence Against Trans Sex Workers” (2015), <https://swopusa.org/blog/2015/11/10/fact-sheet-violence-against-trans-sex-workers/>

¹¹ *Id.*

¹² Samantha Schmidt, *As a Homeless Transgender Woman, She Had Turned to Sex Work to Survive. Then She Was Killed*, WASHINGTON POST, April 6, 2019, https://www.washingtonpost.com/local/social-issues/as-a-homeless-transgender-woman-she-turned-to-sex-work-to-survive-then-she-was-killed/2019/04/06/be157636-57e7-11e9-8ef3-fbd41a2ce4d5_story.html?utm_term=.c9e10d496b06

¹³ Otilia Steadman, *Two Trans Women Were Killed In The Same Maryland Neighborhood*, BUZZFEED NEWS, June 16, 2019, <https://www.buzzfeednews.com/article/otilliasteadman/trans-women-killed-fairmount-heights>

¹⁴ *Id.*

¹⁵ Lucy Platt, *supra* note 9.

DC resident, shared that she had been stabbed several times, beaten, and chased by a car.¹⁶ Although she remembered the license plate number on the car, she could not report the crime without revealing that she was a sex worker.¹⁷ One study found that 90% of DC sex workers surveyed had experienced violence, with less than 1% reporting willingness to go to the police if assaulted.¹⁸ Because fear of being reported to police and subsequently arrested prevents sex workers from sharing or seeking information about dangerous clients¹⁹, decriminalization would make sex workers feel safer in reporting violence and threats of violence to police.

This bill would also help sex workers avoid violence at the hands of the police. The DC Trans Coalition found that 78% of sex workers in the district report fear of violence, harassment, arrest, and humiliation when approached by police, and roughly 20% report that police officers have approached them and demanded sex.²⁰ Arrests and negative police interactions concerning sex work are especially common for Black and Hispanic transgender people. Louraca, a DC resident and Black trans sex worker, reported being picked up by an officer and told “either you give me [sex] or you’re going to jail.”²¹ Transgender women of color in DC are frequently profiled as sex workers, whether they participate in the trade or not, which often leads to harassment, confiscation of condoms, and arrest.²² This chronic and often wrongful suspicion leads to general distrust of police by many LGBTQ people. This distrust could be significantly reduced through decriminalization of sex work. In New Zealand, where sex work has been decriminalized, reports suggest that decriminalization has led to cooperation between sex workers and police, resulting in the arrest of violent offenders.²³ This result is to be expected because decriminalization changes the troubling power dynamic between police and sex workers by removing one of the major reasons police may harass and coerce them. Thus, the decriminalization of sex work in DC would significantly ease the current tensions between sex workers, the LGBTQ community, and the police.

This bill would also protect transgender sex workers from the abuse they often face in the criminal justice system. In a study by the National Center for Transgender Equality, more than half of the trans sex workers reported harassment by corrections staff, nearly a third were denied medically necessary hormone treatment, one-fourth were physically assaulted, and 10% were

[SEE ABOVE: et al., *Associations Between Sex Work Laws and Sex Workers’ Health: A Systematic Review and Meta-Analysis of Quantitative and Qualitative Studies*, PLOS MEDICINE, December, 11, 2018 <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>]

¹⁶ Michelle Basch, *DC Bill Aims to Decriminalize Prostitution Involving Consenting Adults*, WTOP, June 3, 2019 <https://wtop.com/dc/2019/06/d-c-bill-aims-to-decriminalize-prostitution-for-consenting-adults/>

¹⁷ *Id.*

¹⁸ HIPS, *HIPS Survey On Violence*, HIPS, 2006.

¹⁹ *Id.*

²⁰ DC Trans Coalition, “Move Along: Policing Sex Work in Washington, D.C.” (2008), <https://dctranscoalition.files.wordpress.com/2010/05/movealongreport.pdf>

²¹ DecrimNow, “Will DC Police be Held Accountable for Sexually Assaulting Sex Workers?” (2019) <https://www.decrimnow.org/blog/2019/3/28/will-dc-police-be-held-accountable-for-sexually-assaulting-sex-workers>

²² *Id.* This is a common phenomenon, often called “walking while trans.”

²³ Lucy Platt, *supra* note 9.

sexually assaulted by a prison officer.²⁴ Similarly, the DC Trans Coalition’s Needs Assessment found that transgender people who had engaged in sex work were the most likely to be assaulted in jail, with nearly half (49%) reporting physical or sexual assault.²⁵ It is clear the abuse of transgender sex workers is deeply ingrained in our criminal justice system, it is imperative we reduce the number of people subjected to this abuse. Decriminalizing sex work is one obvious and urgently needed way of doing so.

It is crucial to decriminalize not simply the selling of sexual services, but the buying of sexual services and third-party support as well. Criminalizing the purchasing of services means the interaction remains policed and illicit without any reasonable governmental justification. Those wishing to sell sexual services must be able to connect with their would-be clients safely, and without law enforcement charged to prevent their activity. In places which have criminalized only the buying of sexual services, sex workers report having challenges doing essential screening of clients ahead of time, placing sex workers in more difficult and dangerous situations. Additionally, when clients are at risk of arrest, sex workers are often forced to work in clients’ homes or other locations not of their choosing. This makes sex work significantly more dangerous and makes sex workers significantly more vulnerable to abuse than they would be under a model of full decriminalization.

Decriminalization Decreases Risk of HIV Among Sex Workers and the General Population

This bill would also increase access to public health resources and decrease rates of HIV transmission. Both the LGBTQ community and sex workers are disproportionately affected by HIV transmission. The criminalization of sex work greatly exacerbates the risk of acquiring HIV for both LGBTQ people and sex workers. In DC, nearly three quarters of trans sex workers report living with HIV.²⁶ Because sex workers fear arrest, they are more likely to rush the decision to take a client and less likely to negotiate condom use. One study found the impact of decriminalization of sex work could reduce HIV transmission around 40% within one decade.²⁷ As a result, The UN Programme on HIV/AIDS²⁸, the World Health Organization²⁹, Amnesty International³⁰, and many other international health organizations that study the issue have called for the decriminalization of sex work to curtail the spread of HIV. Decriminalization is thus an important step in improving the health of sex workers, LGBTQ people, and the general population.

²⁴National Center for Transgender Equality, “Meaningful Work: Transgender Experiences in the Sex Trade” (2015), https://www.transequality.org/sites/default/files/Meaningful%20Work-Full%20Report_FINAL_3.pdf

²⁵ DC Trans Coalition, *supra* note 7.

²⁶ DC Trans Coalition, *supra* note 6.

²⁷ The Lancet, “HIV and Sex Workers” (2014), <https://www.thelancet.com/series/hiv-and-sex-workers>

²⁸ United Nations Programme on HIV/AIDS, “Documents: Sex Workers” (2014) <https://www.unaids.org/en/resources/documents/2014/Sexworkers>

²⁹ World Health Organization, “Sex Workers,” https://www.who.int/hiv/topics/sex_work/en/

³⁰ Catherine Murphy, Amnesty International, “Sex Workers’ Rights are Human Rights” (2015), <https://www.amnesty.org/en/latest/news/2015/08/sex-workers-rights-are-human-rights/>

Decriminalization Would Allow Sex Workers to Seek Resources and Opportunities

The criminalization of sex work prevents many people from seeking resources and traditional employment. After being arrested for a sex-work-related offense, a person can be evicted, deported, expelled, denied student financial aid, disqualified from public housing, or lose custody of children.³¹ Post-conviction, sex workers are often turned away from employment due to inability to pass background checks or by requirements to report criminal history.³² Thus, criminalization of sex work exacerbates the difficulties many LGBTQ people already face in accessing employment, housing, and public assistance.

For all of these reasons, we strongly support the Community Safety and Health Amendment Act of 2019. Please consider the health, safety, and economic wellbeing of DC's LGBTQ community members as you make your decision.

Sincerely,

ACLU of the District of Columbia

AIDS Action Baltimore

AIDS Alabama

AIDS United

American Atheists

American Civil Liberties Union

Asian & Pacific Islander Queers United for Action (AQUA DC)

Asian Pacific American Labor Alliance, AFL-CIO

BiNet USA

Black & Pink

Black Youth Project 100 (BYP100) DC Chapter

Brother, Help Thyself

Casa Ruby, Inc

Cascade AIDS Project

Center for Black Equity

Center for Disability Rights, Inc.

Center for Health and Gender Equity (CHANGE)

³¹ Meredith Dank et al., Urban Institute, "Consequences of Policing Prostitution" (2017) https://www.urban.org/sites/default/files/publication/89451/legal_aid_final_0.pdf

³² *Id.*

CenterLink: The Community of LGBT Centers
Circle for Justice Innovations, CJI Fund
Collective Action for Safe Spaces
D.C. Anti-Violence Project
Decrim NY
Drug Policy Alliance
Equality California
FORCE: Upsetting Rape Culture
FreeState Justice
Gender Justice
Gertrude Stein Democratic Club
GLAA
HIPS
Human Rights Campaign
Human Rights Project at the Urban Justice Center
Innovative Justice Solutions
Lambda Legal
Latino GLBT History Project
LULAC Lambda
Maryland Trans*Unity
National Association for Rational Sexual Offense Laws
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
National Council on Independent Living (NCIL)
National Equality Action Team (NEAT)
National LGBTQ Task Force Action Fund
National LGBTQ Workers Center

National Survivor Network
National Trans Bar Association
No Justice No Pride
Oasis Legal Services
Open Society Foundations
Positive Women's Network-USA
Pride at Work
Reframe Health and Justice
Revolve Impact
Sex Workers Outreach Project USA (SWOP-USA)
Sex Workers Project at the Urban Justice Center
Sexuality Information and Education Council of the United States (SIECUS)
Silver State Equality-Nevada
SMYAL
St. James Infirmary
The Center for Constitutional Rights
The DC Center for the LGBT Community
Trans United
Transgender Law Center
Treatment Action Group (TAG)
URGE: Unite for Reproductive & Gender Equity
Us Helping Us, People Into Living, Inc.
Wanda Alston Foundation
Whitman-Walker Health
Witness to Mass Incarceration
Women Involved In Reentry (the W.I.R.E.)
Woodhull Freedom Foundation