

Text written in red is not part of the actual initiative. Red text is meant to explain legal jargon and D.C. code that is not written into the initiative so readers can fully understand what the initiative is saying in sections that may not be clear without further explanation.

INITIATIVE MEASURE NO ____

SHORT TITLE

Sex Worker and Community Health and Safety Act of 2020

SUMMARY STATEMENT

If enacted, this Initiative would remove criminal penalties for sex workers and other consenting adults who engage in paid sexual activities, while maintaining criminal penalties for human trafficking and paid sexual activities involving minors. This initiative would also broaden current law to make it a criminal offense for law enforcement and other government personnel to engage in a sexual act with anyone under criminal investigation, in custody, incarcerated, on parole or probation, or under supervised release.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Sex Worker and Community Health and Safety Act of 2020.”

Section 1. Findings and Declaration of Policy.

(a) The people of the District of Columbia find that:

- (1) The District of Columbia has long been arresting, prosecuting and incarcerating adults for consensual sexual exchanges. Although widely used, this criminalization approach has not worked; instead, criminalization fosters violence and exploitation of the most vulnerable people.

- (2) In Rhode Island, indoor consensual adult prostitution was decriminalized from 2003 to 2009, during which period reported rapes decreased by 31% and gonorrhea cases decreased by 39%.
- (3) Research shows that over 80% of street-based sex workers experience violence in the course of their work.
- (4) Sex workers often experience homelessness and are engaged in sex work in order to meet their basic needs (shelter, food, hygiene).
- (5) Criminalization of sex work has a greater negative impact on groups already facing discrimination, including communities of color, LGBTQ individuals, persons with disabilities, and immigrants.

(b) It is declared the policy of this act to:

- (1) promote the health and safety of sex workers by decriminalizing paid sexual activities between consenting adults;
- (2) maintain criminal penalties for human trafficking and paid sexual activities involving minors; and
- (3) ensure that protections against sexual abuse cover anyone under criminal investigation, in custody, incarcerated, on parole or probation, or under supervised release.

--D.C. Code §22-2701--

Section 2. Section 1 of An Act for the Suppression of Prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code §22-2701), is amended as follows:

The Current law § 22–2701. Is titled “Engaging in prostitution or soliciting for prostitution.” We are amending the title to:

“§22-2701. Engaging in a sexual act in return for receiving anything of value.

Current law makes prostitution a crime punishable by imprisonment and fines. This initiative repeals that section of law for adults. It maintains the existing portion of the law which makes it a crime for minors to sell, buy, or solicit the sale or purchase of sex, while immunizing minors from prosecution, and instead directing them to treatment, housing, or services appropriate for vulnerable children.

“(a) It is unlawful for any child to engage in or offer to engage in a sexual act or sexual contact in return for receiving anything of value.

“(b) (1) A child who engages in or offers to engage in a sexual act or sexual contact in return for receiving anything of value shall be immune from prosecution for a violation of subsection (a) of this section.

“(2) The Metropolitan Police Department shall refer any child suspected of engaging in or offering to engage in a sexual act or sexual contact in return for receiving anything of value to an organization that provides treatment, housing, or services appropriate for victims of sex trafficking of children under §22-1834.

“(c) For purposes of this section, the term ‘child’ means a person who has not attained the age of 18 years.”

--D.C. Code §22-2703--

Section 3. Section 3 of An Act for the Suppression of Prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Official Code §22-2703) is repealed.

This initiative repeals a law that allows the courts to impose conditions, such as forcing a person convicted of prostitution to stay away from an area of town, submission to medical and mental examinations, etc. Since prostitution is no longer a crime, this law is moot.

--D.C. Code §22-2707--

Section 4. Section 3 of An Act in Relation to Pandering, to Define and Prohibit the Same and to Provide for the Punishment Thereof, approved June 25, 1910 (36 Stat. 833; D.C. Official Code §22-2707) is amended as follows:

Pandering is legal jargon for arranging for paid sex between people. Current law makes it illegal for anyone to arrange for paid sex. This initiative decriminalizes this activity so long as all persons are voluntarily consenting to sex and no persons involved are experiencing, force, fraud or coercion. This does not make “pimping” legal. “Pimping” is defined as “the action or practice of controlling prostitutes and arranging clients for them, taking part of their earnings in return.” Legally, “controlling” would involve using force, and is therefore NOT legalized in this section. This Initiative maintains all existing laws regarding sex trafficking.

(a) Subsection (a) is amended to read as follows: “(a) Except as provided in subsection (b), it is unlawful for any person, within the District of Columbia, to receive any money or other valuable thing for or on account of arranging for or causing any other person to engage in a sexual act or contact.”

(b) A new subsection (b) is added as follows:

“(b) It shall not be unlawful for an adult to receive any money or other valuable thing for or on account of arranging for or causing any other adult or adults to engage in a sexual act or contact—

- (1) if such other adult or adults have voluntarily consented to such act or contact; and
- (2) if no conduct by the person arranging for or causing such other adult or adults to engage in a sexual act or contact violates any provision of the Prohibition Against Human Trafficking Amendment Act of 2010, effective Oct. 23, 2010 (D.C. Law 18-239; D.C. Official Code §§22-1831 et seq.).”

(c) Subsection (b) is re-lettered as subsection (c).

(d) A new subsection (d) is added as follows: “(d) For purposes of this section, the term ‘adult’ means a person who has attained the age of 18 years.”

--D.C. Code §22-2713--

Section 5. Section 1 of an Act to enjoin and abate houses of lewdness, assignation and prostitution, to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, approved February 17, 1914 (38 Stat. 280; D.C. Official Code §22-2713) is amended by adding a new subsection (c) as follows:

This initiative amends the laws that make operating indoor sex businesses nuisance crimes and felonies, by allowing adults to buy and sell sex within private homes of primary residences. This does not legalize brothels, allow for the creation of red light districts, set up regulations for brothels etc. It simply says that people cannot be arrested if they buy or sell sex within their homes. Furthermore, as prostitution will not

be illegal, so persons can sell sex from the street, so long as they don't commit lewd acts in public.

“(c) No single family accommodation or rental unit as defined in §42-3401.03 shall be treated as a building or place used for the purpose of lewdness, assignation or prostitution within the meaning of subsection (a) by reason of any lawful conduct by any person who has attained 18 years of age and who uses such single family accommodation or rental unit as such person's principal residence or by reason of any lawful conduct in which such person participates.”

--D.C. Code §22-2722--

Section 6. Section 1 of An Act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat. 192; D.C. Code §22-2722) is repealed.

Current law allows people “convicted of keeping a bawdy or disorderly house” to be fined up to \$25,000 and/or imprisoned up to 5 years. This initiative removes this punishment from those convicted of “keeping a bawdy or disorderly house”. It is still a crime to keep a bawdy or disorderly house, but this severe punishment will no longer be a tool of the court.

--D.C. Code §22-3013--

Section 7. Section 212 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code §22-3013) is amended by re-numbering such section as subsection (a) of such section and adding a new subsection (b) as follows:

This section makes it a crime for law enforcement to have sex with people under investigation or in custody, stripping the police of their ability to rape people and claim the sex was consensual. The authors of this section do not believe that people in

custody can give consent to people with authority. We do not believe that police should be allowed to have sex with someone under investigation and then arrest them – such conduct is an abuse of power.

“(b) Any police officer, probation officer, parole officer, corrections officer, or other officer or employee of the District of Columbia acting under color of law, who –

- (i) engages in a sexual act with a person who is the subject of an investigation of a violation of any criminal statute in effect in the District of Columbia, or with a person who is under arrest, detained, in custody, or under the supervision of any such police officer, probation officer, parole officer, corrections officer, or other officer or employee of the District of Columbia acting under color of law; or
- (ii) causes such person to engage in or submit to a sexual act;

shall be imprisoned for not more than 10 years or fined not more than the amount set forth in §22-3571.01, or both.”

Section 8. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).

This final section is administrative and required by existing law.