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Criminal Legal Immunity for Reporting Crimes

What Are Immunity Laws?

States across the country are increasingly adopting laws that grant some form of criminal legal immunity to people who report crimes. Existing and proposed immunity laws vary in scope: some broadly protect victims from any prosecution for reporting any type of crime; others protect specific victims and/or address specific types of perpetrators; there are provisions written into penal codes that prevent arrest at the time of reporting; and there are evidence rules that forbid the admission of evidence acquired during the investigation and prosecution of a reported crime. Ultimately, immunity laws need to protect victims and witnesses who report violent crime and trafficking from being arrested or prosecuted for prostitution or prostitution-related crimes.

Why Are They Important?

People involved in the sex trade (whether by choice or by force, fraud, or coercion) often are victims of violent crime and exploitation, but frequently don't report crimes perpetrated against them due to fear of arrest. When those abusers then aren't discovered by law enforcement, they are able to continue their acts of violence and exploitation with impunity.

Who Do Immunity Laws Help?

Immunity laws serve a dual purpose:

1. They allow sex workers and trafficked people to safely report crimes and seek medical care without the fear that they themselves will be criminalized and subject to arrest, incarceration, fines, etc.
2. They equip law enforcement entities with an increased ability to identify, investigate, and convict perpetrators of violence and trafficking.

Immunity laws directly protect victims and witnesses of violence and they ultimately benefit all communities by allowing law enforcement to better detect criminal activity.

Existing and Proposed Immunity Laws

Passed: Alaska SB91 (2016), Oregon SB596 (2019), California SB233 (2019), Utah HB40 (2019), Washington HB1382 (2019), New Hampshire HB123 (2021), Vermont H18 (2021), Montana HB520 (2021), Colorado HB22-1288 (2022)

Introduced in 2023: Hawaii HB1437, New York S1966, Tennessee HB1383/SB182



Example Language

Oregon – Senate Bill 596 (2019)

Oregon Revised Statutes § 136.437

(1) If a person contacts an emergency communications system or a law enforcement agency to report the commission of a person felony, any statements or other evidence relating to the crime of prostitution ... obtained as a result of the person making the report may not be used in the prosecution of the person for prostitution or attempted prostitution.

Vermont – House Bill 18 (2021)

13 V.S.A. § 2638

(b) A person who, in good faith and in a timely manner, reports to law enforcement that the person is a victim of or a witness to a crime that arose from the person's involvement in prostitution or human trafficking shall not be cited, arrested, or prosecuted for a violation of the following offenses: [prostitution and drug possession offenses]

Rhode Island – House Bill 5467 (2021 – House Judiciary held for study on 3/9/21)

11-34.1-6.1. Immunity from criminal prosecution.

In the event a person is the victim of or a witness to a crime, including an individual who becomes aware that another person is a victim of a crime, and has engaged or is alleged to have engaged in an act prohibited pursuant to [commercial sexual activity] or in reasonable proximity to the time of the crime or under circumstances reasonably related to the crime, that person shall not be charged with a violation of [commercial sexual activity] if that person, in good faith, reports the crime to a criminal law enforcement agency, seeks or receives health care services as a result of the crime, or assists or attempts to assist in the investigation or prosecution of the crime. If the victim or witness later withdraws cooperation due to safety concerns, physical or emotional health, or any other reason, the victim or witness shall not be charged under those sections.

As used in this section, "crime" shall include an act that reasonably appears to be a crime, regardless of whether it results in conviction.

California Senate Bill 233 (2019)

Section 1162 of the *Evidence Code* is amended to read:

Evidence that a victim of, or a witness to, a serious felony ... assault ... domestic violence ... extortion ... human trafficking ... sexual battery ... or stalking ... has engaged in an act of prostitution at or around the time they were the victim of or witness to the crime is inadmissible in a separate prosecution of that victim or witness to prove criminal liability for the act of prostitution.

Section 647.3 is added to the *Penal Code*, to read:

(a) A person who reports being a victim of, or a witness to, a serious felony ... assault ... domestic violence ... extortion ... human trafficking ... sexual battery ... or stalking ... shall not be arrested for [public nuisance, public lewdness, prostitution, or loitering for prostitution] if that offense is related to the crime that the person is reporting or if the person was engaged in that offense at or around the time that the person was the victim of or witness to the crime they are reporting.

