

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. The act 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.”

What passing this initiative would and would not do in Washington D.C.

It would NOT:

- Legalize or decriminalize sex with minors.
- Legalize or decriminalize sex trafficking.
- Legalize or decriminalize brothels or create licensing regimes to set up brothels or similar businesses.
- Legalize or decriminalize ‘pimping’ defined as “the action or practice of **controlling** prostitutes and arranging clients for them, taking part of their earnings in return.” Technically and legally, ‘controlling’ requires using force, and is therefore NOT legalized or decriminalized by this initiative.

It would:

- Decriminalize the purchase and sale of sexual acts between consenting adults by repealing the law that makes such activity illegal.
- Amend the law to decriminalize voluntary business relationships among adults while maintaining laws that make sex trafficking illegal, pimping illegal, and coerced and forced selling of sex by a third party illegal.
- Amend laws that make operating indoor sex businesses nuisance crimes and felonies, by allowing consenting adults to buy and sell sex within private homes.
- Make it a crime for law enforcement officials and other government agents acting under the color of law to have sex with people in their custody or under investigation.

Additionally:

The Sex Worker and Community Health and Safety Act of 2020 initiative was inspired by and is similar to D.C. B23-0318 proposed by District of Columbia Councilmember David Grosso, *et al.*, but not brought to vote before the D.C. City Council.

The initiative differs from the bill in that it would:

- Maintain the existing 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 D.C. initiative can only deal with people's rights. It cannot tell the city how to spend money. For example, decriminalizing sex work is appropriate as it deals with people's rights. Setting up an agency to monitor sex workers is not an option for an initiative as it would mandate how the city spends money. Therefore, the initiative does not include the creation of a committee to monitor the implementation of the law.
- The bill would have broadly repealed the laws related to "Bawdy Houses" aka brothels. This would be politically problematic as voters would likely vote against a bill that would allow brothels to be set up next door to their homes without any zoning constraints.
- This initiative adds a section that 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 under investigation or in custody and then claim the sex was consensual.

D.C. does not have a loitering law that police can use to punish sex workers in the absence of criminalization. However the police frequently use "failure to abate" as an excuse to arrest sex workers. The initiative does not address this. It is an issue that will need to be addressed after this initiative becomes law.

D.C.'s existing lewdness law is appropriate to criminalize intolerable behavior in public but is not written in a way that law enforcement can use the law to punish sex workers in the absence of criminalization, so long as the sex workers are not conducting sexual acts in public.

D.C. has an existing law that allows for the expungement of criminal records convicted under specific criminal laws when said law is repealed.. This initiative would automatically benefit D.C. residents with criminal convictions for prostitution and pandering.

The intent of the D.C. Human Rights Law is "to secure an end to discrimination for any reason other than that of individual merit, including, but not limited to ... sex ... personal appearance, sexual orientation, gender identity or expression, familial status, ... **source of income**, ... place of residence or business, and status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking." Thus, by removing the criminalization of buying and selling sex, sex workers and clients *should* be protected under D.C.'s Human Rights Law for most activities associated with sex work.