

FACT SHEET

S.1966 (Sepulveda) / A.7471 (Kelles)

An act to amend the penal law, in relation to individuals engaged in prostitution who are victims of or witnesses to a crime
<http://nyimmunity.org>

What Does S.1966/A.7471 Do?

This bill encourages victims of human trafficking and sex workers who experience or witness crime to report their experience and seek help without fear of being prosecuted for prostitution. It protects victims and witnesses from prosecution for prostitution, prostitution in a school zone, or permitting prostitution when they report the crime to a law enforcement agency, seek or receive health care services, or aid in the investigation of the crime. The concept is similar to the "Good Samaritan" law New York enacted in 2011 which protects people who seek help for someone suffering a drug overdose. People involved in commercial sexual activity (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 are not discovered by law enforcement, they are able to continue their acts of violence and exploitation with impunity. This bill does *not* prevent the prosecution of prostitution crimes where there is no reporting of a crime.

Who Would the "Immunity Law" Benefit?

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 with an increased ability to identify, investigate, and convict perpetrators of violence and trafficking.

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

Is There Precedent for This Policy?

New York already has a similar law protecting people who seek help for a drug overdose from prosecution. Immunity laws already exist in Alaska, Oregon, California, Utah, Washington, New Hampshire, Vermont, Montana, and Colorado, and are currently being considered in Hawaii, Massachusetts, Rhode Island, and Tennessee.

Bill Text:

SECTION 1. The penal law is amended by adding a new section 230.45 to read as follows:

§ 230.45 Immunity from prosecution. This section applies where 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 under section 230.00, 230.03, or 230.40 of this chapter at or in reasonable proximity to the time of the crime or under circumstances reasonably related to the crime, and, in good faith, (a) reports the crime to a criminal law enforcement agency, (b) seeks or receives health care services as a result of the crime, or (c) assists or attempts to assist in the investigation or prosecution of the crime. No such victim or witness to the crime shall be charged or prosecuted for the offense under section 230.00, 230.03, or 230.40 of this chapter. As used in this section, "crime" shall include an act that reasonably appears to be a crime, regardless of whether it results in a conviction as a crime.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law, and shall apply to any prosecution pending on or after the time it shall take effect.