

Immunity Laws

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 in 2016: [Alaska SB91](#)

Passed in 2019: [Oregon SB596](#), [California SB233](#), [Utah HB40](#), [Washington HB1392](#)

Passed in 2021: [New Hampshire HB123](#), [Vermont H18](#), and [Montana HB520](#)

Passed in 2022: [Colorado HB1288](#)

Introduced in 2022: [Nebraska LB7](#)

Introduced in 2023: [Hawaii HB1437](#), [New York S1966](#), [Massachusetts H1758/S1046](#), [Rhode Island S0402](#), [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]

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.

UTAH HOUSE BILL 40 (2021)

LAWS OF UTAH SECTION 76-10-1302(4)

A prosecutor may not prosecute an individual for a violation of [prostitution] if the individual engages in a violation of [prostitution] at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith: (a) assault, Section 76-5-102; (b) aggravated assault, Section 76-5-103; (c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide; (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling; (f) rape, Section 76-5-402; (g) rape of a child, Section 76-5-402.1; (h) object rape, Section 76-5-402.2; (i) object rape of a child, Section 76-5-402.3; (j) forcible sodomy, Section 76-5-403; (k) sodomy on a child, Section 76-5-403.1; (l) forcible sexual abuse, Section 76-5-404; (m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1; (n) aggravated sexual assault, Section 76-5-405; (o) sexual exploitation of a minor, Section 76-5b-201; (p) sexual exploitation of a vulnerable adult, Section 76-5b-202; (q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass; (r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or (s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

IMMUNITY AND SERIAL KILLER INVESTIGATIONS: GILGO BEACH & BEYOND

People involved in the sex trade (whether by choice, circumstance, or coercion) often are victims of violent crime and exploitation, but they frequently do not report crimes perpetrated against them due to fear of arrest. When those abusers then are not discovered by law enforcement, they are able to continue their acts of violence and exploitation with impunity. The most recent and prescient example of unmitigated violence targeting sex workers is the case of the Long Island Serial Killer. Law enforcement in Suffolk County, New York, recently arrested Rex Heuermann for the murders of three women whose bodies were discovered well over a decade before his arrest. Other unsolved murders may be associated with the suspect. His victims were known sex workers, and he continued patronizing sex workers while law enforcement monitored him leading up to his arrest.

As details of the investigation and news media about the case continue to emerge, it has become clear that other sex workers were aware of the suspect's violent tendencies. Unfortunately, these important tips could never be relayed to investigators, who would have arrested those individuals for prostitution. The bodies were found in 2010, and it took 13 years to identify the suspect — years where he continued patronizing and likely perpetrating violence against sex workers. If New York had an immunity policy in place, it is likely that this serial killer would have been discovered much sooner. New York has yet to pass an immunity law, though one has been introduced for the past several years.

The Gilgo Beach killer is just one of many serial killers who deliberately and openly preyed on sex workers, taking advantage of their vulnerability and law enforcement indifference. Gary Ridgway, also known as the Green River Killer, said during his sentencing hearing, “I picked prostitutes as my victims because I hate most prostitutes. ... I also picked prostitutes because they were easy to pick up without being noticed. I knew that they would not be reported missing. I picked prostitutes because I thought I could kill as many of them as I wanted without getting caught.” Jack the Ripper, Robert Hansen (“the Butcher Baker”), Richard Cottingham

(“the Torso Killer”), and Samuel Little were all known to have targeted sex workers, and all went undetected for many years. In the case of Cottingham, sex workers came out after his arrest to say that they had information but couldn’t report it to law enforcement because they would be arrested. There are also many unsolved serial murders of sex workers across the country. Immunity laws could lead to the arrests of other undetected killers and prevent future violence.

MEDIA COVERAGE

[Business Insider article: Sex workers are human too. They deserve protections for reporting violence.](#)

[Denver Post article: Colorado sex workers gain new protections under law signed by Gov. Jared Polis](#)

[The Crime Report article: Want To Reduce Violence Against Sex Workers? Offer Them Immunity](#)

[Denver Post article: “Brutalized with little recourse”: Colorado lawmakers take a first step to protect sex workers](#)

[Gothamist article: Bill would allow sex workers to report crime without fear of prosecution](#)

[Pix11 article: Manhattan DA supports bill providing immunity to sex trafficking survivors](#)