

Legislative Memo: Possession of condoms as evidence of prostitution and other offenses.

Subject: S.1289/ Montgomery, et al./ A. 3856/ Clark, et al.

(AN ACT to amend the civil practice law and rules and the criminal procedure law, in relation to the use in evidence of the fact of possession of a condom)

Position: SUPPORT

This bill proposes to amend New York State's civil practice law and rules and criminal procedure law by prohibiting prosecutors from introducing the possession of condoms as evidence of prostitution and prostitution-related offenses. The NYCLU believes that the existing law is contrary to a sound public health policy; by allowing the possession of condoms to be used as evidence of prostitution and related offenses, the current law undermines New York's efforts to combat sexually transmitted infections and diseases and to educate the public about the use of contraceptives. The NYCLU therefore strongly urges the passage of this bill.

The existing state of the law undermines the consistent efforts of city and state agencies to promote safe sex practices, particularly in places such as New York City. Since 1971, the City of New York has distributed free condoms to its citizens in order to combat sexually transmitted infections and diseases and promote safe sex practices. New York City bolstered these efforts in 2007 when it began the NYC Condom campaign, which dramatically increased free condom distribution and awareness throughout its five boroughs.

Allowing prosecutors to use condom possession as evidence undermines this monumental public health campaign. The existing law also puts the population at greater risk of acquiring sexually transmitted infections and diseases. Even as New York City increases its efforts to encourage safer sex practices, sex workers have become increasingly terrified of carrying any form of contraception because they fear the legal ramifications of doing so. Punishing possession in this manner effectively discourages the use of contraceptive devices, thereby greatly jeopardizing the overall public welfare.

The use of contraceptive devices should be promoted, not punished. This legislation will help give effect to the important City and State-wide campaigns to promote safer sex practices, while also ensuring that the efforts expended in these campaigns are not compromised or undermined. More importantly, this legislation will promote the public welfare by removing the stigma that is currently placed on condom possession. For these reasons, we strongly encourage New York State's legislators to pass this bill.