



## Urban Justice Center

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## Memorandum in Support -----

### **S01289A - introduced by Senator Montgomery**

### **A10389 - introduced by Assemblymember Clark**

**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.

#### **A Statement in Support:**

We at the Sex Workers Project of the Urban Justice Center request your support for this bill. If enacted, this bill would protect the right to practice safer sex, without fear of carrying condoms having the legal consequence of an arrest or conviction of prostitution.

The Sex Workers Project provides legal and social services to sex workers, those profiled as sex workers, and victims of human trafficking. Our clients routinely tell us that they have had condoms confiscated in the course of arrests for prostitution related offenses. Many sex workers share a misunderstanding that it is a crime to carry a certain number of condoms, based on this common police practice. Transgender women in particular are afraid to carry condoms, as they are frequently profiled and arrested as prostitutes even if they are not. Our public health allies have informed us that some legal businesses have declined to be a provider of city-sponsored free condoms, for fear of being shut down as houses of prostitution.

We believe our state government should promote, not discourage, safer sex practices. As an effective tool for preventing unwanted pregnancy and the transmission of STI's and HIV, condoms should be widely accessible and acceptable to everyone. Carrying condoms should never be attached to a presumption that the carrier is intending to commit a crime.

It is particularly important that sex workers have access to condoms. Sex workers may face increased risk for sexually transmitted diseases and HIV, because of their number of sexual partners and the sometimes vulnerable situations in which they must make decisions. The police should never confiscate for use as "evidence" the very tools sex workers use to keep themselves and their sexual partners safe. Sex workers should not be discouraged from carrying condoms for fear of arrest and conviction.

This legislation is important to protect safer sex choices in general, and to prevent sex workers from being penalized for using protection against sexually transmitted diseases and HIV. For these reasons the Sex Workers Project of the Urban Justice Center respectfully requests your support of this legislation.