

Statement in Support of S1289-A (Montgomery)/ A3856 (Clark) Prohibiting the Practice of Introducing Condom Possession as Evidence of Prostitution

June 9, 2010

We the undersigned write to express our support for S1289-A (Montgomery)/ A3856 (Clark), and strongly urge the New York State Legislature to pass this important legislation. Existing law authorizes prosecutors to introduce the possession of condoms as evidence of prostitution and prostitution-related offenses. This practice undermines public health efforts to combat sexually transmitted diseases and infections and puts the public health of New Yorkers at risk.

S1289-A/ A3856 would prohibit prosecutors from introducing the possession of condoms as evidence of prostitution and prostitution-related offenses. Police officers commonly confiscate condoms possessed by those they stop and arrest because they are allegedly engaging in prostitution offenses. Prosecutors can and do use these confiscated condoms as evidence of intent to engage in prostitution-related activity. As a result, those most at risk of sexually transmitted diseases and infections fear carrying condoms. Deterring these individuals from carrying condoms, particularly those who are actually engaged in exchanging sex for money or shelter – runs counter to sound public health policy.

The responsible use of condoms is an essential element of a sound public health policy designed to prevent sexually transmitted diseases and infections. Increased awareness and condom use has helped to reduce the spread of sexually transmitted diseases and infections such as Chlamydia, genital herpes, gonorrhea, hepatitis B, syphilis, and HIV/AIDS. In New York State, the use of condoms has been especially effective in helping to reduce the rate of transmission of HIV/AIDS. Unfortunately, the risk of transmission remains unacceptably high. According to a 2008 report by the Centers for Disease Control, the battle against HIV is far from over, with an estimated 56,300 new infections reported in the U.S. in 2006 alone.¹ New York State continues to be one of the states with the highest rates of new HIV infection, making continued education and promotion of condom use especially important.²

Recognizing this threat, New York has an aggressive public health campaign that promotes responsible condom use. In New York City specifically, the city has distributed free condoms to the public since 1971. In 2007, the city bolstered its efforts to promote safer sex practices by launching the New York City Condom Campaign which has dramatically increased public awareness and the number of free condoms distributed to the public. Thirty six million condoms were handed out in 2007 alone. Cleverly designed condom wrappers that encourage the public to carry and use the condoms have become ubiquitous, and it is common for New Yorkers and tourists alike to grab handfuls of them at a time. The current policy of using condom possession

¹ Centers for Disease Control and Prevention, CDC HIV/AIDS Facts, "New HIV Incidence Estimates: CDC Responds," September 2008, available at: <http://www.cdc.gov/hiv/topics/surveillance/resources/factsheets/pdf/response.pdf>

² Henry J. Kaiser Family Foundation, Fact Sheet, "The HIV/AIDS Epidemic in the United States," September 2009, available at: <http://www.kff.org/hivaids/upload/3029-10.pdf>

as evidence of criminal activity undermines efforts to promote safer sex practices that are critical to preventing the transmission of diseases and infections.

It is imperative for the government to provide the public with the information and resources to engage in responsible sex practices. Decriminalizing the possession of condoms is necessary if the health of New Yorkers is to be protected, and we therefore urge New York State's Legislature to pass S1289-A/ A3856.

Sincerely,



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CitiWide Harm Reduction

Community Healthcare Network

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The Foundation for Research on Sexually Transmitted Diseases, Inc. (FROST'D)

Harm Reduction Coalition

HIV Health and Human Services Planning Council of New York.

Immigration Equality

Lower East Side Harm Reduction Center

NARAL Pro-Choice New York

National Organization for Women-New York State

New York City Anti-Violence Project

Planned Parenthood of Nassau County, Inc.

Planned Parenthood NYC

Planned Parenthood of the North Country New York

Planned Parenthood of the Rochester/Syracuse Region

Planned Parenthood of South Central New York

Praxis Housing Initiatives Inc.

Public Health Solutions

The Space at Tompkins

Upper Hudson Planned Parenthood

Washington Heights CORNER Project

Westchester Coalition for Legal Abortion – Choice Matters