

THIRD PARTIES AND THE LAW

By and for sex workers
Living and working in safety
and dignity



This document should not be taken as legal advice. This is a tool offered to sex workers so that we may improve living and working conditions. This information is not intended to influence anyone to commit illegal acts.

March 2015

WHO ARE THIRD PARTIES?

Third Parties are people who work, or associate with, sex workers (receptionists, drivers, security, business owners, managers, bookers, webmasters, etc.). Sex workers can also be Third Parties when they provide these services for another sex worker.

In sex work, a Third Party is an individual who supervises, controls or coordinates an aspect of our work (what, when, where or how we do it) and receives money – or something else – in exchange.

REMEMBER

Third Parties have always been criminalized.

Under the old laws, they were criminalized for “keeping a bawdy-house” (s.210) and for “procuring” (s.212) – especially for “living on the avails of prostitution”.

These criminal offences no longer apply.

HOWEVER, Third Parties are still criminalized by the following new criminal offences:

- **“Procuring”** (same name, different law)
- **“Receiving a material benefit”**
- **“Advertising sexual services”** (See *Advertising and the Law*)
- **Communicating in certain public areas for the purposes providing sexual services** (see *Communicating and the Law*)

Third Parties also risk prosecution for participating in the purchase of sexual services.

1. PROCURING: The Offence

Section 286.3 makes it a crime for anyone to:

Procure someone to offer sexual services for consideration

Exercise control, direction or influence over a sex worker's movements

Recruit, hold, conceal, or harbour a sex worker for the purpose of facilitating their sex work

Note: “For consideration” means in exchange for something: money, drug, goods, etc.

This offence is extremely broad and affects many people, especially Third Parties who facilitate communication with clients – whether by phone, in public, by email or via websites – and people who work in management. This can include people sex workers work for, as well as people sex workers hire.



1. PROCURING: The Sentence

Procuring is always an **indictable offence** (more serious than a summary offence):

There is no minimum sentence

The maximum sentence is 14 years in prison

If the offence involves a sex worker who is a minor:

The minimum sentence is 5 years in prison

The maximum sentence is 14 years in prison

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We accept collect calls from people who are detained or incarcerated.
We offer services in English and French.

2. RECEIVING A MATERIAL BENEFIT: The Offence

Section 286.2 of the law makes it a crime to “receive a material benefit” from a sex worker, particularly money, knowing that the benefit comes from sex work, directly or indirectly.



There are “exceptions” in the law that make this offence complicated to understand. These “exceptions” list categories of people who can't be prosecuted for this offence.

But Third Parties who fall within one of these “exceptions” are automatically excluded if they receive a benefit “in the context of a commercial enterprise that offers sexual services for consideration”. They can be prosecuted.

The definition of a “commercial enterprise” is extremely large and may include all situations in which a financial profit is made, regardless of how many people are involved in the enterprise.

Note: “For consideration” means in exchange for something: money, drugs, goods, etc.

Who CAN'T be prosecuted for “receiving a material benefit”?

A sex worker can't be prosecuted for receiving a material benefit in exchange for her own sexual services.

BUT none of the “exceptions” below apply to a Third Party who provides a good or service in exchange for a material benefit “in the context of a commercial enterprise that offers sexual services for consideration.”

“THE EXCEPTIONS”

You cannot be prosecuted for receiving a material benefit:

- In the context of “a legitimate living arrangement”, such as your spouse, common-law partner or roommate. (*See Friends, Family and the Law*).
- As a result of a **legal or moral obligation**, such as children or adults legally under your care. (*See Friends, Family and the Law*).
- For providing you with a **good or service that they offer to the general public on the same terms and conditions**. For example, a security guard or a driver who works for a company outside of the sex industry.
- For providing you with a **good or service that they DO NOT offer to the general public**, if they:
 - Receive a material **benefit that is proportional** to the value of their good or service; and
 - **Do not counsel or encourage you to provide sexual services**.

For example, someone rents you a room for the same price that they would charge someone who is not a sex worker.

Who CAN be prosecuted for “receiving a material benefit”?

- Anyone who receives a benefit in the context of a “commercial enterprise that offers sexual services for consideration;” or
- Anyone who:
 - Is also prosecuted for “procuring;” or
 - Provides drugs or alcohol to encourage or assist a sex worker to offer services; or
 - Abuses a position of trust, power or authority in relation to a sex worker; or
 - Threatens to use violence, intimidation or coercion, towards a sex worker.



2. RECEIVING A MATERIAL BENEFIT: The Sentence

Receiving a material benefit is always an **indictable offence** (more serious than a summary offence):

- There is no minimum sentence
- The maximum sentence is 10 years in prison

If the offence involves a sex worker who is a minor:

- The minimum sentence is 2 years in prison
- The maximum sentence is 14 years in prison

IMPACTS

If you hire, or work for, a Third Party who works in the sex industry:

- They may understand the industry and have the knowledge and skills necessary to ensure your safety and other needs – but they will be criminalized.

If you hire someone who DOES NOT work in the industry:

- They will not be familiar with the industry and will not have the knowledge and skills necessary to ensure your safety and other needs – but they may be protected by the “exceptions.”

It is illogical and harmful to criminalize all Third Parties who work in the sex industry. Third Parties are essential to set up effective security measures to improve the way we work. These laws criminalize the people we work with or for, and they prevent us from having work relationships that enhance our health and safety.

It is also unrealistic and unfair to think that all sex workers have the means necessary to hire their own security and other staff. We are not victims, but we are also not all independent entrepreneurs.

Sex workers can and should be able to determine for ourselves, what relationships we want to establish.

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