

This card explains sex work-specific criminal offences to help you understand when you are involved in criminal activity. This may help inform your decisions and capacity to work safely.

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. It is not intended to influence anyone to commit illegal acts.

revised March 2023

# THIRD PARTIES AND THE LAW

## WHO ARE THIRD PARTIES?

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




A third party may supervise, influence, control, coordinate or support an aspect of our work (e.g., what, when, where or how we do it). They may offer different services to help us do our work, and they may or may not receive money or something else in exchange.

Before Dec. 2014, third parties were prosecuted for “keeping a bawdy-house” (s.210) and for “procuring/living on the avails of prostitution” (s.212).

Now, third parties can be prosecuted for:

- “Procuring” (same name, different law)
- “Receiving a material benefit”
- “Advertising” (See *Advertising and the Law*)
- Selling sexual services in public (see *Public Space and the Law*)

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



If you are charged with a criminal offence, the Crown (govt. lawyer) must show evidence to convince the judge or jury that you committed it.

**No matter where you are or what legal exceptions may apply, any time you speak to police you are making a statement.** This statement is evidence that can be used to charge and prosecute you or other people (e.g., people you live with, dealer/seller, client, partner, members of community or family). It could be used in your trial, in someone else's trial, or to influence someone to plead guilty or to provide information.

## 1. PROCURING: The Offence

Section 286.3 describes procuring as anyone who:

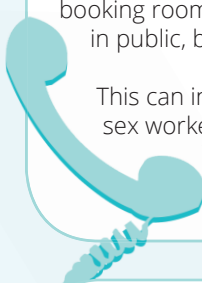
Procures someone to offer sexual services for consideration

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

Recruits, holds, conceals, or harbours a sex worker to facilitate the purchase of their services

Yet what this means is up to the courts to interpret. Some court decisions have broadly defined “procuring” as “facilitating the purchase of someone else's sexual services”.

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



The definitions of procuring are very broad and affect many third parties who assist with organizing someone else's sex work. It can include various services and types of support, such as facilitating communications and meeting with clients, and booking rooms, travel and appointments - whether by phone, in public, by email or via websites.

This can include people sex workers work for, people sex workers hire, or other people in sex workers' lives. The offence does not require that the third party receives money or other compensation.

## 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 (less than 18 yrs old):

The minimum sentence is 5 years in prison

The maximum sentence is 14 years in prison

### CONTACT US FOR MORE INFORMATION OR SUPPORT

2065 Parthenais Street (North of Ontario Street)  
Suite 404, Montreal (QC) H2K 3T1  
Frontenac Metro  
www.chezstella.org

Phone : (514) 285 – 8889

For collect calls from women detained in the Montreal area:  
(514) 285 – 1145

## 2. RECEIVING A MATERIAL BENEFIT: The Offence

Section 286.2 makes it a criminal offence to "receive a material benefit" from sex work.

A material benefit can include money, drugs, goods, etc.

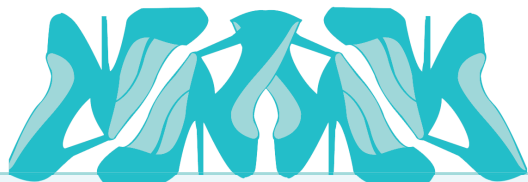
This offence is complicated because there are "EXCEPTIONS" that list categories of third parties who CANNOT be prosecuted for this offence, but there are also "EXCEPTIONS TO THE EXCEPTIONS" (see below). **Third parties who fall within one of the "exceptions to the exceptions" CAN be prosecuted.**



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

BUT, remember that prosecution is not the only legal consequence of involvement in a criminal activity. Because sex work is criminalized, even if you can't be prosecuted you may be at risk of surveillance, having your belongings or money seized, being evicted from the place where you see clients, loss of immigration status and other harms.

Also, being a sex worker does not mean you cannot be prosecuted for providing third party services to another sex worker—you can still be prosecuted if one of the "EXCEPTIONS TO THE EXCEPTIONS" apply to you.



## "THE EXCEPTIONS to the EXCEPTIONS"

You CAN be prosecuted for "material benefit" IF you received a "benefit" (profit) for providing a good or service to a sex worker AND you also:

- "engaged in conduct that would constitute procuring"; OR
- received a benefit "in the context of a commercial enterprise that offers sexual services for consideration" (commercial enterprise can include all contexts where someone makes a financial profit from another's sexual services); OR
- provided drugs or alcohol to encourage or assist a sex worker to offer services; OR
- abused a position of trust, power or authority; OR
- threatened to use or used, violence, intimidation or coercion, towards a sex worker.



## "THE EXCEPTIONS"

You CANNOT be prosecuted for "material benefit" IF you received it:

- In the context of "**a legitimate living arrangement**", such as your spouse, common-law partner or roommate. (See *Friends, Family and the Law*); OR
- As a result of a **legal or moral obligation**, such as children or adults legally under your care. (See *Friends, Family and the Law*); OR
- For providing a **good or service that you offer to the general public on the same terms and conditions**. E.g., taxi driver, security guard who works for a security company; OR
- For providing a **good or service that you DO NOT offer to the general public AND you**:
  - Received a material **benefit that is proportional** to the value of the good or service; and
  - **Did not counsel or encourage** the sex worker to provide sexual services.

## 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 (less than 18 yrs old):

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

## IMPACTS

Third parties who work in the sex industry have knowledge and skills necessary to ensure our safety and other needs. They are essential to set up effective security measures to improve our working conditions.

These laws criminalize the people we work with or for, push us into isolation and prevent us from having work relationships that enhance our health and our physical and economic security.

It is 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.

### ALSO AVAILABLE IN THIS SERIES

- |                                     |   |
|-------------------------------------|---|
| I. ADVERTISING AND THE LAW          | VI. ARREST AND DETENTION                    |
| II. THIRD PARTIES AND THE LAW       | VII. POLICE POWERS:<br>IN-CALL AND OUT-CALL |
| III. CLIENTS AND THE LAW            | VIII. IMMIGRATION STATUS AND SEX WORK       |
| IV. OUR FRIENDS, FAMILY AND THE LAW | IX. WORKING WITHOUT CANADIAN<br>CITIZENSHIP |
| V. PUBLIC SPACE AND THE LAW         |   |