

## **Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024**

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**Submitted by:** SIN

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***Promoting the health, rights, and wellbeing of SA sex workers.***

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SUBMISSION TO QUEENSLAND PARLIAMENTARY COMMITTEE RE: Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024

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To the Committee Secretary

*Thank you for the opportunity to provide this submission regarding current sex industry law reform initiatives in Queensland, namely the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024.*

***This submission supports the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024.***

SIN is a peer-based organisation funded to promote the health, rights, and wellbeing of sex workers in South Australia. We are funded within the Sexually Transmissible Infection (STI) and Blood Borne Virus (BBV) sector to provide best practice service delivery within a harm reduction framework. Funded by SA Health since 1986 as an arm of the now defunct AIDS Council of SA, SIN became an independent and incorporated entity in 2017. SIN's ethos is to be informed, always, by the needs of the sex work community. We value strong community ownership of our programs and seek to build capacity and power within our cohort. Sex work is real work, and legislative frameworks must always align with this principle.

As stated, this submission supports the legislative reform proposed by the Decriminalising Sex Work Bill. Decriminalisation has been evidenced to provide the best health and wellbeing outcomes for sex workers and we applaud the Queensland Government for recognising the importance of implementing this legislation.<sup>1</sup> Outdated and archaic laws that seek to criminalise or license the sex

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<sup>1</sup> Kim, J 'Decriminalisation of sex work: the evidence is in' (2015).

<https://healthequitymatters.org.au/article/decriminalisation-sex-work-evidence/>



industry are out of step with contemporary ideals, evidence-based research, and the needs of sex workers around the world. The current Queensland model of sex work regulation has failed, and an alternative must be implemented.

Part 1 - SIN encourages QLD policy makers to implement the Decriminalising Sex Work Bill as soon as possible; no later than the 1<sup>st</sup> of July 2024. Queensland sex workers have been subject to unjust laws and extreme barriers to seeking justice for an excessive amount of time. Any delay in commencement of this legislation puts sex workers at risk and maintains the harms and barriers inherent in the current legislative framework. Addressing this legislative change with urgency should be part of the Government recognising the daily impact of the current laws. It has been almost twelve months since the Government indicated its support of the Queensland Law Reform Commission report that recommends these changes.<sup>2</sup>

Part 2 - In reference to the Anti-Discrimination Act, we support the amendments around attribute definition changes, i.e. lawful sexual activity to sex work activity. Sex work activity provides more scope under the Act than lawful sexual activity as this attribute protects both the activity of doing sex work as well as protecting a person who provides (or has provided) sex work services. Further to this amendment, we would recommend the removal of the term “adult” from Clause 6 (a). Retaining “adult” in this clause may inadvertently create space for discrimination against people who fall outside of this age bracket, as well as removing anti-discrimination protections. We also support Clause 5, repealing the lawful discrimination exemption 106C as sex workers who have toured Queensland have described to us the many ways that lawful discrimination undermines their ability to undertake their work without significant barriers. Our organisation's submission to the Queensland Human Rights Commission review of the Anti-Discrimination Act review supported both changes.

Parts 3 & 7 - The scope of decriminalisation should not be limited by local councils/local government. We support laws that prevent councils from banning sex industry establishments or sex work in their respective areas, like the provisions in Victoria. SIN supports policies that promote sex worker safety. i.e. the ability to work independently in collectives or in small groups. We recommend that sex workers be able to work in this way without having to seek council approval. Unfortunately, councils have demonstrated the inability to act without discriminatory approaches in relation to the sex industry.<sup>3</sup>

Part 4 – Amending the Criminal Code to repeal the entire chapter relating to sex work as a criminal offence is strongly supported by SIN. This section (ch 22A) includes punitive and harmful legislation that is the most often used charge against sex workers in Queensland. SIN have heard from both sex workers in South Australia who have toured Queensland but also Queensland based sex workers presenting about the extensive impact these laws have on sex workers, the barriers to community connection and accessing justice they create.<sup>4</sup>

Part 6 – Amendment of the Liquor Act 1992. SIN supports the removal of Police in any regulatory or co-regulatory role. The inclusion of Police as regulators in the sex industry creates an unworkable dynamic. Historic and systemic stigma, discrimination, harassment, and targeting of sex workers by

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<sup>2</sup> <https://statements.qld.gov.au/statements/97621>

<sup>3</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2826908](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2826908)

<sup>4</sup> [Sex worker safety should be sexy NOT criminal #DecrimQLD](#)

Police has made any working relationship untenable. Police must be removed as regulators from the sex industry and replaced with other appropriate mechanisms (fair work, office of industrial relations).

Stripping is considered a sector of the sex industry. If strippers are omitted from this legislation, the Bill is effectively leaving a large portion of the sex industry cohort behind. Strippers will not reap the benefits of decriminalisation if not included in the scope of the legislation. We encourage a review of the Liquor Act and Adult Entertainment Code with a view to ensuring adult entertainers (strippers) are included and covered by decriminalisation. Police should not be regulators of any component of the sex industry and while we appreciate this Bill removes a component of this, the Police Commissioner role in the development of the Bill, this should extend to removing police from regulation of these locations.

Part 9 – SIN supports a review of the proposed legislation in 4 – 5 years. It must be noted, however, that any review must be undertaken in consultation with the Queensland state-based sex worker peer organisation, Respect Inc, and the national sex worker organisation, Scarlet Alliance. The review must be informed by the needs and experiences of sex workers and should have a Workplace, Health, and Safety focus. Respect Inc and Scarlet Alliance have the greatest reach of any organisation or group in respect to sex worker engagement and feedback and must be broadly consulted in any review.

Part 10 – SIN strongly supports the repeal of the Prostitution Act 1999. Repealing this Act removes the current licensing system (and the subsequent need for the Prostitution Licensing Authority), advertising guidelines, public health laws like mandatory testing and mandated condom use, street-based sex work prohibition, and other definitions within the legislation that prevent sex workers from working in pairs or in groups/co-ops. The laws included in the Prostitution Act 1999 are punitive, archaic, harmful, and discriminatory. Sex workers have been evidenced to be the safer sex experts (Lancet Report [INSERT LINK?](#)) and targeted legislation requiring STI/BBV testing and mandating condom use are unnecessary and discriminatory. Mandatory condom use laws are difficult and costly to enforce, and in Queensland have led to police use of entrapment. The approach creates barriers to sex workers' access to health and justice services.

Laws that preclude sex workers from working with others undermine our safety strategies while simultaneously promoting isolation, alienation, and harm. The Prostitution Act 1999 has created a two-tiered system that sees some businesses and sex workers working outside of the law. Evidence has shown that only a small percentage of the industry are able to comply with licensing legislation; it's important to note that the most vulnerable members of our cohort are often unable to comply. The Act positions the Police as regulators of non-compliance, criminalises every other sex industry business model, precludes sex workers from working together, and applies criminal charges to sexual health activities (condom use and STI/BBV testing).

Evidence has shown that criminal sanctions in sexual health spaces does not work; the provision of peer-based education and information as provided by SIN in South Australia and Respect in Queensland has been shown, alternatively, as best practice. As the Queensland Law Reform Commission notes 'Research shows sex workers take care of their sexual health, have high levels of

voluntary uptake of safer sex practices, and do not have rates of sexually transmissible infections (STIs) that are higher than the general population'.<sup>5</sup>

The Eighth National HIV Strategy and the Fourth National Sexually Transmissible Infections Strategy recognise voluntary testing not mandatory testing as best practice and explicitly identifies mandatory testing of sex workers as a key barrier to evidence-based prevention, access to testing and healthcare services. Mandatory testing 'endorses a false sense of security in the form of a "certificate", which, due to window periods, doesn't confirm a sex worker's sexual health status, but instead just indicates that the sex worker has participated with the states' mandatory testing regime. Mandatory testing places an unnecessary burden on sexual health clinics which are already beyond capacity. Sex workers in need of access to sexual health service quickly are particularly marginalised by mandatory testing regimes. The cost of over-testing is high - screening sex workers for HIV every 12 weeks costs \$4mil for every one HIV infection averted.<sup>6</sup> An Australian study of the cost benefit of mandatory testing in Australia recommended that testing should not be 'locked by legislation'.<sup>7</sup>

Part 11 – Child Employment Act 2006. SIN supports the removal of the term "social escort" from this Act. We understand the term was developed when policy makers sought to identify and fill potential gaps in legislation without effective consultation with the sex industry. As a result, laws were developed which are fantastical and are not in line with sex industry practices. Removal of this term aligns the Act with other legislation where the term has been repealed.

Other matters – SIN strongly supports the inclusion of expungement or spent conviction inclusions in Queensland as part of future legislative change. Expungement of historic sex work offences reduces discriminatory impacts on sex workers moving forward. This is an important inclusion that removes barriers for sex workers seeking Police clearances for other employment, as well as removing existing barriers associated with criminal records for sex work related offences. Decriminalisation will not be complete until expungement laws are legislated.

SIN also supports the implementation of an awareness program designed, run, and facilitated by Respect Inc as the state's peer-based sex worker organisation. Once decriminalisation has commenced, Respect Inc will be best placed to inform and educate sex workers on the nuances and impacts of the law. We support and suggest additional funding be channeled to Respect Inc to undertake this program in addition to a program to address stigma and discrimination against sex workers in Queensland once legislative barriers have been removed.

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<sup>5</sup> QLRC. A decriminalised sex-work industry for Queensland, report summary (2023) p. 3  
<https://documents.parliament.qld.gov.au/tp/2023/5723T542-6BD0.pdf>

<sup>6</sup> Wilson, D. P., Heymer, K.-J., Anderson, J., O'connor, J., Harcourt, C., & Donovan, B. (2010). 'Sex workers can be screened too often: a cost-effectiveness analysis in Victoria, Australia'. *Sexually transmitted infections*. 86(2).

<sup>7</sup> Ibid.