

**Ending the Epidemic Task Force
Committee Recommendation
CR35**

Recommendation Title: Ensuring Access to Condoms by Adopting a Comprehensive Ban on the Use of Condoms as Evidence in All Prostitution and Trafficking-Related Offenses

1. **For which goal outlined in the Governor’s Plan to end the epidemic in New York State does this recommendation apply?** Other – Ensuring that those who are most vulnerable to HIV and STDs are able to protect themselves with condoms without fear that possession of condoms will be used against them.

2. **Proposed Recommendation:** Current law permits a person’s possession of condoms to be offered as evidence of prostitution and trafficking-related offenses. Police sometimes confiscate condoms as contraband, and the fact that a person is carrying condoms can be used as a basis for suspicion, arrest, prosecution, or even eviction. As a result, individuals most in need (especially low income women of color and lesbian, gay, bisexual, transgender, or questioning (LGBTQ) people) are discouraged from carrying and using condoms, undermining state efforts to limit the spread of HIV and other STDs, even in the cases of exploitation. It is critical that a comprehensive statutory ban be implemented that would affect not only those carrying the condoms but also outreach workers who work with those at risk communities and who are also being criminally charged with promoting prostitution. Criminal Procedure and Civil Practice Law and Rules should be amended to prohibit evidentiary use of condoms as probable cause for arrest and in legal proceedings related to prostitution and trafficking offenses and there should be consistency throughout the state. Most people who carry condoms are not sex workers, but ensuring that everyone is able to carry and use condoms – particularly if they engage in sex work – as it reduces harm to individual health and harm to the general public. Public health advocates have been seeking this essential law reform since 1993 and have faced unwavering opposition year after year; the ending the epidemic initiative makes this the most opportune time and rationale to reverse this trend.

List of key individuals, stakeholders, or populations who would benefit from this recommendation

- People (Women, gay, bisexual, men who have sex with men and transgender individuals) from low income communities and communities of color.
- Vulnerable populations at highest risk for HIV and criminalization including sex workers



List of measures that would assist in monitoring impact

- It is anticipated that these measures will reduce public health costs due to increased prevention of HIV transmission and eliminating costs associated with the confiscation of condoms that are distributed by public health agencies with the use of public funds and reduce costs to public safety, courts and corrections due to reduction and the frequency and extent of law enforcement and criminal justice system interactions with at risk Individuals.
3. **Would implementation of this recommendation be permitted under current laws or would a statutory change be required?** Statutory change required for decriminalization of condoms.
 4. **Is this recommendation something that could feasibly be implemented in the short-term (within the next year) or long-term (within the next three to six years)?** Can be implemented in the short term.
 5. **Please list the TF numbers of the original recommendations that contributed to this current version:** TF49, TF82, TF176, TF219, TF227.

