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**Sex Work Related Provisions**

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| Criminal Code Provision | Explanation |
| Communicating for the purpose of prostitution, s.213  | It is an offence to stop or attempt to stop a vehicle or people to offer, provide or obtain sexual services in a public space, or any space that is open to public view (even if this space is private property). Example: You could be charged for approaching a vehicle and enquiring if the people in it are interested in your services regardless of whether the vehicle is on the street or in a private garage that is visible to the public.  |
| Purchasing Sexual Services, s. 286.1 | It is an offence to communicate with anybody for the purpose of purchasing sexual services. Sex workers are protected from being charged under this provision for the sale of their own sexual services. However, a sex worker can be charged under this provision for participating in the purchase of another sex worker if the sexual service involves more than their own services.Example: You could be charged for communicating with another sex worker to provide group sex services.  |
| Material Benefit Offence, s. 286.2 | It is an offence to benefit financially or materially when the money or materials have been obtained through the sex work of others. Anyone who lives or is normally in the company of someone who does sex work is assumed to be receiving financial or material benefit from sex work. This provision does not apply to individuals who receive financial or material benefit from:* Legal living arrangement (e.g. landlord, roommates)
* To pay for legal or moral obligations (e.g. supporting a disabled parent, making child support payments, gifts)
* To pay for services or goods that the general population has access to (e.g. accountants, taxi services, lawyers)
* To pay for services that are not typical to the general public if the individuals receiving the financial or material benefit are not encouraging or directing the sex work (e.g. babysitting, bodyguards).

Although a sex worker is protected from being charged under this provision for living off their own profits, you can be charged for receiving financial benefit by working with another sex worker.Example: Engaging in group sexual services and dividing the profit.  |
| Procuring, s. 286.3 | It is an offence to recruit or acquire someone to engage in sex work. It is also an offence to hold, conceal, influences, or exercise control over an individual with the goal of facilitating the purchase of sex work.Only one of the various listed actions must be committed to be charged under this offence. Example: You could be charged under this offence for introducing an individual to potential managers, clients, or venues, or for talking with another individual on how to get involved in sex work. All these actions could be considered ‘recruiting’ or ‘procuring’.This being said, it could be possible to challenge procurement charges if the accused is able to demonstrate that the complainant was in fact in complete control of their own decisions, had not experienced physical nor psychological damage, had not provided any material benefit to the accused, and was engaging in sex work out of their own desire. |
| Advertising*,* s. 286.4 | Everyone who knowingly advertises an offer to provide sexual services for consideration is guilty of an offence.Sex workers are protected from being charged under this provision as long as the advertisement is for their own sex work. However, any act in facilitating, assisting or posting another sex-worker’s advertisement is illegal regardless of whether the complainant had requested or consented to that act. Example: posting an advertisement with another individual or linking another person’s advertisement on one’s own advertisement could be enough to be charged under this provision.  |

**Non-Sex Work Related Provisions that May Impact Sex Workers**

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| Criminal Code Provision | Explanation |
| Counselling to commit a criminal offence, s. 22 | It is an offence to give advice to someone on how to commit a crime. The offence occurs even if the person giving advice is not part of the crime, or if the person committing the offence does so in a way different from what was suggested.Example: You could be charged under this provision for advising a co-worker to carry mace for self-protection as mace is considered a weapon, and as listed below, carrying a weapon is an offence.  |
| Carrying weapons, s. 89 & 90 | Unless there is a lawful excuse, it is an offence to carry a weapon, prohibited device, or any type of ammunition while in public. It is also an offence to conceal a weapon, prohibited device, or any type of ammunition unless authorized under the *Firearms Act.* Example: You could be charged for carrying items such as mace, pepper spray, kitchen knives and even a studded wristband for self protection. These items are considered weapons.  |
| Willfully obstructing a peace officer, s. 129 and Obstructing justice, s. 139 | It is an offence to obstruct in any way the justice process. This includes purposefully preventing a police officer from doing their job. Example: You could be charged for using a different name when asked by a police officer, providing fake ID when asked for identification by a police officer, preventing a police officer from entering premises when they have the appropriate documentation, destroying evidence, or bribing witnesses.  |
| Perjury, s. 131, 132, 133, 134, and 136 | It is an offence to purposefully mislead a person authorized by law (e.g. judge, police officer) by making false statements under oath or any legal declaration such in affidavit or deposition regardless of what your role is in the preceding (e.g. accused or acting as a witness). In order to be charged under this provision, there needs to be more than one witness or one witness along with other evidence.  |
| Pubic mischief, s. 140 | It is an offence to purposefully mislead a police officer by:* making false statements that accuses another person for an offence,
* divert suspicion from oneself,
* reporting an offence when an offence has not been committed, or
* making it known that they or another person has died when the person or themselves are not in fact dead.
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| Sexual interference, s. 151 | It is an offence for a sexual purpose to touch, directly or indirectly, any body part of a person under the age of 16. This offence includes touching the body of the underage person with an object.  |
| Invitation to sexual touching, s. 152 | It is an offence to advise or encourage a person under the age of 16 to touch, directly or indirectly, themselves or others for a sexual purpose. This offence includes touching the body of the underage person with an object.  |
| Sexual exploitation, s.153 | It is an offence for a person who is in a position of trust or authority to a person 16 or younger to:* Touch directly or indirectly any part of the body of the underage person for a sexual purpose. This touching includes touch with objects, or
* To encourage or invite the young person to touch, directly or indirectly, themselves or others for a sexual purpose.
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| Obscenity, s. 163 | It is an offence to make, print, publish, distribute, circulate, or possess for the purpose of publication or circulation any obscene: written material, picture, audio/video recording or any other material. Example: You could be charged for creating and distributing any material listing sexual services in detail or creating promo videos depicting potential services.  |
| Child Pornography, s.163.1 | It is an offence to make, distribute, possess or access child pornography. Child pornography includes any written material, audio recording, photographs or films that depicts an individual under the age of 18 where their sexual organs are visible, they are in any sexual pose, or engaging in any sexual activity. Example: You could be charged for assisting an underage sex worker in taking photos for potential advertisements even if it was requested by the underage sex worker.  |
| Immoral theatrical performance, s. 167 | It is an offence for a tenant, manager, agent or person in charge of a theater to allow the presentation of any performance or act that is indecent or obscene. It is also an offence to participate in any way with the indecent or obscene act.  |
| Corrupting children, s. 172 | If there is a child at home, it is an offence to engage in ‘immoral’ sexual acts (including adultery), habitual drinking, or any other type of vice which could make this home unfit or put at risk the morals of the child. This means that you could be charged for conducting sex work in your own home if a child lives in the same home.  |
| Indecent act in a public place, s.173 | It is an offence to purposefully do an indecent act in public, or to do an indecent act in any place with intent to offend or insult somebody. A public place includes private property that is visible to the public.It is also an offence to expose one’s genitals to a person under the age of 16 for a sexual purpose regardless of whether this happens in a private or public setting. Example: You could be charged for performing a sexual act in front of an uncovered window.  |
| Nudity, s.174 | It is an offence to be nude in a public place or in a private place that has public view. The Ontario Court of Appeal has ruled that women can be topless in public. However, various municipalities have different policies regarding this matter which has resulted i n women being stopped by law enforcers.  |
| Causing a disturbance, s. 175 | It is an offence to cause a disturbance in or near a public place by:* fighting, screaming, shouting, swearing, singing, or using insulting or obscene language,
* being drunk or intoxicated,
* impeding or molesting other people,
* making an indecent exhibition, or
* loitering and obstructing people in any way.

It is also an offence to disturb the peace and quiet of a residence, whether one is allowed or not in the residence, by using firearms or engaging in other disorderly conduct.  |
| Duties of persons to provide necessaries, s.215 | It is an offence:* as a parent, foster parent, guardian or head of the family, to not provide for all the necessities a dependant under the age of 16 needs to live,
* as a spouse or common law partner, to not provide the essential necessities for a person to live, and
* as a person responsible for an individual, regardless of age, who is unable to care for themselves, to not provide the essential necessities for a person to live.
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| Child abandonment, s. 218 | It is an offence to abandon a child, under the age of 10, in a place or situation that would put the child’s life or health at risk. |
| Personation with intent, s. 403 | It is an offence to purposefully pretend to be another person, regardless if this person is dead or alive, with the intention of: * gaining some type advantage for themselves or others,
* gaining property or interest in any property,
* causing disadvantage to another person, or
* avoiding arrest/prosecution or obstruct justice in any way.
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