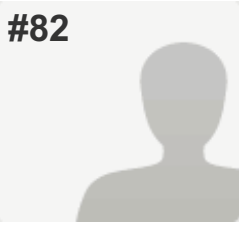


# Ending the Epidemic Task Force Recommendation Form

#82



**COMPLETE**

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**Q1: OPTIONAL: This recommendation was submitted by (please provide your first and last name, affiliation, and email address)**

First Name	Mark
Last Name	Hammer
Affiliation	New York State Department of Health AIDS Institute

**Q2: Title of your recommendation** Eliminating condoms as evidence in prostitution-related proceedings

**Q3: Please provide a description of your proposed recommendation**

New York's Criminal Procedure Law should be amended so that condoms may not be admitted into evidence for criminal trials, hearings or other proceedings for prosecution of prosecution (Criminal Law Section 230.00) or oitering for the purpose of engaging in a prostitution offense (Criminal Law Section 240.37).

**Q4: For which goal outlined in the Governor's plan to end the epidemic in New York State does this recommendation apply? (Select all that apply)**

Other (please specify)  
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.

**Q5: This recommendation should be considered by the following Ending the Epidemic Task Force Committee (Select all that apply)**

Prevention Committee: Develop recommendations for ensuring the effective implementation of biomedical advances in the prevention of HIV, (such as the use of Truvada as pre-exposure prophylaxis (PrEP)); for ensuring access for those most in need to keep them negative; and for expansion of syringe exchange, expanded partner services, and streamlined HIV testing by further implementing the universal offer of HIV testing in primary care, among others. The Committee will focus on continuing innovative and comprehensive prevention and harm reduction services targeted at key high risk populations, as well as grant-funded services that engage in both secondary and primary prevention.

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**Q6: Does this recommendation require a change to an existing policy or program, or the creation of a new policy or program?**

New policy

**Q7: Would implementation of this recommendation be permitted under current laws or would a statutory change be required?**

Statutory change required

**Q8: 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)?**

Within the next year

**Q9: What are the perceived benefits of implementing this recommendation?**

Without exception we encourage sexually active individuals to use condoms so as to protect themselves and their sexual partners from HIV and sexually transmitted diseases. Unfortunately possession of condoms has been used as evidence in prostitution-related offences. This has a chilling effect on the use of condoms by sex workers, those perceived to be sex workers, and others because of the fear that that protection will lead to arrest and or harassment.

**Q10: Are there any concerns with implementing this recommendation that should be considered?**

None. This policy has already been implemented without problems in New York City through support of the mayor and the New York Police Department. We now need statewide implementation through a change in the law.

**Q11: What is the estimated cost of implementing this recommendation and how was this estimate calculated?**

None

**Q12: What is the estimated return on investment (ROI) for this recommendation and how was the ROI calculated?**

Individuals who may have been afraid to carry condoms out of fear of harassment or criminal prosecution will no longer have this concern. There is a positive return on investment--not only from HIV and STD cases averted, but also from avoiding baseless criminal proceedings.

**Q13: Who are the key individuals/stakeholders who would benefit from this recommendation?**

Sex workers  
Individuals perceived to be sex workers  
Individuals who patronize sex workers  
Criminal justice system (fewer baseless prosecutions)

**Q14: Are there suggested measures to accompany this recommendation that would assist in monitoring its impact?**

Continued emphasis with sexually active individuals that condoms are a good means of protecting themselves and their sexual partners.

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**Q15: This recommendation was submitted by one of the following** Other (please specify) AIDS Institute staff

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**Q16: I acknowledge and agree with this recommendation being publicly posted on the AIDS Institute's website** Yes

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**Q17: Would you like to be added to the bi-monthly Ending the Epidemic Community Call email list?** Yes,  
If yes, please provide your email address  
Mark.Hammer@health.ny.gov