



HEALTHY BODY

California's New Stealthing Law Gives Survivors Legal Language to Describe Their Experiences



Fortesa Latifi • October 8, 2021



Photo: Stocksy / Trinette Reed



After trying to persuade her to forgo using a condom, Helen's* hookup finally agreed to wear one. She remembers he "wasn't thrilled," but she insisted: She told him he'd have to use a condom or they wouldn't have sex. He acquiesced, but when they finished having intercourse, Helen realized he had removed it without her permission.

What happened to Helen—nonconsensual condom removal—is called stealthing, and it's not uncommon. Nonconsensual condom removal was first given widespread attention in 2017 when a Yale University law student, Alexandra Brodsky, published a paper in the *Columbia Journal of Gender and Law*. Brodsky called stealthing "[an act] experienced by many as a grave violation of dignity and autonomy." A 2019 study published in *Women's Health Issues* surveyed 503 women and found that 12 percent had experienced stealthing. Another study published the same year in *Health Psychology* surveyed 629 men and found 10 percent of the respondents admitted to stealthing.

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Helen says she didn't confront her partner when she realized he removed the condom, and it took time for her to recognize the action was harmful. "I didn't know how to tell him I wasn't okay with that," she says. A year later, after reflecting on the encounter with friends and partners and reading online discourse about the harms of stealthing, Helen says she realized that not only was what happened to her wrong—it was assault.

Historically, there have been no legal ramifications specifically for nonconsensual condom removal, and no way for victims to find justice in the United States. Existing sexual assault laws vary from state to state, but the Rape, Abuse, & Incest National Network (RAINN) says that "consent often plays an important role in determining whether an act is legally considered a crime."

In the case of stealthing, perpetrators rob victims of their consent. This is why advocates against sexual violence are pushing to make nonconsensual condom removal illegal—and California just officially became the first state in the country to codify the offense.

California Assembly Bill 453 passed unanimously in the state Senate and Assembly, and Governor Gavin Newsom signed it into law late Thursday evening. The law adds stealthing to California's civil definition of sexual battery, opens legal avenues for those who experience it, and hopefully sets a legal precedent that other states might follow.

Under this law, stealthing will be a civil offense as opposed to a criminal one. And while victims will face a lower burden of proof that comes with civil claims, someone charged with stealthing could be subject to a fine or penalty but will not face jail time.

There's immense value in this law, but Helen says that she's not sure she would've come forward or press charges had a stealthing law existed. She imagines that law enforcement would've been less than sympathetic to her sexual assault claim because other aspects of her encounter were consensual, she says.

Helen's concerns about fear of being believed or judged even though she was the victim of a nonconsensual sexual act isn't unusual, says Jennifer Long, a lawyer with AEquitas Resource, a nonprofit organization that focuses on examining prosecution practices related to gender-based violence and human trafficking. "We hear so many times from survivors how they feel blamed either by friends or family...or law enforcement or in a courtroom," Long says. Even in criminal sexual assault cases, detractors may ask what the victim was wearing at the time of the assault; they may claim the victim was "asking for it," or they may devalue the victim by shining the spotlight on the perpetrator and their "once-promising" future.

“There are so many ways sexual partners can harm someone, and the more ways we codify that harm into laws, the better for survivors.” — Lauren Palumbo, National Sexual Violence Resource Center

Additionally, the tendency to blame the victim doesn’t only come from the outside world; victims may inadvertently blame themselves, too. But, Long says it’s important to remember that the only person at fault is the perpetrator. No one has a right or reason to assault anyone. “The things that we do that make us vulnerable do not make us at fault,” Long says.

Blame and fear of judgment aren’t the psychological impacts of stealthing. Research suggests that victims contend with anxiety about sexually transmitted infections (STIs) and pregnancy, and are left to manage feelings of confusion, anger, disrespect, and betrayal.

When Brooke* was stealthed, her partner used the casual nature of their hookup against her. “I noticed the condom was gone, and I called him out on it,” she says. Brooke told him wearing a condom at her request was a matter of respect, and he said he didn’t have to respect her because they were engaging in a one-night stand. With years of hindsight, Brooke says she realizes that his logic wasn’t sound, but at the time, she thought it made sense. “I sort of gaslighted myself into thinking that was okay,” she says.

Back then, Brooke didn’t know that there was a word for what happened to her or that other people dealt with stealthing as well. “This is sad, but I think once I learned it happened to other people and not just me, I decided it wasn’t okay,” she says. “Once I learned that I deserved the bare minimum of consent, I was able to go back and view [that] night as an assault.”

And this, perhaps, is one of the most powerful aspects of the law, which will recognize stealthing as an act of sexual violence. “I’m quite tired [of] how people tend to categorize different types of

sexual assault and intimate partner violence as ‘better’ or ‘worse’ or on some type of scale,” Brooke says. “It all sucks.”

Broadening our cultural understanding of sexual assault is critical in pushing for positive change, says Lauren Palumbo, the communications director at the National Sexual Violence Resource Center. “There are so many ways sexual partners can harm someone, and the more ways we codify that harm into laws, the better for survivors,” she says.

The law might also be a deterrent to anyone considering stealthing a sexual partner, says Long. “The role of the law, in this case, besides bringing awareness, would be hopefully preventing people from engaging in that behavior,” she says.

And for victims of stealthing, it may bring hard-won clarity to once hazy experiences. As Helen says, she now knows that in a sexual situation, she has the right to say yes or no to all aspects of a sexual encounter, and if that right is taken from her—as was the case when she experienced stealthing—it’s assault and should be legally treated as such.

**Names have been changed upon request*

EXPERTS REFERENCED

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