

SB 357 (Wiener) – Safer Streets for All Act: Repeal Loitering for Intent to Engage in Sex Work

SUMMARY

Senate Bill 357 repeals California Penal Code Section 653.22, the law that criminalizes loitering for the intent to engage in sex work. The law has contributed to discrimination on the basis of gender, race, class and perceived sex worker status – in particular, targeting Black women and members of the transgender community. By repealing § 653.22, Senate Bill 357 would protect vulnerable populations from discriminatory enforcement.

BACKGROUND

Section 653.22 of California Penal Code makes it an offense to loiter in public places with the intent to commit a prostitution related offense. This section outlines non-exhaustive circumstances that law enforcement may use to determine if someone intends to engage in sex work, such as speaking with other pedestrians or being in an area where sex work has occurred before.

Black women and members of the trans community face disproportionate enforcement of the anti-loitering law.

In Los Angeles, CA, **27.3%** of the sex work related arrests between 2017-2019 were for § 653.22 charges¹. Among the § 653.22 charges, Black adults accounted for **56.1%**² of the charges despite only making up 8.9% of the city's population.³ Moreover, women accounted for **67.1%** of all § 653.22 charges – and women might be underrepresented here given the data set possibly counts many trans women as males.⁴

In Pomona, CA, Black youth (ages 11-24) account for only 6% of the population but experienced **75.5%** of all sex work related arrests⁵ between 2016 and mid-2020.⁶ Black women, in particular, were charged with sex work related crimes at a rate nearly **11 times**

higher than their proportion to the overall population.⁷ Finally, the **second most common charge** for 18 to 25 year-olds, and the third most common charge for all ages, were § 653.22 charges.⁸

In one study from Compton, CA, Black adults accounted for **72.3%** of those charged under § 653.22 despite only comprising 30.9% of the population.⁹ Cis and trans women comprised **100%** of these arrests.¹⁰

PROBLEM

Due to the broad subjective nature of the language that criminalizes loitering for the intent to engage in sex work, its enactment has resulted in the disproportionate targeting of Black and Brown transgender women. This offense permits law enforcement to stop and arrest people for discriminatory reasons, such as wearing revealing clothing while walking in an area where sex work has occurred before. Stigma is further reinforced when anyone is arrested and cited for this offense due to the difficulties securing employment and safe housing with an arrest record relating to sex work.

SOLUTION

SB 357 will repeal provisions of the law that criminalize loitering for the intent to engage in sex work. It is a vital step towards ending discriminatory policing and prioritizes the health and safety of Black, Brown, transgender and gender nonconforming individuals.

SB 357 will also enable persons who have been convicted of loitering with the intent to commit prostitution to clear their records.

¹ See generally, Gaffney, Maggie, Simon Shered, Michelle Zhang, and Ilan Zhur. "Tracing Criminalization: Policing and Prosecution in LA, 2017-2019." UCLA Law, 2019.

² *Id.*

³ See www.census.gov/quickfacts/losangelescitycalifornia

⁴ See generally, Gaffney, Maggie, Simon Shered, Michelle Zhang, and Ilan Zhur. "Tracing Criminalization: Policing and Prosecution in LA, 2017-2019." UCLA Law, 2019.

⁵ This figure includes arrests for engaging in prostitution, soliciting prostitution, and loitering for prostitution among other sex crimes.

⁶ Haro, B. N. & Guzman, F., Jr. (2021). Pomona Police Department's Crusade Against Youth and Women of Color. Pomona, California. Gente Organizada.

⁷ *Id.*

⁸ *Id.*

⁹ See Demeri J., Derek. "Policing of People in the Sex Trades in Compton: Analysis of Section 653.22 Clients." Law Offices of Los Angeles County Public Defender, 2019.

¹⁰ *Id.*

SUPPORT

- Positive Women's Network - USA (co-sponsor)
- St. James Infirmary (co-sponsor)
- SWOP LA (co-sponsor)
- Trans Latin@ Coalition (co-sponsor)
- Asian Pacific Islander Legal Outreach (co-sponsor)
- ACLU California Action (co-sponsor)
- Equality California (co-sponsor)
- Adult Industry Laborers & Artists Association
- Anti-Defamation League
- APLA Health
- Bay Area Sex Worker Advocacy Network
- Best Practices Policy Alliance
- California Attorneys for Criminal Justice
- California Women's Law Center
- Californians for Safety and Justice
- Californians United for a Responsible Budget (CURB)
- Center for LGBTQ Economic Advancement & Research (CLEAR)
- City of West Hollywood
- Coalition to Abolish Slavery and Trafficking (CAST)
- Community Health Project Los Angeles
- COYOTE RI
- Decriminalize Sex Work
- Desert AIDS Project Health
- Dignity and Power Now
- Drug Policy Alliance
- Ella Baker Center for Human Rights
- Erotic Service Providers Legal, Education and Research (ESPLER) Project
- Free Speech Coalition
- Fresno Barrios Unidos
- Green Party of California
- If/When/How: Lawyering for Reproductive Justice
- Initiate Justice
- Legal Aid at Work
- Legal Services for Prisoners with Children
- Los Angeles District Attorney's Office
- Los Angeles LGBT Center
- LYRIC Center for LGBTQQ Youth
- MPact Global Action for Gay Men's Health & Human Rights
- National Center for Lesbian Rights (NCLR)
- National Council of Jewish Women - Los Angeles
- National Harm Reduction Coalition
- National Juvenile Justice Network
- Religious Coalition for Reproductive Choice of California
- San Francisco AIDS Foundation
- San Francisco District Attorney's Office
- Sex Workers Project of the Urban Justice Center
- Scientists for Sex Worker Rights
- SWOP Behind Bars
- Sharmus Outlaw Advocacy and Rights (SOAR) Institute
- Strippers United Inc.
- Transgender, Gender-Variant, & Intersex Justice Project
- Transitions Clinic Network
- UCSF Alliance Health Project
- US PROSTITUTES Collective
- United States People Living with HIV Caucus
- We the People - San Diego
- Women's Foundation California
- Young Women's Freedom Center

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