

10-14-2021

A Safer and More Liberating World for Sex Workers

Nicholas Kimura

Follow this and additional works at: https://digitalcommons.law.ggu.edu/ggu_law_review_blog



Part of the [Civil Rights and Discrimination Commons](#), and the [Sexuality and the Law Commons](#)

GGU Law Review Blog



🕒 OCTOBER 14, 2021 💬 NO COMMENTS

A Safer and More Liberating World for Sex Workers



Photo by [Lena Balk](#) on [Unsplash](#)

A legacy of Jim Crow is finally coming to an end in California with the repeal of penal code section 653.22, a law that has been used to criminalize Black and trans bodies in public spaces. In response to a sustained campaign by Black and Brown trans women and sex workers, the State Legislature has passed SB 357, the [Safe Streets For All Act](#). The passage of this monumental bill is the result of a remarkable undertaking by community members who are often ignored by policy makers—sex workers and trans women of color. Currently, the bill awaits presentation to the Governor for his signature, the last step in a long effort by some of California’s fiercest advocates to protect sex workers from violence and harassment by police.

Justifications for Legislative Action

Enacted in 1995, [penal code 653.22](#) prohibits loitering “with the intent to commit prostitution.” In the midst of the War on Drugs, California enacted the statute as part of broader legislative revisions aimed at controlling people who engaged in the sale of drugs or sex work. Today, however, the law is recognized as giving the police pretext to detain and arrest people for a wide variety of noncriminal conduct. The law makes it a crime to “linger” in a public area with the intent to “commit prostitution,” with such benign conduct as stopping to engage in conversation with a passerby becoming grounds for a misdemeanor. The disparate effects of the law are plainly apparent: in Los Angeles [Black people were over 50% of the people arrested](#) under the law, even though they represent only 8.9% of the city’s population. Despite the wide breadth of non-criminal conduct this law covers, it has survived challenges in California courts, being held as neither vague nor overbroad, perfectly in line with the State and Federal Constitutions. What started as an anti-loitering law has evolved into a “[weapon to discriminate](#) against and harass Black and trans sex workers simply for existing in public.”



Liberty

&

Justice

for

ALL!

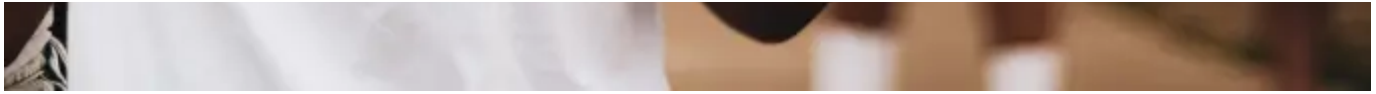


Photo by [LOGAN WEAVER](#) on [Unsplash](#)

In recent years, violence against trans women of color has come to the forefront of public discourse. In 2020, there was a **record number of fatal attacks** against transgender and gender non-conforming people. This year the numbers are more devastating. Even with increased visibility of trans people, **the death toll is rising**, and we are set to surpass levels of violence from previous years. Trans women of color are particularly affected by the violence, facing a **greater chance of being killed** than the rest of the trans or cis population. Police are also responsible for disproportionate levels of violence against the trans community. When interacting with the police, transgender people are at a **much higher risk of becoming victims of police violence**. These statistics were heavily cited by activist groups and played a major role in forcing the legislature to act.

The author of SB 357, State Senator, Scott Weiner, cited the “**terrifying epidemic** of violence against trans women of color” as a primary justification for this new legislation. Many other legislators agree. Assemblymember Bryan supported SB 357 as a chance to **correct the “mistake”** of criminalizing the existence of trans women of color in the public sphere. Recognizing that the anti-trans law **did not make the LGBTQ community any safer**, Assemblymember Bauer-Kahan also supported the repeal of the criminal statute through the passage of SB 357. Coming to terms with the harm the current criminal statute inflicts on trans women, lawmakers have overwhelmingly voted to send the new bill to the Governor.

SB 357

The foundation of this legislation rests on the **tireless advocacy of sex workers** in California. A coalition of community groups stretching up and down the coast of the state joined forces to bring this legislation to lawmakers and continuously pressured legislators to ensure passage through several committees and two legislative chambers. San Francisco sent some of their most dedicated advocates to create and push for SB 357: **Saint James Infirmary** and the **Transgender Gender-variant and Intersex Justice Project**. Other sponsors of the legislation include the ACLU, Equality California, and Sex Workers Outreach Project Los Angeles. A primary concern uniting these groups was the disproportionate criminalization of Black and Brown trans women caused by the criminal laws in California, part of a historical legacy perpetuating violence towards sex workers.

SB 357 will repeal California’s own “Walking While Trans” law, and would no longer make it a crime to loiter with the intent to engage in sex work. The bill also seeks to give people previously convicted under the law an opportunity to seal their records—an important win for many struggling with the burden of a criminal record which negatively impacts their ability to acquire employment and housing. As SB 357’s **author stated**: “laws should protect the LGBTQ community and communities of color, and not criminalize sex workers, trans people and Brown and Black people for quite literally walking around or dressing in a certain way.”

While there was significant support in communities up and down California, SB 357 faced opposition from many legislators and law enforcement officials. A common refrain from opponents of the bill is that its passage will put “**young girls**” and victims of sex trafficking at greater risk of exploitation. These opponents are concerned that the bill will offer legal protections for people who force women into sex work. Additionally, some law enforcement groups believe the bill will take away the ability for police to protect victims. For opponents there is no recognition that many

sex workers participate in their work freely and autonomously, instead the opponents portray all sex workers as people being taken advantage of and in need of protection by law enforcement.

This collective resistance has paid off for opponents. Scott Weiner has held off presenting SB 357 to the Governor for a signature until January, 2022. This strategic decision was made in order to lobby the Governor's office and to present a stronger case of why this bill should be enacted as law. With several months remaining, the historic passage in the legislature will depend on the decision of the Governor and whether or not he believes this is a proper policy decision for California and its residents.

Future of Sex Work in California

While the author of SB 357 indicates that the bill is not meant to decriminalize sex work in the State, many advocates hope that decriminalization will be the ultimate result. Groups like [Decriminalize Sex Work](#), who also participated in SB 357's passage, have been pushing for stronger legislation to not only protect street-based sex workers but to give legal rights to all sex workers, regardless of the circumstances they work under. They believe that a movement towards healthy and safe work conditions for sex workers requires complete decriminalization.



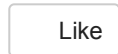
Photo by [Jon Tyson](#) on [Unsplash](#)

For now, sex work remains a crime in California, for both solicitors and buyers. With the passage of SB 357, however, advocates are hopeful that the police will no longer be able to arbitrarily target already marginalized people, and that trans women of color will be given what they deserve: the right to **“exist in public peacefully without fear of arrest.”**

Share this:



Like this:



Be the first to like this.

Nicholas Kimura

Nicholas Kimura is a queer person, abolitionist, and aspiring public defender. He is set to graduate from Golden Gate University School of Law in 2023, and he hopes to remain in San Francisco to join the long lineage of activist lawyers who came before him.



Leave a Reply

This site uses Akismet to reduce spam. [Learn how your comment data is processed.](#)

Search blog

Archive