



Legislation Text

File #: CB 119808, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City’s criminal code; removing the crime of prostitution loitering and associated references in the Seattle Municipal Code; amending Sections 12A.10.070 and 12A.10.100 and repealing Section 12A.10.010 of the Seattle Municipal Code.

WHEREAS, sex workers are a population that is at high risk of trafficking, abuse, and exploitation, consisting largely of marginalized women; and

WHEREAS, this status has been recognized through characterization of sex workers involved in the criminal legal system as victim-defendants; and

WHEREAS, despite identification as a vulnerable population, research about similar ordinances in other jurisdictions has shown that these laws are enforced in an arbitrary and discriminatory way and have a disproportionate impact on women of color, both cis- and transgender; and

WHEREAS, involvement in the criminal legal system exacerbates already unmet needs; and

WHEREAS, the harms of arrest and incarceration exposes sex workers to physical and sexual harm as well as further trauma; and

WHEREAS, the understanding and recognition of sex work as a legitimate form of work is continually evolving; and

WHEREAS, in 2015, the Council passed Resolution 31637, creating a workgroup to examine how the City could assist formerly incarcerated persons “reenter” their communities; and

WHEREAS, the Reentry Workgroup released its final report in October 2018, which included seven strategies and recommendations to reduce barriers for people living with criminal history; and

WHEREAS, one of the strategies to reduce incarceration costs and system involvement is to decriminalize; and

WHEREAS, the Reentry Workgroup “recommends the City move away from reliance on the criminal legal system to address behaviors related to poverty, illness, and oppression....[and] aim to reduce the criminalization of poverty and the disproportionate representation of Black and Indigenous individuals, other targeted communities of color, and people with disabilities within Seattle’s criminal legal system” and “instead develop responses that do not burden individuals with criminal history or the trauma of incarceration;” and

WHEREAS, among the specific recommendations within a decriminalizing strategy is to repeal the crime of prostitution loitering; and

WHEREAS, in response to the concerns raised by the Reentry Workgroup, the City Attorney decided to decline to prosecute prostitution loitering; and

WHEREAS, while declining to prosecute is an important first step, as long as the crime still exists in the Seattle Municipal Code, a change in leadership or policy in the City Attorney’s Office could result in renewed prosecution of prostitution loitering; and

WHEREAS, to prevent future prosecution of prostitution loitering and eliminate the opportunity for further disproportionality and harm in the criminal legal system, removing prostitution loitering from the Seattle Municipal Code is a key next step; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.10.010 of the Seattle Municipal Code, last amended by Ordinance 120887, is repealed:

~~((12A.10.010 Prostitution loitering.~~

~~A. As used in this section:~~

~~1. "Commit prostitution" means to engage in sexual conduct for money but does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public.~~

~~2. "Known prostitute or procurer" means a person who within one (1) year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted in Seattle Municipal Court of an offense involving prostitution.~~

~~3. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.~~

~~B. A person is guilty of prostitution loitering if he or she remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution.~~

~~C. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he or she:~~

- ~~1. Repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation; or~~
- ~~2. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or~~
- ~~3. Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to stop pedestrians; or~~
- ~~4. Is a known prostitute or procurer; or~~
- ~~5. Inquires whether a potential patron, procurer or prostitute is a police officer, searches for articles that would identify a police officer, or requests the touching or exposing of genitals or female breasts to prove that the person is not a police officer.))~~

Section 2. Section 12A.10.070 of the Seattle Municipal Code, last amended by Ordinance 125881, is amended as follows:

12A.10.070 Mandatory fee for defendant convicted of or entering into a diversion agreement or deferred prosecution for a prostitution-related offense or indecent exposure; forfeiture of funds used as part of

prostitution-related offenses

* * *

E. The fee assessed and collected under subsection 12A.10.070.A shall be collected by the clerk of the court and remitted and subject to the use and distribution conditions of RCW 9A.88.120(4). Any fee assessed under subsection 12A.10.070.B and the portion of any fine imposed upon a defendant convicted of a violation of Section ((12A.10.010,)) 12A.10.020((5)) or 12A.10.060, or RCW 9A.88.110 under Section 12A.09.020, that is retained by the City shall be collected by the clerk of the court or the Director of Probation Services and shall be deposited in the Sex Industry Victims Fund. Monies forfeited under subsection 12A.10.070.D shall be deposited in the Vice Enforcement/Money Laundering Forfeiture Account.

Section 3. Section 12A.10.100 of the Seattle Municipal Code, last amended by Ordinance 116896, is amended as follows:

12A.10.100 - Urinating in public((-))

* * *

B. "Public place" as used in this Section 12A.10.100 ((has the meaning defined in Section 12A.10.010 A3)) means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

* * *

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2020, and signed by

me in open session in authentication of its passage this ____ day of _____, 2020.

President _____ of the City Council

Approved by me this ____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this ____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)