

San Francisco Bay View

California repeals discriminatory loitering for prostitution law

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by Rachel West, US PROStitutes Collective

There is a wave of change in the US on the rights of sex workers and it is growing. A slew of laws challenging the criminalization of sex work are being put forward around the country and New York, Seattle and now California have repealed legislation which made loitering for prostitution illegal.

Credit for these victories must first of all go to the decades of grassroots sex worker-led organizing. But it is also a victory for the movements against criminalization of poverty, mass incarceration and LGBTQ+ movements that the bills were passed on the basis of highlighting the sexist, racist, transphobic implementation of the law.

In New York, trans women of color were at the forefront of the campaign for repeal. The loitering law was labeled the "Walking While Trans law" because of the obvious prejudice that saw Black and Latinx women, especially trans women, make up 91% of arrests.

In Seattle, grassroots organizing led to the City Council in 2020 unanimously approving bills repealing prostitution loitering and drug trafficking loitering on the grounds that the laws had a disproportionate and negative impact on communities of color.

In California, US PROStitutes Collective (US PROS), a multi-racial network of sex workers and former sex workers and one of the longest standing sex worker organizations in the US, has been spearheading the fight for decriminalization for decades.

US PROS was founded by a group of Black women in New York as NYPROS in 1978 and became a national organization in 1982. From the start, US PROS distinguished itself in that it was grounded in anti-racism and brought together women who worked on the street and those who worked inside and called not only for decriminalization but for money in women's hands and housing and other resources so that sex workers could leave prostitution if and when they wanted.

US PROS highlighted how the prostitution laws undermine safety by forcing sex workers into more dangerous work environments. It is also the only sex worker led organization to actively support the work of the [Black Coalition Fighting Back Serial Murders](#) which has been campaigning for decades for Black women's lives to be valued and for justice and police accountability for the over 200 Black women in Los Angeles who are dead or missing.

The victims were referred to by some in law enforcement as NHIs (No Humans Involved). Pointing to the racist implementation of the prostitution laws, US PROS has highlighted figures that show that Black people nationally make up 42% of all prostitution arrests while being only 13.2% of the population.

Most sex workers are mothers struggling to support their families.

Making the connection with others struggling against criminalization including homeless people, young people, so-named substance abusers and prisoners, as US PROS did, especially in a campaign for compensation for victims of violence, was crucial in widening the campaign against the prostitution laws.

The *Safer Streets for All Act* (SB 357), repealing loitering for the intent to engage in prostitution (California Penal code § 653.22), was signed into law by Gov. Newsom on July 1. This code has led to the criminalization of otherwise legal activities like walking or standing in public, resulting in the harassment of Black and Brown, LGTBQ+ communities, mostly women, for simply looking like a "sex worker." The bill also allows a person convicted of loitering to petition a court for the dismissal and sealing of records.

Both Sen. Wiener, who introduced the legislation, and Gov. Newsom, who signed it, made reference to the inherent discrimination of the law and mentioned that Black people accounted for over 56% of loitering charges between 2017-2019 in Los Angeles despite only making up less than 10% of the city's population.

US PROS celebrated along with other sex workers and spelled out the impact:

"This is a massive victory which will go a long way in curtailing police powers which have been used in a sexist, racist and often illegal way against sex workers and others who could be labelled as 'prostitutes.' It means, for example, that one woman in our network who was charged over 25 times including for loitering, just on some occasions for walking to the grocery store or associating with friends who were sex workers, can petition to have those

convictions taken off her record. Criminal records prevent women getting other jobs and leaving prostitution. And it means that the police officers who targeted her for harassment and arrest can no longer use the loitering law as a cover for an abuse of power.”

The repeal of the loitering law comes in the aftermath of some other victories in California documented in US PROS campaigning [booklet](#).

US PROS’ statement in support of the Safer Streets for All Act, highlighted the correlation between arrests of women of color for loitering and communities with high levels of poverty. Women and children make up 73% of poor people in the US, disproportionately women of color.

Most sex workers are mothers struggling to support their families. The penalty for loitering includes imprisonment for up to six months. How many of the 80% of women in prison who are mothers are there because they refused poverty and sold sex to feed their children? How many then risked losing custody of their precious children to racist fast track adoptions. Repealing the loitering law will therefore directly contribute to ending mass incarceration and the trauma of family separation.

The repeal of the loitering law comes in the aftermath of some other victories in California documented in US PROS campaigning [booklet](#). One is the break through legislation (SB 233) passed in 2019, which prohibits the arrest of someone for prostitution and misdemeanor drug offenses when reporting violence and prohibits the police from using condoms as evidence of prostitution.

Another was the repeal of discriminatory rules in the California Victim Compensation program, which excluded sex workers and formerly incarcerated people.

A recent [report](#) from UCLA Gould School of Law shows how anti-trafficking operations by law enforcement have little or no impact on the fight against trafficking.

These victories grew out of the historic [San Francisco Task Force on Prostitution](#) in the 1990s, which US PROS was a member of, and which made comprehensive recommendations for decriminalization of sex work.

The main opponents to the Safer Streets for All Act were law enforcement and some other groups who claimed that it would make it harder to arrest traffickers. Yet, evidence shows that quite the opposite is the case.

A recent [report](#) from UCLA Gould School of Law shows how anti-trafficking operations by law enforcement have little or no impact on the fight against trafficking, result in round ups and arrests of sex workers, and are violent and traumatizing with women of color most impacted. Few if any victims of trafficking are found and those that are don’t get the help they need.

Repealing these laws against sex workers is a step towards full decriminalization which has the support from the majority of voters in the US. But other change is needed starting with addressing the horrendous poverty suffered by women and children in the US in particular.

US PROS is part of the Bay Area's Poor People's Campaign: A National Call for Moral Revival, which has mobilized a mass movement and succeeded in putting poverty on the political agenda. We are also part of an international campaign demanding a [Care Income](#) for the work of caring for people and the planet. If mothers had an income for the work of caregiving, they would have alternatives to turning to prostitution to survive. We are also helping circulate a [Mother's Survey](#): What Mothers and Other Caregivers Want. Please contact us for more info on these initiatives.

US PROStitutes Collective is part of the International Prostitutes Collective with sister groups Empower in Thailand and the UK English Collective of Prostitutes. US PROS helps run the In Defense of Prostitute Women's Safety Project, a self-help community resource advocating to end violence against sex workers. Rachel West and USPROS can be reached at uspros@prostitutescollective.net. Visit USPROS online at www.uspros.net.