



Legislation Text

File #: Res 1444-2020, **Version:** A

Res. No. 1444-A

Resolution calling on the New York State Legislature to pass, and the Governor to sign, a bill to amend the criminal procedure law to allow violations for Loitering for the Purpose of Engaging in a Prostitution Offense (PL § 240.37) to be sealed and have the law apply retroactively.

By Council Members Rivera, Rosenthal, Kallos, Gibson and Ayala

Whereas, Penal Law section 240.37, Loitering for the Purpose of Engaging in a Prostitution Offense, penalizes merely appearing to be engaged in such an offense, an inherently problematic and vague standard that invites discriminatory enforcement; and

Whereas, In fact, the enforcement of this law disproportionately targets Black and Latina women and transgender women of color; and

Whereas, Eighty percent of people who were arrested under the law in 2018 were women, and of that, forty-nine percent were Black and forty-two percent were Latina, according to the New York State Division of Criminal Justice Services; and

Whereas, In 2013 and 2014, the nonprofit organization Red Umbrella Project found that in a Brooklyn court, over ninety percent of defendants charged under the law were Black; and

Whereas, Section 240.37 remains in the Penal Law even as Governor Cuomo has publicly supported repealing this statute; and

Whereas, The collateral consequences stemming from an arrest, violation or conviction for criminal offenses are severe; and

Whereas, People who are arrested or convicted for Loitering for the Purposes of Engaging in

Prostitution can lose their employment and housing; and

Whereas, Undocumented individuals who are arrested or convicted for Loitering for the Purposes of Engaging in Prostitution can be subject to deportation as immigration law disqualifies individuals from adjusting their immigration status if they have been arrested or convicted on a prostitution offense; and

Whereas, These collateral consequences overwhelmingly burdens Black and Latina women and transgender women of color as they are disproportionately subjected to enforcement of this problematic statute; and

Whereas, Under Criminal Procedure Law section 160.55, New Yorkers are prohibited from sealing their violations for Loitering for the Purpose of Engaging in a Prostitution Offense; and

Whereas, This is one of only two violations in New York State law that can never seal under the statute; and

Whereas, This prohibition only exacerbates the burdens a violation for Loitering for the Purposes of Engaging in a Prostitution Offense carries; and

Whereas, To reduce some of the needless burdens imposed on New Yorkers with Penal Law 240.37 Offense violations, the New York State Legislature should amend Criminal Procedure Law 160.55 to permit New Yorkers to seal their violations for this offense; and, now therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, a bill to amend the Criminal Procedure Law to allow violations for Loitering for the Purpose of Engaging in a Prostitution Offense to be sealed and have the law apply retroactively.

KMD
LS15942
9/25/2020

CGR
12/7/2020