

April 22, 2025

Assemblymember Nick Schultz  
Chair, Assembly Public Safety Committee  
1020 N Street, Room 111  
Sacramento, CA 95814

**RE: Opposition to AB-63 as amended 3/27/25 (Rodriguez) Recriminalizing “loitering”**

Dear Chair Schultz:

On behalf of the Woodhull Freedom Foundation, I write to express my strong opposition to AB 63 (Rodriguez). AB 63 would revive a flawed law, California Penal Code § 653.22, to criminalize loitering with the intent to engage in prostitution. Law enforcement used the past iteration of Penal Code § 653.22 to disproportionately target and criminalize people of color, LGBTQ+ individuals, and those experiencing poverty, under the pretext of public safety. Given these facts, the Legislature repealed the law in 2022. There is no reason to revive this faulty policy through AB 63.

Public records paint a clear picture that Penal Code § 653.22 was a tool police used to harass marginalized communities:

- o In Los Angeles, Black adults made up over half of the people arrested under this provision, even though they are only 8.9% of the city’s population.<sup>1</sup>
- o In Pomona, Black youth accounted for 75.5% of sex work-related arrests between 2016 and 2020, even though they are only 6% of the population. The second most common charge for people 18-25 years old was charges related to 653.22.<sup>2</sup>
- o Women accounted for 67.1% of all Penal Code § 653.22 charges in Los Angeles. Notably, women may have been underrepresented in this study as the data set possibly counts many trans women as males.<sup>3</sup>
- o In a separate study of enforcement in Compton, cis and trans women comprised **100%** of Penal Code § 653.22 arrests.<sup>4</sup>

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<sup>1</sup> Maggie Gaffney, Simon Sherred, Michelle Zhang, & Ilan Zur. “Tracing Criminalization: Policing and Prosecution in LA, 2017-2019.” UCLA Law, 2019.

<sup>2</sup> Blanca Haro & Frank Guzman, Jr. *Pomona Police Department’s Crusade Against Youth and Women of Color*. Pomona, California. Gente Organizada (2021).

<sup>3</sup> Gaffney, et al.

<sup>4</sup> Derek Demeri, Los Angeles Public Defender, *Policing of People in the Sex Trades in Compton: Analysis of Section 653.22 Clients* (2019).

Law enforcement's use of loitering statutes like Penal Code § 653.22 to profile transgender women of color as sex workers was so pervasive that the term “walking while trans” was coined to describe this phenomenon.<sup>5</sup>

The same vagueness in Penal Code § 653.22 that led to disparate policing also led to ineffective prosecutions. In Los Angeles County, charges related to Penal Code § 653.22 were rejected at higher rates than other penal code provisions related to sex work — nearly one in three “loitering with intent” charges were rejected due to lack of sufficient evidence.<sup>6</sup> This dismissal rate is almost three times higher than other penal code provisions that criminalize sex work, including laws that criminalize sex sellers and sex buyers.<sup>7</sup> Penal Code § 653.22 was an ineffective policing tool by every measure.

Notably, and unlike the previous iteration of Penal Code § 653.22, AB 63 would codify discriminatory enforcement by explicitly allowing gender identity or sexual orientation to be a factor in arrest, in clear violation of California's civil rights laws. Proposed Penal Code § 653.22 (d) reads: “Law enforcement shall not make an arrest pursuant to this section against an individual *solely* based on their perceived gender identity or sexual orientation.” (emphasis added). By restricting arrests based “solely” on gender identity or sexual orientation, AB 63 green-lights arrests based in part on gender identity or sexual orientation. The Legislature should not reintroduce this tremendously biased policing tool to California via AB 63.

There is little evidence that arrests by law enforcement help reduce loitering with intent, or that victims are provided any support when stopped by police. Using arrest as a means to provide “support” harms survivors of trafficking. Consequently, the federal [Bureau of Justice Assistance](#), which funds anti-trafficking task forces, prohibits the use of their funds for arresting purchasers of commercial sex in most cases or arresting sex workers as a means of identifying victims of trafficking. More fundamentally, police do not need to arrest or charge someone with a crime to offer assistance.

Instead of reviving old, problematic policies that we know do not reduce human trafficking, the Legislature should prioritize comprehensive, survivor-centered solutions that address the root causes of trafficking. True systemic support requires long-term investments in housing, economic opportunities, and voluntary, trauma-informed services, not an increase in discriminatory policing of marginalized communities.

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<sup>5</sup> Leonore F. Carpenter & R. Barrett Marshall, *Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof*, 24 Wm. & Mary J. Women & L. 5, 6 (2017).

<sup>6</sup> Gaffney, et al.

<sup>7</sup> *Id.*



*Affirming Sexual Freedom as a Fundamental Human Right*

[woodhullfoundation.org](http://woodhullfoundation.org)

For these reasons, we strongly urge you to oppose AB-63.

Sincerely,

A handwritten signature in black ink that reads "Ricci Joy Levy".

Ricci Joy Levy  
President & CEO  
Woodhull Freedom Foundation

CC: Members of the Assembly Public Safety Committee