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Legislation Details (With Text)

File #: SO2017-8319

Type: Ordinance **Status:** Passed

File created: 11/15/2017 **In control:** City Council

Final action: 6/27/2018

Title: Amendment of Municipal Code Title 8 by adding new Section 8-4-016 governing prostitution-related loitering, repealing Section 8-8-050 and modifying Section 8-8-060 regarding solicitation for prostitution

Sponsors: Ervin, Jason C., Zalewski, Michael R., Munoz, Ricardo, Scott, Jr. Michael, Moore, David H., Curtis, Derrick G., Lopez, Raymond A., Burnett, Jr., Walter

Indexes: Ch. 4 Public Peace & Welfare

Attachments: 1. SO2017-8319.pdf, 2. O2017-8319.pdf, 3. O2017-8319 (V1).pdf

| Date | Ver. | Action By | Action | Result |
|------------|------|----------------------------|----------------------|--------|
| 6/27/2018 | 1 | City Council | Passed as Substitute | Pass |
| 6/22/2018 | 1 | Committee on Public Safety | Recommended to Pass | |
| 4/24/2018 | 1 | Committee on Public Safety | Add Co-Sponsor(s) | |
| 4/24/2018 | 1 | Committee on Public Safety | Held in Committee | |
| 11/15/2017 | 1 | City Council | Referred | |

SUBSTITUTE ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 8-4-016 of the Municipal Code of Chicago is hereby created, inserting the language below, as follows:

8-4-016 Prostitution-related loitering.

a) Whenever a police officer observes one or more persons engaged in prostitution-related loitering in any public place designated for the enforcement of this section under subsection (b), the police officer shall: (i) inform all such persons that they are engaged in loitering within an area in which such loitering is prohibited; (ii) order all such persons to disperse and remove themselves from within sight and hearing of the place at which the order was issued; and (iii) inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further prostitution-related loitering within sight or hearing of the place at which the order was issued during the next eight hours.

b) The Superintendent of Police shall by written directive designate areas of the city in which enforcement of this section is necessary because the areas are frequently associated with prostitution-related loitering. Prior to making a determination under this subsection, the Superintendent shall consult as he or she deems appropriate with persons who are knowledgeable about the effects of prostitution-related activity in areas in which this section may be enforced. Such persons may include, but need not be limited to, members of the Department of Police with special training or experience related to prostitution-related activity; other personnel of that Department with particular knowledge of prostitution-related activities in the proposed designated area; elected and appointed officials of the area; community-based organizations; and participants in the Chicago Alternative Police Strategy who are familiar with the area. The Superintendent shall develop

and implement procedures for the periodic review and update of designations made under this subsection.

c) As used in this section:

1) Prostitution-related loitering means remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to facilitate prostitution as defined in 720 ILCS 5/11-14 or solicitation of a sexual act as defined in 720 ILCS 5/11-14.1, patronizing a prostitute as defined in 720 ILCS 5/11-18, or patronizing a minor engaged in prostitution as defined in 720 ILCS 5/11-18.1.

2) Public place means the public way and any other location open to the public, whether publicly or privately owned.

d) Any person who fails to obey promptly an order issued under subsection (a), or who engages in further prostitution-related loitering within sight or hearing of the place at which such an order was issued during the eight-hour period following the time the order was issued, is subject to a fine of not less than \$50.00 and not more than \$500.00 for each offense, or imprisonment for not more than six months for each offense, or both. A second or subsequent offense shall be punishable by a mandatory minimum sentence of not less than five days imprisonment.

In addition to or instead of the above penalties, any person who violates this section may be required to perform up to 120 hours of community service pursuant to Section 1-4-120 of this Code.

e) Upon a third or subsequent conviction for a violation of subsection (d) or subsection (e) of Section 8-4-015 or Section 8-4-017, or any combination thereof, within an 12-month period, a court, in addition to imposing the penalties prescribed in that subsection, shall enter an order requiring the convicted person to refrain, for a mandatory period of 30 days, from narcotics-related loitering, prostitution-related loitering, or gang-loitering as defined in Section 8-4-015, Section 8-4-016, or Section 8-4-017, within sight and hearing of the place of the police officer's order issued under subsection (a) which served as the basis for the person's most recent conviction, unless circumstances strongly mandate that such period should be shorter. Such an order must be obeyed regardless of whether any additional warning or notice is given to the person. Any person who violates an order issued by a court under this subsection (e) shall be subject to a mandatory minimum sentence of not less than five days imprisonment but not more than six months imprisonment, plus a fine of not less than \$100.00 and not more than \$500.00, for each violation. In addition to or instead of the penalties prescribed in this subsection (e), any person who violates an order issued by a court under this subsection (e) may be required to perform up to 120 hours of community service pursuant to Section 1-4-120 of this Code.

f) It shall be an affirmative defense to penalties under this section for a person who engages in prostitution-related loitering that the person was under duress or was coerced into violating any provision of this section. A victim of trafficking in persons, pursuant to relevant state or federal laws, shall not be deemed criminally liable for any violation of this section committed as a direct result of, or incident related to, being trafficked. Where such affirmative defense is applicable to a person who engages in prostitution-related loitering, such affirmative defense shall not apply to the person creating such coercion or duress, or knew or should have known of the existence of such coercion or duress.

SECTION 2. Section 8-8-050 of the Municipal Code of Chicago is hereby deleted in its entirety.

SECTION 3. Section 8-8-060 of the Municipal Code of Chicago is hereby amended by deleting the

language struck through and by inserting the language underscored, as follows:

8-8-060 ~~Street s~~Solicitation for prostitution.

(a) For the purposes of this section:

1) "Public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place, or any other public way.

2) "Prostitution", "~~pandering~~ solicitation of a sexual act" and "~~soliciting for a prostitute~~ promoting prostitution" have the same meanings given them in Title III, Part B, Article 11, Subdivision 15 of the Illinois Criminal Code of 2012, ~~as amended~~.

(b) Prostitution.

1) Any person who appears, remains or wanders about in a public place and repeatedly beckons to, or repeatedly attempts to engage, passersby in conversation, or repeatedly interferes with the free passage of other persons, for the purpose of prostitution ~~er-ef soliciting for a prostitute~~, shall be guilty of a violation of this section.

2) Any person who appears, remains, or wanders about in a public place and exposes the genitals, vulva, pubis, pubic hair, buttocks, perineum, anus, anal region or pubic hair region, or any portion of the female breast at or below the upper edge of the areola, for the purpose of prostitution shall be guilty of a violation of this section.

~~(e) Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passersby in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons, for the purpose of pandering shall be guilty of a violation of this section.~~

(dc) Solicitation of a sexual act.

1) A person commits solicitation of a sexual act when a person remains or wanders about in a public place and repeatedly beckons to, or repeatedly attempts to engage, passersby in conversation, or repeatedly interferes with the free passage of other persons, for the purpose of soliciting a sexual act.

2) Any person who responds to the beckoning of a prostitute in a public place by inquiring about, negotiating for, accepting an offer of or engaging in an act of prostitution, or by allowing another into his or her motor vehicle for purposes of inquiring about, negotiating for, accepting an offer of or engaging in an act of prostitution, shall be guilty of a violation of this section. The superintendent of police shall make available to local newspapers, radio and television stations the names of all persons charged with violating this section.

3) Any person who by any overt acts in or upon the public ways or in any hotel, motel or other public place of accommodation or on public conveyances or in any establishment licensed to sell alcoholic beverages, offers to perform or who solicits for another person to perform any act of prostitution shall be guilty of a violation of this section.

(d) Promoting prostitution.

1) Any person who remains or wanders about in a public place and repeatedly

beckons to, or repeatedly attempts to engage, passersby in conversation, or repeatedly interferes with the free passage of other persons, for the purpose of promoting prostitution shall be guilty of a violation of this section.

2) Any person who promotes prostitution by any overt acts in a public place, or in any hotel, motel, or other public place of accommodation, or on any public conveyances, or in any establishment licensed to sell alcoholic beverages shall be guilty of a violation of this section.

(4-) ~~A motor vehicle that is used in the violation of this section or Section 8-8-050, or in the commission of prostitution as defined in Section 11-14 of the Criminal Code of 1961, soliciting for a prostitute as defined in Section 11-15 of such code,~~

~~soliciting for a juvenile prostitute as defined in Section 11-18 of such code, or patronizing a juvenile prostitute as defined in Section 11-18.1 of such code, shall be subject to seizure and impoundment under this subsection. The owner of record of such vehicle shall be liable to the city for an administrative penalty of \$2,000.00 in addition to fees for the towing and storage of the vehicle. If the violation takes place within 500 feet of the boundary line of a public park or elementary or secondary school, the penalty shall be \$3,000 plus towing and storage fees.~~

(2-) ~~Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility controlled by the city or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code.~~

(3) ~~The provisions of Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.~~

(f) ~~Any person who responds to the beckoning of a prostitute in a public place by inquiring about, negotiating for, accepting an offer of or engaging in an act of prostitution, or by allowing another into his or her motor vehicle for purposes of inquiring about, negotiating for, accepting an offer of or engaging in an act of prostitution, shall be guilty of a violation of this section. The superintendent of police shall make available to local newspapers, radio and television stations the names of all persons charged with violating this subsection.~~

(§e) Penalties.

1) ~~A person who violates any provision of this section 8-8-60(b) shall be fined not less than \$750.00 nor more than \$4,500.00, or imprisoned for a period of not less than 20 days and not more than six months, or both fined and imprisoned, for each offense. In addition to or instead of the foregoing penalties, the corporation counsel shall request that a violator be required to perform a minimum of 100 up to 120 hours of community service. To the extent allowed by law, personnel of the department of police shall prevent and oppose the release of any person charged with a violation of this section on bond secured by that person's own recognizance.~~

2) A person who violates section 8-8-60(c) or 8-8-60(d) shall be fined not less than \$1,000.00 nor more than \$1,750.00, for the first offense and be fined not less than \$1,750.00 nor more than \$3,000.00 for each subsequent offense and may be imprisoned for a period of not more than six months. In addition to the foregoing penalties, the corporation counsel shall request that each violator be required to perform up to 120 hours of community service.

(4A) A motor vehicle that is used in the violation of this section, or in the commission of prostitution, solicitation of a sexual act, promoting prostitution, soliciting for a juvenile prostitute as defined in Section 11-18 of the Criminal Code of 2012, or patronizing a juvenile prostitute as defined in Section 11-18.1 of such

code, shall be subject to seizure and impoundment under this subsection. The owner of record of such vehicle shall be liable to the City for an administrative penalty of \$2,000.00 in addition to fees for the towing and storage of the vehicle. If the violation takes place within 500 feet of the boundary line of a public park or elementary or secondary school, the penalty shall be \$3,000 plus towing and storage fees.

- (2-B) - Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code.

(3C) The provisions of Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

~~(k) If any provision or part of this ordinance shall be found unconstitutional or outside the corporate powers of the City of Chicago, the remaining provisions shall continue in full force and effect.~~

SECTION 4. This ordinance shall be in full force and effect ten days after its passage and publication.

Alderman, 28th Ward