

FILE NO.

## LEGISLATIVE DIGEST

[Prohibition on loitering outside nightclubs]

### **Ordinance amending the San Francisco Police Code by adding Section 121, to prohibit loitering outside nightclubs.**

#### Existing Law

San Francisco's municipal codes prohibit loitering at or near public toilets (Police Code § 124), in public restrooms (Police Code 912), and while carrying a concealed weapon (Police Code § 1291).

#### Amendments to Current Law

This proposed amendment to the Police Code would add Section 121 to prohibit loitering outside nightclubs. Under this ordinance, a person loiters outside a nightclub when the person remains for a period of three (3) minutes within ten (10) feet of the entrance of the nightclub or within ten (10) feet of a line formed at the entrance to a nightclub. The ordinance defines a "nightclub" as a Place of Entertainment as defined in Police Code Section 1060.

The ordinance contains exceptions for persons engaging in any lawful business that must be conducted within ten (10) feet of the entrance to a nightclub or within ten (10) feet of a line formed at the entrance to a nightclub such as (1) waiting in line to enter a nightclub, (2) being present in a smoking area designated by the club outside the club for patrons, or (3) waiting for a bus at a bus stop or waiting in line to enter a theater or other business.

Before any law enforcement officer may cite or arrest a person under this ordinance, the officer or nightclub personnel must warn the person that his or her conduct is in violation of this ordinance and must give the person an opportunity to comply with the provisions of this ordinance.

Any person violating any provision of this ordinance would be guilty of a misdemeanor or an infraction. If charged as an infraction, upon conviction, the violator would be punished by a fine of not less than \$50 or more than \$100, and/or community service, for each provision violated. If charged as a misdemeanor, upon conviction, the violator would be punished by a fine of not less than \$200 or more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment.

In any accusatory pleading charging a violation of this section, if the defendant has been previously convicted of a violation of this section, each such previous violation and conviction

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would be charged in the accusatory pleading. Any person violating any provision of this section a second time within a thirty (30)-day period would be guilty of a misdemeanor and shall be punished by a fine of not less than \$300 or more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Any person violating any provision of this section a third time, and each subsequent time, within a thirty (30)-day period would be guilty of a misdemeanor and shall be punished by a fine of not less than \$400 and not more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment.

### Background Information

The areas outside nightclubs have become the site of robberies, assaults, stabbings and shootings. In addition, persons attending nightclubs have become intimidated and fearful for their safety because of the presence of persons loitering outside or near the clubs. Prohibiting loitering within ten feet of a nightclub entrance or within ten feet of any point of a line formed at the entrance to a nightclub may decrease the incidence of these crimes by providing law enforcement officers with an additional crime-fighting tool.