
SUBSTITUTE SENATE BILL 5718

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Regala, Stevens, Keiser and Rasmussen)

READ FIRST TIME 02/22/07.

1 AN ACT Relating to penalties for engaging in the commercial sexual
2 abuse of minors; amending RCW 9.68A.001, 9.68A.100, 9.68A.110,
3 19.138.340, 9A.88.140, 9.68A.105, 9A.88.120, and 9A.88.070; reenacting
4 and amending RCW 9.94A.533 and 9.94A.515; adding new sections to
5 chapter 9.68A RCW; creating new sections; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 9.68A.001 and 1984 c 262 s 1 are each amended to read
8 as follows:

9 The legislature finds that the prevention of sexual exploitation
10 and abuse of children constitutes a government objective of surpassing
11 importance. The care of children is a sacred trust and should not be
12 abused by those who seek commercial gain or personal gratification
13 based on the exploitation of children.

14 The legislature further finds that the protection of children from
15 sexual exploitation can be accomplished without infringing on a
16 constitutionally protected activity. The definition of "sexually
17 explicit conduct" and other operative definitions demarcate a line
18 between protected and prohibited conduct and should not inhibit
19 legitimate scientific, medical, or educational activities.

1 The legislature further finds that children engaged in sexual
2 conduct for financial compensation are frequently the victims of sexual
3 abuse. Approximately eighty to ninety percent of children engaged in
4 sexual activity for financial compensation have a history of sexual
5 abuse victimization. It is the intent of the legislature to encourage
6 these children to engage in prevention and intervention services and to
7 hold those who pay to engage in the sexual abuse of children
8 accountable for the trauma they inflict on children.

9 **Sec. 2.** RCW 9.68A.100 and 1999 c 327 s 4 are each amended to read
10 as follows:

11 (1) A person is guilty of ((patronizing a juvenile prostitute))
12 commercial sexual abuse of a minor if ((that person engages or agrees
13 or offers))):

14 (a) He or she pays a fee to a minor or a third person as
15 compensation for a minor having engaged in sexual conduct with him or
16 her;

17 (b) He or she pays or agrees to pay a fee to a minor or a third
18 person pursuant to an understanding that in return therefore such minor
19 will engage in sexual conduct with him or her; or

20 (c) He or she solicits, offers, or requests to engage in sexual
21 conduct with a minor in return for a fee(, and is guilty of)).

22 (2) Commercial sexual abuse of a minor is a class C felony
23 punishable under chapter 9A.20 RCW.

24 (3) In addition to any other penalty provided under chapter 9A.20
25 RCW, a person guilty of ((patronizing a juvenile prostitute))
26 commercial sexual abuse of a minor is subject to the provisions under
27 RCW 9A.88.130 and 9A.88.140.

28 (4) For purposes of this section, "sexual conduct" means sexual
29 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

30 **Sec. 3.** RCW 9.68A.110 and 1992 c 178 s 1 are each amended to read
31 as follows:

32 (1) In a prosecution under RCW 9.68A.040, it is not a defense that
33 the defendant was involved in activities of law enforcement and
34 prosecution agencies in the investigation and prosecution of criminal
35 offenses. Law enforcement and prosecution agencies shall not employ

1 minors to aid in the investigation of a violation of RCW 9.68A.090 or
2 9.68A.100. This chapter does not apply to lawful conduct between
3 spouses.

4 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or
5 9.68A.080, it is not a defense that the defendant did not know the age
6 of the child depicted in the visual or printed matter: PROVIDED, That
7 it is a defense, which the defendant must prove by a preponderance of
8 the evidence, that at the time of the offense the defendant was not in
9 possession of any facts on the basis of which he or she should
10 reasonably have known that the person depicted was a minor.

11 (3) In a prosecution under RCW 9.68A.040 (~~(or)~~), 9.68A.090, section
12 4 of this act, or section 5 of this act, it is not a defense that the
13 defendant did not know the alleged victim's age: PROVIDED, That it is
14 a defense, which the defendant must prove by a preponderance of the
15 evidence, that at the time of the offense, the defendant made a
16 reasonable bona fide attempt to ascertain the true age of the minor by
17 requiring production of a driver's license, marriage license, birth
18 certificate, or other governmental or educational identification card
19 or paper and did not rely solely on the oral allegations or apparent
20 age of the minor.

21 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
22 it shall be an affirmative defense that the defendant was a law
23 enforcement officer in the process of conducting an official
24 investigation of a sex-related crime against a minor, or that the
25 defendant was providing individual case treatment as a recognized
26 medical facility or as a psychiatrist or psychologist licensed under
27 Title 18 RCW.

28 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
29 the state is not required to establish the identity of the alleged
30 victim.

31 NEW SECTION. Sec. 4. A new section is added to chapter 9.68A RCW
32 to read as follows:

33 (1) A person is guilty of promoting commercial sexual abuse of a
34 minor if he or she knowingly advances commercial sexual abuse of a
35 minor or profits from a minor engaged in sexual conduct.

36 (2) Promoting commercial sexual abuse of a minor is a class B
37 felony.

1 (3) For the purposes of this section:

2 (a) A person "advances commercial sexual abuse of a minor" if,
3 acting other than as a minor or as a person engaged in commercial
4 sexual abuse of a minor, he or she causes or aids a person to commit or
5 engage in commercial sexual abuse of a minor, procures or solicits
6 customers for commercial sexual abuse of a minor, provides persons or
7 premises for the purposes of engaging in commercial sexual abuse of a
8 minor, operates or assists in the operation of a house or enterprise
9 for the purposes of engaging in commercial sexual abuse of a minor, or
10 engages in any other conduct designed to institute, aid, cause, assist,
11 or facilitate an act or enterprise of commercial sexual abuse of a
12 minor.

13 (b) A person "profits from commercial sexual abuse of a minor" if,
14 acting other than as a minor receiving compensation for personally
15 rendered sexual conduct, he or she accepts or receives money or other
16 property pursuant to an agreement or understanding with any person
17 whereby he or she participates or will participate in the proceeds of
18 commercial sexual abuse of a minor.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 9.68A RCW
20 to read as follows:

21 (1) A person commits the offense of promoting travel for commercial
22 sexual abuse of a minor if he or she knowingly sells or offers to sell
23 travel services that include or facilitate travel for the purpose of
24 engaging in what would be commercial sexual abuse of a minor or
25 promoting commercial sexual abuse of a minor, if occurring in this
26 state.

27 (2) Promoting travel for commercial sexual abuse of a minor is a
28 class C felony.

29 (3) For purposes of this section, "travel services" has the same
30 meaning as defined in RCW 19.138.021.

31 **Sec. 6.** RCW 19.138.340 and 2006 c 250 s 3 are each amended to read
32 as follows:

33 (1) No seller of travel shall engage in any of the following:

34 (a) Promoting travel for prostitution or promoting travel for
35 commercial sexual abuse of a minor;

1 (b) Selling, advertising, or otherwise offering to sell travel
2 services or facilitate travel:

3 (i) For the purposes of engaging in a commercial sex act;

4 (ii) That consists of tourism packages or activities using and
5 offering sexual acts as an enticement for tourism; or

6 (iii) That provides, purports to provide access to, or facilitates
7 the availability of sex escorts or sexual services.

8 (2) For the purposes of this section:

9 (a) "Commercial sex act" means any sexual contact, as defined in
10 chapter 9A.44 RCW, for which anything of value is given to or received
11 by any person.

12 (b) "Sexual act" means any sexual contact as defined in chapter
13 9A.44 RCW.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 9.68A RCW
15 to read as follows:

16 (1) A person is guilty of permitting commercial sexual abuse of a
17 minor if, having possession or control of premises which he or she
18 knows are being used for the purpose of commercial sexual abuse of a
19 minor, he or she fails without lawful excuse to make reasonable effort
20 to halt or abate such use and to make a reasonable effort to notify law
21 enforcement of such use.

22 (2) Permitting commercial sexual abuse of a minor is a gross
23 misdemeanor.

24 **Sec. 8.** RCW 9A.88.140 and 1999 c 327 s 3 are each amended to read
25 as follows:

26 (1) Upon an arrest for a suspected violation of patronizing a
27 prostitute or (~~patronizing a juvenile prostitute~~) commercial sexual
28 abuse of a minor, the arresting law enforcement officer may impound the
29 person's vehicle if (a) the motor vehicle was used in the commission of
30 the crime; (b) the person arrested is the owner of the vehicle; and (c)
31 the person arrested has previously been convicted of patronizing a
32 prostitute, under RCW 9A.88.110, or (~~patronizing a juvenile~~
33 ~~prostitute~~) commercial sexual abuse of a minor, under RCW 9.68A.100.

34 (2) Impoundments performed under this section shall be in
35 accordance with chapter 46.55 RCW.

1 **Sec. 9.** RCW 9.94A.533 and 2006 c 339 s 301 and 2006 c 123 s 1 are
2 each reenacted and amended to read as follows:

3 (1) The provisions of this section apply to the standard sentence
4 ranges determined by RCW 9.94A.510 or 9.94A.517.

5 (2) For persons convicted of the anticipatory offenses of criminal
6 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
7 standard sentence range is determined by locating the sentencing grid
8 sentence range defined by the appropriate offender score and the
9 seriousness level of the completed crime, and multiplying the range by
10 seventy-five percent.

11 (3) The following additional times shall be added to the standard
12 sentence range for felony crimes committed after July 23, 1995, if the
13 offender or an accomplice was armed with a firearm as defined in RCW
14 9.41.010 and the offender is being sentenced for one of the crimes
15 listed in this subsection as eligible for any firearm enhancements
16 based on the classification of the completed felony crime. If the
17 offender is being sentenced for more than one offense, the firearm
18 enhancement or enhancements must be added to the total period of
19 confinement for all offenses, regardless of which underlying offense is
20 subject to a firearm enhancement. If the offender or an accomplice was
21 armed with a firearm as defined in RCW 9.41.010 and the offender is
22 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
23 commit one of the crimes listed in this subsection as eligible for any
24 firearm enhancements, the following additional times shall be added to
25 the standard sentence range determined under subsection (2) of this
26 section based on the felony crime of conviction as classified under RCW
27 9A.28.020:

28 (a) Five years for any felony defined under any law as a class A
29 felony or with a statutory maximum sentence of at least twenty years,
30 or both, and not covered under (f) of this subsection;

31 (b) Three years for any felony defined under any law as a class B
32 felony or with a statutory maximum sentence of ten years, or both, and
33 not covered under (f) of this subsection;

34 (c) Eighteen months for any felony defined under any law as a class
35 C felony or with a statutory maximum sentence of five years, or both,
36 and not covered under (f) of this subsection;

37 (d) If the offender is being sentenced for any firearm enhancements
38 under (a), (b), and/or (c) of this subsection and the offender has

1 previously been sentenced for any deadly weapon enhancements after July
2 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
3 (4)(a), (b), and/or (c) of this section, or both, all firearm
4 enhancements under this subsection shall be twice the amount of the
5 enhancement listed;

6 (e) Notwithstanding any other provision of law, all firearm
7 enhancements under this section are mandatory, shall be served in total
8 confinement, and shall run consecutively to all other sentencing
9 provisions, including other firearm or deadly weapon enhancements, for
10 all offenses sentenced under this chapter. However, whether or not a
11 mandatory minimum term has expired, an offender serving a sentence
12 under this subsection may be granted an extraordinary medical placement
13 when authorized under RCW 9.94A.728(4);

14 (f) The firearm enhancements in this section shall apply to all
15 felony crimes except the following: Possession of a machine gun,
16 possessing a stolen firearm, drive-by shooting, theft of a firearm,
17 unlawful possession of a firearm in the first and second degree, and
18 use of a machine gun in a felony;

19 (g) If the standard sentence range under this section exceeds the
20 statutory maximum sentence for the offense, the statutory maximum
21 sentence shall be the presumptive sentence unless the offender is a
22 persistent offender. If the addition of a firearm enhancement
23 increases the sentence so that it would exceed the statutory maximum
24 for the offense, the portion of the sentence representing the
25 enhancement may not be reduced.

26 (4) The following additional times shall be added to the standard
27 sentence range for felony crimes committed after July 23, 1995, if the
28 offender or an accomplice was armed with a deadly weapon other than a
29 firearm as defined in RCW 9.41.010 and the offender is being sentenced
30 for one of the crimes listed in this subsection as eligible for any
31 deadly weapon enhancements based on the classification of the completed
32 felony crime. If the offender is being sentenced for more than one
33 offense, the deadly weapon enhancement or enhancements must be added to
34 the total period of confinement for all offenses, regardless of which
35 underlying offense is subject to a deadly weapon enhancement. If the
36 offender or an accomplice was armed with a deadly weapon other than a
37 firearm as defined in RCW 9.41.010 and the offender is being sentenced
38 for an anticipatory offense under chapter 9A.28 RCW to commit one of

1 the crimes listed in this subsection as eligible for any deadly weapon
2 enhancements, the following additional times shall be added to the
3 standard sentence range determined under subsection (2) of this section
4 based on the felony crime of conviction as classified under RCW
5 9A.28.020:

6 (a) Two years for any felony defined under any law as a class A
7 felony or with a statutory maximum sentence of at least twenty years,
8 or both, and not covered under (f) of this subsection;

9 (b) One year for any felony defined under any law as a class B
10 felony or with a statutory maximum sentence of ten years, or both, and
11 not covered under (f) of this subsection;

12 (c) Six months for any felony defined under any law as a class C
13 felony or with a statutory maximum sentence of five years, or both, and
14 not covered under (f) of this subsection;

15 (d) If the offender is being sentenced under (a), (b), and/or (c)
16 of this subsection for any deadly weapon enhancements and the offender
17 has previously been sentenced for any deadly weapon enhancements after
18 July 23, 1995, under (a), (b), and/or (c) of this subsection or
19 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
20 weapon enhancements under this subsection shall be twice the amount of
21 the enhancement listed;

22 (e) Notwithstanding any other provision of law, all deadly weapon
23 enhancements under this section are mandatory, shall be served in total
24 confinement, and shall run consecutively to all other sentencing
25 provisions, including other firearm or deadly weapon enhancements, for
26 all offenses sentenced under this chapter. However, whether or not a
27 mandatory minimum term has expired, an offender serving a sentence
28 under this subsection may be granted an extraordinary medical placement
29 when authorized under RCW 9.94A.728(4);

30 (f) The deadly weapon enhancements in this section shall apply to
31 all felony crimes except the following: Possession of a machine gun,
32 possessing a stolen firearm, drive-by shooting, theft of a firearm,
33 unlawful possession of a firearm in the first and second degree, and
34 use of a machine gun in a felony;

35 (g) If the standard sentence range under this section exceeds the
36 statutory maximum sentence for the offense, the statutory maximum
37 sentence shall be the presumptive sentence unless the offender is a
38 persistent offender. If the addition of a deadly weapon enhancement

1 increases the sentence so that it would exceed the statutory maximum
2 for the offense, the portion of the sentence representing the
3 enhancement may not be reduced.

4 (5) The following additional times shall be added to the standard
5 sentence range if the offender or an accomplice committed the offense
6 while in a county jail or state correctional facility and the offender
7 is being sentenced for one of the crimes listed in this subsection. If
8 the offender or an accomplice committed one of the crimes listed in
9 this subsection while in a county jail or state correctional facility,
10 and the offender is being sentenced for an anticipatory offense under
11 chapter 9A.28 RCW to commit one of the crimes listed in this
12 subsection, the following additional times shall be added to the
13 standard sentence range determined under subsection (2) of this
14 section:

15 (a) Eighteen months for offenses committed under RCW 69.50.401(2)

16 (a) or (b) or 69.50.410;

17 (b) Fifteen months for offenses committed under RCW 69.50.401(2)

18 (c), (d), or (e);

19 (c) Twelve months for offenses committed under RCW 69.50.4013.

20 For the purposes of this subsection, all of the real property of a
21 state correctional facility or county jail shall be deemed to be part
22 of that facility or county jail.

23 (6) An additional twenty-four months shall be added to the standard
24 sentence range for any ranked offense involving a violation of chapter
25 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
26 9.94A.605. All enhancements under this subsection shall run
27 consecutively to all other sentencing provisions, for all offenses
28 sentenced under this chapter.

29 (7) An additional two years shall be added to the standard sentence
30 range for vehicular homicide committed while under the influence of
31 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
32 prior offense as defined in RCW 46.61.5055.

33 (8)(a) The following additional times shall be added to the
34 standard sentence range for felony crimes committed on or after July 1,
35 2006, if the offense was committed with sexual motivation, as that term
36 is defined in RCW 9.94A.030. If the offender is being sentenced for
37 more than one offense, the sexual motivation enhancement must be added
38 to the total period of total confinement for all offenses, regardless

1 of which underlying offense is subject to a sexual motivation
2 enhancement. If the offender committed the offense with sexual
3 motivation and the offender is being sentenced for an anticipatory
4 offense under chapter 9A.28 RCW, the following additional times shall
5 be added to the standard sentence range determined under subsection (2)
6 of this section based on the felony crime of conviction as classified
7 under RCW 9A.28.020:

8 (i) Two years for any felony defined under the law as a class A
9 felony or with a statutory maximum sentence of at least twenty years,
10 or both;

11 (ii) Eighteen months for any felony defined under any law as a
12 class B felony or with a statutory maximum sentence of ten years, or
13 both;

14 (iii) One year for any felony defined under any law as a class C
15 felony or with a statutory maximum sentence of five years, or both;

16 (iv) If the offender is being sentenced for any sexual motivation
17 enhancements under (i), (ii), and/or (iii) of this subsection and the
18 offender has previously been sentenced for any sexual motivation
19 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of
20 this subsection, all sexual motivation enhancements under this
21 subsection shall be twice the amount of the enhancement listed;

22 (b) Notwithstanding any other provision of law, all sexual
23 motivation enhancements under this subsection are mandatory, shall be
24 served in total confinement, and shall run consecutively to all other
25 sentencing provisions, including other sexual motivation enhancements,
26 for all offenses sentenced under this chapter. However, whether or not
27 a mandatory minimum term has expired, an offender serving a sentence
28 under this subsection may be granted an extraordinary medical placement
29 when authorized under RCW 9.94A.728(4);

30 (c) The sexual motivation enhancements in this subsection apply to
31 all felony crimes;

32 (d) If the standard sentence range under this subsection exceeds
33 the statutory maximum sentence for the offense, the statutory maximum
34 sentence shall be the presumptive sentence unless the offender is a
35 persistent offender. If the addition of a sexual motivation
36 enhancement increases the sentence so that it would exceed the
37 statutory maximum for the offense, the portion of the sentence
38 representing the enhancement may not be reduced;

1 (e) The portion of the total confinement sentence which the
2 offender must serve under this subsection shall be calculated before
3 any earned early release time is credited to the offender;

4 (f) Nothing in this subsection prevents a sentencing court from
5 imposing a sentence outside the standard sentence range pursuant to RCW
6 9.94A.535.

7 (9) An additional one-year enhancement shall be added to the
8 standard sentence range for the felony crimes of RCW 9A.44.073,
9 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
10 or after July 1, 2007, if the offender engaged, agreed, or offered to
11 engage the victim in the sexual conduct in return for a fee. If the
12 offender is being sentenced for more than one offense, the one-year
13 enhancement must be added to the total period of total confinement for
14 all offenses, regardless of which underlying offense is subject to the
15 enhancement. If the offender is being sentenced for an anticipatory
16 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,
17 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted to
18 engage, agree, or offer to engage the victim in sexual conduct in
19 return for a fee, an additional one-year enhancement shall be added to
20 the standard sentence range determined under subsection (2) of this
21 section based on the felony crime of conviction as classified under RCW
22 9A.28.020. For purposes of this subsection, "sexual conduct" means
23 sexual intercourse or sexual contact, both as defined in chapter 9A.44
24 RCW.

25 **Sec. 10.** RCW 9.68A.105 and 1995 c 353 s 12 are each amended to
26 read as follows:

27 (1)(a) In addition to penalties set forth in RCW 9.68A.100, a
28 person who is either convicted or given a deferred sentence or a
29 deferred prosecution or who has entered into a statutory or
30 nonstatutory diversion agreement as a result of an arrest for violating
31 RCW 9.68A.100 or a comparable county or municipal ordinance shall be
32 assessed a (~~two~~) five hundred fifty dollar fee.

33 (b) The court may not suspend payment of all or part of the fee
34 unless it finds that the person does not have the ability to pay.

35 (c) When a minor has been adjudicated a juvenile offender or has
36 entered into a statutory or nonstatutory diversion agreement for an
37 offense which, if committed by an adult, would constitute a violation

1 of RCW 9.68A.100 or a comparable county or municipal ordinance, the
2 court shall assess the fee under (a) of this subsection. The court may
3 not suspend payment of all or part of the fee unless it finds that the
4 minor does not have the ability to pay the fee.

5 (2) The fee assessed under subsection (1) of this section shall be
6 collected by the clerk of the court and distributed each month to the
7 state treasurer for deposit in the prostitution prevention and
8 intervention account under RCW 43.63A.740 for the purpose of funding
9 prostitution prevention and intervention activities.

10 (3) For the purposes of this section:

11 (a) "Statutory or nonstatutory diversion agreement" means an
12 agreement under RCW 13.40.080 or any written agreement between a person
13 accused of an offense listed in subsection (1) of this section and a
14 court, county or city prosecutor, or designee thereof, whereby the
15 person agrees to fulfill certain conditions in lieu of prosecution.

16 (b) "Deferred sentence" means a sentence that will not be carried
17 out if the defendant meets certain requirements, such as complying with
18 the conditions of probation.

19 **Sec. 11.** RCW 9A.88.120 and 1995 c 353 s 13 are each amended to
20 read as follows:

21 (1)(a) In addition to penalties set forth in RCW 9A.88.010,
22 9A.88.030, and 9A.88.090, a person who is either convicted or given a
23 deferred sentence or a deferred prosecution or who has entered into a
24 statutory or nonstatutory diversion agreement as a result of an arrest
25 for violating RCW 9A.88.010, 9A.88.030, 9A.88.090, or comparable county
26 or municipal ordinances shall be assessed a fifty dollar fee.

27 (b) In addition to penalties set forth in RCW 9A.88.110, a person
28 who is either convicted or given a deferred sentence or a deferred
29 prosecution or who has entered into a statutory or nonstatutory
30 diversion agreement as a result of an arrest for violating RCW
31 9A.88.110 or a comparable county or municipal ordinance shall be
32 assessed a one hundred fifty dollar fee.

33 (c) In addition to penalties set forth in RCW 9A.88.070 and
34 9A.88.080, a person who is either convicted or given a deferred
35 sentence or a deferred prosecution or who has entered into a statutory
36 or nonstatutory diversion agreement as a result of an arrest for

1 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal
2 ordinances shall be assessed a three hundred dollar fee.

3 (2) The court may not suspend payment of all or part of the fee
4 unless it finds that the person does not have the ability to pay.

5 (3) When a minor has been adjudicated a juvenile offender or has
6 entered into a statutory or nonstatutory diversion agreement for an
7 offense which, if committed by an adult, would constitute a violation
8 under this chapter or comparable county or municipal ordinances, the
9 court shall assess the fee as specified under subsection (1) of this
10 section. The court may not suspend payment of all or part of the fee
11 unless it finds that the minor does not have the ability to pay the
12 fee.

13 (4) Any fee assessed under this section shall be collected by the
14 clerk of the court and distributed each month to the state treasurer
15 for deposit in the prostitution prevention and intervention account
16 under RCW 43.63A.740 for the purpose of funding prostitution prevention
17 and intervention activities.

18 (5) For the purposes of this section:

19 (a) "Statutory or nonstatutory diversion agreement" means an
20 agreement under RCW 13.40.080 or any written agreement between a person
21 accused of an offense listed in subsection (1) of this section and a
22 court, county, or city prosecutor, or designee thereof, whereby the
23 person agrees to fulfill certain conditions in lieu of prosecution.

24 (b) "Deferred sentence" means a sentence that will not be carried
25 out if the defendant meets certain requirements, such as complying with
26 the conditions of probation.

27 **Sec. 12.** RCW 9A.88.070 and 1975 1st ex.s. c 260 s 9A.88.070 are
28 each amended to read as follows:

29 (1) A person is guilty of promoting prostitution in the first
30 degree if he or she knowingly((+

31 ~~(a+))~~ advances prostitution by compelling a person by threat or
32 force to engage in prostitution or profits from prostitution which
33 results from such threat or force((+—o#

34 ~~(b) Advances or profits from prostitution of a person less than~~
35 ~~eighteen years old)).~~

36 (2) Promoting prostitution in the first degree is a class B felony.

1 **Sec. 13.** RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c
2 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 are each
3 reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN	
EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020) Leading Organized Crime (RCW 9A.82.060(1)(a))

1 Malicious explosion 3 (RCW
2 70.74.280(3))
3 Sexually Violent Predator Escape
4 (RCW 9A.76.115)
5 IX Abandonment of Dependent Person 1
6 (RCW 9A.42.060)
7 Assault of a Child 2 (RCW 9A.36.130)
8 Criminal Mistreatment 1 (RCW
9 9A.42.020)
10 Explosive devices prohibited (RCW
11 70.74.180)
12 Hit and Run--Death (RCW
13 46.52.020(4)(a))
14 Homicide by Watercraft, by being
15 under the influence of intoxicating
16 liquor or any drug (RCW
17 79A.60.050)
18 Inciting Criminal Profiteering (RCW
19 9A.82.060(1)(b))
20 Malicious placement of an explosive 2
21 (RCW 70.74.270(2))
22 Robbery 1 (RCW 9A.56.200)
23 Sexual Exploitation (RCW 9.68A.040)
24 Vehicular Homicide, by being under
25 the influence of intoxicating liquor
26 or any drug (RCW 46.61.520)
27 VIII Arson 1 (RCW 9A.48.020)
28 Homicide by Watercraft, by the
29 operation of any vessel in a
30 reckless manner (RCW
31 79A.60.050)
32 Manslaughter 2 (RCW 9A.32.070)
33 Promoting Commercial Sexual Abuse
34 of a Minor (section 4 of this act)
35 Promoting Prostitution 1 (RCW
36 9A.88.070)
37 Theft of Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation
2 of any vehicle in a reckless manner
3 (RCW 46.61.520)
4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor engaged
9 in sexually explicit conduct (RCW
10 9.68A.050)
11 Drive-by Shooting (RCW 9A.36.045)
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Negligently Causing Death By Use of a
23 Signal Preemption Device (RCW
24 46.37.675)
25 Sending, bringing into state depictions
26 of minor engaged in sexually
27 explicit conduct (RCW 9.68A.060)
28 Unlawful Possession of a Firearm in
29 the first degree (RCW 9.41.040(1))
30 Use of a Machine Gun in Commission
31 of a Felony (RCW 9.41.225)
32 Vehicular Homicide, by disregard for
33 the safety of others (RCW
34 46.61.520)
35 VI Bail Jumping with Murder 1 (RCW
36 9A.76.170(3)(a))
37 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))
2 Intimidating a Judge (RCW 9A.72.160)
3 Intimidating a Juror/Witness (RCW
4 9A.72.110, 9A.72.130)
5 Malicious placement of an imitation
6 device 2 (RCW 70.74.272(1)(b))
7 Possession of Depictions of a Minor
8 Engaged in Sexually Explicit
9 Conduct (RCW 9.68A.070)
10 Rape of a Child 3 (RCW 9A.44.079)
11 Theft of a Firearm (RCW 9A.56.300)
12 Unlawful Storage of Ammonia (RCW
13 69.55.020)
14 V Abandonment of Dependent Person 2
15 (RCW 9A.42.070)
16 Advancing money or property for
17 extortionate extension of credit
18 (RCW 9A.82.030)
19 Bail Jumping with class A Felony
20 (RCW 9A.76.170(3)(b))
21 Child Molestation 3 (RCW 9A.44.089)
22 Criminal Mistreatment 2 (RCW
23 9A.42.030)
24 Custodial Sexual Misconduct 1 (RCW
25 9A.44.160)
26 Domestic Violence Court Order
27 Violation (RCW 10.99.040,
28 10.99.050, 26.09.300, 26.10.220,
29 26.26.138, 26.50.110, 26.52.070,
30 or 74.34.145)
31 Driving While Under the Influence
32 (RCW 46.61.502(6))
33 Extortion 1 (RCW 9A.56.120)
34 Extortionate Extension of Credit (RCW
35 9A.82.020)

1 Extortionate Means to Collect
2 Extensions of Credit (RCW
3 9A.82.040)
4 Incest 2 (RCW 9A.64.020(2))
5 Kidnapping 2 (RCW 9A.40.030)
6 Perjury 1 (RCW 9A.72.020)
7 Persistent prison misbehavior (RCW
8 9.94.070)
9 Physical Control of a Vehicle While
10 Under the Influence (RCW
11 46.61.504(6))
12 Possession of a Stolen Firearm (RCW
13 9A.56.310)
14 Rape 3 (RCW 9A.44.060)
15 Rendering Criminal Assistance 1
16 (RCW 9A.76.070)
17 Sexual Misconduct with a Minor 1
18 (RCW 9A.44.093)
19 Sexually Violating Human Remains
20 (RCW 9A.44.105)
21 Stalking (RCW 9A.46.110)
22 Taking Motor Vehicle Without
23 Permission 1 (RCW 9A.56.070)
24 IV Arson 2 (RCW 9A.48.030)
25 Assault 2 (RCW 9A.36.021)
26 Assault 3 (of a Peace Officer with a
27 Projectile Stun Gun) (RCW
28 9A.36.031(1)(h))
29 Assault by Watercraft (RCW
30 79A.60.060)
31 Bribing a Witness/Bribe Received by
32 Witness (RCW 9A.72.090,
33 9A.72.100)
34 Cheating 1 (RCW 9.46.1961)
35 Commercial Bribery (RCW 9A.68.060)
36 Counterfeiting (RCW 9.16.035(4))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Willful Failure to Return from
10 Furlough (RCW 72.66.060)
11 III Animal Cruelty 1 (Sexual Conduct or
12 Contact) (RCW 16.52.205(3))
13 Assault 3 (Except Assault 3 of a Peace
14 Officer With a Projectile Stun
15 Gun) (RCW 9A.36.031 except
16 subsection (1)(h))
17 Assault of a Child 3 (RCW 9A.36.140)
18 Bail Jumping with class B or C Felony
19 (RCW 9A.76.170(3)(c))
20 Burglary 2 (RCW 9A.52.030)
21 Commercial Sexual Abuse of a Minor
22 (RCW 9.68A.100)
23 Communication with a Minor for
24 Immoral Purposes (RCW
25 9.68A.090)
26 Criminal Gang Intimidation (RCW
27 9A.46.120)
28 Custodial Assault (RCW 9A.36.100)
29 Cyberstalking (subsequent conviction
30 or threat of death) (RCW
31 9.61.260(3))
32 Escape 2 (RCW 9A.76.120)
33 Extortion 2 (RCW 9A.56.130)
34 Harassment (RCW 9A.46.020)
35 Intimidating a Public Servant (RCW
36 9A.76.180)

1 Introducing Contraband 2 (RCW
2 9A.76.150)
3 Malicious Injury to Railroad Property
4 (RCW 81.60.070)
5 Negligently Causing Substantial Bodily
6 Harm By Use of a Signal
7 Preemption Device (RCW
8 46.37.674)
9 Organized Retail Theft 1 (RCW
10 9A.56.350(2))
11 (~~(Patronizing a Juvenile Prostitute~~
12 ~~(RCW 9.68A.100)))~~
13 Perjury 2 (RCW 9A.72.030)
14 Possession of Incendiary Device (RCW
15 9.40.120)
16 Possession of Machine Gun or Short-
17 Barreled Shotgun or Rifle (RCW
18 9.41.190)
19 Promoting Prostitution 2 (RCW
20 9A.88.080)
21 (~~(Retail))~~ Retail Theft with
22 Extenuating Circumstances 1
23 (RCW 9A.56.360(2))
24 Securities Act violation (RCW
25 21.20.400)
26 Tampering with a Witness (RCW
27 9A.72.120)
28 Telephone Harassment (subsequent
29 conviction or threat of death)
30 (RCW 9.61.230(2))
31 Theft of Livestock 2 (RCW 9A.56.083)
32 Theft with the Intent to Resell 1 (RCW
33 9A.56.340(2))
34 Trafficking in Stolen Property 2 (RCW
35 9A.82.055)
36 Unlawful Imprisonment (RCW
37 9A.40.040)

1 Unlawful possession of firearm in the
2 second degree (RCW 9.41.040(2))
3 Vehicular Assault, by the operation or
4 driving of a vehicle with disregard
5 for the safety of others (RCW
6 46.61.522)
7 Willful Failure to Return from Work
8 Release (RCW 72.65.070)
9 II Computer Trespass 1 (RCW
10 9A.52.110)
11 Counterfeiting (RCW 9.16.035(3))
12 Escape from Community Custody
13 (RCW 72.09.310)
14 Failure to Register as a Sex Offender
15 (second or subsequent offense)
16 (RCW 9A.44.130(10)(a))
17 Health Care False Claims (RCW
18 48.80.030)
19 Identity Theft 2 (RCW 9.35.020(3))
20 Improperly Obtaining Financial
21 Information (RCW 9.35.010)
22 Malicious Mischief 1 (RCW
23 9A.48.070)
24 Organized Retail Theft 2 (RCW
25 9A.56.350(3))
26 Possession of Stolen Property 1 (RCW
27 9A.56.150)
28 (~~(Retail))~~ Retail Theft with
29 Extenuating Circumstances 2
30 (RCW 9A.56.360(3))
31 Theft 1 (RCW 9A.56.030)
32 Theft of Rental, Leased, or Lease-
33 purchased Property (valued at one
34 thousand five hundred dollars or
35 more) (RCW 9A.56.096(5)(a))
36 Theft with the Intent to Resell 2 (RCW
37 9A.56.340(3))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(a))
6 Unlawful Practice of Law (RCW
7 2.48.180)
8 Unlicensed Practice of a Profession or
9 Business (RCW 18.130.190(7))
10 Voyeurism (RCW 9A.44.115)
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Fraudulent Creation or Revocation of a
17 Mental Health Advance Directive
18 (RCW 9A.60.060)
19 Malicious Mischief 2 (RCW
20 9A.48.080)
21 Mineral Trespass (RCW 78.44.330)
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Reckless Burning 1 (RCW 9A.48.040)
25 Taking Motor Vehicle Without
26 Permission 2 (RCW 9A.56.075)
27 Theft 2 (RCW 9A.56.040)
28 Theft of Rental, Leased, or Lease-
29 purchased Property (valued at two
30 hundred fifty dollars or more but
31 less than one thousand five
32 hundred dollars) (RCW
33 9A.56.096(5)(b))
34 Transaction of insurance business
35 beyond the scope of licensure
36 (RCW 48.17.063(4))

1 Unlawful Issuance of Checks or Drafts
2 (RCW 9A.56.060)
3 Unlawful Possession of Fictitious
4 Identification (RCW 9A.56.320)
5 Unlawful Possession of Instruments of
6 Financial Fraud (RCW 9A.56.320)
7 Unlawful Possession of Payment
8 Instruments (RCW 9A.56.320)
9 Unlawful Possession of a Personal
10 Identification Device (RCW
11 9A.56.320)
12 Unlawful Production of Payment
13 Instruments (RCW 9A.56.320)
14 Unlawful Trafficking in Food Stamps
15 (RCW 9.91.142)
16 Unlawful Use of Food Stamps (RCW
17 9.91.144)
18 Vehicle Prowl 1 (RCW 9A.52.095)

19 NEW SECTION. **Sec. 14.** If funds are specifically appropriated to
20 the prostitution prevention and intervention account as provided in RCW
21 43.63A.720 for the purposes provided in this section, the department of
22 community, trade, and economic development shall prioritize such funds
23 to provide minors who have a history of engaging in sexual conduct for
24 a fee or are the victims of commercial sexual abuse of a minor with (1)
25 residential treatment and services; (2) counseling services including
26 mental health and substance abuse services and intensive case
27 management; (3) services to engage the minors in school or vocational
28 training; and (4) health care services.

29 NEW SECTION. **Sec. 15.** If funds are specifically appropriated to
30 the prostitution prevention and intervention account as provided in RCW
31 43.63A.720 for the purposes provided in this section, the department of
32 community, trade, and economic development shall prioritize such funds
33 for training of law enforcement and community outreach and education on
34 minors who have a history of engaging in sexual conduct for a fee or
35 are the victims of commercial sexual abuse of a minor, including

1 awareness training regarding the availability of services for minors
2 under chapter 13.32A RCW.

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