

FINAL BILL REPORT

ESSB 6476

PARTIAL VETO C 289 L 10

Synopsis as Enacted

Brief Description: Revising provisions relating to sex crimes involving minors.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach and Kohl-Welles).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness
House Committee on Human Services
House Committee on Ways & Means

Background: The crime of sexual abuse of a minor is a class C felony. The crime of promoting commercial sexual abuse of a minor is a class B felony. Persons convicted of sexual abuse of a minor or who receive a deferred sentence or deferred prosecution or who have entered into a statutory or non-statutory diversion agreement must be assessed a \$550 fee.

Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the 1st degree, promoting prostitution in the 2nd degree, promoting travel for prostitution, commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor the arresting office may impound the person's vehicle if the vehicle was used in the commission of the crime; if the person arrested is the owner of the vehicle or the vehicle is a rental car; and the person arrested had been previously convicted for one of the above offenses or the offense occurred in an area designated by local government. The owner must pay a fine of \$500 to the impounding agency, among other fees, to redeem his or her vehicle.

When a prosecutor receives a complaint that a juvenile has committed a crime, and there is sufficient evidence that the juvenile did commit the offense, the prosecutor may either file an information in juvenile court or divert the case depending on the type and level of crime alleged to have been committed. A juvenile alleged to have committed prostitution or prostitution loitering may be diverted if the county in which the offense occurred has a program that provides safe and stable housing, comprehensive on-site case management, integrated mental health and chemical dependency services, education and employment training, and referrals to specialized services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A child in need of services (CHINS) is a juvenile who: (1) is beyond the control of his or her parents; (2) has been reported to the police as absent without consent for at least 24 hours on two or more occasions and (a) has exhibited a serious substance abuse problem, or (b) has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or (3) is in need of necessary services or services designed to maintain or reunify the family. When a juvenile meets the CHINS definition, a CHINS petition can be filed with the court seeking services and assistance from the Department of Social and Health Services (DSHS).

Crime victims are not entitled to crime victim compensation benefits when the injury for which benefits are sought was (1) the result of consent, provocation or incitement by the victim, unless the injury resulting from a criminal act caused the victim's death; (2) sustained while the crime victim was engaged in the attempt to commit or in the commission of a felony; or (3) sustained while the victim was confined in a jail or correctional facility operated by DSHS.

Summary: If a juvenile is alleged to have committed the offense of prostitution or prostitution loitering and this is the juvenile's first offense, the prosecutor must divert the case. For subsequent allegations that the same minor has committed the above offenses, the prosecutor may either file an information in juvenile court or divert the case depending on the type of crime alleged and the level of the crime.

Starting July 1, 2011, if a juvenile is a sexually exploited child, a petition may be filed alleging that the juvenile is a child in need of supervision. A sexually exploited child is defined as any person under the age of 18 who is a victim of the crime of commercial sexual abuse of a minor, and promoting sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor. Within available funding, when a sexually exploited child is referred to DSHS, DSHS must connect the child with services and treatment for sexually abused youth.

A juvenile charged with prostitution who is also the victim in a commercial sexual abuse of a minor, promoting sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor charge is nevertheless considered a victim of a criminal act for purposes of qualifying to receive benefits from the Crime Victim's Compensation fund.

The Criminal Justice Training Commission in consultation with the Washington Association of Sheriffs and Police Chiefs must develop a model policy on law enforcement officer implementation of the procedures in dealing with sexually exploited children. The policy must be included in the basic training curriculum by January 1, 2011.

Designated receipts from the fines levied on those convicted of commercial sexual abuse of a minor, promoting sexual abuse of a minor, and promoting travel for commercial sexual abuse of a minor that are deposited into the Prostitution Prevention and Intervention Account must be spent as follows: half for secure and semi-secure crisis residence centers to provide for staff trained to work with sexually exploited children and half for funding the grant program to enhance prostitution and intervention services.

It is not a defense to the crime of commercial sexual abuse of a minor that the defendant did not know the age of the victim.

The expiration date of the county pilot program which provides wraparound services for juveniles diverted for prostitution-related offenses is repealed.

The Prostitution Prevention and Intervention Account funds are to be used in the following order:

- programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;
- funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;
- funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and
- funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

Upon a person's arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car. The suspect must pay a fine of \$2,500 to redeem the impounded vehicle.

Commercial sex abuse of a minor is changed from a class C to a class B felony. Promoting commercial sexual abuse of a minor is changed from a class B to a class A felony.

A person convicted of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, promoting travel for commercial sexual abuse of a minor, or who has been given a deferred prosecution or entered into a statutory or non-statutory diversion agreement for the aforementioned offences must be assessed a fee of \$5,000.

Votes on Final Passage:

Senate	45	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2010
July 1, 2011 (Section 1)

Partial Veto Summary: The requirement that DSHS report to the Legislature regarding training for Children's Administration and crisis residential center staff to effectively assist sexually abused youth is vetoed.