

FINAL BILL REPORT

SHB 1292

C 109 L 14
Synopsis as Enacted

Brief Description: Vacating prostitution convictions.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Orwall, Goodman, Roberts, Appleton, Green, Hope, Kochmar, Moscoso, Jinkins, Upthegrove and Ryu).

House Committee on Public Safety
Senate Committee on Law & Justice

Background:

Vacation of Records.

A person convicted of Prostitution who committed the offense as the result of being a victim of Trafficking or Promoting Prostitution in the first degree may apply to the sentencing court for vacation of the record of conviction, except that the record cannot be cleared if: (1) there are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court; (2) the applicant has been convicted of a new crime in this state, another state, or federal court since the date of conviction; or (3) the applicant has ever had the record of another prostitution conviction vacated.

If the offender meets these tests, the court may clear the record of conviction by permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or, if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

Trafficking in the First and Second Degrees.

A person is guilty of Trafficking when the person:

- recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person knowing, or in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act or that the person has not reached the age of 18 years and is caused to engaged in a sexually explicit act or a commercial sex act; or

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- benefits financially or by receiving anything of value from participation in a venture that has engaged in acts described above.

The offense is Trafficking in the first degree if the acts or venture:

- involve committing or attempting to commit kidnapping;
- involve a finding of sexual motivation;
- involve the illegal harvesting or sale of human organs; or
- result in a death.

Trafficking in the first degree is a class A felony.

Trafficking under any other circumstances constitutes Trafficking in the second degree.

Trafficking in the second degree is a class A felony.

Promoting Prostitution in the First Degree.

A person is guilty of Promoting Prostitution in the first degree if he or she knowingly advances prostitution:

- by compelling a person by threat or force to engage in prostitution or profits from prostitution that results from such threat or force; or
- by compelling a person with a mental incapacity or developmental disability that renders the person incapable of consent to engage in prostitution or profits from prostitution that results from such compulsion.

Promoting Prostitution in the first degree is a class B felony.

Commercial Sexual Abuse of a Minor.

A person is guilty of Commercial Sexual Abuse of a Minor if:

- he or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;
- he or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or
- he or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

Commercial Sexual Abuse of a Minor is a class B felony.

Summary:

A person convicted of Prostitution and who committed the offense as the result of being a victim of Trafficking, Promoting Prostitution in the first degree, or Commercial Sexual Abuse of a Minor may apply for a vacation of the criminal records and may have the record vacated regardless if he or she has had the record of another Prostitution conviction vacated, has pending criminal charges for Prostitution, or has had the record of another Prostitution conviction vacated.

The applicant must show by a preponderance of the evidence that the elements of the particular crime the applicant is alleged to be a victim of are met and that the particular prostitution record of conviction sought to be vacated resulted from those criminal acts.

Votes on Final Passage:

House	91	1	
House	94	1	
Senate	49	0	(Senate amended)
House	94	0	(House Concurred)

Effective: June 12, 2014