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**SUBSTITUTE HOUSE BILL 1291**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, Kochmar, Hope, Parker, Goodman, Jinkins, Upthegrove, Ryu, Stanford, Roberts, Hurst, Morrell, Tarleton, Wylie, Bergquist, and Ormsby)

READ FIRST TIME 02/19/13.

1 AN ACT Relating to services for victims of the sex trade; amending  
2 RCW 43.63A.740, 9.68A.105, 9A.88.120, and 9A.88.140; adding new  
3 sections to chapter 43.280 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes there are many  
6 state agencies and private organizations that might be called on to  
7 provide services to victims of sex trafficking. Victims of human  
8 trafficking are often in need of services such as emergency medical  
9 attention, food and shelter, vocational and English language training,  
10 mental health counseling, and legal support. The state intends to  
11 improve the response of state, local, and private entities to incidents  
12 of trafficking of humans. Victims would be better served if there is  
13 an established, coordinated system of identifying the needs of sex  
14 trafficking victims, training of service delivery agencies and staff,  
15 timely and appropriate delivery of services, and better investigations  
16 and prosecutions of trafficking.

17 Leadership in providing services to victims of sex trafficking also  
18 extends beyond government efforts and is grounded in the work of highly  
19 dedicated individuals and community-based groups. Without these

1 efforts the struggle against human trafficking will be very difficult  
2 to win. The legislature, therefore, finds that such efforts merit  
3 regular public recognition and appreciation. Such recognition and  
4 appreciation will encourage the efforts of all persons to end sex  
5 trafficking, and provide the public with information and education  
6 about the necessity of its involvement in this struggle.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.280 RCW  
8 to read as follows:

9 (1) The statewide coordinating committee on sex trafficking is  
10 established to address the issues of sex trafficking, to examine the  
11 practices of local and regional entities involved in addressing sex  
12 trafficking, and to develop a statewide plan to address sex  
13 trafficking.

14 (2) The committee is administered by the department of commerce and  
15 consists of the following members:

16 (a) The secretary of the children's administration or his or her  
17 designee;

18 (b) The secretary of the juvenile rehabilitation administration or  
19 his or her designee;

20 (c) The superintendent of public instruction or his or her  
21 designee;

22 (d) A representative of the administrative office of the courts  
23 appointed by the administrative office of the courts;

24 (e) The executive director of the Washington association of  
25 sheriffs and police chiefs or his or her designee;

26 (f) The executive director of the Washington state criminal justice  
27 training commission or his or her designee;

28 (g) A representative of the Washington association of prosecuting  
29 attorneys appointed by the association;

30 (h) Representatives of community service providers that serve  
31 victims of human trafficking, to be appointed by commerce's office of  
32 crime victims advocacy;

33 (i) Any existing chairs of regional task forces that address human  
34 trafficking;

35 (j) The executive director of the Washington coalition of crime  
36 victim advocates or his or her designee;

1 (k) The executive director of the Washington coalition of sexual  
2 assault programs or his or her designee;

3 (l) The executive director of the Washington state coalition  
4 against domestic violence or his or her designee;

5 (m) The executive director of the Washington association of cities  
6 or his or her designee;

7 (n) The executive director of the Washington association of  
8 counties or his or her designee; and

9 (o) The director or a representative from the crime victims  
10 compensation program.

11 (3) The duties of the committee include, but are not limited to:

12 (a) Gathering and assessing service practices from diverse sources  
13 regarding service demand and delivery;

14 (b) Analyzing data regarding the implementation of sex trafficking  
15 legislation passed in recent years by the legislature, including  
16 reports submitted to the department of commerce pursuant to RCW  
17 9.68A.105, 9A.88.120, and 9A.88.140, and assessing the efficacy of such  
18 legislation in addressing sex trafficking, as well as any obstacles to  
19 the impact of legislation on the commercial sex trade; and

20 (c) Gathering and reviewing existing data, research, and literature  
21 to help shape a plan of action to address human trafficking in  
22 Washington to include:

23 (i) Strategies for Washington to undertake to end sex trafficking;  
24 and

25 (ii) Necessary data collection improvements.

26 (4) The committee shall meet twice and, by December 2014, produce  
27 a report on its activities, together with a statewide plan to address  
28 sex trafficking in Washington, to the governor's office and the  
29 legislature.

30 (5) All expenses of the committee shall come from the prostitution  
31 prevention and intervention account created in RCW 43.63A.740.

32 (6) The members of the committee shall serve without compensation,  
33 but shall be reimbursed for travel expenses as provided in RCW  
34 43.03.050 and 43.03.060, within available resources.

35 (7) The committee expires December 31, 2014.

36 **Sec. 3.** RCW 43.63A.740 and 2010 c 289 s 18 are each amended to  
37 read as follows:

1 The prostitution prevention and intervention account is created in  
2 the state treasury. (~~All designated receipts from fees under RCW~~  
3 ~~9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall~~  
4 ~~be deposited into the account.~~) Expenditures from the account may be  
5 used in the following order of priority:

6 (1) Funding the statewide coordinating committee on sex  
7 trafficking;

8 (2) Programs that provide mental health and substance abuse  
9 counseling, parenting skills training, housing relief, education, and  
10 vocational training for youth who have been diverted for a prostitution  
11 or prostitution loitering offense pursuant to RCW 13.40.213;

12 ~~((+2))~~ (3) Funding for services provided to sexually exploited  
13 children as defined in RCW 13.32A.030 in secure and semi-secure crisis  
14 residential centers with access to staff trained to meet their specific  
15 needs;

16 ~~((+3))~~ (4) Funding for services specified in RCW 74.14B.060 and  
17 74.14B.070 for sexually exploited children; and

18 ~~((+4))~~ (5) Funding the grant program to enhance prostitution  
19 prevention and intervention services under RCW 43.63A.720.

20 **Sec. 4.** RCW 9.68A.105 and 2012 c 134 s 4 are each amended to read  
21 as follows:

22 (1)(a) In addition to penalties set forth in RCW 9.68A.100,  
23 9.68A.101, and 9.68A.102, a person who is either convicted or given a  
24 deferred sentence or a deferred prosecution or who has entered into a  
25 statutory or nonstatutory diversion agreement as a result of an arrest  
26 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable  
27 county or municipal ordinance shall be assessed a five thousand dollar  
28 fee.

29 (b) The court may not reduce, waive, or suspend payment of all or  
30 part of the fee assessed unless it finds, on the record, that the  
31 person does not have the ability to pay in which case it may reduce the  
32 fee by an amount up to two-thirds of the maximum allowable fee.

33 (c) When a minor has been adjudicated a juvenile offender or has  
34 entered into a statutory or nonstatutory diversion agreement for an  
35 offense which, if committed by an adult, would constitute a violation  
36 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or  
37 municipal ordinance, the court shall assess the fee under (a) of this

1 subsection. The court may not reduce, waive, or suspend payment of all  
2 or part of the fee assessed unless it finds, on the record, that the  
3 minor does not have the ability to pay the fee in which case it may  
4 reduce the fee by an amount up to two-thirds of the maximum allowable  
5 fee.

6 (2) Fees assessed under this section shall be collected by the  
7 clerk of the court and remitted to the treasurer of the county where  
8 the offense occurred for deposit in the county general fund, except in  
9 cases in which the offense occurred in a city or town that provides for  
10 its own law enforcement, in which case these amounts shall be remitted  
11 to the treasurer of the city or town for deposit in the general fund of  
12 the city or town. Revenue from the fees must be used for local efforts  
13 to reduce the commercial sale of sex including, but not limited to,  
14 increasing enforcement of commercial sex laws.

15 (a) At least fifty percent of the revenue from fees imposed under  
16 this section must be spent on prevention, including education programs  
17 for offenders, such as john school, and rehabilitative services for  
18 victims, such as mental health and substance abuse counseling,  
19 parenting skills, training, housing relief, education, vocational  
20 training, drop-in centers, and employment counseling.

21 (b) Two percent of the revenue from fees imposed under this section  
22 shall be remitted quarterly to the department of commerce, together  
23 with a report detailing the fees assessed, the revenue received, and  
24 how that revenue was spent.

25 (c) Revenues from these fees are not subject to the distribution  
26 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
27 35.20.220.

28 (3) For the purposes of this section:

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

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

1       **Sec. 5.** RCW 9A.88.120 and 2012 c 134 s 3 are each amended to read  
2 as follows:

3       (1)(a) In addition to penalties set forth in RCW 9A.88.010 and  
4 9A.88.030, a person who is either convicted or given a deferred  
5 sentence or a deferred prosecution or who has entered into a statutory  
6 or nonstatutory diversion agreement as a result of an arrest for  
7 violating RCW 9A.88.010, 9A.88.030, or comparable county or municipal  
8 ordinances shall be assessed a fifty dollar fee.

9       (b) In addition to penalties set forth in RCW 9A.88.090, a person  
10 who is either convicted or given a deferred sentence or a deferred  
11 prosecution or who has entered into a statutory or nonstatutory  
12 diversion agreement as a result of an arrest for violating RCW  
13 9A.88.090 or comparable county or municipal ordinances shall be  
14 assessed a fee in the amount of:

15       (i) One thousand five hundred dollars if the defendant has no prior  
16 convictions, deferred sentences, deferred prosecutions, or statutory or  
17 nonstatutory diversion agreements for this offense;

18       (ii) Two thousand five hundred dollars if the defendant has one  
19 prior conviction, deferred sentence, deferred prosecution, or statutory  
20 or nonstatutory diversion agreement for this offense; and

21       (iii) Five thousand dollars if the defendant has two or more prior  
22 convictions, deferred sentences, deferred prosecutions, or statutory or  
23 nonstatutory diversion agreements for this offense.

24       (c) In addition to penalties set forth in RCW 9A.88.110, a person  
25 who is either convicted or given a deferred sentence or a deferred  
26 prosecution or who has entered into a statutory or nonstatutory  
27 diversion agreement as a result of an arrest for violating RCW  
28 9A.88.110 or a comparable county or municipal ordinance shall be  
29 assessed a fee in the amount of:

30       (i) One thousand five hundred dollars if the defendant has no prior  
31 convictions, deferred sentences, deferred prosecutions, or statutory or  
32 nonstatutory diversion agreements for this offense;

33       (ii) Two thousand five hundred dollars if the defendant has one  
34 prior conviction, deferred sentence, deferred prosecution, or statutory  
35 or nonstatutory diversion agreement for this offense; and

36       (iii) Five thousand dollars if the defendant has two or more prior  
37 convictions, deferred sentences, deferred prosecutions, or statutory or  
38 nonstatutory diversion agreements for this offense.

1 (d) In addition to penalties set forth in RCW 9A.88.070 and  
2 9A.88.080, a person who is either convicted or given a deferred  
3 sentence or a deferred prosecution or who has entered into a statutory  
4 or nonstatutory diversion agreement as a result of an arrest for  
5 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal  
6 ordinances shall be assessed a fee in the amount of:

7 (i) Three thousand dollars if the defendant has no prior  
8 convictions, deferred sentences, deferred prosecutions, or statutory or  
9 nonstatutory diversion agreements for this offense;

10 (ii) Six thousand dollars if the defendant has one prior  
11 conviction, deferred sentence, deferred prosecution, or statutory or  
12 nonstatutory diversion agreement for this offense; and

13 (iii) Ten thousand dollars if the defendant has two or more prior  
14 convictions, deferred sentences, deferred prosecutions, or statutory or  
15 nonstatutory diversion agreements for this offense.

16 (2) When a minor has been adjudicated a juvenile offender or has  
17 entered into a statutory or nonstatutory diversion agreement for an  
18 offense which, if committed by an adult, would constitute a violation  
19 under this chapter or comparable county or municipal ordinances, the  
20 court shall assess the fee as specified under subsection (1) of this  
21 section.

22 (3) The court shall not reduce, waive, or suspend payment of all or  
23 part of the assessed fee in this section unless it finds, on the  
24 record, that the offender does not have the ability to pay the fee in  
25 which case it may reduce the fee by an amount up to two-thirds of the  
26 maximum allowable fee.

27 (a) A superior court may, as described in RCW 9.94A.760, set a sum  
28 that the offender is required to pay on a monthly basis towards  
29 satisfying the fee imposed in this section.

30 (b) A district or municipal court may enter into a payment plan  
31 with the defendant, in which the fee assessed in this section is paid  
32 through scheduled periodic payments. The court may assess the  
33 defendant a reasonable fee for administrative services related to the  
34 operation of the payment plan.

35 (4) Fees assessed under this section shall be collected by the  
36 clerk of the court and remitted to the treasurer of the county where  
37 the offense occurred for deposit in the county general fund, except in  
38 cases in which the offense occurred in a city or town that provides for

1 its own law enforcement, in which case these amounts shall be remitted  
2 to the treasurer of the city or town for deposit in the general fund of  
3 the city or town. Revenue from the fees must be used for local efforts  
4 to reduce the commercial sale of sex including, but not limited to,  
5 increasing enforcement of commercial sex laws.

6 (a) At least fifty percent of the revenue from fees imposed under  
7 this section must be spent on prevention, including education programs  
8 for offenders, such as john school, and rehabilitative services for  
9 victims, such as mental health and substance abuse counseling,  
10 parenting skills, training, housing relief, education, vocational  
11 training, drop-in centers, and employment counseling.

12 (b) Two percent of the revenue from fees imposed under this section  
13 shall be remitted quarterly to the department of commerce, together  
14 with a report detailing the fees assessed, the revenue received, and  
15 how that revenue was spent.

16 (c) Revenues from these fees are not subject to the distribution  
17 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
18 35.20.220.

19 (5) For the purposes of this section:

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

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

28 **Sec. 6.** RCW 9A.88.140 and 2010 c 289 s 12 are each amended to read  
29 as follows:

30 (1)(a) Upon an arrest for a suspected violation of patronizing a  
31 prostitute, promoting prostitution in the first degree, promoting  
32 prostitution in the second degree, promoting travel for prostitution,  
33 the arresting law enforcement officer may impound the person's vehicle  
34 if (i) the motor vehicle was used in the commission of the crime; (ii)  
35 the person arrested is the owner of the vehicle or the vehicle is a  
36 rental car as defined in RCW 46.04.465; and (iii) either (A) the person

1 arrested has previously been convicted of one of the offenses listed in  
2 this subsection or (B) the offense was committed within an area  
3 designated under (b) of this subsection.

4 (b) A local governing authority may designate areas within which  
5 vehicles are subject to impoundment under this section regardless of  
6 whether the person arrested has previously been convicted of any of the  
7 offenses listed in (a) of this subsection.

8 (i) The designation must be based on evidence indicating that the  
9 area has a disproportionately higher number of arrests for the offenses  
10 listed in (a) of this subsection as compared to other areas within the  
11 same jurisdiction.

12 (ii) The local governing authority shall post signs at the  
13 boundaries of the designated area to indicate that the area has been  
14 designated under this subsection.

15 (2) Upon an arrest for a suspected violation of commercial sexual  
16 abuse of a minor, promoting commercial sexual abuse of a minor, or  
17 promoting travel for commercial sexual abuse of a minor, the arresting  
18 law enforcement officer shall impound the person's vehicle if (a) the  
19 motor vehicle was used in the commission of the crime; and (b) the  
20 person arrested is the owner of the vehicle or the vehicle is a rental  
21 car as defined in RCW 46.04.465.

22 (3) Impoundments performed under this section shall be in  
23 accordance with chapter 46.55 RCW and the impoundment order must  
24 clearly state "prostitution hold."

25 (4)(a) Prior to redeeming the impounded vehicle, and in addition to  
26 all applicable impoundment, towing, and storage fees paid to the towing  
27 company under chapter 46.55 RCW, the owner of the impounded vehicle  
28 must pay a fine to the impounding agency. The fine shall be five  
29 hundred dollars for the offenses specified in subsection (1) of this  
30 section, or two thousand five hundred dollars for the offenses  
31 specified in subsection (2) of this section. ~~((The fine shall be  
32 deposited in the prostitution prevention and intervention account  
33 established under RCW 43.63A.740.))~~

34 (b) Upon receipt of the fine paid under (a) of this subsection, the  
35 impounding agency shall issue a written receipt to the owner of the  
36 impounded vehicle.

37 (c) Fines assessed under this section shall be collected by the  
38 clerk of the court and remitted to the treasurer of the county where

1 the offense occurred for deposit in the county general fund, except in  
2 cases in which the offense occurred in a city or town that provides for  
3 its own law enforcement, in which case these amounts shall be remitted  
4 to the treasurer of the city or town for deposit in the general fund of  
5 the city or town. Revenue from the fines must be used for local  
6 efforts to reduce the commercial sale of sex including, but not limited  
7 to, increasing enforcement of commercial sex laws.

8 (i) At least fifty percent of the revenue from fines imposed under  
9 this section must be spent on prevention, including education programs  
10 for offenders, such as john school, and rehabilitative services for  
11 victims, such as mental health and substance abuse counseling,  
12 parenting skills, training, housing relief, education, vocational  
13 training, drop-in centers, and employment counseling.

14 (ii) Two percent of the revenue from fines imposed under this  
15 section shall be remitted quarterly to the department of commerce,  
16 together with a report detailing the fees assessed, the revenue  
17 received, and how that revenue was spent.

18 (iii) Revenues from these fees are not subject to the distribution  
19 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
20 35.20.220.

21 (5)(a) In order to redeem a vehicle impounded under this section,  
22 the owner must provide the towing company with the written receipt  
23 issued under subsection (4)(b) of this section.

24 (b) The written receipt issued under subsection (4)(b) of this  
25 section authorizes the towing company to release the impounded vehicle  
26 upon payment of all impoundment, towing, and storage fees.

27 (c) A towing company that relies on a forged receipt to release a  
28 vehicle impounded under this section is not liable to the impounding  
29 authority for any unpaid fine under subsection (4)(a) of this section.

30 (6)(a) In any proceeding under chapter 46.55 RCW to contest the  
31 validity of an impoundment under this section where the claimant  
32 substantially prevails, the claimant is entitled to a full refund of  
33 the impoundment, towing, and storage fees paid under chapter 46.55 RCW  
34 and the five hundred dollar fine paid under subsection (4) of this  
35 section.

36 (b) If the person is found not guilty at trial for a crime listed  
37 under subsection (1) of this section, the person is entitled to a full

1 refund of the impoundment, towing, and storage fees paid under chapter  
2 46.55 RCW and the fine paid under subsection (4) of this section.

3 (c) All refunds made under this section shall be paid by the  
4 impounding agency.

5 (d) Prior to receiving any refund under this section, the claimant  
6 must provide proof of payment.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.280 RCW  
8 to read as follows:

9 (1) The department of commerce shall prepare and submit an annual  
10 report to the legislature on the amount of revenue collected by local  
11 jurisdictions under RCW 9.68A.105, 9A.88.120, or 9A.88.140 and the  
12 expenditure of that revenue.

13 (2) Any funds remitted to the department of commerce pursuant to  
14 RCW 9.68A.105, 9A.88.120, or 9A.88.140 shall be spent on the  
15 fulfillment of the duties described in subsection (1) of this section.  
16 Any remaining funds may be spent on the administration of grants for  
17 services for victims of the commercial sex trade, consistent with this  
18 chapter.

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