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**SECOND SUBSTITUTE SENATE BILL 5744**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Dhingra, Das, Randall, Darneille, Hasegawa, Saldaña, Keiser, Kuderer, Nguyen, and Wilson, C.)

AN ACT Relating to commercially sexually exploited children; amending RCW 9A.88.030, 13.40.070, 13.40.213, 7.68.801, 43.185C.260, and 74.14B.070; adding new sections to chapter 7.68 RCW; adding a new section to chapter 43.280 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that commercial sexual exploitation of children is a severe form of human trafficking and a severe human rights and public health issue, leaving children at substantial risk of physical harm, substantial physical and emotional pain, and trauma. This trauma has a long-term impact on the social, emotional, and economic future of these children. The state shall provide a victim-centered, trauma-informed response to children who are exploited in this manner rather than treating them as criminals. The state shall also hold accountable the buyers and traffickers who exploit children.

NEW SECTION. **Sec.**  A new section is added to chapter 7.68 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families shall administer funding for two receiving center programs for commercially sexually exploited children. One of these programs must be located west of the crest of the Cascade mountains and one of these programs must be located east of the crest of the Cascade mountains. Law enforcement and service providers may refer children to these programs or children may self-refer into these programs.

(2) The receiving center programs established under this section shall:

(a) Begin providing services by January 1, 2021;

(b) Develop, in consultation with the department of children, youth, and families, the eligibility criteria for serving commercially sexually exploited children that allows referral from service providers and prioritizes referral from law enforcement;

(c) Utilize existing facilities and not require the construction of new facilities; and

(d) Provide ongoing case management for all children who are being served or were served by the programs.

(3) The receiving centers established under this section shall:

(a) Include a short-term evaluation function that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children ages twelve through seventeen and either meet those immediate needs or refer those children to the appropriate services;

(b) Assess children for mental health and substance use disorder needs and provide appropriate referrals as needed; and

(c) Provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity.

(4) The department of children, youth, and families shall:

(a) Collect nonidentifiable demographic data of the children served by the programs established under this section;

(b) Collect data regarding the locations that children exit to after being served by the programs; and

(c) Report the data described in this subsection along with recommendations for modification or expansion of these programs to the relevant committees of the legislature by December 1, 2022.

(5) For the purposes of this section, the following definitions apply:

(a) "Receiving center" means a trauma-informed, secure location that meets the multidisciplinary needs of commercially sexually exploited children ages twelve through seventeen in a licensed or certified behavioral health entity providing residential services; and

(b) "Short-term evaluation function" means a short-term emergency shelter that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children under age eighteen and either meet those immediate needs or refer those children to the appropriate services.

NEW SECTION. **Sec.**  A new section is added to chapter 7.68 RCW to read as follows:

(1) The following individuals or entities may refer a child to receiving centers as defined in section 2 of this act:

(a) Law enforcement, who shall:

(i) Transport a child eligible for receiving center services to a receiving center; or

(ii) Coordinate transportation with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider;

(b) The department of children, youth, and families;

(c) Juvenile courts;

(d) Community service providers;

(e) A parent or guardian; and

(f) A child may self-refer.

(2) Eligibility for placement in a receiving center is children ages twelve through seventeen, of all genders, who have been, or are at risk for being commercially sexually exploited.

**Sec.**  RCW 9A.88.030 and 1988 c 145 s 16 are each amended to read as follows:

(1) A person age eighteen or older is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

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

(3) Prostitution is a misdemeanor.

**Sec.**  RCW 13.40.070 and 2019 c 128 s 8 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile court if (a) an alleged offender is accused of an offense that is defined as a sex offense or violent offense under RCW 9.94A.030, other than assault in the second degree or robbery in the second degree; or (b) an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that may be filed under subsections (5) and (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with:

(a) ((~~Either prostitution or prostitution~~)) Prostitution loitering and the alleged offense is the offender's first ((~~prostitution or~~)) prostitution loitering offense, the prosecutor shall divert the case;

(b) Voyeurism in the second degree, the offender is under seventeen years of age, and the alleged offense is the offender's first voyeurism in the second degree offense, the prosecutor shall divert the case, unless the offender has received two diversions for any offense in the previous two years;

(c) Minor selling depictions of himself or herself engaged in sexually explicit conduct under RCW 9.68A.053(5) and the alleged offense is the offender's first violation of RCW 9.68A.053(5), the prosecutor shall divert the case; or

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in RCW 9.68A.053(1) and the alleged offense is the offender's first violation of RCW 9.68A.053(1), the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(10) The responsibilities of the prosecutor under subsections (1) through (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to community-based programs, restorative justice programs, mediation, or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

(12) Prosecutors and juvenile courts are encouraged to engage with and partner with community-based programs to expand, improve, and increase options to divert youth from formal processing in juvenile court. Nothing in this chapter should be read to limit partnership with community-based programs to create diversion opportunities for juveniles.

**Sec.**  RCW 13.40.213 and 2010 c 289 s 8 are each amended to read as follows:

(1) When a juvenile is alleged to have committed ((~~the offenses of prostitution or~~)) a prostitution loitering offense, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

(a) Safe and stable housing;

(b) Comprehensive on-site case management;

(c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;

(d) Education and employment training delivered on-site; and

(e) Referrals to off-site specialized services, as appropriate.

(2) A prosecutor may divert a case for ((~~prostitution or~~)) prostitution loitering into the comprehensive program described in this section, notwithstanding the filing criteria set forth in RCW 13.40.070(5).

(3) A diversion agreement under this section may extend to twelve months.

(4)(a) The administrative office of the courts shall compile data regarding:

(i) The number of juveniles whose cases are diverted into the comprehensive program described in this section;

(ii) Whether the juveniles complete their diversion agreements under this section; and

(iii) Whether juveniles whose cases have been diverted under this section have been subsequently arrested or committed subsequent offenses.

(b) An annual report of the data compiled shall be provided to the governor and the appropriate committee of the legislature. ((~~The first report is due by November 1, 2010.~~))

**Sec.**  RCW 7.68.801 and 2018 c 58 s 65 are each amended to read as follows:

(1) The commercially sexually exploited children statewide coordinating committee is established to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices.

(2) The committee is convened by the office of the attorney general with the department of commerce assisting with agenda planning and administrative and clerical support. The committee consists of the following members:

(a) One member from each of the two largest caucuses of the house of representatives appointed by the speaker of the house;

(b) One member from each of the two largest caucuses of the senate appointed by the ((~~speaker~~)) president of the senate;

(c) A representative of the governor's office appointed by the governor;

(d) The secretary of the department of children, youth, and families or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The attorney general or his or her designee;

(g) The superintendent of public instruction or his or her designee;

(h) A representative of the administrative office of the courts appointed by the administrative office of the courts;

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

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

(k) A representative of the Washington association of prosecuting attorneys appointed by the association;

(l) The executive director of the office of public defense or his or her designee;

(m) Three representatives of community service providers that provide direct services to commercially sexually exploited children appointed by the attorney general;

(n) Two representatives of nongovernmental organizations familiar with the issues affecting commercially sexually exploited children appointed by the attorney general;

(o) The president of the superior court judges' association or his or her designee;

(p) The president of the juvenile court administrators or his or her designee;

(q) Any existing chairs of regional task forces on commercially sexually exploited children;

(r) A representative from the criminal defense bar;

(s) A representative of the center for children and youth justice;

(t) A representative from the office of crime victims advocacy;

(u) The executive director of the Washington coalition of sexual assault programs;

(v) A representative of an organization that provides inpatient chemical dependency treatment to youth, appointed by the attorney general;

(w) A representative of an organization that provides mental health treatment to youth, appointed by the attorney general; and

(x) A survivor of human trafficking, appointed by the attorney general.

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

(a) Overseeing and reviewing the implementation of the Washington state model protocol for commercially sexually exploited children at task force sites;

(b) Receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas as well as data information regarding perpetrators, geographic data and location trends, and any other data deemed relevant;

(c) Receiving reports on local coordinated community response practices and results of the community responses;

(d) Reviewing recommendations from local and regional entities regarding policy and legislative changes that would improve the efficiency and effectiveness of local response practices;

(e) Making recommendations regarding policy and legislative changes that would improve the effectiveness of the state's response to and promote best practices for suppression of the commercial sexual exploitation of children;

(f) Making recommendations regarding data collection useful to understanding or addressing the problem of commercially sexually exploited children;

(g) Reviewing and making recommendations regarding strategic local investments or opportunities for federal and state funding to address the commercial sexual exploitation of children;

(h) Reviewing the extent to which chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) is understood and applied by enforcement authorities; ((~~and~~))

(i) Researching any barriers that exist to full implementation of chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) throughout the state;

(j) Convening a meeting and providing recommendations required under section 10 of this act; and

(k) Compiling data on the number of juveniles believed to be victims of sexual exploitation taken into custody under RCW 43.185C.260.

(4) The committee must meet no less than annually.

(5) The committee shall annually report its findings and recommendations to the appropriate committees of the legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

(6) This section expires June 30, 2023.

**Sec.**  RCW 43.185C.260 and 2019 c 312 s 15 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) If a law enforcement officer takes a juvenile into custody pursuant to subsection (1)(b) of this section and reasonably believes that the juvenile may be the victim of sexual exploitation, the officer shall transport the child to an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in section 2 of this act, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

(8) Law enforcement shall have the authority to take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individual or individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in section 2 of this act, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

(9) No child may be placed in a secure facility except as provided in this chapter.

**Sec.**  RCW 74.14B.070 and 2017 3rd sp.s. c 6 s 508 are each amended to read as follows:

(1) The department shall, subject to available funds, establish a system of early identification and referral to treatment of child victims of sexual assault or sexual abuse. The system shall include schools, physicians, sexual assault centers, domestic violence centers, child protective services, and foster parents. A mechanism shall be developed to identify communities that have experienced success in this area and share their expertise and methodology with other communities statewide.

(2) The department shall provide services to support commercially sexually exploited children.

(a) To provide services supporting commercially sexually exploited children, the department must provide:

(i) At least one liaison position in each region of the department dedicated to serving commercially sexually exploited children who report directly to the statewide program manager under (a)(ii) of this subsection; and

(ii) One statewide program manager.

(b) The department shall collect nonidentifiable data regarding the number of commercially sexually exploited children, including reports of commercially sexually exploited children received from law enforcement under chapter 26.44 RCW.

(3) The department shall provide an annual report to the commercially sexually exploited children statewide coordinating committee established under RCW 7.68.801 by December 1st that includes:

(a) A description of services provided by the department to commercially sexually exploited children; and

(b) Nonidentifiable data regarding the number of commercially sexually exploited children.

(4) The department may solicit and accept gifts, grants, conveyances, bequests, and devices for supporting the purposes of this section.

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

(1) By September 1, 2020, the commercially sexually exploited children statewide coordinating committee established under RCW 7.68.801 shall convene a meeting related to the role that child advocacy centers have in responding to and supporting commercially sexually exploited children.

(a) The meeting required under this subsection must include representatives from child advocacy centers.

(b) By October 1, 2020, and following the meeting required under this subsection, the commercially sexually exploited children statewide coordinating committee established under RCW 7.68.801 shall provide recommendations to the department regarding:

(i) Expanded use of child advocacy centers in providing additional services for commercially sexually exploited children; and

(ii) Ensuring that child advocacy centers connect commercially sexually exploited children with available services in the community.

(2) By December 1, 2020, and in compliance with RCW 43.01.036, the department must provide a report to the relevant committees of the legislature that includes:

(a) An inventory of the number and location of child advocacy centers in the state;

(b) A description of the services provided by each of the child advocacy centers in the state;

(c) Recommendations for expanded use of child advocacy centers in providing additional services for commercially sexually exploited children; and

(d) Recommendations for ensuring that child advocacy centers connect commercially sexually exploited children with available services in the community.

(3) For purposes of this section:

(a) "Child advocacy center" has the same meaning as the definition provided under RCW 26.44.020.

(b) "Department" means the department of commerce.

(4) This section expires June 30, 2021.

NEW SECTION. **Sec.**  Sections 4, 5, and 6 of this act take effect January 1, 2024.

**--- END ---**