

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5718

Chapter 368, Laws of 2007
(partial veto)

60th Legislature
2007 Regular Session

COMMERCIAL SEXUAL ABUSE OF MINORS

EFFECTIVE DATE: 07/22/07

Passed by the Senate April 16, 2007
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 3, 2007
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 8, 2007, 3:58 p.m., with
the exception of sections 15 and 16
which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SUBSTITUTE SENATE
BILL 5718** as passed by the Senate
and the House of Representatives
on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 10, 2007

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5718

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

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; adding a new section to chapter 9.94A.RCW; creating
6 new sections; and prescribing penalties.

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

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

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

15 The legislature further finds that the protection of children from
16 sexual exploitation can be accomplished without infringing on a
17 constitutionally protected activity. The definition of "sexually
18 explicit conduct" and other operative definitions demarcate a line

1 between protected and prohibited conduct and should not inhibit
2 legitimate scientific, medical, or educational activities.

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

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

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

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

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

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

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

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

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

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

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

1 offenses. Law enforcement and prosecution agencies shall not employ
2 minors to aid in the investigation of a violation of RCW 9.68A.090 or
3 9.68A.100. This chapter does not apply to lawful conduct between
4 spouses.

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

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

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

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

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

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

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

3 (3) For the purposes of this section:

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

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

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

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

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

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

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

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

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

2 (a) Promoting travel for prostitution or promoting travel for
3 commercial sexual abuse of a minor;

4 (b) Selling, advertising, or otherwise offering to sell travel
5 services or facilitate travel:

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

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

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

11 (2) For the purposes of this section:

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

15 (b) "Sexual act" means any sexual contact as defined in chapter
16 9A.44 RCW.

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

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

25 (2) Permitting commercial sexual abuse of a minor is a gross
26 misdemeanor.

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

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

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

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

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

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

13 (3) The following additional times shall be added to the standard
14 sentence range for felony crimes committed after July 23, 1995, if the
15 offender or an accomplice was armed with a firearm as defined in RCW
16 9.41.010 and the offender is being sentenced for one of the crimes
17 listed in this subsection as eligible for any firearm enhancements
18 based on the classification of the completed felony crime. If the
19 offender is being sentenced for more than one offense, the firearm
20 enhancement or enhancements must be added to the total period of
21 confinement for all offenses, regardless of which underlying offense is
22 subject to a firearm enhancement. If the offender or an accomplice was
23 armed with a firearm as defined in RCW 9.41.010 and the offender is
24 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
25 commit one of the crimes listed in this subsection as eligible for any
26 firearm enhancements, the following additional times shall be added to
27 the standard sentence range determined under subsection (2) of this
28 section based on the felony crime of conviction as classified under RCW
29 9A.28.020:

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

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

36 (c) Eighteen months for any felony defined under any law as a class

1 C felony or with a statutory maximum sentence of five years, or both,
2 and not covered under (f) of this subsection;

3 (d) If the offender is being sentenced for any firearm enhancements
4 under (a), (b), and/or (c) of this subsection and the offender has
5 previously been sentenced for any deadly weapon enhancements after July
6 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
7 (4)(a), (b), and/or (c) of this section, or both, all firearm
8 enhancements under this subsection shall be twice the amount of the
9 enhancement listed;

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

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

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

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

1 underlying offense is subject to a deadly weapon enhancement. If the
2 offender or an accomplice was armed with a deadly weapon other than a
3 firearm as defined in RCW 9.41.010 and the offender is being sentenced
4 for an anticipatory offense under chapter 9A.28 RCW to commit one of
5 the crimes listed in this subsection as eligible for any deadly weapon
6 enhancements, the following additional times shall be added to the
7 standard sentence range determined under subsection (2) of this section
8 based on the felony crime of conviction as classified under RCW
9 9A.28.020:

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

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

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

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

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

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

1 (g) If the standard sentence range under this section exceeds the
2 statutory maximum sentence for the offense, the statutory maximum
3 sentence shall be the presumptive sentence unless the offender is a
4 persistent offender. If the addition of a deadly weapon enhancement
5 increases the sentence so that it would exceed the statutory maximum
6 for the offense, the portion of the sentence representing the
7 enhancement may not be reduced.

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

19 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
20 (a) or (b) or 69.50.410;

21 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
22 (c), (d), or (e);

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

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

27 (6) An additional twenty-four months shall be added to the standard
28 sentence range for any ranked offense involving a violation of chapter
29 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
30 9.94A.605. All enhancements under this subsection shall run
31 consecutively to all other sentencing provisions, for all offenses
32 sentenced under this chapter.

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

37 (8)(a) The following additional times shall be added to the
38 standard sentence range for felony crimes committed on or after July 1,

1 2006, if the offense was committed with sexual motivation, as that term
2 is defined in RCW 9.94A.030. If the offender is being sentenced for
3 more than one offense, the sexual motivation enhancement must be added
4 to the total period of total confinement for all offenses, regardless
5 of which underlying offense is subject to a sexual motivation
6 enhancement. If the offender committed the offense with sexual
7 motivation and the offender is being sentenced for an anticipatory
8 offense under chapter 9A.28 RCW, the following additional times shall
9 be added to the standard sentence range determined under subsection (2)
10 of this section based on the felony crime of conviction as classified
11 under RCW 9A.28.020:

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

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

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

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

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

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

36 (d) If the standard sentence range under this subsection exceeds
37 the statutory maximum sentence for the offense, the statutory maximum
38 sentence shall be the presumptive sentence unless the offender is a

1 persistent offender. If the addition of a sexual motivation
2 enhancement increases the sentence so that it would exceed the
3 statutory maximum for the offense, the portion of the sentence
4 representing the enhancement may not be reduced;

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

8 (f) Nothing in this subsection prevents a sentencing court from
9 imposing a sentence outside the standard sentence range pursuant to RCW
10 9.94A.535.

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

28 NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW
29 to read as follows:

30 (1) In a prosecution for a violation of RCW 9A.44.073, 9A.44.076,
31 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, or an anticipatory
32 offense for a violation of RCW 9A.44.073, 9A.44.076, 9A.44.079,
33 9A.44.083, 9A.44.086, or 9A.44.089, committed on or after the effective
34 date of this act, the prosecuting attorney may file a special
35 allegation that the defendant engaged, agreed, offered, attempted,
36 solicited another, or conspired to engage the victim in the sexual
37 conduct in return for a fee, when sufficient admissible evidence

1 exists, which, when considered with the most plausible, reasonably
2 foreseeable defense that could be raised under the evidence, would
3 justify a finding by a reasonable and objective fact-finder that the
4 defendant engaged, agreed, offered, attempted, solicited another, or
5 conspired to engage the victim in the sexual conduct in return for a
6 fee.

7 (2) Once a special allegation has been made under this section, the
8 state has the burden to prove beyond a reasonable doubt that the
9 defendant engaged, agreed, offered, attempted, solicited another, or
10 conspired to engage the victim in the sexual conduct in return for a
11 fee. If a jury is had, the jury shall, if it finds the defendant
12 guilty, also find a special verdict as to whether the defendant
13 engaged, agreed, offered, attempted, solicited another, or conspired to
14 engage the victim in the sexual conduct in exchange for a fee. If no
15 jury is had, the court shall make a finding of fact as to whether the
16 defendant engaged, agreed, offered, attempted, solicited another, or
17 conspired to engage the victim in the sexual conduct in exchange for a
18 fee.

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

21 **Sec. 11.** RCW 9.68A.105 and 1995 c 353 s 12 are each amended to
22 read as follows:

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

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

31 (c) When a minor has been adjudicated a juvenile offender or has
32 entered into a statutory or nonstatutory diversion agreement for an
33 offense which, if committed by an adult, would constitute a violation
34 of RCW 9.68A.100 or a comparable county or municipal ordinance, the
35 court shall assess the fee under (a) of this subsection. The court may
36 not suspend payment of all or part of the fee unless it finds that the
37 minor does not have the ability to pay the fee.

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

6 (3) For the purposes of this section:

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

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

15 **Sec. 12.** RCW 9A.88.120 and 1995 c 353 s 13 are each amended to
16 read as follows:

17 (1)(a) In addition to penalties set forth in RCW 9A.88.010,
18 9A.88.030, and 9A.88.090, a person who is either convicted or given a
19 deferred sentence or a deferred prosecution or who has entered into a
20 statutory or nonstatutory diversion agreement as a result of an arrest
21 for violating RCW 9A.88.010, 9A.88.030, 9A.88.090, or comparable county
22 or municipal ordinances shall be assessed a fifty dollar fee.

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

29 (c) In addition to penalties set forth in RCW 9A.88.070 and
30 9A.88.080, a person who is either convicted or given a deferred
31 sentence or a deferred prosecution or who has entered into a statutory
32 or nonstatutory diversion agreement as a result of an arrest for
33 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal
34 ordinances shall be assessed a three hundred dollar fee.

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

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

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

14 (5) For the purposes of this section:

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

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

23 **Sec. 13.** RCW 9A.88.070 and 1975 1st ex.s. c 260 s 9A.88.070 are
24 each amended to read as follows:

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

27 ~~(a))~~ advances prostitution by compelling a person by threat or
28 force to engage in prostitution or profits from prostitution which
29 results from such threat or force(~~(+or~~

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

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

33 **Sec. 14.** RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c
34 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 are each
35 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)) Malicious explosion 3 (RCW 70.74.280(3)) Sexually Violent Predator Escape (RCW 9A.76.115)

1 IX Abandonment of Dependent Person 1
2 (RCW 9A.42.060)
3 Assault of a Child 2 (RCW 9A.36.130)
4 Criminal Mistreatment 1 (RCW
5 9A.42.020)
6 Explosive devices prohibited (RCW
7 70.74.180)
8 Hit and Run--Death (RCW
9 46.52.020(4)(a))
10 Homicide by Watercraft, by being
11 under the influence of intoxicating
12 liquor or any drug (RCW
13 79A.60.050)
14 Inciting Criminal Profiteering (RCW
15 9A.82.060(1)(b))
16 Malicious placement of an explosive 2
17 (RCW 70.74.270(2))
18 Robbery 1 (RCW 9A.56.200)
19 Sexual Exploitation (RCW 9.68A.040)
20 Vehicular Homicide, by being under
21 the influence of intoxicating liquor
22 or any drug (RCW 46.61.520)
23 VIII Arson 1 (RCW 9A.48.020)
24 Homicide by Watercraft, by the
25 operation of any vessel in a
26 reckless manner (RCW
27 79A.60.050)
28 Manslaughter 2 (RCW 9A.32.070)
29 Promoting Commercial Sexual Abuse
30 of a Minor (section 4 of this act)
31 Promoting Prostitution 1 (RCW
32 9A.88.070)
33 Theft of Ammonia (RCW 69.55.010)
34 Vehicular Homicide, by the operation
35 of any vehicle in a reckless manner
36 (RCW 46.61.520)
37 VII Burglary 1 (RCW 9A.52.020)

1 Child Molestation 2 (RCW 9A.44.086)
2 Civil Disorder Training (RCW
3 9A.48.120)
4 Dealing in depictions of minor engaged
5 in sexually explicit conduct (RCW
6 9.68A.050)
7 Drive-by Shooting (RCW 9A.36.045)
8 Homicide by Watercraft, by disregard
9 for the safety of others (RCW
10 79A.60.050)
11 Indecent Liberties (without forcible
12 compulsion) (RCW 9A.44.100(1)
13 (b) and (c))
14 Introducing Contraband 1 (RCW
15 9A.76.140)
16 Malicious placement of an explosive 3
17 (RCW 70.74.270(3))
18 Negligently Causing Death By Use of a
19 Signal Preemption Device (RCW
20 46.37.675)
21 Sending, bringing into state depictions
22 of minor engaged in sexually
23 explicit conduct (RCW 9.68A.060)
24 Unlawful Possession of a Firearm in
25 the first degree (RCW 9.41.040(1))
26 Use of a Machine Gun in Commission
27 of a Felony (RCW 9.41.225)
28 Vehicular Homicide, by disregard for
29 the safety of others (RCW
30 46.61.520)
31 VI Bail Jumping with Murder 1 (RCW
32 9A.76.170(3)(a))
33 Bribery (RCW 9A.68.010)
34 Incest 1 (RCW 9A.64.020(1))
35 Intimidating a Judge (RCW 9A.72.160)
36 Intimidating a Juror/Witness (RCW
37 9A.72.110, 9A.72.130)

1 Malicious placement of an imitation
2 device 2 (RCW 70.74.272(1)(b))
3 Possession of Depictions of a Minor
4 Engaged in Sexually Explicit
5 Conduct (RCW 9.68A.070)
6 Rape of a Child 3 (RCW 9A.44.079)
7 Theft of a Firearm (RCW 9A.56.300)
8 Unlawful Storage of Ammonia (RCW
9 69.55.020)
10 V Abandonment of Dependent Person 2
11 (RCW 9A.42.070)
12 Advancing money or property for
13 extortionate extension of credit
14 (RCW 9A.82.030)
15 Bail Jumping with class A Felony
16 (RCW 9A.76.170(3)(b))
17 Child Molestation 3 (RCW 9A.44.089)
18 Criminal Mistreatment 2 (RCW
19 9A.42.030)
20 Custodial Sexual Misconduct 1 (RCW
21 9A.44.160)
22 Domestic Violence Court Order
23 Violation (RCW 10.99.040,
24 10.99.050, 26.09.300, 26.10.220,
25 26.26.138, 26.50.110, 26.52.070,
26 or 74.34.145)
27 Driving While Under the Influence
28 (RCW 46.61.502(6))
29 Extortion 1 (RCW 9A.56.120)
30 Extortionate Extension of Credit (RCW
31 9A.82.020)
32 Extortionate Means to Collect
33 Extensions of Credit (RCW
34 9A.82.040)
35 Incest 2 (RCW 9A.64.020(2))
36 Kidnapping 2 (RCW 9A.40.030)
37 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW
2 9.94.070)
3 Physical Control of a Vehicle While
4 Under the Influence (RCW
5 46.61.504(6))
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)
8 Rape 3 (RCW 9A.44.060)
9 Rendering Criminal Assistance 1
10 (RCW 9A.76.070)
11 Sexual Misconduct with a Minor 1
12 (RCW 9A.44.093)
13 Sexually Violating Human Remains
14 (RCW 9A.44.105)
15 Stalking (RCW 9A.46.110)
16 Taking Motor Vehicle Without
17 Permission 1 (RCW 9A.56.070)
18 IV Arson 2 (RCW 9A.48.030)
19 Assault 2 (RCW 9A.36.021)
20 Assault 3 (of a Peace Officer with a
21 Projectile Stun Gun) (RCW
22 9A.36.031(1)(h))
23 Assault by Watercraft (RCW
24 79A.60.060)
25 Bribing a Witness/Bribe Received by
26 Witness (RCW 9A.72.090,
27 9A.72.100)
28 Cheating 1 (RCW 9.46.1961)
29 Commercial Bribery (RCW 9A.68.060)
30 Counterfeiting (RCW 9.16.035(4))
31 Endangerment with a Controlled
32 Substance (RCW 9A.42.100)
33 Escape 1 (RCW 9A.76.110)
34 Hit and Run--Injury (RCW
35 46.52.020(4)(b))
36 Hit and Run with Vessel--Injury
37 Accident (RCW 79A.60.200(3))

1 Identity Theft 1 (RCW 9.35.020(2))
2 Indecent Exposure to Person Under
3 Age Fourteen (subsequent sex
4 offense) (RCW 9A.88.010)
5 Influencing Outcome of Sporting Event
6 (RCW 9A.82.070)
7 Malicious Harassment (RCW
8 9A.36.080)
9 Residential Burglary (RCW
10 9A.52.025)
11 Robbery 2 (RCW 9A.56.210)
12 Theft of Livestock 1 (RCW 9A.56.080)
13 Threats to Bomb (RCW 9.61.160)
14 Trafficking in Stolen Property 1 (RCW
15 9A.82.050)
16 Unlawful factoring of a credit card or
17 payment card transaction (RCW
18 9A.56.290(4)(b))
19 Unlawful transaction of health
20 coverage as a health care service
21 contractor (RCW 48.44.016(3))
22 Unlawful transaction of health
23 coverage as a health maintenance
24 organization (RCW 48.46.033(3))
25 Unlawful transaction of insurance
26 business (RCW 48.15.023(3))
27 Unlicensed practice as an insurance
28 professional (RCW 48.17.063(3))
29 Use of Proceeds of Criminal
30 Profiteering (RCW 9A.82.080 (1)
31 and (2))
32 Vehicular Assault, by being under the
33 influence of intoxicating liquor or
34 any drug, or by the operation or
35 driving of a vehicle in a reckless
36 manner (RCW 46.61.522)

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Animal Cruelty 1 (Sexual Conduct or
4 Contact) (RCW 16.52.205(3))
5 Assault 3 (Except Assault 3 of a Peace
6 Officer With a Projectile Stun
7 Gun) (RCW 9A.36.031 except
8 subsection (1)(h))
9 Assault of a Child 3 (RCW 9A.36.140)
10 Bail Jumping with class B or C Felony
11 (RCW 9A.76.170(3)(c))
12 Burglary 2 (RCW 9A.52.030)
13 Commercial Sexual Abuse of a Minor
14 (RCW 9.68A.100)
15 Communication with a Minor for
16 Immoral Purposes (RCW
17 9.68A.090)
18 Criminal Gang Intimidation (RCW
19 9A.46.120)
20 Custodial Assault (RCW 9A.36.100)
21 Cyberstalking (subsequent conviction
22 or threat of death) (RCW
23 9.61.260(3))
24 Escape 2 (RCW 9A.76.120)
25 Extortion 2 (RCW 9A.56.130)
26 Harassment (RCW 9A.46.020)
27 Intimidating a Public Servant (RCW
28 9A.76.180)
29 Introducing Contraband 2 (RCW
30 9A.76.150)
31 Malicious Injury to Railroad Property
32 (RCW 81.60.070)
33 Negligently Causing Substantial Bodily
34 Harm By Use of a Signal
35 Preemption Device (RCW
36 46.37.674)

1 Organized Retail Theft 1 (RCW
2 9A.56.350(2))
3 (~~(Patronizing a Juvenile Prostitute~~
4 ~~(RCW 9.68A.100))~~)
5 Perjury 2 (RCW 9A.72.030)
6 Possession of Incendiary Device (RCW
7 9.40.120)
8 Possession of Machine Gun or Short-
9 Barreled Shotgun or Rifle (RCW
10 9.41.190)
11 Promoting Prostitution 2 (RCW
12 9A.88.080)
13 (~~(Retail)~~) Retail Theft with
14 Extenuating Circumstances 1
15 (RCW 9A.56.360(2))
16 Securities Act violation (RCW
17 21.20.400)
18 Tampering with a Witness (RCW
19 9A.72.120)
20 Telephone Harassment (subsequent
21 conviction or threat of death)
22 (RCW 9.61.230(2))
23 Theft of Livestock 2 (RCW 9A.56.083)
24 Theft with the Intent to Resell 1 (RCW
25 9A.56.340(2))
26 Trafficking in Stolen Property 2 (RCW
27 9A.82.055)
28 Unlawful Imprisonment (RCW
29 9A.40.040)
30 Unlawful possession of firearm in the
31 second degree (RCW 9.41.040(2))
32 Vehicular Assault, by the operation or
33 driving of a vehicle with disregard
34 for the safety of others (RCW
35 46.61.522)
36 Willful Failure to Return from Work
37 Release (RCW 72.65.070)

1 II Computer Trespass 1 (RCW
2 9A.52.110)
3 Counterfeiting (RCW 9.16.035(3))
4 Escape from Community Custody
5 (RCW 72.09.310)
6 Failure to Register as a Sex Offender
7 (second or subsequent offense)
8 (RCW 9A.44.130(10)(a))
9 Health Care False Claims (RCW
10 48.80.030)
11 Identity Theft 2 (RCW 9.35.020(3))
12 Improperly Obtaining Financial
13 Information (RCW 9.35.010)
14 Malicious Mischief 1 (RCW
15 9A.48.070)
16 Organized Retail Theft 2 (RCW
17 9A.56.350(3))
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 (~~(Retail)~~) Retail Theft with
21 Extenuating Circumstances 2
22 (RCW 9A.56.360(3))
23 Theft 1 (RCW 9A.56.030)
24 Theft of Rental, Leased, or Lease-
25 purchased Property (valued at one
26 thousand five hundred dollars or
27 more) (RCW 9A.56.096(5)(a))
28 Theft with the Intent to Resell 2 (RCW
29 9A.56.340(3))
30 Trafficking in Insurance Claims (RCW
31 48.30A.015)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(a))
35 Unlawful Practice of Law (RCW
36 2.48.180)

1 Unlicensed Practice of a Profession or
2 Business (RCW 18.130.190(7))
3 Voyeurism (RCW 9A.44.115)
4 I Attempting to Elude a Pursuing Police
5 Vehicle (RCW 46.61.024)
6 False Verification for Welfare (RCW
7 74.08.055)
8 Forgery (RCW 9A.60.020)
9 Fraudulent Creation or Revocation of a
10 Mental Health Advance Directive
11 (RCW 9A.60.060)
12 Malicious Mischief 2 (RCW
13 9A.48.080)
14 Mineral Trespass (RCW 78.44.330)
15 Possession of Stolen Property 2 (RCW
16 9A.56.160)
17 Reckless Burning 1 (RCW 9A.48.040)
18 Taking Motor Vehicle Without
19 Permission 2 (RCW 9A.56.075)
20 Theft 2 (RCW 9A.56.040)
21 Theft of Rental, Leased, or Lease-
22 purchased Property (valued at two
23 hundred fifty dollars or more but
24 less than one thousand five
25 hundred dollars) (RCW
26 9A.56.096(5)(b))
27 Transaction of insurance business
28 beyond the scope of licensure
29 (RCW 48.17.063(4))
30 Unlawful Issuance of Checks or Drafts
31 (RCW 9A.56.060)
32 Unlawful Possession of Fictitious
33 Identification (RCW 9A.56.320)
34 Unlawful Possession of Instruments of
35 Financial Fraud (RCW 9A.56.320)
36 Unlawful Possession of Payment
37 Instruments (RCW 9A.56.320)

1 Unlawful Possession of a Personal
2 Identification Device (RCW
3 9A.56.320)
4 Unlawful Production of Payment
5 Instruments (RCW 9A.56.320)
6 Unlawful Trafficking in Food Stamps
7 (RCW 9.91.142)
8 Unlawful Use of Food Stamps (RCW
9 9.91.144)
10 Vehicle Prowl 1 (RCW 9A.52.095)

11 ****NEW SECTION. Sec. 15. If funds are specifically appropriated to***
12 ***the prostitution prevention and intervention account as provided in RCW***
13 ***43.63A.720 for the purposes provided in this section, the department of***
14 ***community, trade, and economic development shall prioritize such funds***
15 ***to provide minors who have a history of engaging in sexual conduct for***
16 ***a fee or are the victims of commercial sexual abuse of a minor with (1)***
17 ***residential treatment and services; (2) counseling services including***
18 ***mental health and substance abuse services and intensive case***
19 ***management; (3) services to engage the minors in school or vocational***
20 ***training; and (4) health care services.***

**Sec. 15 was vetoed. See message at end of chapter.*

21 ****NEW SECTION. Sec. 16. If funds are specifically appropriated to***
22 ***the prostitution prevention and intervention account as provided in RCW***
23 ***43.63A.720 for the purposes provided in this section, the department of***
24 ***community, trade, and economic development shall prioritize such funds***
25 ***for training of law enforcement and community outreach and education on***
26 ***minors who have a history of engaging in sexual conduct for a fee or***
27 ***are the victims of commercial sexual abuse of a minor, including***
28 ***awareness training regarding the availability of services for minors***
29 ***under chapter 13.32A RCW.***

**Sec. 16 was vetoed. See message at end of chapter.*

Passed by the Senate April 16, 2007.

Passed by the House April 3, 2007.

Approved by the Governor May 8, 2007, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2007.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 15 and 16,
Substitute Senate Bill 5718 entitled:

"AN ACT Relating to penalties for engaging in the commercial
sexual abuse of minors."

The language establishing funding priorities for the Prostitution Prevention and Intervention Account (Account) in sections 15 and 16 could present technical challenges if funding is ever appropriated for the specific purposes. The Account was created in 1995 and has had very little historical activity. Funding is not provided in either this legislation or in the legislative budget. The Legislature could provide specific direction when or if specific funding is ever provided.

For these reasons, I have vetoed sections Sections 15 and 16 of Substitute Senate Bill 5718.

With the exception of Sections 15 and 16, Substitute Senate Bill 5718 is approved."