

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6476

Chapter 289, Laws of 2010

(partial veto)

61st Legislature
2010 Regular Session

SEX CRIMES INVOLVING MINORS

EFFECTIVE DATE: 06/10/10 - Except section 1, which becomes effective 07/01/11.

Passed by the Senate March 9, 2010
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2010
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 1, 2010, 3:20 p.m., with the exception of Section 4 which is 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 **ENGROSSED SUBSTITUTE SENATE BILL 6476** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 2, 2010

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6476

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

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

READ FIRST TIME 02/05/10.

1 AN ACT Relating to sex crimes involving minors; amending RCW
2 13.32A.030, 7.68.070, 13.40.070, 13.40.213, 9A.88.140, 9.68A.100,
3 9.68A.101, 9.68A.105, 9.68A.110, and 43.63A.740; reenacting and
4 amending RCW 9.94A.515; adding new sections to chapter 13.32A RCW;
5 adding new sections to chapter 13.40 RCW; adding a new section to
6 chapter 74.15 RCW; creating a new section; repealing 2009 c 252 s 4
7 (uncodified); prescribing penalties; and providing an effective date.

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

9 **Sec. 1.** RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read
10 as follows:

11 As used in this chapter the following terms have the meanings
12 indicated unless the context clearly requires otherwise:

13 (1) "Abuse or neglect" means the injury, sexual abuse, sexual
14 exploitation, negligent treatment, or maltreatment of a child by any
15 person under circumstances which indicate that the child's health,
16 welfare, and safety is harmed, excluding conduct permitted under RCW
17 9A.16.100. An abused child is a child who has been subjected to child
18 abuse or neglect as defined in this section.

1 (2) "Administrator" means the individual who has the daily
2 administrative responsibility of a crisis residential center, or his or
3 her designee.

4 (3) "At-risk youth" means a juvenile:

5 (a) Who is absent from home for at least seventy-two consecutive
6 hours without consent of his or her parent;

7 (b) Who is beyond the control of his or her parent such that the
8 child's behavior endangers the health, safety, or welfare of the child
9 or any other person; or

10 (c) Who has a substance abuse problem for which there are no
11 pending criminal charges related to the substance abuse.

12 (4) "Child," "juvenile," and "youth" mean any unemancipated
13 individual who is under the chronological age of eighteen years.

14 (5) "Child in need of services" means a juvenile:

15 (a) Who is beyond the control of his or her parent such that the
16 child's behavior endangers the health, safety, or welfare of the child
17 or other person;

18 (b) Who has been reported to law enforcement as absent without
19 consent for at least twenty-four consecutive hours on two or more
20 separate occasions from the home of either parent, a crisis residential
21 center, an out-of-home placement, or a court-ordered placement; and

22 (i) Has exhibited a serious substance abuse problem; or

23 (ii) Has exhibited behaviors that create a serious risk of harm to
24 the health, safety, or welfare of the child or any other person; (~~(c)~~)

25 (c)(i) Who is in need of: (A) Necessary services, including food,
26 shelter, health care, clothing, or education; or (B) services designed
27 to maintain or reunite the family;

28 (ii) Who lacks access to, or has declined to utilize, these
29 services; and

30 (iii) Whose parents have evidenced continuing but unsuccessful
31 efforts to maintain the family structure or are unable or unwilling to
32 continue efforts to maintain the family structure; or

33 (d) Who is a "sexually exploited child".

34 (6) "Child in need of services petition" means a petition filed in
35 juvenile court by a parent, child, or the department seeking
36 adjudication of placement of the child.

37 (7) "Crisis residential center" means a secure or semi-secure
38 facility established pursuant to chapter 74.13 RCW.

1 (8) "Custodian" means the person or entity who has the legal right
2 to the custody of the child.

3 (9) "Department" means the department of social and health
4 services.

5 (10) "Extended family member" means an adult who is a grandparent,
6 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin
7 with whom the child has a relationship and is comfortable, and who is
8 willing and available to care for the child.

9 (11) "Guardian" means that person or agency that (a) has been
10 appointed as the guardian of a child in a legal proceeding other than
11 a proceeding under chapter 13.34 RCW, and (b) has the right to legal
12 custody of the child pursuant to such appointment. The term "guardian"
13 does not include a "dependency guardian" appointed pursuant to a
14 proceeding under chapter 13.34 RCW.

15 (12) "Multidisciplinary team" means a group formed to provide
16 assistance and support to a child who is an at-risk youth or a child in
17 need of services and his or her parent. The team shall include the
18 parent, a department case worker, a local government representative
19 when authorized by the local government, and when appropriate, members
20 from the mental health and substance abuse disciplines. The team may
21 also include, but is not limited to, the following persons: Educators,
22 law enforcement personnel, probation officers, employers, church
23 persons, tribal members, therapists, medical personnel, social service
24 providers, placement providers, and extended family members. The team
25 members shall be volunteers who do not receive compensation while
26 acting in a capacity as a team member, unless the member's employer
27 chooses to provide compensation or the member is a state employee.

28 (13) "Out-of-home placement" means a placement in a foster family
29 home or group care facility licensed pursuant to chapter 74.15 RCW or
30 placement in a home, other than that of the child's parent, guardian,
31 or legal custodian, not required to be licensed pursuant to chapter
32 74.15 RCW.

33 (14) "Parent" means the parent or parents who have the legal right
34 to custody of the child. "Parent" includes custodian or guardian.

35 (15) "Secure facility" means a crisis residential center, or
36 portion thereof, that has locking doors, locking windows, or a secured
37 perimeter, designed and operated to prevent a child from leaving
38 without permission of the facility staff.

1 (16) "Semi-secure facility" means any facility, including but not
2 limited to crisis residential centers or specialized foster family
3 homes, operated in a manner to reasonably assure that youth placed
4 there will not run away. Pursuant to rules established by the
5 department, the facility administrator shall establish reasonable hours
6 for residents to come and go from the facility such that no residents
7 are free to come and go at all hours of the day and night. To prevent
8 residents from taking unreasonable actions, the facility administrator,
9 where appropriate, may condition a resident's leaving the facility upon
10 the resident being accompanied by the administrator or the
11 administrator's designee and the resident may be required to notify the
12 administrator or the administrator's designee of any intent to leave,
13 his or her intended destination, and the probable time of his or her
14 return to the center.

15 (17) "Sexually exploited child" means any person under the age of
16 eighteen who is a victim of the crime of commercial sex abuse of a
17 minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor
18 under RCW 9.68A.101, or promoting travel for commercial sexual abuse of
19 a minor under RCW 9.68A.102.

20 (18) "Staff secure facility" means a structured group care facility
21 licensed under rules adopted by the department with a ratio of at least
22 one adult staff member to every two children.

23 ((+18+)) (19) "Temporary out-of-home placement" means an out-of-
24 home placement of not more than fourteen days ordered by the court at
25 a fact-finding hearing on a child in need of services petition.

26 NEW SECTION. Sec. 2. Section 1 of this act takes effect July 1,
27 2011.

28 NEW SECTION. Sec. 3. A new section is added to chapter 13.32A RCW
29 to read as follows:

30 Within available funding, when a youth who has been diverted under
31 RCW 13.40.070 for an alleged offense of prostitution or prostitution
32 loitering is referred to the department, the department shall connect
33 that child with the services and treatment specified in RCW 74.14B.060
34 and 74.14B.070.

1 ***NEW SECTION.** **Sec. 4.** *A new section is added to chapter 13.32A RCW*
2 *to read as follows:*

3 *By November 1, 2010, the department shall report to the relevant*
4 *policy and fiscal committees of the legislature regarding training*
5 *needed to allow staff of the children's administration and crisis*
6 *residential centers to work effectively with sexually exploited youth.*
7 *The report shall identify the evidence-based training programs to be*
8 *used and the cost of such training.*

**Sec. 4 was vetoed. See message at end of chapter.*

9 **NEW SECTION.** **Sec. 5.** A new section is added to chapter 13.40 RCW
10 to read as follows:

11 Within available funding, when a youth who has been diverted under
12 RCW 13.40.070 for an alleged offense of prostitution or prostitution
13 loitering is referred to the department, the department shall connect
14 that youth with the services and treatment specified in RCW 74.14B.060
15 and 74.14B.070.

16 **Sec. 6.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as
17 follows:

18 The right to benefits under this chapter and the amount thereof
19 will be governed insofar as is applicable by the provisions contained
20 in chapter 51.32 RCW except as provided in this section:

21 (1) The provisions contained in RCW 51.32.015, 51.32.030,
22 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
23 applicable to this chapter.

24 (2) Each victim injured as a result of a criminal act, including
25 criminal acts committed between July 1, 1981, and January 1, 1983, or
26 the victim's family or dependents in case of death of the victim, are
27 entitled to benefits in accordance with this chapter, subject to the
28 limitations under RCW 7.68.015. The rights, duties, responsibilities,
29 limitations, and procedures applicable to a worker as contained in RCW
30 51.32.010 are applicable to this chapter.

31 (3)(a) The limitations contained in RCW 51.32.020 are applicable to
32 claims under this chapter. In addition (~~thereto~~), no person or
33 spouse, child, or dependent of such person is entitled to benefits
34 under this chapter when the injury for which benefits are sought, was:

35 (~~(a)~~) (i) The result of consent, provocation, or incitement by

1 the victim, unless an injury resulting from a criminal act caused the
2 death of the victim;

3 ~~((b))~~ (ii) Sustained while the crime victim was engaged in the
4 attempt to commit, or the commission of, a felony; or

5 ~~((c))~~ (iii) Sustained while the victim was confined in any county
6 or city jail, federal jail or prison or in any other federal
7 institution, or any state correctional institution maintained and
8 operated by the department of social and health services or the
9 department of corrections, prior to release from lawful custody; or
10 confined or living in any other institution maintained and operated by
11 the department of social and health services or the department of
12 corrections.

13 (b) A person identified as the "minor" in the charge of commercial
14 sexual abuse of a minor under RCW 9.68A.100, promoting commercial
15 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for
16 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a
17 victim of a criminal act for the purpose of the right to benefits under
18 this chapter even if the person is also charged with prostitution under
19 RCW 9A.88.030.

20 (4) The benefits established upon the death of a worker and
21 contained in RCW 51.32.050 shall be the benefits obtainable under this
22 chapter and provisions relating to payment contained in that section
23 shall equally apply under this chapter(~~(:—PROVIDED, That)~~). Benefits
24 for burial expenses shall not exceed the amount paid by the department
25 in case of the death of a worker as provided in chapter 51.32 RCW in
26 any claim(~~(:—PROVIDED FURTHER, That)~~). If the criminal act results in
27 the death of a victim who was not gainfully employed at the time of the
28 criminal act, and who was not so employed for at least three
29 consecutive months of the twelve months immediately preceding the
30 criminal act;

31 (a) Benefits payable to an eligible surviving spouse, where there
32 are no children of the victim at the time of the criminal act who have
33 survived the victim or where such spouse has legal custody of all of
34 his or her children, shall be limited to burial expenses and a lump sum
35 payment of seven thousand five hundred dollars without reference to
36 number of children, if any;

37 (b) Where any such spouse has legal custody of one or more but not
38 all of such children, then such burial expenses shall be paid, and such

1 spouse shall receive a lump sum payment of three thousand seven hundred
2 fifty dollars and any such child or children not in the legal custody
3 of such spouse shall receive a lump sum of three thousand seven hundred
4 fifty dollars to be divided equally among such child or children;

5 (c) If any such spouse does not have legal custody of any of the
6 children, the burial expenses shall be paid and the spouse shall
7 receive a lump sum payment of up to three thousand seven hundred fifty
8 dollars and any such child or children not in the legal custody of the
9 spouse shall receive a lump sum payment of up to three thousand seven
10 hundred fifty dollars to be divided equally among the child or
11 children;

12 (d) If no such spouse survives, then such burial expenses shall be
13 paid, and each surviving child of the victim at the time of the
14 criminal act shall receive a lump sum payment of three thousand seven
15 hundred fifty dollars up to a total of two such children and where
16 there are more than two such children the sum of seven thousand five
17 hundred dollars shall be divided equally among such children.

18 No other benefits may be paid or payable under these circumstances.

19 (5) The benefits established in RCW 51.32.060 for permanent total
20 disability proximately caused by the criminal act shall be the benefits
21 obtainable under this chapter, and provisions relating to payment
22 contained in that section apply under this chapter: PROVIDED, That if
23 a victim becomes permanently and totally disabled as a proximate result
24 of the criminal act and was not gainfully employed at the time of the
25 criminal act, the victim shall receive monthly during the period of the
26 disability the following percentages, where applicable, of the average
27 monthly wage determined as of the date of the criminal act pursuant to
28 RCW 51.08.018:

29 (a) If married at the time of the criminal act, twenty-nine percent
30 of the average monthly wage.

31 (b) If married with one child at the time of the criminal act,
32 thirty-four percent of the average monthly wage.

33 (c) If married with two children at the time of the criminal act,
34 thirty-eight percent of the average monthly wage.

35 (d) If married with three children at the time of the criminal act,
36 forty-one percent of the average monthly wage.

37 (e) If married with four children at the time of the criminal act,
38 forty-four percent of the average monthly wage.

1 (f) If married with five or more children at the time of the
2 criminal act, forty-seven percent of the average monthly wage.

3 (g) If unmarried at the time of the criminal act, twenty-five
4 percent of the average monthly wage.

5 (h) If unmarried with one child at the time of the criminal act,
6 thirty percent of the average monthly wage.

7 (i) If unmarried with two children at the time of the criminal act,
8 thirty-four percent of the average monthly wage.

9 (j) If unmarried with three children at the time of the criminal
10 act, thirty-seven percent of the average monthly wage.

11 (k) If unmarried with four children at the time of the criminal
12 act, forty percent of the average monthly wage.

13 (l) If unmarried with five or more children at the time of the
14 criminal act, forty-three percent of the average monthly wage.

15 (6) The benefits established in RCW 51.32.080 for permanent partial
16 disability shall be the benefits obtainable under this chapter, and
17 provisions relating to payment contained in that section equally apply
18 under this chapter.

19 (7) The benefits established in RCW 51.32.090 for temporary total
20 disability shall be the benefits obtainable under this chapter, and
21 provisions relating to payment contained in that section apply under
22 this chapter(~~(+PROVIDED, That)~~). No person is eligible for temporary
23 total disability benefits under this chapter if such person was not
24 gainfully employed at the time of the criminal act, and was not so
25 employed for at least three consecutive months of the twelve months
26 immediately preceding the criminal act.

27 (8) The benefits established in RCW 51.32.095 for continuation of
28 benefits during vocational rehabilitation shall be benefits obtainable
29 under this chapter, and provisions relating to payment contained in
30 that section apply under this chapter(~~(+PROVIDED, That)~~). Benefits
31 shall not exceed five thousand dollars for any single injury.

32 (9) The provisions for lump sum payment of benefits upon death or
33 permanent total disability as contained in RCW 51.32.130 apply under
34 this chapter.

35 (10) The provisions relating to payment of benefits to, for or on
36 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
37 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and

1 51.32.210 are applicable to payment of benefits to, for or on behalf of
2 victims under this chapter.

3 (11) No person or spouse, child, or dependent of such person is
4 entitled to benefits under this chapter where the person making a claim
5 for such benefits has refused to give reasonable cooperation to state
6 or local law enforcement agencies in their efforts to apprehend and
7 convict the perpetrator(s) of the criminal act which gave rise to the
8 claim.

9 (12) In addition to other benefits provided under this chapter,
10 victims of sexual assault are entitled to receive appropriate
11 counseling. Fees for such counseling shall be determined by the
12 department in accordance with RCW 51.04.030, subject to the limitations
13 of RCW 7.68.080. Counseling services may include, if determined
14 appropriate by the department, counseling of members of the victim's
15 immediate family, other than the perpetrator of the assault.

16 (13) Except for medical benefits authorized under RCW 7.68.080, no
17 more than thirty thousand dollars shall be granted as a result of a
18 single injury or death, except that benefits granted as the result of
19 total permanent disability or death shall not exceed forty thousand
20 dollars.

21 (14) Notwithstanding other provisions of this chapter and Title 51
22 RCW, benefits payable for total temporary disability under subsection
23 (7) of this section, shall be limited to fifteen thousand dollars.

24 (15) Any person who is responsible for the victim's injuries, or
25 who would otherwise be unjustly enriched as a result of the victim's
26 injuries, shall not be a beneficiary under this chapter.

27 (16) Crime victims' compensation is not available to pay for
28 services covered under chapter 74.09 RCW or Title XIX of the federal
29 social security act, except to the extent that the costs for such
30 services exceed service limits established by the department of social
31 and health services or, during the 1993-95 fiscal biennium, to the
32 extent necessary to provide matching funds for federal medicaid
33 reimbursement.

34 (17) In addition to other benefits provided under this chapter,
35 immediate family members of a homicide victim may receive appropriate
36 counseling to assist in dealing with the immediate, near-term
37 consequences of the related effects of the homicide. Fees for
38 counseling shall be determined by the department in accordance with RCW

1 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
2 counseling benefits under this section may not be provided to the
3 perpetrator of the homicide. The benefits under this subsection may be
4 provided only with respect to homicides committed on or after July 1,
5 1992.

6 (18) A dependent mother, father, stepmother, or stepfather, as
7 defined in RCW 51.08.050, who is a survivor of her or his child's
8 homicide, who has been requested by a law enforcement agency or a
9 prosecutor to assist in the judicial proceedings related to the death
10 of the victim, and who is not domiciled in Washington state at the time
11 of the request, may receive a lump-sum payment upon arrival in this
12 state. Total benefits under this subsection may not exceed seven
13 thousand five hundred dollars. If more than one dependent parent is
14 eligible for this benefit, the lump-sum payment of seven thousand five
15 hundred dollars shall be divided equally among the dependent parents.

16 (19) A victim whose crime occurred in another state who qualifies
17 for benefits under RCW 7.68.060(4) may receive appropriate mental
18 health counseling to address distress arising from participation in the
19 civil commitment proceedings. Fees for counseling shall be determined
20 by the department in accordance with RCW 51.04.030, subject to the
21 limitations of RCW 7.68.080.

22 **Sec. 7.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read
23 as follows:

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

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

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

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

36 (3) If the requirements of subsections (1)(a) and (b) of this
37 section are met, the prosecutor shall either file an information in

1 juvenile court or divert the case, as set forth in subsections (5),
2 (6), and (~~(7)~~) (8) of this section. If the prosecutor finds that the
3 requirements of subsection (1)(a) and (b) of this section are not met,
4 the prosecutor shall maintain a record, for one year, of such decision
5 and the reasons therefor. In lieu of filing an information or
6 diverting an offense a prosecutor may file a motion to modify community
7 supervision where such offense constitutes a violation of community
8 supervision.

9 (4) An information shall be a plain, concise, and definite written
10 statement of the essential facts constituting the offense charged. It
11 shall be signed by the prosecuting attorney and conform to chapter
12 10.37 RCW.

13 (5) Except as provided in RCW 13.40.213 and subsection (7) of this
14 section, where a case is legally sufficient, the prosecutor shall file
15 an information with the juvenile court if:

16 (a) An alleged offender is accused of a class A felony, a class B
17 felony, an attempt to commit a class B felony, a class C felony listed
18 in RCW 9.94A.411(2) as a crime against persons or listed in RCW
19 9A.46.060 as a crime of harassment, or a class C felony that is a
20 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

21 (b) An alleged offender is accused of a felony and has a criminal
22 history of any felony, or at least two gross misdemeanors, or at least
23 two misdemeanors; or

24 (c) An alleged offender has previously been committed to the
25 department; or

26 (d) An alleged offender has been referred by a diversion unit for
27 prosecution or desires prosecution instead of diversion; or

28 (e) An alleged offender has two or more diversion agreements on the
29 alleged offender's criminal history; or

30 (f) A special allegation has been filed that the offender or an
31 accomplice was armed with a firearm when the offense was committed.

32 (6) Where a case is legally sufficient the prosecutor shall divert
33 the case if the alleged offense is a misdemeanor or gross misdemeanor
34 or violation and the alleged offense is the offender's first offense or
35 violation. If the alleged offender is charged with a related offense
36 that must or may be filed under subsections (5) and (~~(7)~~) (8) of this
37 section, a case under this subsection may also be filed.

1 (7) Where a case is legally sufficient to charge an alleged
2 offender with either prostitution or prostitution loitering and the
3 alleged offense is the offender's first prostitution or prostitution
4 loitering offense, the prosecutor shall divert the case.

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

11 ~~((+8))~~ (9) Whenever a juvenile is placed in custody or, where not
12 placed in custody, referred to a diversion interview, the parent or
13 legal guardian of the juvenile shall be notified as soon as possible
14 concerning the allegation made against the juvenile and the current
15 status of the juvenile. Where a case involves victims of crimes
16 against persons or victims whose property has not been recovered at the
17 time a juvenile is referred to a diversion unit, the victim shall be
18 notified of the referral and informed how to contact the unit.

19 ~~((+9))~~ (10) The responsibilities of the prosecutor under
20 subsections (1) through ~~((+8))~~ (9) of this section may be performed by
21 a juvenile court probation counselor for any complaint referred to the
22 court alleging the commission of an offense which would not be a felony
23 if committed by an adult, if the prosecutor has given sufficient
24 written notice to the juvenile court that the prosecutor will not
25 review such complaints.

26 ~~((+10))~~ (11) The prosecutor, juvenile court probation counselor,
27 or diversion unit may, in exercising their authority under this section
28 or RCW 13.40.080, refer juveniles to mediation or victim offender
29 reconciliation programs. Such mediation or victim offender
30 reconciliation programs shall be voluntary for victims.

31 **Sec. 8.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read
32 as follows:

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

- 1 (a) Safe and stable housing;
2 (b) Comprehensive on-site case management;
3 (c) Integrated mental health and chemical dependency services,
4 including specialized trauma recovery services;
5 (d) Education and employment training delivered on-site; and
6 (e) Referrals to off-site specialized services, as appropriate.

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

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

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

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

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

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

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

24 NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW
25 to read as follows:

26 In any proceeding under this chapter related to an arrest for
27 prostitution or prostitution loitering, there is a presumption that the
28 alleged offender meets the criteria for a certification as a victim of
29 a severe form of trafficking in persons as defined in section 7105 of
30 Title 22 of the United States code, and that the alleged offender is
31 also a victim of commercial sex abuse of a minor.

32 NEW SECTION. Sec. 10. A new section is added to chapter 74.15 RCW
33 to read as follows:

34 The department shall require that to be licensed or continue to be
35 licensed as a secure or semi-secure crisis residential center or HOPE
36 center that the center has on staff, or otherwise has access to, a

1 person who has been trained to work with the needs of sexually
2 exploited children. For purposes of this section, "sexually exploited
3 child" means that person as defined in RCW 13.32A.030(17).

4 **Sec. 11.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are
5 each reenacted and amended to read as follows:
6

7

8 TABLE 2

9 CRIMES INCLUDED WITHIN

10 EACH SERIOUSNESS LEVEL

11	XVI	Aggravated Murder 1 (RCW
12		10.95.020)
13	XV	Homicide by abuse (RCW 9A.32.055)
14		Malicious explosion 1 (RCW
15		70.74.280(1))
16		Murder 1 (RCW 9A.32.030)
17	XIV	Murder 2 (RCW 9A.32.050)
18		Trafficking 1 (RCW 9A.40.100(1))
19	XIII	Malicious explosion 2 (RCW
20		70.74.280(2))
21		Malicious placement of an explosive 1
22		(RCW 70.74.270(1))
23	XII	Assault 1 (RCW 9A.36.011)
24		Assault of a Child 1 (RCW 9A.36.120)
25		Malicious placement of an imitation
26		device 1 (RCW 70.74.272(1)(a))
27		<u>Promoting Commercial Sexual Abuse</u>
28		<u>of a Minor (RCW 9.68A.101)</u>
29		Rape 1 (RCW 9A.44.040)
30		Rape of a Child 1 (RCW 9A.44.073)
31		Trafficking 2 (RCW 9A.40.100(2))
32	XI	Manslaughter 1 (RCW 9A.32.060)
33		Rape 2 (RCW 9A.44.050)
34		Rape of a Child 2 (RCW 9A.44.076)
35	X	Child Molestation 1 (RCW 9A.44.083)
36		Criminal Mistreatment 1 (RCW
		9A.42.020)

1 Indecent Liberties (with forcible
2 compulsion) (RCW
3 9A.44.100(1)(a))
4 Kidnapping 1 (RCW 9A.40.020)
5 Leading Organized Crime (RCW
6 9A.82.060(1)(a))
7 Malicious explosion 3 (RCW
8 70.74.280(3))
9 Sexually Violent Predator Escape
10 (RCW 9A.76.115)
11 IX Abandonment of Dependent Person 1
12 (RCW 9A.42.060)
13 Assault of a Child 2 (RCW 9A.36.130)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Hit and Run--Death (RCW
17 46.52.020(4)(a))
18 Homicide by Watercraft, by being
19 under the influence of intoxicating liquor or any drug (RCW
20 79A.60.050)
21
22 Inciting Criminal Profiteering (RCW
23 9A.82.060(1)(b))
24 Malicious placement of an explosive 2
25 (RCW 70.74.270(2))
26 Robbery 1 (RCW 9A.56.200)
27 Sexual Exploitation (RCW 9.68A.040)
28 Vehicular Homicide, by being under
29 the influence of intoxicating liquor or any drug (RCW 46.61.520)
30
31 VIII Arson 1 (RCW 9A.48.020)
32 Commercial Sexual Abuse of a Minor
33 (RCW 9.68A.100)
34 Homicide by Watercraft, by the
35 operation of any vessel in a
36 reckless manner (RCW
37 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 ((Promoting Commercial Sexual Abuse of a Minor (RCW 9A.68A.101)))
3
4 Promoting Prostitution 1 (RCW
5 9A.88.070)
6 Theft of Ammonia (RCW 69.55.010)
7 Vehicular Homicide, by the operation
8 of a vehicle in a reckless manner (RCW 46.61.520)
9
10 VII Burglary 1 (RCW 9A.52.020)
11 Child Molestation 2 (RCW 9A.44.086)
12 Civil Disorder Training (RCW
13 9A.48.120)
14 Dealing in depictions of a minor engaged in sexually explicit conduct (RCW
15 9.68A.050)
16
17 Drive-by Shooting (RCW 9A.36.045)
18 Homicide by Watercraft, by disregard
19 for the safety of others (RCW
20 79A.60.050)
21 Indecent Liberties (without forcible
22 compulsion) (RCW 9A.44.100(1)
23 (b) and (c))
24 Introducing Contraband 1 (RCW
25 9A.76.140)
26 Malicious placement of an explosive 3
27 (RCW 70.74.270(3))
28 Negligently Causing Death by Use of a Signal Preemption Device (RCW
29 46.37.675)
30
31 Sending, bringing into state depictions
32 of minor engaged in sexually
33 explicit conduct (RCW 9.68A.060)
34 Unlawful Possession of a Firearm in
35 the first degree (RCW 9.41.040(1))
36 Use of a Machine Gun in Commission
37 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct (RCW 9.68A.070)
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Unlawful Storage of Ammonia (RCW
19 69.55.020)

20 V Abandonment of Dependent Person 2
21 (RCW 9A.42.070)
22 Advancing money or property for
23 extortionate extension of credit
24 (RCW 9A.82.030)
25 Bail Jumping with class A Felony
26 (RCW 9A.76.170(3)(b))
27 Child Molestation 3 (RCW 9A.44.089)
28 Criminal Mistreatment 2 (RCW
29 9A.42.030)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Domestic Violence Court Order
33 Violation (RCW 10.99.040,
34 10.99.050, 26.09.300, 26.10.220,
35 26.26.138, 26.50.110, 26.52.070,
36 or 74.34.145)

1 Driving While Under the Influence
2 (RCW 46.61.502(6))
3 Extortion 1 (RCW 9A.56.120)
4 Extortionate Extension of Credit (RCW 9A.82.020)
5
6 Extortionate Means to Collect
7 Extensions of Credit (RCW
8 9A.82.040)
9 Incest 2 (RCW 9A.64.020(2))
10 Kidnapping 2 (RCW 9A.40.030)
11 Perjury 1 (RCW 9A.72.020)
12 Persistent prison misbehavior (RCW
13 9.94.070)
14 Physical Control of a Vehicle While
15 Under the Influence (RCW
16 46.61.504(6))
17 Possession of a Stolen Firearm (RCW
18 9A.56.310)
19 Rape 3 (RCW 9A.44.060)
20 Rendering Criminal Assistance 1
21 (RCW 9A.76.070)
22 Sexual Misconduct with a Minor 1
23 (RCW 9A.44.093)
24 Sexually Violating Human Remains
25 (RCW 9A.44.105)
26 Stalking (RCW 9A.46.110)
27 Taking Motor Vehicle Without
28 Permission 1 (RCW 9A.56.070)
29 IV Arson 2 (RCW 9A.48.030)
30 Assault 2 (RCW 9A.36.021)
31 Assault 3 (of a Peace Officer with a
32 Projectile Stun Gun) (RCW
33 9A.36.031(1)(h))
34 Assault by Watercraft (RCW
35 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW 9A.68.060)
6 Counterfeiting (RCW 9.16.035(4))
7 Endangerment with a Controlled
8 Substance (RCW 9A.42.100)
9 Escape 1 (RCW 9A.76.110)
10 Hit and Run--Injury (RCW
11 46.52.020(4)(b))
12 Hit and Run with Vessel--Injury
13 Accident (RCW 79A.60.200(3))
14 Identity Theft 1 (RCW 9.35.020(2))
15 Indecent Exposure to Person Under
16 Age Fourteen (subsequent sex
17 offense) (RCW 9A.88.010)
18 Influencing Outcome of Sporting Event (RCW 9A.82.070)
19
20 Malicious Harassment (RCW
21 9A.36.080)
22 Residential Burglary (RCW
23 9A.52.025)
24 Robbery 2 (RCW 9A.56.210)
25 Theft of Livestock 1 (RCW 9A.56.080)
26 Threats to Bomb (RCW 9.61.160)
27 Trafficking Stolen Property (RCW 9A.82.050)
28
29 Unlawful factoring of a credit card or
30 payment card transaction (RCW
31 9A.56.290(4)(b))
32 Unlawful transaction of health
33 coverage as a health care service
34 contractor (RCW 48.44.016(3))
35 Unlawful transaction of health
36 coverage as a health maintenance
37 organization (RCW 48.46.033(3))

1 Unlawful transaction of insurance
2 business (RCW 48.15.023(3))
3 Unlicensed practice as an insurance
4 professional (RCW
5 48.17.063(~~(3)~~)(2))
6 Use of Proceeds of Criminal
7 Profiteering (RCW 9A.82.080(1)
8 and (2))
9 Vehicular Assault, by being under the
10 influence of intoxicating liquor or
11 any drug, or by the operation or
12 driving of a vehicle in a reckless
13 manner (RCW 46.61.522)
14 Willful Failure to Return from
15 Furlough (RCW 72.66.060)
16 III Animal Cruelty 1 (Sexual Conduct or
17 Contact) (RCW 16.52.205(3))
18 Assault 3 (Except Assault 3 of a Peace
19 Officer With a Projectile Stun
20 Gun) (RCW 9A.36.031 except
21 subsection (1)(h))
22 Assault of a Child 3 (RCW 9A.36.140)
23 Bail Jumping with class B or C Felony
24 (RCW 9A.76.170(3)(c))
25 Burglary 2 (RCW 9A.52.030)
26 (~~Commercial Sexual Abuse of a Minor (RCW 9A.68A.100)~~)
27
28 Communication with a Minor for
29 Immoral Purposes (RCW
30 9.68A.090)
31 Criminal Gang Intimidation (RCW
32 9A.46.120)
33 Custodial Assault (RCW 9A.36.100)
34 Cyberstalking (subsequent conviction
35 or threat of death) (RCW
36 9.61.260(3))
37 Escape 2 (RCW 9A.76.120)

1 Extortion 2 (RCW 9A.56.130)
2 Harassment (RCW 9A.46.020)
3 Intimidating a Public Servant (RCW
4 9A.76.180)
5 Introducing Contraband 2 (RCW
6 9A.76.150)
7 Malicious Injury to Railroad Property
8 (RCW 81.60.070)
9 Mortgage Fraud (RCW 19.144.080)
10 Negligently Causing Substantial Bodily Harm By Use of Signal
11 Preemption Device (RCW
12 46.37.674)
13
14 Organized Retail Theft 1 (RCW
15 9A.56.350(2))
16 Perjury 2 (RCW 9A.72.030)
17 Possession of Incendiary Device (RCW 9A.40.120)
18
19 Possession of Machine Gun or Short-
20 Barreled Shotgun or Rifle (RCW
21 9.41.190)
22 Promoting Prostitution 2 (RCW
23 9A.88.080)
24 Retail Theft with Extenuating
25 Circumstances 1 (RCW
26 9A.56.360(2))
27 Securities Act violation (RCW
28 21.20.400)
29 Tampering with a Witness (RCW
30 9A.72.120)
31 Telephone Harassment (subsequent
32 conviction or threat of death)
33 (RCW 9.61.230(2))
34 Theft of Livestock 2 (RCW 9A.56.083)
35 Theft with Intent to Resell (RCW 9A.56.340(2))
36

1 Trafficking Stolen Property (RCW 9A.82.055)

2

3 Unlawful Imprisonment (RCW

4 9A.40.040)

5 Unlawful possession of firearm in the

6 second degree (RCW 9A.41.040(2))

7 Vehicular Assault, by the operation or

8 driving of a vehicle with disregard for the safety of others (RCW

9 46.61.522)

10

11 Willful Failure to Return from Work

12 Release (RCW 72.65.070)

13 II Computer Trespass 1 (RCW

14 9A.52.110)

15 Counterfeiting (RCW 9.16.035(3))

16 Escape from Community Custody

17 (RCW 72.09.310)

18 Failure to Register as a Sex Offender

19 (second or subsequent offense)

20 (RCW 9A.44.130(11)(a))

21 Health Care False Claims (RCW

22 48.80.030)

23 Identity Theft 2 (RCW 9.35.020(3))

24 Improperly Obtaining Financial

25 Information (RCW 9.35.010)

26 Malicious Mischief 1 (RCW

27 9A.48.070)

28 Organized Retail Theft 2 (RCW

29 9A.56.350(3))

30 Possession of Stolen Property (RCW 9A.56.150)

31

32 Possession of a Stolen Vehicle (RCW

33 9A.56.068)

34 Retail Theft with Extenuating

35 Circumstances 2 (RCW

36 9A.56.360(3))

37 Theft 1 (RCW 9A.56.030)

1 Theft of a Motor Vehicle (RCW
2 9A.56.065)
3 Theft of Rental, Leased, or Lease-
4 purchased Property valued at one thousand five hundred dollars or
5 more) (RCW 9A.56.096(5)(a))
6
7 Theft with Intent to Resell (RCW 9A.56.340(3))
8
9 Trafficking Insurance Claims (RCW 48.30A.015)
10
11 Unlawful factoring of a credit card or
12 payment card transaction (RCW
13 9A.56.290(4)(a))
14 Unlawful Practice of Law (RCW
15 2.48.180)
16 Unlicensed Practice of a Profession or
17 Business (RCW 18.130.190(7))
18 Voyeurism (RCW 9A.44.115)
19 I Attempting to Elude a Pursuing Police
20 Vehicle (RCW 46.61.024)
21 False Verification for Welfare (RCW
22 74.08.055)
23 Forgery (RCW 9A.60.020)
24 Fraudulent Creation, Revocation, Mental Health Advance Directive
25 (RCW 9A.60.060)
26
27 Malicious Mischief 2 (RCW
28 9A.48.080)
29 Mineral Trespass (RCW 78.44.330)
30 Possession of Stolen Property (RCW 9A.56.160)
31
32 Reckless Burning 1 (RCW 9A.48.040)
33 Taking Motor Vehicle Without
34 Permission 2 (RCW 9A.56.075)
35 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property valued at two hundred fifty dollars or more but
3 less than one thousand five
4 hundred dollars) (RCW
5 9A.56.096(5)(b))
6
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063(((4))))
10 Unlawful Issuance of Checks Draft (RCW 9A.56.060)
11
12 Unlawful Possession of Fictitious
13 Identification (RCW 9A.56.320)
14 Unlawful Possession of Instruments of
15 Financial Fraud (RCW 9A.56.320)
16 Unlawful Possession of Payment
17 Instruments (RCW 9A.56.320)
18 Unlawful Possession of a Personal
19 Identification Device (RCW
20 9A.56.320)
21 Unlawful Production of Payment
22 Instruments (RCW 9A.56.320)
23 Unlawful Trafficking in Food Stamps
24 (RCW 9.91.142)
25 Unlawful Use of Food Stamps (RCW
26 9.91.144)
27 Vehicle Prowl 1 (RCW 9A.52.095)

28 **Sec. 12.** RCW 9A.88.140 and 2009 c 387 s 1 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 ~~commercial sexual abuse of a minor, promoting commercial sexual abuse~~
34 ~~of a minor, or promoting travel for commercial sexual abuse of a~~
35 ~~minor~~)), the arresting law enforcement officer may impound the person's
36 vehicle if (i) the motor vehicle was used in the commission of the
37 crime; (ii) the person arrested is the owner of the vehicle or the

1 vehicle is a rental car as defined in RCW 46.04.465; and (iii) either
2 (A) the person arrested has previously been convicted of one of the
3 offenses listed in this subsection or (B) the offense was committed
4 within an area designated under (b) of this subsection.

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

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

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

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

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

26 ((+3)) (4)(a) Prior to redeeming the impounded vehicle, and in
27 addition to all applicable impoundment, towing, and storage fees paid
28 to the towing company under chapter 46.55 RCW, the owner of the
29 impounded vehicle must pay a fine ((of five hundred dollars)) to the
30 impounding agency. The fine shall be five hundred dollars for the
31 offenses specified in subsection (1) of this section, or two thousand
32 five hundred dollars for the offenses specified in subsection (2) of
33 this section. The fine shall be deposited in the prostitution
34 prevention and intervention account established under RCW 43.63A.740.

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

1 (~~(4)~~) (5)(a) In order to redeem a vehicle impounded under this
2 section, the owner must provide the towing company with the written
3 receipt issued under subsection (~~(3)~~) (4)(b) of this section.

4 (b) The written receipt issued under subsection (~~(3)~~) (4)(b) of
5 this section authorizes the towing company to release the impounded
6 vehicle upon payment of all impoundment, towing, and storage fees.

7 (c) A towing company that relies on a forged receipt to release a
8 vehicle impounded under this section is not liable to the impounding
9 authority for any unpaid fine under subsection (~~(3)~~) (4)(a) of this
10 section.

11 (~~(5)~~) (6)(a) In any proceeding under chapter 46.55 RCW to contest
12 the validity of an impoundment under this section where the claimant
13 substantially prevails, the claimant is entitled to a full refund of
14 the impoundment, towing, and storage fees paid under chapter 46.55 RCW
15 and the five hundred dollar fine paid under subsection (~~(3)~~) (4) of
16 this section.

17 (b) If the person is found not guilty at trial for a crime listed
18 under subsection (1) of this section, the person is entitled to a full
19 refund of the impoundment, towing, and storage fees paid under chapter
20 46.55 RCW and the (~~five hundred dollar~~) fine paid under subsection
21 (~~(3)~~) (4) of this section.

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

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

26 **Sec. 13.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read
27 as follows:

28 (1) A person is guilty of commercial sexual abuse of a minor if:

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

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

35 (c) He or she solicits, offers, or requests to engage in sexual
36 conduct with a minor in return for a fee.

1 (2) Commercial sexual abuse of a minor is a class ((E)) B felony
2 punishable under chapter 9A.20 RCW.

3 (3) In addition to any other penalty provided under chapter 9A.20
4 RCW, a person guilty of commercial sexual abuse of a minor is subject
5 to the provisions under RCW 9A.88.130 and 9A.88.140.

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

8 **Sec. 14.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read
9 as follows:

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

13 (2) Promoting commercial sexual abuse of a minor is a class ((B))
14 A felony.

15 (3) For the purposes of this section:

16 (a) A person "advances commercial sexual abuse of a minor" if,
17 acting other than as a minor receiving compensation for personally
18 rendered sexual conduct or as a person engaged in commercial sexual
19 abuse of a minor, he or she causes or aids a person to commit or engage
20 in commercial sexual abuse of a minor, procures or solicits customers
21 for commercial sexual abuse of a minor, provides persons or premises
22 for the purposes of engaging in commercial sexual abuse of a minor,
23 operates or assists in the operation of a house or enterprise for the
24 purposes of engaging in commercial sexual abuse of a minor, or engages
25 in any other conduct designed to institute, aid, cause, assist, or
26 facilitate an act or enterprise of commercial sexual abuse of a minor.

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

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

35 **Sec. 15.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to
36 read as follows:

1 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
2 9.68A.101, and 9.68A.102, a person who is either convicted or given a
3 deferred sentence or a deferred prosecution or who has entered into a
4 statutory or nonstatutory diversion agreement as a result of an arrest
5 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable
6 county or municipal ordinance shall be assessed a five (~~hundred~~
7 ~~fifty~~) thousand dollar fee.

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

10 (c) When a minor has been adjudicated a juvenile offender or has
11 entered into a statutory or nonstatutory diversion agreement for an
12 offense which, if committed by an adult, would constitute a violation
13 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or
14 municipal ordinance, the court shall assess the fee under (a) of this
15 subsection. The court may not suspend payment of all or part of the
16 fee unless it finds that the minor does not have the ability to pay the
17 fee.

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

23 (3) For the purposes of this section:

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

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

32 NEW SECTION. Sec. 16. If funds are appropriated specifically for
33 this purpose, the criminal justice training commission, in consultation
34 with the Washington association of sheriffs and police chiefs, shall,
35 by December 1, 2010, develop a model policy on law enforcement officer
36 implementation of the procedures provided in this act relating to
37 contact with a minor who is a "sexually exploited child" as defined in

1 this act or who is a victim of offenses related to commercial sexual
2 abuse of a minor as defined in chapter 9.68A RCW. The commission shall
3 develop a curriculum based on the model policy for inclusion in its
4 basic training academy by January 1, 2011.

5 **Sec. 17.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read
6 as follows:

7 (1) In a prosecution under RCW 9.68A.040, it is not a defense that
8 the defendant was involved in activities of law enforcement and
9 prosecution agencies in the investigation and prosecution of criminal
10 offenses. Law enforcement and prosecution agencies shall not employ
11 minors to aid in the investigation of a violation of RCW 9.68A.090 or
12 9.68A.100. This chapter does not apply to lawful conduct between
13 spouses.

14 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or
15 9.68A.080, it is not a defense that the defendant did not know the age
16 of the child depicted in the visual or printed matter(~~(:—PROVIDED,~~
17 ~~That)).~~ It is a defense, which the defendant must prove by a
18 preponderance of the evidence, that at the time of the offense the
19 defendant was not in possession of any facts on the basis of which he
20 or she should reasonably have known that the person depicted was a
21 minor.

22 (3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100,
23 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not
24 know the alleged victim's age(~~(:—PROVIDED, That)).~~ It is a defense,
25 which the defendant must prove by a preponderance of the evidence, that
26 at the time of the offense, the defendant made a reasonable bona fide
27 attempt to ascertain the true age of the minor by requiring production
28 of a driver's license, marriage license, birth certificate, or other
29 governmental or educational identification card or paper and did not
30 rely solely on the oral allegations or apparent age of the minor.

31 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
32 it shall be an affirmative defense that the defendant was a law
33 enforcement officer in the process of conducting an official
34 investigation of a sex-related crime against a minor, or that the
35 defendant was providing individual case treatment as a recognized
36 medical facility or as a psychiatrist or psychologist licensed under
37 Title 18 RCW.

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

4 **Sec. 18.** RCW 43.63A.740 and 2009 c 387 s 2 are each amended to
5 read as follows:

6 The prostitution prevention and intervention account is created in
7 the state treasury. All designated receipts from fees under RCW
8 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall
9 be deposited into the account. Expenditures from the account may be
10 used (~~only for~~) in the following order of priority:

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

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

18 (3) Funding for services specified in RCW 74.14B.060 and 74.14B.070
19 for sexually exploited children; and

20 (4) Funding the grant program to enhance prostitution prevention
21 and intervention services under RCW 43.63A.720.

22 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
23 each repealed: 2009 c 252 s 4 (uncodified).

Passed by the Senate March 9, 2010.
Passed by the House March 3, 2010.
Approved by the Governor April 1, 2010, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2010.

Note: Governor's explanation of partial veto is as follows:
"I am returning herewith, without my approval as to Section 4
Engrossed Substitute Senate Bill 6476 entitled:

"AN ACT Relating to sex crimes involving minors."

Section 4 requires the Department of Social and Health Services to
provide a report to the relevant policy and fiscal committees of the
Legislature by November 1, 2010, regarding the training needed to
allow staff of the Children's Administration and crisis residential
centers to work effectively with sexually exploited youth. The
report must identify the evidence-based training programs to be used
and the cost of such training. This section would be codified in
chapter 13.32A RCW.

The Department will make the information available. A statutorily
required report is unnecessary.

For these reasons, I have vetoed sections Section 4 of Engrossed Substitute Senate Bill 6476.

With the exception of Section 4, Engrossed Substitute Senate Bill 6476 is approved."