

# HOUSE BILL REPORT

## ESHB 1291

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### As Amended by the Senate

**Title:** An act relating to services for victims of the sex trade.

**Brief Description:** Concerning services for victims of the sex trade.

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

#### **Brief History:**

##### **Committee Activity:**

Public Safety: 1/31/13, 2/7/13, 2/14/13 [DPS];

Appropriations Subcommittee on General Government: 2/23/13 [DPS(PS)].

##### **Floor Activity:**

Passed House: 3/7/13, 97-0.

Senate Amended.

Passed Senate: 4/15/13, 47-0.

#### **Brief Summary of Engrossed Substitute Bill**

- Requires that fees stemming from the impound of vehicles used to facilitate certain prostitution related offenses will be remitted to the city or county where the offense occurred and be used for local efforts to reduce the commercial sale of sex, including increased enforcement and rehabilitative services for victims.
- Requires that 2 percent of the funds raised through the additional fees imposed in connection with vehicle impounds or prosecutions for prostitution related offenses must be remitted to the state, together with an accounting of the funds, for purposes of a statewide report.
- Allows courts to create a payment plan for the additional fees imposed in connection to prosecution for sex trafficking and prostitution-related offenses.
- Creates a statewide coordinating committee on sex trafficking.

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#### HOUSE COMMITTEE ON PUBLIC SAFETY

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

**Staff:** Sarah Koster (786-7303).

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**HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT**

**Majority Report:** The substitute bill by Committee on Public Safety be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hudgins, Chair; Parker, Ranking Minority Member; Buys, Chandler, Dunshee, Hunt, Pedersen, Springer and Taylor.

**Staff:** Alex MacBain (786-7288).

**Background:**

Fees.

A person who is convicted, given a deferred sentence or a deferred prosecution, or has entered into a diversion agreement as a result of an arrest for an offense relating to prostitution or commercial sexual abuse of a minor shall be assessed a fee, in addition to any other criminal penalties.

During the 2012 session, the Legislature increased the amount of the additional fees related to prosecutions for Trafficking, Patronizing a Prostitute, Promoting Prostitution, and Permitting Prostitution. Additionally, the fees assessed were diverted to the city or county where the offense occurred to be used for local efforts to reduce the commercial sale of sex, including increased enforcement of commercial sex laws. At least 50 percent of the funds are required to be spent on preventative programs including "john schools" for offenders and rehabilitative services, such as mental health and substance abuse counseling, parenting skills, vocational training, and housing relief.

Previously, the fees imposed had been deposited in the Prostitution Prevention and Intervention Account (PPIA) under the Department of Commerce (Department). The funds were administered by the Office of Crime Victims Advocacy and used to: (1) support programs that provided mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense; (2) fund services provided to sexually exploited children in crisis residential centers with access to trained staff; (3) fund services for sexually exploited children; and (4) fund a grant program to enhance prostitution prevention and intervention services.

Fee Schedule.

Offense	Fee
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Indecent Exposure	\$50
Prostitution	\$50
Permitting Prostitution	\$1,500 (first offense) \$2,500 (second offense) \$5,000 (third offense)
Patronizing a Prostitute	\$1,500 (first offense) \$2,500 (second offense) \$5,000 (third offense)
Promoting Prostitution	\$3,000 (first offense) \$6,000 (second offense) \$10,000 (third offense)
Commercial Sexual Abuse of a Minor	\$5,000
Promoting Commercial Sexual Abuse of a Minor	\$5,000
Promoting Travel for Commercial Sexual Abuse of a Minor	\$5,000

#### Vehicle Impoundment.

A local governing authority may designate areas within which vehicles are subject to impoundment when they are used to facilitate the following prostitution-related offenses: Patronizing a Prostitute, Promoting Prostitution in the first degree, Promoting Prostitution in the second degree, Promoting Travel for Prostitution, Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Travel for Commercial Sexual Abuse of a Minor. The arresting law enforcement officer may impound the person's vehicle if: (1) the vehicle was used in the commission of the crime; and (2) the person arrested is the owner of the vehicle or the vehicle is a rental car. A prior conviction of a prostitution-related offense is a requirement for impoundment if the offense was committed in an undesignated area.

A prior conviction of a prostitution-related offense is not a requirement for impoundment if the offense was committed within a designated area. The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for prostitution-related offenses compared to other areas within the same jurisdiction of the local governing authority. The local governing authority must post signs at the boundaries of the designated areas to indicate that the area has been designated.

Prior to redeeming an impounded vehicle, the owner must pay all applicable impoundment, towing and storage fees, and a fine of \$500 for offenses related to Prostitution, or \$2,500 for offenses related to Commercial Sexual Abuse of a Minor. The impounding agency collects the fine and issues a receipt to the owner of the vehicle. To redeem an impounded vehicle, the owner must provide the receipt to the towing company and pay all impoundment, towing, and storage fees. A towing company that relies on a forged receipt to release an impounded vehicle is not liable for any unpaid fine.

A person is entitled to a full refund of the impoundment, towing and storage fees, and the fine if he or she substantially prevails in a proceeding to challenge the validity of an

impoundment or is found not guilty of a prostitution-related offense at trial. Any refund is paid by the impounding authority upon proof of payment.

The fees paid to the impounding agency must be paid to the PPIA.

### **Summary of Engrossed Substitute Bill:**

The additional fees imposed for a vehicle impound stemming from an arrest for an offense relating to Prostitution or Commercial Sexual Abuse of a Minor are diverted from the PPIA to the city or county where the offense occurred for local efforts to reduce the commercial sale of sex, including both increased enforcement and rehabilitative services for victims.

Two percent of all funds stemming from fees or fines relating to prosecution of prostitution offenses or prostitution-related vehicle impounds must be remitted to the Department, together with an accounting of the receipt and expenditure of the funds. The Department will then use the remitted funds to pay for analysis of that data and preparation of an annual report to the Legislature. Any excess funds may be spent in the administration of grants for services of victims of the commercial sex trade.

A statewide coordinating committee on sex trafficking (Committee) is created, with the following duties: (1) gathering and assessing service practices from diverse sources regarding service demand and delivery; (2) analyzing data regarding the implementation of sex trafficking legislation passed in recent years by the Legislature, including reports submitted to the Department under the act, and assessing the efficacy of such legislation in addressing sex trafficking, as well as any obstacles to the impact of legislation on the commercial sex trade; and (3) gathering and reviewing existing data, research, and literature to help shape a plan of action to address human trafficking in Washington to include strategies for Washington to undertake to end sex trafficking and necessary data collection improvements.

The Committee is funded from the existing funds in the PPIA and will expire in December 2014, after providing a report and statewide plan to end sex trafficking in Washington to the Legislature and the Governor.

This bill additionally clarifies two provisions of last year's legislation:

- it specifies that the rehabilitative services funded through the fees must be spent on victims of the sex trade; and
- it authorizes the court to allow offenders to pay the additional fees through scheduled periodic payments.

### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment changed the membership of the committee by adding a representative of the Washington Attorney General's office, the president or corporate executive officer of the Center for Children and Youth Justice, the Executive Director of Washington Engage, a representative from Shared Hope International, and representatives of community advocacy groups that work to address the issues of human trafficking, and removing the existing chairs of regional task forces that address human trafficking. The amendment also provides that the

committee expires on June 30, 2015, and adds a duty of the committee: to receive and review reports, recommendations, and statewide protocols as implemented in the pilot sites selected by the Center for Youth Justice.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Public Safety):**

(In support) The theme of last year's bills was about helping to move offenders out of the sex trade and this builds on that. Moving impound fees to the local governments helps both local efforts and prevent the cities from being left holding the bag, in case the impound order is overturned and the money has been sent to the state. This bill moves us along the continuum of realization of who the true victims are in the sex trade. The payment plan increases payment and prevents people getting stuck in the criminal system through warrants for nonpayment.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations Subcommittee on General Government):**

(In support) None.

(Opposed) None.

**Persons Testifying (Public Safety):** Representative Orwall, prime sponsor; and James Graddon, City of SeaTac Police Department.

**Persons Testifying (Appropriations Subcommittee on General Government):** None.

**Persons Signed In To Testify But Not Testifying (Public Safety):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations Subcommittee on General Government):** None.