

SENATE BILL REPORT

SB 5030

As Reported by Senate Committee On:
Law & Justice, January 25, 2017

Title: An act relating to human trafficking, prostitution, and commercial sexual abuse of a minor.

Brief Description: Concerning human trafficking, prostitution, and commercial sexual abuse of a minor.

Sponsors: Senators Darneille, Fain, Hasegawa, Miloscia, Carlyle, Frockt, Chase, Saldaña, Mullet, Pedersen, Conway, Keiser and Kuderer; by request of Attorney General.

Brief History:

Committee Activity: Law & Justice: 1/17/17, 1/25/17 [DP].

Brief Summary of Bill

- Extends the statute of limitations for trafficking crimes to ten years after the crime is committed, unless the victim is under the age of eighteen years old when the crime occurs.
- Extends the statute of limitations for commercial sexual abuse and promoting commercial sexual abuse of a minor to the victim's thirtieth birthday, if the victim was under eighteen years old when the crime occurs.
- Broadens the profits or compensation relating to commercial sexual abuse, promoting commercial sexual abuse, and promoting prostitution of a minor to be anything of value.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

Staff: Melissa Burke-Cain (786-7755)

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.

Background: Human trafficking offenses often involve a high degree of duress and control over the victim that makes it very difficult for the victim to report the crime until the victim is free of the power exerted over them by the trafficker. Currently, a shorter statute of limitations applies to trafficking crimes when compared to similarly serious crimes.

Currently, many sexual abuse crimes have an extended statute of limitations if the victim is a child when the crime occurs. The extended statute of limitations permits prosecution until a child victim reaches 30 years of age, recognizing that child victims may not always understand the nature and harm cause by sexual exploitation, or be able to report the crime to law enforcement until they are well into adulthood. Currently, child victims of commercial sexual abuse crimes do not benefit from the extended statute of limitations that applies to child victims of other sexual exploitation crimes. If the statute of limitations is too short, or fails to account for the victim's youth, many trafficking crimes and commercial exploitation crimes involving children may never be prosecuted.

For crimes involving commercial sexual abuse of minors and prostitution, money is not the only payment or profit that is given or received in exchange for commercial sex acts. The criminal transaction may include compensation or payment in the form of drugs, shelter, food, or other value. Currently, commercial sexual abuse, promoting commercial sexual abuse, and prostitution of a minor limit the compensation, payment or profit for the criminal transaction to an offer or exchange of a fee, money, or property.

Summary of Bill: Trafficking crimes may be prosecuted up to ten years after the crime is committed. Commercial sexual abuse and promoting commercial sexual abuse of a minor may be prosecuted until the victim reaches thirty years of age. The profit or payment underlying the crimes of commercial sexual abuse, promoting commercial sexual abuse, and prostitution of a minor may be anything of value.

Appropriation: None

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days following the end of the session in which the bill is passed.

Staff Summary of Public Testimony: PRO: Children who run away from from home or foster placement are typically picked up within two days of leaving, on average. The bill takes brain development into consideration by extending the statute of limitations for persons under age 18 when they are victimized because the experience of trauma from exploitation lasts much longer for younger victims. Often victims are not able to report these crimes right away because they aren't strong enough, or in a position to even come forward to disclose. Often the manipulation and control that accompanies the victim continues after the 18th birthday, but the crimes that occurred when the victim was 16 and 17 would expire under a three-year statute of limitations. The value exchanged often has little to do with money and especially when these crimes are gang-related, drugs are the currency. An extended statute of limitations for child victims recognizes that it can take a long time to get out of the life; it allows children the chance to heal, recover, and grow. In cases with minors being trafficked

at a very young age it took ten years before the victim came forward. As an undercover investigator of online child trafficking I saw that some of the "value" offered for sex acts included video games, rent, and even a promise of marriage and a wedding ring to trade for access to a child. Many of the children who run away because they are marginalized in foster care or perhaps LGBTQ start with survival sex and become conditioned to exchange sex for money as they continue to be trafficked. Those just over age 18 years old have little resources and cannot see a way out of their situation. It takes getting picked up when they are older and removed from the situation before they have the opportunity to heal.

CON: There is a serious concern that the language defining "anything of value" is unconstitutionally vague and overly broad. There is no language that would prevent against a potential charge for a one night stand or dinner with sex. Some prosecutors would exercise appropriate discretion in charging but others might use the threat of such a charge as a lever. The bill should use language that is more definite as to value and overly broad, language that would support uniformity across the state, and inform citizens as to what is legal and not legal. Application of similar federal laws are currently making their way up through the appellate courts on fourteenth amendment challenges.

Persons Testifying: PRO: Sen. Darneille, Prime Sponsor; Coreen Schnepf, Kitsap County Prosecutor's Office; Carlos Rodriguez, Washington State Patrol, MECTF; Natalie Mays, Kitsap County Prosecutor's Office.

CON: Sheri Pewitt, Washington Defender Assoc., Washington Assoc. of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.