

FINAL BILL REPORT

SSB 5272

C 128 L 17
Synopsis as Enacted

Brief Description: Vacating convictions arising from offenses committed as a result of being a victim of trafficking, promoting prostitution, or promoting commercial sexual abuse of a minor.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Saldaña, Hasegawa, Ranker, Chase, Hunt, Darneille, Wellman, Keiser, Cleveland, Takko and Kuderer).

Senate Committee on Law & Justice
House Committee on Public Safety

Background: Vacation of Records. A person convicted of Prostitution who committed the offense as the result of being a victim of Trafficking, Promoting Prostitution in the first degree, or Commercial Sexual Abuse of a Minor may apply to the sentencing court for vacation of the record of conviction, however the record cannot be cleared if: (1) there are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court, for any crime other than prostitution; or (2) the applicant has been convicted of a new crime in this state, another state, or federal court since the date of conviction, other than the crime of prostitution.

Any motion for vacation of a prostitution conviction must be supported by the sworn testimony of the applicant at a hearing before the court.

If the offender meets these tests, the court may clear the record of conviction by permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or, if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

Trafficking in First and Second Degrees. A person is guilty of Trafficking in the first degree when such person:

- recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or

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- benefits financially or by receiving anything of value from participation in a venture that has engaged in acts described above and the acts or venture involve kidnapping, a finding of sexual motivation, illegal harvesting or sale of human organs, or result in death.

Trafficking in the first degree is a Class A felony.

A person is guilty of Trafficking in the second degree when such person:

- recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or
- benefits financially or by receiving anything of value from participation in a venture that has engaged in the acts described above.

Trafficking in the second degree is a Class A felony.

Promoting Prostitution in First Degree. A person is guilty of Promoting Prostitution in the first degree if he or she knowingly advances prostitution:

- by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or
- by compelling a person with a mental incapacity or developmental disability that renders the person incapable of consent to engage in prostitution or profits from prostitution that results from such compulsion.

Promoting Prostitution in the first degree is a Class B felony.

Commercial Sexual Abuse of a Minor. A person is guilty of Commercial Sexual Abuse of a Minor if:

- he or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;
- he or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or
- he or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

Commercial Sexual Abuse of a Minor is a Class B felony.

Summary: A person who has been convicted of another crime since the date of a prostitution conviction and who would otherwise qualify for vacation of the conviction, may still be cleared of the prostitution conviction if the person proves by a preponderance of the evidence that they also committed the other crime as a result of being a victim of Trafficking, Promoting Prostitution in the first degree or Promoting Commercial Sexual Abuse of a Minor.

When submitting a motion to vacate a conviction to the court, the applicant must submit a signed affidavit that proves by a preponderance of the evidence that the elements of the

particular crime the applicant is alleged to be a victim of are met and that the particular prostitution record of conviction sought to be vacated resulted from those criminal acts.

Votes on Final Passage:

Senate	49	0
House	92	5

Effective: July 23, 2017