

HOUSE BILL REPORT

HB 1775

As Reported by House Committee On:
Human Services & Early Learning
Appropriations

Title: An act relating to commercially sexually exploited children.

Brief Description: Concerning commercially sexually exploited children.

Sponsors: Representatives Orwall, Frame, Wylie, Gregerson and Macri.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/12/19, 2/20/19 [DPS], 1/24/20, 1/28/20 [DP2S];
Appropriations: 2/27/19, 2/8/20, 2/10/20 [DP3S(w/o 2sub HSEL)].

Brief Summary of Third Substitute Bill

- Limits the crime of Prostitution to individuals age 18 or older effective January 1, 2024.
- Requires the Department of Children, Youth, and Families (DCYF) to administer funding for two receiving center programs for commercially sexually exploited youth ages 12–17 on the west and east side of the Cascade Mountains.
- Requires law enforcement officers to take a juvenile into custody based on circumstances which constitute a danger to the child's safety who the officer reasonably believes to be a victim of sexual exploitation to an evaluation and treatment facility, including a receiving center for purposes of evaluation for behavioral health treatment.
- Requires the DCYF to provide services to support commercially sexually exploited children.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking

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.

Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

Staff: Luke Wickham (786-7146).

Background:

Prostitution.

A person is guilty of Prostitution if the person engages or agrees to engage or offers to engage in sexual conduct with another person in return for a fee. Prostitution is a misdemeanor.

Prosecutors must divert a juvenile's first Prostitution offense. A juvenile diversion is a contract between a juvenile accused of an offense and a diversion unit where the juvenile agrees to certain conditions in lieu of prosecution. Diversion agreements may include community restitution not to exceed 150 hours; restitution; up to 10 hours of counseling and/or up to 20 hours of educational or informational sessions; requirements to remain during certain hours at home, school, or work; and requirements not to have contact with victims or witnesses. If a youth does not complete the diversion agreement, a prosecutor may file a criminal complaint.

If an individual has a criminal history consisting of one diversion agreement upon turning age 18, the records of that diversion must be destroyed within 90 days.

Commercially Sexually Exploited Youth.

The Commercially Sexually Exploited Children Statewide Coordinating Committee (Committee) was established in 2013 to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices. The Committee must meet at least annually.

The Committee is convened by the Office of the Attorney General (AGO). The Department of Commerce (Commerce) assists the AGO with the Committee agenda planning and administrative and clerical support.

The Committee members include representatives from the Legislature, the Governor's Office, state agencies, courts, victim advocates, law enforcement, service providers, regional task forces on commercially sexually exploited children, attorneys, and a survivor of human trafficking.

The duties of the Committee include, but are not limited to:

- overseeing and reviewing the implementation of the Washington State Model Protocol for Commercially Sexually Exploited Children;
- receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas;
- reviewing recommendations from local and regional entities regarding policy changes that would improve the effectiveness of local response practices; and

- making recommendations regarding data collection and strategic local investments to address the commercial sexual exploitation of children.

The Committee expires on June 30, 2023, and must annually report its findings to the appropriate committees of the Legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

The Department of Children, Youth, and Families.

The Department of Children, Youth, and Families (DCYF) was created in 2017 and oversees early learning programs, child welfare services, and juvenile justice programs.

Summary of Second Substitute Bill:

The crime of Prostitution is limited to individuals age 18 or older, effective January 1, 2024.

The DCYF is required to administer funding for two receiving center programs for commercially sexually exploited youth ages 12–17 on the west and east side of the Cascade Mountains.

The receiving centers must:

- begin providing services by January 1, 2021;
- develop eligibility criteria for youth and prioritize law enforcement referral;
- provide ongoing case management for youth served by the programs;
- include a short-term evaluation function accessible 24 hours per day, seven days per week that has the capacity to meet immediate needs for youth or refer to services;
- assess youth for mental health and substance use disorder needs and provide referrals;
- utilize existing facilities and not require the construction of new facilities; and
- provide individual and group counseling.

The individuals eligible for receiving center services include children ages 12–17, of all genders, who have been, or are at risk for being commercially sexually exploited.

Law enforcement must transport a child eligible for receiving center services to a receiving center or coordinate transportation with a DCYF commercially sexually exploited children liaison.

Law enforcement, the DCYF, juvenile courts, community service providers, a parent or guardian, and a child themselves may be referred for receiving center services.

The DCYF must collect demographic information about the youth served by the programs and the locations the youth exit to after being served by the programs and report the data to the Legislature by December 1, 2022.

Law enforcement officers must take a juvenile into custody based on circumstances which constitute a danger to the child's safety who the officer reasonably believes to be a victim of sexual exploitation and take the youth to an evaluation and treatment facility, including a

receiving center, for purposes of evaluation for behavioral health treatment. Law enforcement may take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility.

The DCYF must provide services to support commercially sexually exploited children, including providing at least one liaison position in each of the six regions of the DCYF.

The Committee is required to compile data on the number of juveniles taken into custody by law enforcement where the officer believes the juvenile may be the victim of sexual exploitation. The Committee has the duty to review and make recommendations regarding expanded use of child advocacy centers to include serving the immediate and long-term needs of commercially sexually exploited children. The Committee must convene a meeting related to the role that child advocacy centers have in responding to and supporting commercially sexually exploited children and provide recommendations to Commerce by October 1, 2020. Commerce must provide a report to the Legislature, by December 1, 2020, that includes an inventory of child advocacy centers, a description of the services that they provide, and recommendations for expanded use of child advocacy centers.

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Second Substitute Bill Compared to Original Bill:

The substitute bill modifies the intent section.

The substitute bill replaces the Office of Homeless Youth Prevention and Protection Programs with the DCYF as the entity administering funding for two receiving centers.

The substitute bill delays the date the receiving centers begin providing services until January 1, 2021.

The substitute bill requires that the receiving center programs utilize existing facilities and not require the construction of new facilities.

The substitute bill specifies that the individuals eligible for receiving center services include children ages 12–17, of all genders, who have been, or are at risk for being commercially sexually exploited.

The substitute bill removes the requirement that receiving centers provide licensed residential substance use disorder and mental health treatment up to one year at the same site with a short-term evaluation function.

The substitute bill requires that law enforcement transport a child eligible for receiving center services to a receiving center or coordinate transportation with a DCYF commercially sexually exploited children liaison.

The substitute bill allows law enforcement, the DCYF, juvenile courts, community service providers, and a parent or guardian to refer eligible children to receiving centers. Children may also self-refer.

The substitute bill requires law enforcement to transport juveniles who the officer reasonably believes may be the victim of sexual exploitation to an evaluation and treatment center, including a receiving center, for behavioral health treatment.

The substitute bill establishes the authority for law enforcement to take into protective custody a child who engages or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility.

The substitute bill requires the DCYF to provide services to support commercially sexually exploited children, including providing at least one liaison position in each of the six regions of the DCYF.

The substitute bill requires the Committee to convene a meeting related to the role that child advocacy centers have in responding to and supporting commercially sexually exploited children and provide recommendations to Commerce by October 1, 2020.

The substitute bill requires Commerce to provide a report to the Legislature, by December 1, 2020, that includes an inventory of child advocacy centers, a description of the services that they provide, and recommendations for expanded use of child advocacy centers.

The substitute bill delays the effective date for sections decriminalizing juvenile prostitution until January 1, 2024.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4, 5, and 6, relating to decriminalizing juvenile prostitution, which takes effect January 1, 2024.

Staff Summary of Public Testimony:

(In support) For years the mean age of sexually exploited youth has been age 15, but some say it is now age 12. There should be a therapeutic response for these youth. There should be accountability for individuals exploiting these youth. The change in the Prostitution offense will occur in four years. These youth will receive evidence-based services to help them. Many of these youth will be eligible for Medicaid, which will allow for additional funding. Child advocacy centers help children heal by coordinating treatment and advocacy services. The bill only requires one meeting with child advocacy centers. Representatives

from child advocacy centers should be included on the Committee. Teens have experienced forcible sex all day with adults for money, only to have to hand that money over to another adult. Many children who are victims of sex trafficking are running away from abusive situations. These victims should be treated as victims and not criminals. This state offers some protections for girls who are victims of sex trafficking, but that is not enough. The time is now to fund services and move toward a victim-centered response. Laws that criminalize victimization should be removed. Investments in these youth should be wise, and that is exactly what this bill creates. Washington state was the first to pass safe harbor laws but has now fallen behind other states in creating safe harbor laws for child victims of sex trafficking. This is a complicated problem, and the bill creates a complicated response. Crisis residential centers are not the appropriate response to sex trafficking victimization. This bill should allow anyone to self-refer into these programs, even if sex trafficking is not suspected. Youth in the sex trade should not be punished. If the youth is not suspected of a crime, the youth should not be taken into custody against his or her will. A person cannot be saved from coercion by more coercion. Law enforcement and prosecutors should be granted coercive power over youth once the age of the crime of Prostitution is raised to age 18 and over. Youth cannot wait four more years to be protected from further victimization. Twenty-five states passed laws protecting youth from prostitution offenses last year. Five more states have passed these laws in the past year. Please do not make Washington one of the most regressive states regarding youth victims of sex trafficking. By criminalizing victims of sex trafficking, power is given to those exploiting these individuals. Children should be protected no matter the cost.

(Opposed) None.

Persons Testifying: Representative Orwall, prime sponsor; Paula Reed, Children's Advocacy Centers of Washington; Jim Theofelis, A Way Home Washington; Ann Muno, Justice for Girls Coalition; Nicholas Oakley, Center for Children and Youth Justice; Leslie Briner, YouthCare; Erik Gray and Jeri Moomaw, Innovations Human Trafficking Collaborative; Kari Lerum, University of Washington; and Emi Koyama, Coalition for Rights and Safety for People in the Sex Trade.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 32 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Jessica Van Horne (786-7288).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Human Services & Early Learning:

The executive director of the statewide organization representing child advocacy centers or his or her designee is added to the Committee.

The number of liaison positions dedicated to serving commercially sexually exploited children that the DCYF must provide is changed from at least six in each region the DCYF serves, to at least two in the regions where the receiving center programs are located. The DCYF must designate a person responsible for supporting commercially sexually exploited children, who may be assigned other duties in addition to this responsibility, in regions of the DCYF where there is not a dedicated liaison position.

Commerce is required to provide information about child advocacy centers to the Committee. The Committee must provide a report to the Legislature regarding that information and recommendations for expanded use of child advocacy centers, rather than Commerce.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Third Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4, 5, and 6, relating to decriminalizing juvenile prostitution, which take effect January 1, 2024.

Staff Summary of Public Testimony:

(In support) Washington has been at the forefront of combatting human trafficking. However, the state is now falling behind its peers by continuing to allow for the arrest and prosecution of children for the crime of prostitution. This bill will allow Washington to become a true safe harbor state. Many stakeholders have come together to develop a complex set of solutions for a complex issue, including eliminating the ability to arrest and prosecute children for prostitution, creating and funding receiving centers, and creating greater capacity within the DCYF. Children who are sexually trafficked are especially vulnerable and have life-long needs for services and supports, including behavioral health and substance abuse services. Many children in this population have also gone through the state's foster care system. The costs of the bill are outweighed by the long-term implications of not intervening in these cases early on.

(Opposed) None.

Persons Testifying: Leslie Briner, YouthCare; and Jim Theofelis, A Way Home Washington.

Persons Signed In To Testify But Not Testifying: None.