

SENATE BILL REPORT

E3SHB 1775

As Passed Senate - Amended, March 6, 2020

Title: An act relating to commercially sexually exploited children.

Brief Description: Protecting commercially sexually exploited children.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Orwall, Frame, Wylie, Gregerson and Macri).

Brief History: Passed House: 2/18/20, 96-1.

Committee Activity: Human Services, Reentry & Rehabilitation: 2/25/20 [DPA-WM, w/oRec].

Ways & Means: 2/29/20, 3/02/20 [DPA (HSRR)].

Floor Activity:

Passed Senate - Amended: 3/06/20, 48-0.

Brief Summary of Amended Bill

- 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 or coordinate transportation for a juvenile 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 or to an appropriate youth-serving entity or organization including, but not limited to one that has expertise working with adolescents in crisis.
- Limits the crime of prostitution to individuals age 18 or older effective January 1, 2024.
- Directs DCYF, the Department of Health, and the Division of Behavioral Health and Recovery, to meet and coordinate the implementation of receiving centers and develop eligibility criteria for serving commercially sexually exploited children and provide recommendations to the Legislature by December 1, 2020.

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.

- Directs DCYF to convene a workgroup to study and issue recommendations regarding the decriminalizing of prostitution for persons under 18 and issue recommendations to the Legislature by October 31st.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Cleveland, O'Ban, Wilson, C. and Zeiger.

Minority Report: That it be referred without recommendation.

Signed by Senator Walsh, Ranking Member.

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Lias, Muzzall, Pedersen, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Staff: Sarah Emmans (786-7478)

Background: Commercially Sexually Exploited Children Statewide Coordinating Committee. 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 reports its finding and recommendations annually to the Legislature. The Committee meets at least annually and is convened by the Office of the Attorney General. The Committee is set to expire on June 30, 2023.

The Department of Children, Youth and Families. The Department of Children, Youth, and Families (DCYF) was created by the Legislature in 2017. The stated intent of the agency is to improve the delivery of government services relating to early learning, child welfare, and juvenile justice by consolidating the administration of these services into the same agency. At the time DCYF was created, they were directed to establish, subject to available funds, a system of early identification and referral to treatment of child victims of sexual assault or sexual abuse. The system must include schools, physicians, sexual assault centers, domestic violence centers, child protective services, and foster parents.

Crime of Prostitution. A person is guilty of prostitution if they offer to engage in sexual conduct with another person for a fee. Prostitution is a misdemeanor. If a juvenile is alleged

to have committed a first offense of prostitution, the prosecutor must divert the case. If it is not the juvenile's first offense, if proven, the prosecutor may divert the case if the county in which the offense is alleged to have been committed has a comprehensive program meeting specific conditions. A diversion agreement may extend to 12 months.

Law Enforcement Custody of a Child. There are many circumstances where a law enforcement officer must take a child into custody. This includes when an officer believes, considering the child's age, location, and time of day, a child is in circumstances which constitute a danger to their safety.

Evaluation and Treatment Facility. An evaluation and treatment facility is a public or private facility or unit that is licensed or certified by the Department of Health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility.

Summary of Amended Bill: Receiving Centers Programs. Two receiving center programs are created for commercially sexually exploited children (CSEC) to be administered by DCYF. The receiving center programs must:

- begin offering services by July 1, 2021;
- provide ongoing case management for children who are being served or were served by the programs;
- use existing facilities and not require the construction of new facilities; and
- have one program east of the Cascades and one program west of the Cascades.

Eligibility for placement in a receiving center is for children ages twelve to seventeen, of all genders, who have been, or are at risk for being commercially sexually exploited.

Receiving Center Referrals. The following entities may refer a child to receiving centers:

- law enforcement, who must transport a child to the receiving center or coordinate transportation with a liaison dedicated to serving CSEC or a community service provider;
- DCYF;
- juvenile courts;
- community service providers;
- a parent or guardian; and
- a child who wishes to self-refer.

Functions of the Receiving Centers. A receiving center is a trauma-informed, secure location located in a behavioral health agency licensed or certified under RCW 71.24.037 to provide inpatient or residential treatment services meeting the multidisciplinary needs of CSEC ages 12 to 17. The receiving centers must:

- include a short-term evaluation function, including emergency shelter, accessible 24 hours per day, 7 days per week, having the capacity to evaluate the immediate needs of CSEC and either meet these immediate needs, or refer these youth to appropriate

- services, including an evaluation for behavioral health treatment, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment;
- assess children for substance use disorder and provide appropriate referrals as needed; and
- provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity.

Data Collection. DCYF must collect nonidentifiable demographic data of children served, and data regarding the locations that children exit to after being served by the programs, and report this data along with recommendations for medication or expansion of these programs to the relevant committees of the Legislature by December 1, 2022.

Services for Commercially Sexually Exploited Children. DCYF must provide services to support CSEC. To provide such services, DCYF may:

- provide one statewide program manager and one liaison position in each region of DCYF where there is a receiving center dedicated to serving CSEC—the liaison must report directly to the statewide program manager;
- provide a designated person responsible for supporting CSEC in regions of DCYF where there is not a dedicated liaison position; and
- coordinate appropriate, available, community-based services for children following the discharge from an evaluation and treatment facility, including receiving centers.

DCYF must collect non-identifiable data regarding the number of CSEC, including reports received from law enforcement. DCYF must provide an annual report to the CSEC Statewide Coordinating Committee by December 1st including the following information: a description of services provided by DCYF to CSEC; and nonidentifiable data regarding the number of CSEC.

Commercially Sexually Exploited Children Statewide Coordinating Committee. The Steering Committee (Committee) refers to the Commercially Sexually Exploited Children Statewide Coordinating Committee. The Committee must compile data on the number of juveniles taken into custody under the belief they were victims of sexual exploitation. The Committee is expanded to include the executive director of the statewide organization representing children's advocacy centers.

By September 1, 2020, the Committee must convene a meeting related to the role that child advocacy centers (CACs) have in responding to and supporting CSEC. This meeting must include representatives of CACs.

By October 1, 2020, the Department of Commerce must provide the following information to the Committee:

- an inventory of the number of and location of CACs in the state; and
- a description of services provided by each CAC in the state;

By December 1, 2020, the Committee must provide a report to the relevant committees of the Legislature that includes:

- an inventory of the number of and location of CACs in the state;
- a description of services provided by each CAC in the state;

- recommendations for expanded use of CACs in providing additional services for CSEC with available services in the community; and
- recommendations for ensuring CACs connect CSEC with available services in the community

This section of the Act expires June 30, 2021.

Law Enforcement Custody and Behavioral Health Treatment. If a law enforcement officer takes a juvenile into custody because the officer reasonably believes the juvenile may be a victim of sexual exploitation, the officer must transport, or coordinate transportation for that juvenile to an evaluation and treatment facility, including a receiving center, for an evaluation for behavioral health treatment, or to an appropriate youth-serving entity or organization including, but not limited to a HOPE Center, foster-family home, crisis residential center, or a community-based program that has expertise working with adolescents in crisis.

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

Prostitution. Effective January 1, 2024, only a person eighteen or older can be guilty of the crime of prostitution. The relevant statutes are revised accordingly.

Other provisions include the following:

- services offered by DCYF to children it suspects have been commercially sexually exploited are voluntary;
- receiving centers are not licensed by DCYF;
- there is no private right of action against DCYF for failure to identify, offer, or provide services;
- DCYF, the Department of Health, and the Division of Behavioral Health and Recovery, are to meet and coordinate the implementation of receiving centers and develop eligibility criteria for serving commercially sexually exploited children;
- by December 1, 2020, DCYF is to provide a report to the Governor and the Legislature regarding these recommendations as well as providing any additional policy recommendations regarding receiving centers; and
- DCYF is to convene a workgroup to study and issue recommendations regarding how decriminalizing prostitution and prostitution loitering for persons under eighteen will impact law enforcement and prosecutor's efforts and ability to discover and access the victim's cell phone records to aid in the prosecution of the perpetrator or abuse, and issue recommendations to the appropriate committees of the Legislature by October 31, 2021.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Engrossed Third Substitute House Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: It would be great to have a CSEC liaison in every region of DCYF, but understand there are cost restraints. It is very important that we recognize these children are victims. They can't consent to sex so they can't consent to prostitution. Victims have a criminal records that follows them throughout their life. Children need support and healing for their trauma, not criminalization. Child welfare is the appropriate place for services, not juvenile justice. Foster care youth are extremely vulnerable, it can be seen as a recruiting grounds. The myth about kids who are trafficked is that they don't have a family that loves them, which simply isn't true. While we need HOPE and CRC beds, we also need longer-term solutions like the receiving centers. We shouldn't shy away from the investment that this will take.

CON: We are not criminalizing children, the crime of prostitution allows cops to hold kids while they investigate the crime, find out who the pimps are and look at the evidence on the kid's phone. How will the kids get to a receiving center if there are only two liaisons across the state? If you decriminalize prostitution kids will fall through the cracks.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Jim Theofelis, A Way Home Washington; Rebekah Fonden, Seattle Against Slavery; Leslie Briner, YouthCare; Nicholas Oakley, Center for Children & Youth Justice; Senator Manka Dhingra.

CON: Natalie Mays, Kitsap County Prosecutor's Office, Human Trafficking Specialist/ Investigator.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on Bill as Amended by Human Services, Reentry & Rehabilitation (Ways & Means): PRO: The receiving centers and the liaisons will be able to provide the kind of services that sex trafficking victims need. The Senate budget provided money for enhanced service shelters for youth, and the services that those shelters can provide are what the victims will be able to benefit from.

Persons Testifying (Ways & Means): PRO: Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.