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SENATE BILL 5637

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State of Washington                      54th Legislature                      1995 Regular Session

By Senators Fraser, Kohl and Oke

Read first time 01/30/95. Referred to Committee on Law & Justice.

1            AN ACT Relating to a civil action as a remedy for coercion in the  
2 making of sexually explicit films or videos; adding new sections to  
3 chapter 9.68 RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** The legislature finds that preventing and  
6 remedying sexual exploitation is a government objective of extreme  
7 importance. The legislature further finds that individuals have been  
8 coerced into performing sexual acts in films and other media for the  
9 financial gain of others. The legislature also finds that the victim  
10 is further victimized when the reproduction of the sexual exploitation  
11 is viewed by others.

12           NEW SECTION.    **Sec. 2.** Unless the context clearly requires  
13 otherwise, the definitions in this section apply throughout sections 3  
14 through 6 of this act.

15           (1) "Coerced" means that coercion as defined in RCW 9A.36.070 has  
16 been applied.

17           (2) "Sexually explicit conduct" has the same meaning as in RCW  
18 9.68A.011(3) (a),(b),(c),(d), and (f).

1        NEW SECTION.    **Sec. 3.** Any person who is coerced into performing  
2 sexually explicit conduct in a film or video may bring a cause of  
3 action against any person who coerced the person into the performance.  
4 If the court finds that the performance is the result of coercion, the  
5 court may award actual damages, punitive damages of up to fifty  
6 thousand dollars, injunctive relief including the prevention of any  
7 further display of the coerced performance, attorneys' fees, and court  
8 costs.

9        NEW SECTION.    **Sec. 4.** After a court has found that a performance  
10 is the result of coercion, the coerced person may file an action  
11 against any person who has been served with a copy of the judgment in  
12 the civil suit establishing coercion and who makes, copies,  
13 distributes, exhibits, or sells a film or video of the performance.  
14 The court may award damages, injunctive relief including the prevention  
15 of any further display of the coerced performance, attorneys' fees, and  
16 court costs.

17        NEW SECTION.    **Sec. 5.** If the film or video containing the coerced  
18 performance is enjoined from further display under section 3 or 4 of  
19 this act, a purchaser of the product containing the coerced performance  
20 is entitled to be reimbursed by the seller for the actual cost of the  
21 product and may bring an action in any court to enforce this section.  
22 Any person who prevails in a court action for reimbursement under this  
23 section shall be awarded attorneys' fees and court costs.

24        NEW SECTION.    **Sec. 6.** (1) A claim brought under sections 3 through  
25 6 of this act shall not expire before six years have elapsed from the  
26 date of the coerced performance or performances or from the last  
27 appearance or sale of any product of the performance or performances,  
28 whichever date is later.

29        (2) Proof of one or more of the following facts or conditions shall  
30 not by itself negate a finding of coercion:

31        (a) The person is or has been a prostitute;

32        (b) The person has attained the age of majority;

33        (c) The person is connected by blood or marriage to anyone involved  
34 in or related to the making of the film or video;

1 (d) The person has previously had, or been thought to have had,  
2 sexual relations with anyone, including anyone involved in or related  
3 to the making of the film or video;

4 (e) The person has previously posed for sexually explicit pictures  
5 for or with anyone, including anyone involved in or related to the  
6 making of the film or video that is the subject of the claim;

7 (f) Anyone else, including a spouse or other relative, has given  
8 permission on the person's behalf;

9 (g) The person knew the purpose of the acts or events in question  
10 was to make the film or video;

11 (h) The person showed no resistance or appeared to cooperate  
12 actively in the photographic sessions or in the events that produced  
13 the film or video;

14 (i) The person signed a contract, or made statements affirming a  
15 willingness to cooperate in the production of the film or video;

16 (j) No physical force or weapons were used in the making of the  
17 film or video;

18 (k) The person was paid or otherwise compensated.

19 NEW SECTION. **Sec. 7.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act are each  
24 added to chapter 9.68 RCW.

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