

SENATE BILL REPORT

SHB 1791

As of February 24, 2014

Title: An act relating to trafficking.

Brief Description: Concerning trafficking.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Parker, Orwall, Fagan, Riccelli, Ryu, Haler, Moscoso and Santos).

Brief History: Passed House: 2/12/14, 97-0.

Committee Activity: Law & Justice: 2/24/14.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Kelly Walsh (786-7755)

Background: A person is guilty of trafficking when that person:

- recruits, harbors, transports, transfers, provides, obtains, buys, purchases, or receives by any means another person knowing, or in reckless disregard for the fact, 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 that the person has not reached the age of 18 years and is caused to engage in a sexually explicit act or a commercial sex act; or
- benefits financially or receives anything of value from participation in a venture that has engaged in the above acts.

The offense is trafficking in the first degree if the acts involve kidnapping, sexual motivation, illegal harvesting of human organs, or results in a death. Trafficking in the first degree is a class A felony.

A person convicted of a sex offense must register with the county sheriff for that person's county of residence and provide specific personal information. This information is placed in a central registry maintained by the Washington State Patrol. Some information about registered sex offenders, including residential address and conviction data, is made available to the public.

Currently a conviction for trafficking in the first degree is not a sex offense that triggers registration unless there is a finding of sexual motivation that is alleged by the prosecutor and

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found by the fact finder beyond a reasonable doubt. Sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

Summary of Bill: The statutory definition of sex offense includes the crime of trafficking in the first degree when:

- force, fraud, or coercion is used to cause the trafficked person to engage in a sexually explicit act or a commercial sex; or
- a person under age 18 is caused to engage in a sexually explicit act or commercial sex act.

A finding of sexual motivation is not required in these circumstances in order for the offense to qualify as a sex offense.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill brings these crimes into the light and exposes the activity of the offender. Many trafficking victims suffer severe consequences of their victimization. However, the traffickers can get away with much less. Putting trafficking offenders on a sex offense registry gives them stipulations that they must live with for the rest of their lives and it shows the community that these crimes are taken seriously. This offense should follow and mark the trafficker.

OTHER: While anti-trafficking efforts are supported, there are concerns about the procedure and what this means for the current process. This legislation should be vetted through the Sex Offender Policy Board to address the affect of this change on the sex offender management system. There is currently not a risk assessment tool to take into account these types of offenders and there may not be a means to address these changes with the current sex offender management system. One possibility is that trafficking could be treated similarly to kidnapping, but these issues should still be vetted by the treatment community and experts on these matters so that any issues can be addressed.

Persons Testifying: PRO: Representative Parker, prime sponsor; Ahnaleza Wilseck, The Justice and Mercy Foundation.

OTHER: Andrea Piper-Wentland, WA Coalition of Sexual Assault Programs.