

SHB 2360 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.88.110 and 2017 c 232 s 1 are each amended to
4 read as follows:

5 (1) A person is guilty of (~~(patronizing a prostitute)~~) commercial
6 sexual abuse if:

7 (a) Pursuant to a prior understanding, he or she (~~(pays a fee)~~)
8 provides anything of value to another person as compensation for such
9 person or a third person having engaged in sexual conduct with him or
10 her; or

11 (b) He or she (~~(pays or agrees to pay a fee)~~) provides or agrees
12 to provide anything of value to another person pursuant to an
13 understanding that in return therefor such person will engage in
14 sexual conduct with him or her; or

15 (c) He or she solicits or requests another person to engage in
16 sexual conduct with him or her in return for (~~(a fee)~~) anything of
17 value.

18 (2) The crime of (~~(patronizing a prostitute)~~) commercial sexual
19 abuse may be committed in more than one location. The crime is deemed
20 to have been committed in any location in which the defendant commits
21 any act under subsection (1)(a), (b), or (c) of this section that
22 constitutes part of the crime. A person who sends a communication
23 (~~(to patronize a prostitute)~~) in furtherance of a commercial sexual
24 abuse offense is considered to have committed the crime both at the
25 place from which the contact was made pursuant to subsection (1)(a),
26 (b), or (c) of this section and where the communication is received,
27 provided that this section must be construed to prohibit anyone from
28 being prosecuted twice for substantially the same crime.

29 (3) For purposes of this section, "sexual conduct" has the
30 meaning given in RCW 9A.88.030.

31 (4) (~~(Patronizing a prostitute)~~) Commercial sexual abuse is a
32 misdemeanor.

1 (5) A second or subsequent conviction under this section or under
2 an equivalent municipal ordinance is a gross misdemeanor.

3 **Sec. 2.** RCW 9A.88.085 and 2006 c 250 s 2 are each amended to
4 read as follows:

5 (1) A person commits the offense of promoting travel for
6 prostitution if the person knowingly sells or offers to sell travel
7 services that include or facilitate travel for the purpose of
8 engaging in what would be (~~patronizing a prostitute~~) commercial
9 sexual abuse or promoting prostitution, if occurring in the state.

10 (2) For purposes of this section, "travel services" has the same
11 meaning as defined in RCW 19.138.021.

12 (3) Promoting travel for prostitution is a class C felony.

13 **Sec. 3.** RCW 9A.88.130 and 2012 c 136 s 2 are each amended to
14 read as follows:

15 (1) When sentencing or imposing conditions on a person convicted
16 of, or receiving a deferred sentence or deferred prosecution for,
17 violating RCW 9A.88.110 or 9.68A.100, the court must impose a
18 requirement that the offender:

19 (a) Not be subsequently arrested for (~~patronizing a prostitute~~)
20 commercial sexual abuse or commercial sexual abuse of a minor;

21 (b) Remain outside the geographical area, prescribed by the
22 court, in which the person was arrested for violating RCW 9A.88.110
23 or 9.68A.100, unless such a requirement would interfere with the
24 person's legitimate employment or residence or otherwise be
25 infeasible; and

26 (c) Fulfill the terms of a program, if a first-time offender,
27 designated by the sentencing court, designed to educate offenders
28 about the negative costs of prostitution.

29 (2) This requirement is in addition to the penalties set forth in
30 RCW 9A.88.110, 9A.88.120, and 9.68A.100.

31 **Sec. 4.** RCW 9A.88.140 and 2015 c 265 s 21 are each amended to
32 read as follows:

33 (1)(a) Upon an arrest for a suspected violation of (~~patronizing~~
34 ~~a prostitute~~) commercial sexual abuse, promoting prostitution in the
35 first degree, promoting prostitution in the second degree, promoting
36 travel for prostitution, the arresting law enforcement officer may
37 impound the person's vehicle if (i) the motor vehicle was used in the

1 commission of the crime; (ii) the person arrested is the owner of the
2 vehicle or the vehicle is a rental car as defined in RCW 46.04.465;
3 and (iii) either (A) the person arrested has previously been
4 convicted of one of the offenses listed in this subsection or (B) the
5 offense was committed within an area designated under (b) of this
6 subsection.

7 (b) A local governing authority may designate areas within which
8 vehicles are subject to impoundment under this section regardless of
9 whether the person arrested has previously been convicted of any of
10 the offenses listed in (a) of this subsection.

11 (i) The designation must be based on evidence indicating that the
12 area has a disproportionately higher number of arrests for the
13 offenses listed in (a) of this subsection as compared to other areas
14 within the same jurisdiction.

15 (ii) The local governing authority shall post signs at the
16 boundaries of the designated area to indicate that the area has been
17 designated under this subsection.

18 (2) Upon an arrest for a suspected violation of commercial sexual
19 abuse of a minor, promoting commercial sexual abuse of a minor, or
20 promoting travel for commercial sexual abuse of a minor, the
21 arresting law enforcement officer shall impound the person's vehicle
22 if (a) the motor vehicle was used in the commission of the crime; and
23 (b) the person arrested is the owner of the vehicle or the vehicle is
24 a rental car as defined in RCW 46.04.465.

25 (3) Impoundments performed under this section shall be in
26 accordance with chapter 46.55 RCW and the impoundment order must
27 clearly state "prostitution hold."

28 (4)(a) Prior to redeeming the impounded vehicle, and in addition
29 to all applicable impoundment, towing, and storage fees paid to the
30 towing company under chapter 46.55 RCW, an adult owner of an
31 impounded vehicle must pay a fine to the impounding agency. The fine
32 shall be five hundred dollars for the offenses specified in
33 subsection (1) of this section, or two thousand five hundred dollars
34 for the offenses specified in subsection (2) of this section.

35 (b) Upon receipt of the fine paid under (a) of this subsection,
36 the impounding agency shall issue a written receipt to the owner of
37 the impounded vehicle.

38 (c) Fines assessed under this section shall be collected by the
39 clerk of the court and remitted to the treasurer of the county where
40 the offense occurred for deposit in the county general fund, except

1 in cases in which the offense occurred in a city or town that
2 provides for its own law enforcement, in which case these amounts
3 shall be remitted to the treasurer of the city or town for deposit in
4 the general fund of the city or town. Revenue from the fines must be
5 used for local efforts to reduce the commercial sale of sex
6 including, but not limited to, increasing enforcement of commercial
7 sex laws.

8 (i) At least fifty percent of the revenue from fines imposed
9 under this section must be spent on prevention, including education
10 programs for offenders, such as john school, and rehabilitative
11 services for victims, such as mental health and substance abuse
12 counseling, parenting skills, training, housing relief, education,
13 vocational training, drop-in centers, and employment counseling.

14 (ii) Two percent of the revenue from fines imposed under this
15 section shall be remitted quarterly to the department of commerce,
16 together with a report detailing the fees assessed, the revenue
17 received, and how that revenue was spent.

18 (iii) Revenues from these fees are not subject to the
19 distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040,
20 10.82.070, or 35.20.220.

21 (5)(a) In order to redeem a vehicle impounded under this section,
22 the owner must provide the towing company with the written receipt
23 issued under subsection (4)(b) of this section.

24 (b) The written receipt issued under subsection (4)(b) of this
25 section authorizes the towing company to release the impounded
26 vehicle upon payment of all impoundment, towing, and storage fees.

27 (c) A towing company that relies on a forged receipt to release a
28 vehicle impounded under this section is not liable to the impounding
29 authority for any unpaid fine under subsection (4)(a) of this
30 section.

31 (6)(a) In any proceeding under chapter 46.55 RCW to contest the
32 validity of an impoundment under this section where the claimant
33 substantially prevails, the claimant is entitled to a full refund of
34 the impoundment, towing, and storage fees paid under chapter 46.55
35 RCW and the five hundred dollar fine paid under subsection (4) of
36 this section.

37 (b) If the person is found not guilty at trial for a crime listed
38 under subsection (1) of this section, the person is entitled to a
39 full refund of the impoundment, towing, and storage fees paid under

1 chapter 46.55 RCW and the fine paid under subsection (4) of this
2 section.

3 (c) All refunds made under this section shall be paid by the
4 impounding agency.

5 (d) Prior to receiving any refund under this section, the
6 claimant must provide proof of payment.

7 **Sec. 5.** RCW 43.43.754 and 2017 c 272 s 4 are each amended to
8 read as follows:

9 (1) A biological sample must be collected for purposes of DNA
10 identification analysis from:

11 (a) Every adult or juvenile individual convicted of a felony, or
12 any of the following crimes (or equivalent juvenile offenses):

13 (i) Assault in the fourth degree where domestic violence as
14 defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041,
15 9.94A.030);

16 (ii) Assault in the fourth degree with sexual motivation (RCW
17 9A.36.041, 9.94A.835);

18 (iii) Communication with a minor for immoral purposes (RCW
19 9.68A.090);

20 (iv) Custodial sexual misconduct in the second degree (RCW
21 9A.44.170);

22 (v) Failure to register (RCW 9A.44.130 for persons convicted on
23 or before June 10, 2010, and RCW 9A.44.132 for persons convicted
24 after June 10, 2010);

25 (vi) Harassment (RCW 9A.46.020);

26 (vii) (~~Patronizing a prostitute~~) Commercial sexual abuse (RCW
27 9A.88.110);

28 (viii) Sexual misconduct with a minor in the second degree (RCW
29 9A.44.096);

30 (ix) Stalking (RCW 9A.46.110);

31 (x) Violation of a sexual assault protection order granted under
32 chapter 7.90 RCW; and

33 (b) Every adult or juvenile individual who is required to
34 register under RCW 9A.44.130.

35 (2) If the Washington state patrol crime laboratory already has a
36 DNA sample from an individual for a qualifying offense, a subsequent
37 submission is not required to be submitted.

38 (3) Biological samples shall be collected in the following
39 manner:

1 (a) For persons convicted of any offense listed in subsection
2 (1)(a) of this section or adjudicated guilty of an equivalent
3 juvenile offense who do not serve a term of confinement in a
4 department of corrections facility, and do serve a term of
5 confinement in a city or county jail facility, the city or county
6 shall be responsible for obtaining the biological samples.

7 (b) The local police department or sheriff's office shall be
8 responsible for obtaining the biological samples for:

9 (i) Persons convicted of any offense listed in subsection (1)(a)
10 of this section or adjudicated guilty of an equivalent juvenile
11 offense who do not serve a term of confinement in a department of
12 corrections facility, and do not serve a term of confinement in a
13 city or county jail facility; and

14 (ii) Persons who are required to register under RCW 9A.44.130.

15 (c) For persons convicted of any offense listed in subsection
16 (1)(a) of this section or adjudicated guilty of an equivalent
17 juvenile offense, who are serving or who are to serve a term of
18 confinement in a department of corrections facility or a department
19 of social and health services facility, the facility holding the
20 person shall be responsible for obtaining the biological samples. For
21 those persons incarcerated before June 12, 2008, who have not yet had
22 a biological sample collected, priority shall be given to those
23 persons who will be released the soonest.

24 (4) Any biological sample taken pursuant to RCW 43.43.752 through
25 43.43.758 may be retained by the forensic laboratory services bureau,
26 and shall be used solely for the purpose of providing DNA or other
27 tests for identification analysis and prosecution of a criminal
28 offense or for the identification of human remains or missing
29 persons. Nothing in this section prohibits the submission of results
30 derived from the biological samples to the federal bureau of
31 investigation combined DNA index system.

32 (5) The forensic laboratory services bureau of the Washington
33 state patrol is responsible for testing performed on all biological
34 samples that are collected under subsection (1) of this section, to
35 the extent allowed by funding available for this purpose. The
36 director shall give priority to testing on samples collected from
37 those adults or juveniles convicted of a felony or adjudicated guilty
38 of an equivalent juvenile offense that is defined as a sex offense or
39 a violent offense in RCW 9.94A.030. Known duplicate samples may be

1 excluded from testing unless testing is deemed necessary or advisable
2 by the director.

3 (6) This section applies to:

4 (a) All adults and juveniles to whom this section applied prior
5 to June 12, 2008;

6 (b) All adults and juveniles to whom this section did not apply
7 prior to June 12, 2008, who:

8 (i) Are convicted on or after June 12, 2008, of an offense listed
9 in subsection (1)(a) of this section; or

10 (ii) Were convicted prior to June 12, 2008, of an offense listed
11 in subsection (1)(a) of this section and are still incarcerated on or
12 after June 12, 2008; and

13 (c) All adults and juveniles who are required to register under
14 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,
15 on, or after June 12, 2008.

16 (7) This section creates no rights in a third person. No cause of
17 action may be brought based upon the noncollection or nonanalysis or
18 the delayed collection or analysis of a biological sample authorized
19 to be taken under RCW 43.43.752 through 43.43.758.

20 (8) The detention, arrest, or conviction of a person based upon a
21 database match or database information is not invalidated if it is
22 determined that the sample was obtained or placed in the database by
23 mistake, or if the conviction or juvenile adjudication that resulted
24 in the collection of the biological sample was subsequently vacated
25 or otherwise altered in any future proceeding including but not
26 limited to posttrial or postfact-finding motions, appeals, or
27 collateral attacks.

28 (9) A person commits the crime of refusal to provide DNA if the
29 person has a duty to register under RCW 9A.44.130 and the person
30 willfully refuses to comply with a legal request for a DNA sample as
31 required under this section. The refusal to provide DNA is a gross
32 misdemeanor."

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33 On page 1, line 1 of the title, after "Relating to" strike the
34 remainder of the title and insert "commercial sexual abuse; amending

1 RCW 9A.88.110, 9A.88.085, 9A.88.130, 9A.88.140, and 43.43.754; and
2 prescribing penalties."

EFFECT: (1) Renames the crime known under current law as "patronizing a prostitute" and proposed by SHB 2360 to be named "sexual exploitation" to have the new name "commercial sexual abuse."

(2) Makes the crime's name follow the naming convention for "commercial sexual abuse of a minor" as provided in RCW 9.68A.100 and corrects references as needed.

(3) Allows a prosecutor to charge a crime as a violation of RCW 9A.88.110(4) for a first offense and RCW 9A.88.110(5) for a second or subsequent offense.

(4) Specifies that the crime can be committed when the perpetrator provides or agrees to provide anything of value rather than being limited to providing or agreeing to provide a fee in exchange for engaging in sexual conduct.

(5) Changes the title of the bill.

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