
SUBSTITUTE HOUSE BILL 2857

State of Washington

65th Legislature

2018 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Orwall, Kraft, Goodman, Pettigrew, Kagi, Wylie, Frame, and Slatter)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to therapeutic responses to commercially sexually
2 exploited youth; amending RCW 9A.88.030, 13.40.070, and 13.40.213;
3 adding a new section to chapter 71.34 RCW; creating new sections; and
4 providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that child
7 prostitution is a form of commercial sexual exploitation of children.
8 The children who are exploited in this manner should be treated as
9 the victims that they are and should be immune from prosecution. In
10 making this shift in response to these children, law enforcement
11 shall retain the authority to detain children who are or are
12 attempting to engage in sexual conduct with another person for money
13 or anything of value for purposes of investigating the individual or
14 individuals who may be exploiting that child and performing other
15 necessary investigative functions to gather evidence regarding that
16 exploitation.

17 It is the intent of the legislature to expand the capacity to
18 serve the behavioral health needs of commercially sexually exploited
19 youth instead of labeling these youth as criminals through processing
20 in the juvenile justice system. In April 2018, involuntary substance
21 use disorder treatment for minors will be combined with involuntary

1 mental health treatment for minors. Because commercially sexually
2 exploited youth are at high risk for substance use disorder, the
3 combination of involuntary treatment provisions that are effective
4 later this year should provide a tool for meeting the unique needs of
5 commercially sexually exploited youth when appropriate and necessary.

6 **Sec. 2.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to
7 read as follows:

8 (1) A person is guilty of prostitution if such person engages or
9 agrees or offers to engage in sexual conduct with another person in
10 return for a fee.

11 (2) For purposes of this section, "sexual conduct" means "sexual
12 intercourse" or "sexual contact," both as defined in chapter 9A.44
13 RCW.

14 (3) Prostitution is a misdemeanor.

15 (4) A person under age eighteen suspected of violating this
16 section shall not be:

17 (a) Charged or prosecuted for a prostitution offense under this
18 section; or

19 (b) Booked into detention for a prostitution offense under this
20 section.

21 (5) Before completing a law enforcement contact with an
22 individual under eighteen years of age suspected of violating this
23 section, law enforcement shall make a child abuse or neglect report
24 pursuant to chapter 26.44 RCW, deliver the youth to an evaluation and
25 treatment facility for evaluation for immediate mental health or
26 substance use disorder inpatient treatment pursuant to chapter 71.34
27 RCW, or refer the individual to any other appropriate services.

28 **Sec. 3.** RCW 13.40.070 and 2017 c 292 s 2 are each amended to
29 read as follows:

30 (1) Complaints referred to the juvenile court alleging the
31 commission of an offense shall be referred directly to the
32 prosecutor. The prosecutor, upon receipt of a complaint, shall screen
33 the complaint to determine whether:

34 (a) The alleged facts bring the case within the jurisdiction of
35 the court; and

36 (b) On a basis of available evidence there is probable cause to
37 believe that the juvenile did commit the offense.

1 (2) If the identical alleged acts constitute an offense under
2 both the law of this state and an ordinance of any city or county of
3 this state, state law shall govern the prosecutor's screening and
4 charging decision for both filed and diverted cases.

5 (3) If the requirements of subsections (1)(a) and (b) of this
6 section are met, the prosecutor shall either file an information in
7 juvenile court or divert the case, as set forth in subsections (5),
8 (6), and (8) of this section. If the prosecutor finds that the
9 requirements of subsection (1)(a) and (b) of this section are not
10 met, the prosecutor shall maintain a record, for one year, of such
11 decision and the reasons therefor. In lieu of filing an information
12 or diverting an offense a prosecutor may file a motion to modify
13 community supervision where such offense constitutes a violation of
14 community supervision.

15 (4) An information shall be a plain, concise, and definite
16 written statement of the essential facts constituting the offense
17 charged. It shall be signed by the prosecuting attorney and conform
18 to chapter 10.37 RCW.

19 (5) Except as provided in RCW 13.40.213 and subsection (7) of
20 this section, where a case is legally sufficient, the prosecutor
21 shall file an information with the juvenile court if:

22 (a) An alleged offender is accused of a class A felony, a class B
23 felony, an attempt to commit a class B felony, a class C felony
24 listed in RCW 9.94A.411(2) as a crime against persons or listed in
25 RCW 9A.46.060 as a crime of harassment, or a class C felony that is a
26 violation of RCW 9.41.080 or 9.41.040(2)(a)(iv); or

27 (b) An alleged offender is accused of a felony and has a criminal
28 history of any felony, or at least two gross misdemeanors, or at
29 least two misdemeanors; or

30 (c) An alleged offender has previously been committed to the
31 department; or

32 (d) An alleged offender has been referred by a diversion unit for
33 prosecution or desires prosecution instead of diversion; or

34 (e) An alleged offender has three or more diversion agreements on
35 the alleged offender's criminal history; or

36 (f) A special allegation has been filed that the offender or an
37 accomplice was armed with a firearm when the offense was committed.

38 (6) Where a case is legally sufficient the prosecutor shall
39 divert the case if the alleged offense is a misdemeanor or gross
40 misdemeanor or violation and the alleged offense is the offender's

1 first offense or violation. If the alleged offender is charged with a
2 related offense that must or may be filed under subsections (5) and
3 (8) of this section, a case under this subsection may also be filed.

4 (7) Where a case is legally sufficient to charge an alleged
5 offender with:

6 (a) (~~Either prostitution or~~) Prostitution loitering and the
7 alleged offense is the offender's first (~~prostitution or~~)
8 prostitution loitering offense, the prosecutor shall divert the case;
9 or

10 (b) Voyeurism in the second degree, the offender is under
11 seventeen years of age, and the alleged offense is the offender's
12 first voyeurism in the second degree offense, the prosecutor shall
13 divert the case, unless the offender has received two diversions for
14 any offense in the previous two years.

15 (8) Where a case is legally sufficient and falls into neither
16 subsection (5) nor (6) of this section, it may be filed or diverted.
17 In deciding whether to file or divert an offense under this section
18 the prosecutor shall be guided only by the length, seriousness, and
19 recency of the alleged offender's criminal history and the
20 circumstances surrounding the commission of the alleged offense.

21 (9) Whenever a juvenile is placed in custody or, where not placed
22 in custody, referred to a diversion interview, the parent or legal
23 guardian of the juvenile shall be notified as soon as possible
24 concerning the allegation made against the juvenile and the current
25 status of the juvenile. Where a case involves victims of crimes
26 against persons or victims whose property has not been recovered at
27 the time a juvenile is referred to a diversion unit, the victim shall
28 be notified of the referral and informed how to contact the unit.

29 (10) The responsibilities of the prosecutor under subsections (1)
30 through (9) of this section may be performed by a juvenile court
31 probation counselor for any complaint referred to the court alleging
32 the commission of an offense which would not be a felony if committed
33 by an adult, if the prosecutor has given sufficient written notice to
34 the juvenile court that the prosecutor will not review such
35 complaints.

36 (11) The prosecutor, juvenile court probation counselor, or
37 diversion unit may, in exercising their authority under this section
38 or RCW 13.40.080, refer juveniles to mediation or victim offender
39 reconciliation programs. Such mediation or victim offender
40 reconciliation programs shall be voluntary for victims.

1 **Sec. 4.** RCW 13.40.213 and 2010 c 289 s 8 are each amended to
2 read as follows:

3 (1) When a juvenile is alleged to have committed (~~the offenses~~
4 ~~of prostitution or~~) a prostitution loitering offense, and the
5 allegation, if proved, would not be the juvenile's first offense, a
6 prosecutor may divert the offense if the county in which the offense
7 is alleged to have been committed has a comprehensive program that
8 provides:

9 (a) Safe and stable housing;

10 (b) Comprehensive on-site case management;

11 (c) Integrated mental health and chemical dependency services,
12 including specialized trauma recovery services;

13 (d) Education and employment training delivered on-site; and

14 (e) Referrals to off-site specialized services, as appropriate.

15 (2) A prosecutor may divert a case for (~~prostitution or~~)
16 prostitution loitering into the comprehensive program described in
17 this section, notwithstanding the filing criteria set forth in RCW
18 13.40.070(5).

19 (3) A diversion agreement under this section may extend to twelve
20 months.

21 (4)(a) The administrative office of the courts shall compile data
22 regarding:

23 (i) The number of juveniles whose cases are diverted into the
24 comprehensive program described in this section;

25 (ii) Whether the juveniles complete their diversion agreements
26 under this section; and

27 (iii) Whether juveniles whose cases have been diverted under this
28 section have been subsequently arrested or committed subsequent
29 offenses.

30 (b) An annual report of the data compiled shall be provided to
31 the governor and the appropriate committee of the legislature. (~~The~~
32 ~~first report is due by November 1, 2010.~~)

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.34
34 RCW to read as follows:

35 (1) Subject to the availability of amounts appropriated for this
36 specific purpose, the department shall utilize existing behavioral
37 health organizations or other qualified and appropriate entities to
38 increase access to behavioral health treatment for commercially
39 sexually exploited youth. These amounts may be used:

- 1 (a) To facilitate access to treatment;
2 (b) To enhance and expand other services for which these
3 individuals are eligible; and
4 (c) For outreach, engagement, and any other services that the
5 secretary deems necessary to support the unique needs of these
6 individuals.
7 (2) The legislature intends that any expansion or enhancement of
8 services pursuant to this section is to supplement and not supplant
9 general funding.
10 (3) This section expires June 30, 2021.

11 NEW SECTION. **Sec. 6.** (1) The Washington state institute for
12 public policy shall complete an evaluation of this act and the
13 effects of this act on the availability of treatment options for
14 commercially sexually exploited youth, the effectiveness of serving
15 commercially sexually exploited youth, and other effects of this act,
16 and provide a report, in compliance with RCW 43.01.036, to the
17 appropriate committees of the legislature by December 1, 2020.
18 (2) This section expires July 1, 2021.

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