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**SUBSTITUTE HOUSE BILL 2316**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, Lovick, Slatter, Morgan, and Wylie)

AN ACT Relating to fees charged to persons who commit trafficking and prostitution offenses; amending RCW 9.68A.105, 9A.88.120, and 9A.88.140; and prescribing penalties.

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

**Sec.**  RCW 9.68A.105 and 2015 c 265 s 13 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9.68A.100, 9.68A.101, and 9.68A.102, an adult offender who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.

(b) The court may not reduce, waive, or suspend payment of all or part of the fee assessed unless it finds, on the record, that the adult offender does not have the ability to pay, in which case it may reduce the fee by an amount up to ((~~two-thirds~~)) one-half of the maximum allowable fee.

(2) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, ((~~except in cases in which~~)) unless the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws. When assessing a fee under this section, the court shall make a finding in writing as to the proper jurisdiction to receive the funds in accordance with the requirements of this subsection.

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

(b) ((~~Two~~)) Five percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent. Of the revenues remitted to the department of commerce, at least sixty percent must be spent on training through the office of crime victims advocacy.

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

(3) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

**Sec.**  RCW 9A.88.120 and 2015 c 265 s 20 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9A.88.010 ((~~and 9A.88.030~~)), an adult offender who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.010((~~, 9A.88.030,~~)) or a comparable county or municipal ordinance((~~s~~)) shall be assessed a fifty dollar fee.

(b) In addition to penalties set forth in RCW 9A.88.090, an adult offender who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.090 or comparable county or municipal ordinances shall be assessed a fee in the amount of((~~:~~

~~(i) One thousand five hundred dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;~~

~~(ii) Two~~)) two thousand five hundred dollars ((~~if~~)), unless the defendant has ((~~one~~)) two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense((~~; and~~

~~(iii) Five~~)), in which case the defendant shall be assessed a fee in the amount of five thousand dollars ((~~if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense~~)).

(c) In addition to penalties set forth in RCW 9A.88.110, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.110 or a comparable county or municipal ordinance shall be assessed a fee in the amount of((~~:~~

~~(i) One thousand five hundred dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;~~

~~(ii) Two~~)) two thousand five hundred dollars ((~~if~~)), unless the defendant has ((~~one~~)) two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense((~~; and~~

~~(iii) Five~~)), in which case the defendant shall be assessed a fee in the amount of five thousand dollars ((~~if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense~~)).

(d) In addition to penalties set forth in RCW 9A.88.070 and 9A.88.080, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal ordinances shall be assessed a fee in the amount of:

(i) Three thousand dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Six thousand dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Ten thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

(2) The court shall not reduce, waive, or suspend payment of all or part of the assessed fee in this section unless it finds, on the record, that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to ((~~two-thirds~~)) one-half of the maximum allowable fee.

(a) A superior court may, as described in RCW 9.94A.760, set a sum that the offender is required to pay on a monthly basis towards satisfying the fee imposed in this section.

(b) A district or municipal court may enter into a payment plan with the defendant, in which the fee assessed in this section is paid through scheduled periodic payments. The court may assess the defendant a reasonable fee for administrative services related to the operation of the payment plan.

(3) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, ((~~except in cases in which~~)) unless the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws. When assessing a fee under this section, the court shall make a finding in writing as to the proper jurisdiction to receive the funds in accordance with the requirements of this subsection.

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

(b) ((~~Two~~)) Five percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent. Of the revenues remitted to the department of commerce, at least sixty percent must be spent on training through the office of crime victims advocacy.

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

(4) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county, or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

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

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution, the arresting law enforcement officer may impound the person's vehicle if (i) the motor vehicle was used in the commission of the crime; (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and (iii) either (A) the person arrested has previously been convicted of one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

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

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

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

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

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

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

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

(c) Fines assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, ((~~except in cases in which~~)) unless the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fines must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws. At the time of arraignment or a proceeding under subsection (6)(a) of this section, whichever is earlier, the court shall make a finding in writing as to the proper jurisdiction to receive the funds in accordance with the requirements of this subsection.

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

(ii) ((~~Two~~)) Five percent of the revenue from fines imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent. Of the revenues remitted to the department of commerce, at least sixty percent must be spent on training through the office of crime victims advocacy.

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

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

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

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

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

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the fine paid under subsection (4) of this section.

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

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

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