

# HOUSE BILL REPORT

## HB 1382

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### As Passed Legislature

**Title:** An act relating to increasing access to emergency assistance for victims by providing immunity from prosecution for prostitution offenses in some circumstances.

**Brief Description:** Increasing access to emergency assistance for victims by providing immunity from prosecution for prostitution offenses in some circumstances.

**Sponsors:** Representatives Pellicciotti, Kraft, Macri, Goodman, Doglio, Pettigrew, Ormsby, Jinkins, Stanford, Appleton and Riccelli.

### Brief History:

#### Committee Activity:

Public Safety: 2/4/19, 2/14/19 [DP].

#### Floor Activity:

Passed House: 3/6/19, 97-0.

Passed Senate: 4/12/19, 47-0.

Passed Legislature.

### Brief Summary of Bill

- Provides immunity from prosecution for Prostitution if the evidence for the charge was obtained as a result of a person seeking emergency assistance in certain circumstances.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

**Staff:** Omeara Harrington (786-7136).

### Background:

Prostitution Offenses.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person is guilty of the crime of Prostitution if he or she engages in, agrees to engage in, or offers to engage in sexual conduct with another person in return for a fee. "Sexual conduct" includes sexual intercourse and sexual contact. Prostitution is a misdemeanor offense.

#### Immunity from Prosecution for Persons Seeking Emergency Medical Assistance.

Under certain circumstances, persons who could otherwise be convicted of a crime are immunized from criminal charging and prosecution if evidence of the crime is obtained due to the person seeking emergency medical assistance.

A person under the age of 21 years who is acting in good faith in seeking medical assistance for someone experiencing alcohol poisoning cannot be charged with or prosecuted for a Minor in Possession of Alcohol offense if the evidence for the charge was obtained as a result of the person seeking medical assistance. The same immunity extends to a person who seeks medical assistance for themselves. Likewise, a person acting in good faith in seeking medical assistance for a person experiencing a drug-related overdose, or for himself or herself, cannot be charged with Possession of a Controlled Substance if the evidence was obtained as a result of seeking medical assistance.

The immunity from prosecution afforded in these provisions does not serve as grounds for suppression of evidence in other criminal charges.

#### **Summary of Bill:**

A person acting in good faith who seeks emergency assistance on behalf of another person who has been a victim of any statutory violent offense, Assault in the third or fourth degree, or Rape in the third degree, or who seeks emergency assistance on his or her own behalf in such circumstances, may not be charged with or prosecuted for Prostitution if the evidence for the charge was obtained as a result of the person seeking emergency assistance. The protection from prosecution for Prostitution is not grounds for suppression of evidence in other criminal charges.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This bill and House Bill 1383 address the need for asymmetrical enforcement in the area of the law concerning prostitution-related offenses. In the State of Washington, the buyer of sex faces the exact same maximum criminal penalties as the person he is buying. This bill focuses on the health needs of people in sex work and tries to ensure that a person who is the victim of a violent offense, or who is seeking assistance on behalf of a victim, feels comfortable seeking emergency assistance and reporting the person who has committed violence against him or her. Sex workers are sometimes raped or sexually assaulted and do

not want to report the assault because of fear of repercussion. A person calling 911 should not face a criminal penalty for prostitution. It does not make sense for the state to consider sex workers victims while simultaneously arresting and punishing them.

This approach is rooted in best practices. Victims of these crimes are often threatened and manipulated into this type of life. It is important to have a criminal justice system response to hold people accountable that is victim-centered. As an example of how this bill would be helpful, recently a domestic violence survivor was trying to leave their abusive situation. The survivor's partner had evidence that the survivor used to do sex work. Detectives said that if she pursued charges against her abuser, they would have to pursue any crime they detected, including hers. The current law allows people to act with impunity knowing that victims cannot move forward. As another example, recently a sex worker was murdered by someone who had a reputation for violence. The only way to communicate this information was word of mouth because of fear of repercussion. Safety measures, like having someone drive the sex worker, are not currently practiced because being involved in this way is also a criminal offense. Sex workers are particularly vulnerable. The Green River Killer targeted sex workers because he thought nobody would care about them. The bill should be amended to also include arrest.

(Opposed) None.

(Other) The most common side effects of sex work are sexually transmitted infections, pregnancy, violence, and mental health issues. Fear of criminal justice action is a barrier to seeking health services. Studies have revealed that sex workers fear being arrested in the emergency room due to outstanding warrants.

Sexual trafficking is a crime of exploitation. The intent of the bill is good, but work is still needed. Sex workers have been told to find a full-time job where they will be safe. They are discriminated against in accessing services. If the intent is to serve all sex workers, this bill alone will not do that. Unintended consequences will result, and marginalized populations will be left out.

**Persons Testifying:** (In support) Representative Pellicciotti, prime sponsor; Andrea Piper-Wentland, City of Seattle; Charlotte Smith; Toby Hill-Meyer, Gender Justice League; and Flora Benson.

(Other) Erik Gray; and Christy Hoff, Governor's Interagency Council on Health Disparities.

**Persons Signed In To Testify But Not Testifying:** None.