

HOUSE BILL REPORT

HB 1775

As Reported by House Committee On:
Human Services & Early Learning

Title: An act relating to commercially sexually exploited children.

Brief Description: Concerning commercially sexually exploited children.

Sponsors: Representatives Orwall, Frame, Wylie, Gregerson and Macri.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/12/19, 2/20/19 [DPS].

Brief Summary of Substitute Bill

- Limits the crime of Prostitution to individuals age 18 or older effective July 1, 2021.
- Requires the Office of Homeless Youth Prevention and Protection Programs at the Department of Commerce to administer funding for two receiving center programs for commercially sexually exploited youth ages 12-18 on the west and east side of the Cascades that law enforcement may refer youth to or youth may self-refer into.
- Allows law enforcement officers to take a juvenile into custody based on circumstances which constitute a danger to the child's safety who the officer reasonably believes to be a victim of sexual exploitation to an evaluation and treatment facility, including a receiving center for purposes of evaluation for behavioral health treatment.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Goodman, Kilduff, Lovick and Ortiz-Self.

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.

Minority Report: Do not pass. Signed by 4 members: Representatives Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry and Klippert.

Staff: Luke Wickham (786-7146).

Background:

Prostitution.

A person is guilty of Prostitution if the person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Prostitution is a misdemeanor.

Prosecutors must divert a juvenile's first Prostitution offense. A juvenile diversion is a contract between a juvenile accused of an offense and a diversion unit where the juvenile agrees to certain conditions in lieu of prosecution. Diversion agreements may include community restitution not to exceed 150 hours; restitution; up to 10 hours of counseling and/or up to 20 hours of educational or informational sessions; requirements to remain during certain hours at home, school, or work; and requirements not to have contact with victims or witnesses. If a youth does not complete the diversion agreement, a prosecutor may file a criminal complaint.

If an individual has a criminal history consisting of one diversion agreement upon turning age 18, the records of that diversion must be destroyed within 90 days.

Commercially Sexually Exploited Youth.

The Commercially Sexually Exploited Children Statewide Coordinating Committee (Committee) was established in 2013 to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices. The Committee must meet at least annually.

The Committee is convened by the Office of the Attorney General (AGO). The Department of Commerce (Commerce) assists the AGO with the Committee agenda planning and administrative and clerical support.

The Committee members include representatives from the Legislature, the Governor's Office, state agencies, courts, victim advocates, law enforcement, service providers, regional task forces on commercially sexually exploited children, attorneys, and a survivor of human trafficking.

The duties of the Committee include, but are not limited to:

- overseeing and reviewing the implementation of the Washington State Model Protocol for Commercially Sexually Exploited Children;
- receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas;
- reviewing recommendations from local and regional entities regarding policy changes that would improve the effectiveness of local response practices; and

- and making recommendations regarding data collection and strategic local investments to address the commercial sexual exploitation of children.

The Committee expires on June 30, 2023, and must annually report its findings to the appropriate committees of the Legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

The Office of Homeless Youth Prevention and Protection Programs.

The Office of Homeless Youth Prevention and Protection Programs (OHY) was created in 2015 as an office within the Commerce. The OHY provides services for youth and young adults up to 24 years of age, including:

- the Independent Youth Housing Program, which provides rental assistance and case management for eligible youth who have aged out of the state foster care system;
- street youth services;
- HOPE centers; and
- crisis residential centers, which are short-term, semi-secure, and secure facilities for runaway youth and adolescents in conflict with their families.

Summary of Substitute Bill:

The OHY is required to administer funding for two receiving center programs for commercially sexually exploited youth ages 12-18 on the west and east side of the Cascades that law enforcement may refer youth to or youth may self-refer into. The receiving centers must:

- begin providing services by January 1, 2020;
- develop eligibility criteria for youth and prioritizes law enforcement referral;
- provide ongoing case management for youth served by the programs;
- include a short term evaluation function accessible 24 hours per day, seven days per week that has the capacity to meet immediate needs for youth or refer to services;
- provide licensed residential substance use disorder and mental health treatment up to one year at the same location as the evaluation site;
- assess youth for mental health and substance use disorder needs and provide referrals;
- utilize existing facilities and not require the construction of new facilities; and
- provide individual and group counseling.

The OHY must collect demographic information about the youth served by the programs and the locations the youth exit to after being served by the programs and report the data to the Legislature by December 1, 2022.

The crime of Prostitution is limited to individuals age 18 or older, effective July 1, 2021.

Law enforcement officers may take a juvenile into custody based on circumstances which constitute a danger to the child's safety who the officer reasonably believes to be a victim of sexual exploitation and take the youth to an evaluation and treatment facility, including a receiving center, for purposes of evaluation for behavioral health treatment.

The Committee is required to compile data on the number of juveniles taken into custody by law enforcement where the officer believes the juvenile may be the victim of sexual exploitation. The Committee has the duty to review and make recommendations regarding expanded use of children's advocacy centers to include serving the immediate and long-term needs of commercially sexually exploited children.

Substitute Bill Compared to Original Bill:

The substitute makes the following changes to the underlying bill:

- requires that officers reasonably believe that a juvenile may be the victim of sexual exploitation for the officer to have the authority to transport the youth to an evaluation and treatment center;
- requires that receiving centers utilize existing facilities and not require the construction of new facilities;
- adds to the duties of the Committee the duty to review and make recommendations regarding expanded use of children's advocacy centers to include serving the immediate and long-term needs of commercially sexually exploited children; and
- makes a technical change to current law by replacing the term "Speaker of the Senate" with the term "President of the Senate."

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 3, 4, and 5, relating to limiting the crime of Prostitution to individuals age 18 and older, which take effect July 1, 2021.

Staff Summary of Public Testimony:

(In support) Child sex trafficking is a major issue in this state. There are girls as young as 11 years of age who have been victims of sex trafficking; many are foster youth. This bill offers a therapeutic, trauma-informed response to these victims. Washington needs to take the next step to make sure the state affords the legal protections and services appropriate for children bought and sold for sex. This bill puts services into place on both sides of the mountains and decriminalizes juvenile prostitution in two years. Many sexually exploited youth come in and out of detention. It is shocking that a victim of child rape can be charged with the criminal offense of Prostitution. There has been little change in the response to these youth for over 30 years. This bill helps make Washington a safe harbor for young people. It is less common for children to be in detention for being a victim of sexual exploitation than it used to be. There are less youth in detention for Prostitution charges, but there are still sexually exploited youth in detention for other status offenses or criminal charges. This bill creates specialized services and eliminates the arrest and charging of individuals under age 18 for Prostitution. Any mental health professional or guardian could refer youth into one of the receiving centers created under this bill, and the receiving centers are not just for law enforcement. Currently, there is not an appropriate place for youth who are victims of sexual

exploitation. It is morally wrong to arrest someone for an act that he or she cannot consent to.

(Opposed) None.

(Other) No one thinks that a trafficked child should be treated as a criminal. Decriminalization of prostitution without the appropriate services would be a disservice to these youth. It is concerning that there would only be two centers in the state and officers in remote parts of the state may not be able to transport youth to these centers. There are concerns about the resources available for these receiving centers. Right now, there are very few involuntary treatment beds available to serve this purpose. People have a view of juvenile detention that is different than what it really is. Yes juvenile detention is a place where the doors are locked, but it is also a gateway to services and the place for kids to get connected to those services.

Persons Testifying: (In support) Representative Orwall, prime sponsor; Pam Crone, Washington Coalition for Homeless Youth Advocacy; Melinda Giovengo, YouthCare; and Leslie Briner, Social Strategies, LLC.

(Opposed) None.

(Other) Stephen Warning, Superior Court Judges Association; and Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.