

HOUSE BILL REPORT

HB 2316

As Reported by House Committee On: Public Safety

Title: An act relating to fees charged to persons who commit trafficking and prostitution offenses.

Brief Description: Concerning fees charged to persons who commit trafficking and prostitution offenses.

Sponsors: Representatives Orwall, Lovick, Slatter, Morgan and Wylie.

Brief History:

Committee Activity:

Public Safety: 1/14/20, 1/23/20 [DPS].

Brief Summary of Substitute Bill

- Eliminates the additional \$50 fee charged to a person who commits Prostitution.
- Increases the additional fee charged to a first-time offender found to have committed Patronizing a Prostitute or Permitting Prostitution from \$1,500 to \$2,500.
- Decreases the amount by which a court can reduce additional fees charged to a person who commits a prostitution or trafficking-related offense.
- Requires an additional 3 percent of fee revenues to be remitted to the Department of Commerce to be used for training through the Office of Crime Victims Advocacy.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Kelly Leonard (786-7147).

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.

Background:

The court may impose legal financial obligations (LFOs) as part of a judgment and sentence, depending on the nature of the underlying offense. Types of LFOs may include: crime victim compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

In addition to other LFOs, state law mandates additional fees for persons who commit certain prostitution and trafficking-related offenses, including: Prostitution, Patronizing a Prostitute, Permitting Prostitution, Indecent Exposure, Promoting Prostitution in the first and second degrees, Commercial Sexual Abuse of a Minor (CSAM), Promoting CSAM, and Promoting Travel for CSAM. If the court finds that a defendant does not have the ability to pay the fee, it can reduce it by up to two-thirds of the total amount.

A person may also be required to pay a specialized impoundment fee if his or her vehicle was impounded following an arrest for certain offenses. The fee must be paid prior to the towing company releasing the vehicle. If a person prevails in a contested hearing on the impoundment or he or she is acquitted of the underlying offense, he or she is entitled to be reimbursed for the fee.

The current fee amounts are as follows:

Offense	Fee Amount
Prostitution	\$50
Indecent Exposure	\$50
Patronizing a Prostitute; or Permitting Prostitution	\$1,500 for the 1st offense \$2,500 for the 2nd offense \$5,000 for the 3rd offense
Promoting Prostitution in the first degree or second degree	\$3,000 for the 1st offense \$6,000 for the 2nd offense \$10,000 for the 3rd offense
CSAM; Promoting CSAM; or Promoting Travel for CSAM	\$5,000
Vehicle Impoundment Fee for Patronizing a Prostitute; Promoting Prostitution in the first or second degree; or Promoting Travel for Prostitution	\$500
Vehicle Impoundment Fee for CSAM; Promoting CSAM; or Promoting Travel for CSAM	\$2,500

Fee revenues are deposited into the county or city general fund and must be used for local efforts to reduce the commercial sale of sex, including enforcement, and specified prevention and victim services. Two percent of the revenues must be remitted quarterly to the Department of Commerce, together with a report detailing the fees assessed, the revenue received, and how the revenue was spent.

The Department of Commerce is required to report annually to the Legislature on the amount collected and how it was spent. Any revenues remitted to the Department of Commerce must be used to pay for the costs of the reporting requirement and administering grants for victim services.

Summary of Substitute Bill:

The additional \$50 fee charged to persons who commit Prostitution is eliminated. The additional fee charged to a first-time offender found to have committed Patronizing a Prostitute or Permitting Prostitution is increased from \$1,500 to \$2,500.

The authority for a court to reduce certain additional fees for committing prostitution and trafficking-related offenses is modified. Based on a finding of inability to pay, the court may reduce the fees by up to one-half.

The court is required to make a finding in writing as to the proper jurisdiction to receive revenue, in accordance with current requirements, at the time it assesses the additional fees. For impoundment fees, the court must make the same finding at arraignment or a contested hearing on the impoundment, whichever occurs earlier. An additional 3 percent of the fee revenues must be remitted to the Department of Commerce to be used for training through the Office of Crime Victims Advocacy.

Substitute Bill Compared to Original Bill:

The requirement for 3 percent of fee revenues to be remitted to the Administrative Office of the Courts is removed. Instead, those amounts are remitted to the Department of Commerce to be used to support training through the Office of Crime Victims Advocacy.

The court is required to make a finding in writing as to the proper jurisdiction to receive revenue, in accordance with current requirements, at the time it assesses certain fees. For impoundment fees, the court must make the same finding at arraignment or a contested hearing on the impoundment, whichever occurs earlier.

Appropriation: None.

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.

Staff Summary of Public Testimony:

(In support) The state has made significant advancements in combatting human trafficking, but it continues to be a serious problem throughout Washington. The fees imposed on persons who commit trafficking offenses are critical to supporting enforcement efforts and victim services.

For some reason, these fees are not being consistently imposed or collected across jurisdictions. Since the fees are mandatory, it is unclear why judges are not imposing them. The Legislature should consider requiring a performance audit on judicial practices. A system where judges are held accountable is needed.

There is a very large amount of money being spent in the sex trade. Those who are trafficked—the victims—do not keep any of the money. It goes to their traffickers. It is critical to eliminate the fee imposed on trafficking victims, and instead focus on collecting money from perpetrators. The vast majority of trafficking victims are living in poverty. The \$50 fee imposed for Prostitution convictions can be a long-term barrier to escaping and recovering. The state should not contribute to their exploitation or inhibit their ability to move on with their lives.

The changes to the fees recognize the inherent power imbalance in the sex trade. Buyers of sex are not marginalized. They are typically white men with an above-average income. It makes sense to increase the fee on buyers and traffickers and decrease the amount by which a court can reduce it. It is appropriate to make the buyers pay for the costs of their crimes. If a person can pay for sex, then they can pay these fees. It is really that simple.

There are very few services available to trafficking victims seeking to escape their traffickers. Many victims want to escape, and yet are unable to find a path out. Some advocates and law enforcement have established local community organizations, but resources are extremely limited. The fight against trafficking needs a bigger investment from the state.

(Opposed) Sex workers were not consulted during the drafting of this bill. The legislation cannot be effective without vetting it with those most affected by it. The bill threatens sex workers' safety. This bill can be used to prosecute sex workers who employ certain measures to stay safe. These offenses apply to those sharing work spaces, for example. The stigma attached to sex work creates a dangerous environment, and this only makes it worse. To eschew the opportunity to consult sex workers on legislation is irresponsible and foolish. Sex workers are marginalized and feel misunderstood. The state should not ignore the opinions of the people it claims to want to protect.

(Other) Removing the \$50 fee imposed for Prostitution is a good policy decision. However, the Legislature should be more thoughtful about the changes to court discretion for indigent defendants. If someone is unable to pay the fee, the court can currently reduce it by two-thirds, but this bill would narrow that to one-half. The policy goal of this is unclear. Revenue is likely not going to change if a larger fee is imposed on someone unable to pay it.

There are costs associated with trying to collect fees that will not be paid. Perhaps those resources should be repurposed and spent on supporting public safety.

The state should be mindful not to increase hostility between law enforcement and sex workers. Any increased revenues will also be spent on enforcement. This increases criminalization. Regardless, funding for services should not depend upon criminalizing the sex trade. Legislators should invite sex workers to the table when developing legislation. There may often be disagreement, but sex workers should be given a greater opportunity to comment.

Persons Testifying: (In support) Representative Orwall, prime sponsor; Dana Ralph, City of Kent; James McMahan, Washington Association of Sheriffs and Police Chiefs; Rebekah Fonden, Seattle Against Slavery; Andy Conner, King County Sheriff's Office and The Genesis Project; Alisa Bernard, Organization for Prostitution Survivors; and Jeri Moomaw and Erik Gray, Innovations Human Trafficking Collaborative.

(Opposed) Lisa Taylor-Lopez, Sex Workers Outreach Project-Seattle.

(Other) Antonia Ginatta, Columbia Legal Services; and Emi Koyama, Coalition for Rights & Safety for People in the Sex Trade.

Persons Signed In To Testify But Not Testifying: None.