

SENATE BILL REPORT

SB 5744

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, February 20, 2019

Title: An act relating to commercially sexually exploited children.

Brief Description: Concerning commercially sexually exploited children.

Sponsors: Senators Dhingra, Das, Randall, Darneille, Hasegawa, Saldaña, Keiser, Kuderer, Nguyen and Wilson, C..

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/14/19, 2/20/19 [DPS-WM].

Brief Summary of First Substitute Bill

- Creates two receiving centers to provide services to commercially sexually exploited youth, ages twelve to seventeen.
- Provides effective July 1, 2021 only a person eighteen or older can be charged with the crime of prostitution.
- Requires the Office of Homeless Youth and Prevention and Protection Programs to report on the outcomes of the receiving centers.
- Allows law enforcement officers to take a child into custody and to a receiving center if the officer reasonably believes the child is a victim of sexual exploitation.
- Directs the Commercially Sexually Exploited Children Statewide Coordinating Committee to compile data on the number of children taken into custody under the belief a juvenile may be a victim of sexual exploitation.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5744 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Alison Mendiola (786-7488)

Background: Commercially Sexually Exploited Children Statewide Coordinating Committee. 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 reports its finding and recommendations annually to the Legislature. The Committee meets at least annually and is convened by the Office of the Attorney General. The Committee is set to expire on June 30, 2023.

The Office of Homeless Youth Prevention and Programs. The Office of Homeless Youth Prevention and Programs (OHY) was created by the Legislature within the Department of Commerce in 2015. OHY is responsible for leading efforts to coordinate a spectrum of funding, policy, and practice efforts related to homeless youth and improving the safety, health, and welfare of homeless youth in the state. The five priority service areas of OHY are to ensure youth and young adults have stable housing, family reconciliation, permanent connections, education and employment, and social and emotional well-being.

Crime of Prostitution. A person is guilty of prostitution if they offer to engage in sexual conduct with another person for a fee. Prostitution is a misdemeanor. If a juvenile is alleged to have committed a first offense of prostitution, the prosecutor is to divert the case. If it is not the juvenile's first offense, if proven, the prosecutor may divert the case if the county in which the offense is alleged to have been committed has a comprehensive program meeting specific conditions. A diversion agreement may extend to 12 months.

Law enforcement custody of a child. There are many circumstances where a law enforcement officer must take a child into custody. This includes when an officer believes, considering the child's age, location, and time of day, a child is in circumstances which constitute a danger to their safety.

Evaluation and Treatment Facility. An evaluation and treatment facility is a public or private facility or unit that is licensed or certified by the Department of Health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility.

Summary of Bill (First Substitute): The Legislature finds child prostitution is a form of commercial sexual exploitation of children and that those who are sexually exploited are victims, not criminals.

Receiving Centers Programs. Two receiving center programs are created for commercially sexually exploited youth to be administered by OHY. The receiving center programs must:

- begin providing services by January 1, 2020;
- develop, in consultation with OHY, eligibility criteria for serving commercially sexually exploited youth allowing referral from service providers and prioritizing referrals from law enforcement;
- provide ongoing case management for youth who are being served or were served by the programs; and
- have one program east of the Cascades and one program west of the Cascades.

Functions of the Receiving Centers. A receiving center is a trauma-informed, secure location meeting the multidisciplinary needs of commercially sexually exploited youth ages twelve to seventeen. The receiving centers must:

- include a short-term evaluation function, including emergency shelter, accessible 24 hours per day, 7 days per week, having the capacity to evaluate the immediate needs of commercially sexually exploited youth and either meet these immediate needs, or refer these youth to appropriate services—this includes an evaluation for behavioral health treatment, including minor-initiated treatment, parent-initiated treatment, or involuntary treatment;
- provide licensed residential substance use disorder and mental health treatment up to one year at the same location as the site with short-term evaluation function;
- assess youth for substance use disorder and provide appropriate referrals as needed; and
- provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity.

Commercially Sexually Exploited Children Statewide Coordinating Committee. The Commercially Sexually Exploited Children Statewide Coordinating Committee must compile data on the number of children taken into custody under the belief they were victims of sexual exploitation.

Law Enforcement Custody and Behavioral Health Treatment. If a law enforcement officer takes a child into custody because the officer reasonably believes their circumstances constitute a danger to their safety, and believes the child may be a victim of sexual exploitation, the officer may transport them to an evaluation and treatment facility, including a receiving center, for an evaluation for behavioral health treatment.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):

- Changes speaker of the Senate to president of the Senate.
- Clarifies that a law enforcement officer can take a child into custody if the officer reasonably believes the child is a victim of sexual exploitation.
- Makes technical changes regarding the terms juvenile, youth, and child.

Appropriation: None.

Fiscal Note: Requested on February 6, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Receiving centers are created for commercially and sexually exploited youth, a place where law enforcement can take a child if the officer believes the child is a victim of sexual exploitation. The goal is to move away from criminalizing youth to treating them as the victims that they are. There will be an amendment clarifying the decriminalization of juvenile prostitution only goes into effect if the receiving centers are funded and operational. After a decade of research on this issue, children shouldn't be called prostitutes. We've developed a strategy for working with youth and police. Historically, Washington's laws have been stronger on this issue. In twenty-five states and the District of Columbia there's no criminalization of child prostitution and hopefully at the end of this year there will be ten more states. We should not have to wait to decriminalize prostitution.

OTHER: If centers are not funded and prostitution is decriminalized, there's a concern about law enforcement's ability to make contact with the child. Now, prosecutors are using their discretion not charging kids with a crime but rather using it as a way to pick up the kids off the streets.

Persons Testifying: PRO: Senator Manka Dhingra, Prime Sponsor; Mrs. Linda Smith, Shared Hope International; Emi Koyama, Coalition for Rights & Safety for People in the Sex Trade; Liz Trautman, WA Coalition of Homeless Youth Advocacy; Leslie Briner, Youthcare; Nicholas Oakley, Center for Children and Youth Justice.

OTHER: Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.