
HOUSE BILL 2076

State of Washington

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2024 Regular Session

By Representatives Orwall, Mosbrucker, Leavitt, Barnard, Graham, Rule, Cheney, Reeves, and Hackney

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1 AN ACT Relating to addressing crimes involving human trafficking
2 or sexual exploitation; amending RCW 9A.40.100; adding a new section
3 to chapter 7.68 RCW; creating a new section; and providing expiration
4 dates.

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

6 **Sec. 1.** RCW 9A.40.100 and 2017 c 126 s 1 are each amended to
7 read as follows:

8 (1) A person is guilty of trafficking in the first degree when(~~(~~
9 ~~(a) Such person:~~

10 ~~(i) Recruits))~~ such person recruits, entices, harbors,
11 transports, ((transfers)) isolates, solicits, provides, obtains,
12 buys, purchases, maintains, or receives by any means another person
13 ~~((knowing))~~ and:

14 (a)(i) Knows, or acts in reckless disregard of the fact, ~~((A))~~
15 that force, fraud, or coercion ~~((as defined in RCW 9A.36.070))~~ will
16 be used to cause the person to engage in(~~(~~

17 ~~(I) Forced labor;~~

18 ~~(II) Involuntary servitude;~~

19 ~~(III) A sexually explicit act; or~~

1 ~~(IV) A commercial sex act, or (B) that the person has not~~
2 ~~attained the age of eighteen years and is caused to engage in a~~
3 ~~sexually explicit act or a commercial sex act; or~~

4 ~~(ii) Benefits)) forced labor, involuntary servitude, a sexually~~
5 ~~explicit act, or a commercial sex act; or~~

6 (ii) Such person knowingly, or in reckless disregard, causes a
7 person under 18 years of age to engage in a sexually explicit act or
8 commercial sex act, or benefits financially or by receiving anything
9 of value from participation in a venture that has engaged in acts set
10 forth in (a) (i) or (ii) of this subsection; provided, that it is not
11 a defense that such person did not know, or recklessly disregarded
12 the fact, that the other person was under 18 years of age or believed
13 the other person was older, as the case may be; and

14 (b) The acts or venture set forth in (a) (i) or (ii) of this
15 subsection:

16 (i) Involve such person committing or attempting to commit
17 kidnapping;

18 (ii) Involve a finding of sexual motivation (~~(under RCW~~
19 ~~9.94A.835))~~);

20 (iii) Involve the illegal harvesting or sale of human organs; or

21 (iv) Result in a death.

22 (2) Trafficking in the first degree is a class A felony.

23 (3) ~~((a))~~ A person is guilty of trafficking in the second degree
24 when such person ~~((~~

25 ~~(i) Recruits)) recruits, entices, harbors, transports,~~
26 ~~((transfers)) isolates, solicits, provides, obtains, buys, purchases,~~
27 ~~maintains, or receives by any means another person ~~((knowing))~~ and:~~

28 (a) Knows, or acts in reckless disregard of the fact, that force,
29 fraud, or coercion ~~((as defined in RCW 9A.36.070))~~ will be used to
30 cause the person to engage in forced labor, involuntary servitude, a
31 sexually explicit act, or a commercial sex act ~~((, or that the person~~
32 has not attained the age of eighteen years and is caused to engage in
33 a sexually explicit act or a commercial sex act; or

34 ~~(ii) Benefits)) ; or~~

35 (b) Such person knowingly, or in reckless disregard, causes a
36 person under 18 years of age to engage in a sexually explicit act or
37 commercial sex act, or benefits financially or by receiving anything
38 of value from participation in a venture that has engaged in acts set
39 forth in (a) ~~((i))~~ or (b) of this subsection; provided, that it is
40 not a defense that such person did not know, or recklessly

1 disregarded the fact, that the other person was under 18 years of age
2 or believed the other person was older, as the case may be.

3 ~~((b))~~ (4) Trafficking in the second degree is a class A felony.

4 ~~((4)(a) In any prosecution under this chapter in which the~~
5 ~~offense or degree of the offense depends on the victim's age, it is~~
6 ~~not a defense that the perpetrator did not know the victim's age, or~~
7 ~~that the perpetrator believed the victim to be older, as the case may~~
8 ~~be.~~

9 ~~(b))~~ (5) If the victim of any offense identified in this section
10 is a minor, then force, fraud, or coercion are not necessary elements
11 of an offense and consent to the sexually explicit act or commercial
12 sex act does not constitute a defense.

13 (6) For purposes of this section:

14 (a) "Coercion" includes, but is not limited to, the following
15 circumstances:

16 (i) Using or threatening to use physical force against any
17 person;

18 (ii) Restraining, isolating, or confining or threatening to
19 restrain, isolate, or confine any person without lawful authority and
20 against their will;

21 (iii) Using lending or other credit methods to establish a debt
22 by any person when labor or services are pledged as a security for
23 the debt, if the value of the labor or services are pledged as a
24 security for the debt, the value of the labor or services as
25 reasonably assessed is not applied toward the liquidation of the
26 debt, or the length and nature of the labor or services are not
27 respectively limited and defined;

28 (iv) Destroying, concealing, removing, confiscating, withholding,
29 or possessing any actual or purported passport, visa, or other
30 immigration document, or any other actual or purported government
31 identification document, of any person;

32 (v) Causing or threatening to cause financial harm to any person;

33 (vi) Enticing or luring any person by fraud or deceit;

34 (vii) Providing or withholding any drug, alcohol, or controlled
35 substance to another person knowing that this other person will be
36 caused to engage in forced labor, involuntary servitude, a sexually
37 explicit act, or a commercial sex act;

38 (viii) Accusing any person of a crime or causing criminal charges
39 to be instituted against any person;

1 (ix) Exposing a secret or publicizing an asserted fact, whether
2 true or false, tending to subject any person to hatred, contempt, or
3 ridicule;

4 (x) Testifying or providing information, or withholding testimony
5 or information, with respect to another's legal claim or defense;

6 (xi) Taking wrongful action as an official against anyone or
7 anything, or wrongfully withholding official action, or causing such
8 action or withholding; or

9 (xii) Committing any other act which is intended to harm
10 substantially the person threatened or another with respect to his or
11 her health, safety, business, financial condition, or personal
12 relationships.

13 (b) "Commercial sex act" means any act of sexual contact or
14 sexual intercourse, both as defined in chapter 9A.44 RCW, for which
15 something of value is given or received by any person.

16 (c) "Kidnapping" means intentionally abducting another person.

17 (d) "Maintain" means, in relation to forced labor, involuntary
18 servitude, a sexually explicit act, or a commercial sex act, to
19 secure or make possible continued performance thereof, regardless of
20 any initial agreement on the part of the victim to perform such
21 labor, servitude, or act.

22 (e) "Sexual motivation" means that one of the purposes for which
23 the defendant committed the crime was for the purpose of his or her
24 sexual gratification.

25 (f) "Sexually explicit act" means a public, private, or live
26 photographed, recorded, or videotaped act or show intended to arouse
27 or satisfy the sexual desires or appeal to the prurient interests of
28 patrons for which something of value is given or received.

29 (7) A person who is (~~either~~) convicted (~~or~~), enters into a
30 plea agreement to a reduced or different charge, is given a deferred
31 sentence or a deferred prosecution, or (~~who has entered~~) enters
32 into a statutory or nonstatutory diversion agreement as a result of
33 an arrest for a violation of a trafficking crime shall be assessed a
34 (~~ten thousand dollar~~) \$10,000 fee. The court shall not reduce,
35 waive, or suspend payment of all or part of the fee assessed in this
36 section unless it finds, on the record, that the offender does not
37 have the ability to pay the fee in which case it may reduce the fee
38 by an amount up to two-thirds of the maximum allowable fee.

39 (~~(c) The court shall not reduce, waive, or suspend payment of~~
40 all or part of the fee assessed in this section unless it finds, on

1 ~~the record, that the offender does not have the ability to pay the~~
2 ~~fee in which case it may reduce the fee by an amount up to two-thirds~~
3 ~~of the maximum allowable fee.~~

4 ~~(d))~~ (8)(a) Fees assessed under this section shall be collected
5 by the clerk of the court and remitted to the treasurer of the county
6 where the offense occurred for deposit in the county general fund,
7 except in cases in which the offense occurred in a city or town that
8 provides for its own law enforcement, in which case these amounts
9 shall be remitted to the treasurer of the city or town for deposit in
10 the general fund of the city or town. Revenue from the fees must be
11 used for local efforts to reduce the commercial sale of sex
12 including, but not limited to, increasing enforcement of commercial
13 sex laws.

14 ~~((i))~~ (b) At least ~~((fifty))~~ 50 percent of the revenue from
15 fees imposed under this section must be spent on prevention,
16 including education programs for offenders, such as ~~((john school))~~
17 programs to educate and divert persons from soliciting commercial
18 sexual services, and rehabilitative services, such as mental health
19 and substance abuse counseling, parenting skills, training, housing
20 relief, education, vocational training, drop-in centers, and
21 employment counseling.

22 ~~((ii))~~ (c) Revenues from these fees are not subject to the
23 distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040,
24 10.82.070, or 35.20.220.

25 ~~((5) If the victim of any offense identified in this section is~~
26 ~~a minor, force, fraud, or coercion are not necessary elements of an~~
27 ~~offense and consent to the sexually explicit act or commercial sex~~
28 ~~act does not constitute a defense.~~

29 ~~(6) For purposes of this section:~~

30 ~~(a) "Commercial sex act" means any act of sexual contact or~~
31 ~~sexual intercourse, both as defined in chapter 9A.44 RCW, for which~~
32 ~~something of value is given or received by any person; and~~

33 ~~(b) "Sexually explicit act" means a public, private, or live~~
34 ~~photographed, recorded, or videotaped act or show intended to arouse~~
35 ~~or satisfy the sexual desires or appeal to the prurient interests of~~
36 ~~patrons for which something of value is given or received.)~~

37 NEW SECTION. Sec. 2. (1) The state auditor must conduct an
38 accountability and financial audit of each superior court, county,
39 city, and town in the state, with respect to the collection and use

1 of mandatory fees assessed pursuant to RCW 9A.40.100. In addition to
2 other measures established by the state auditor, the audits shall:

3 (a) Determine whether the superior courts are assessing fees
4 consistent with the requirements of RCW 9A.40.100;

5 (b) Determine whether the counties, cities, and towns are using
6 the revenue from assessed fees to fund local efforts to reduce the
7 commercial sale of sex including, but not limited to, increasing
8 enforcement of commercial sex laws;

9 (c) Determine whether the counties, cities, and towns are using
10 at least 50 percent of the revenue from assessed fees on prevention,
11 including education programs for offenders, such as programs to
12 educate and divert persons from soliciting commercial sexual
13 services, and rehabilitative services, such as mental health and
14 substance abuse counseling, parenting skills, training, housing
15 relief, education, vocational training, drop-in centers, and
16 employment counseling; and

17 (d) If fees are not being assessed or used as required, make
18 recommendations for corrective action.

19 (2) The state auditor shall complete the accountability and
20 financial audits and publish reports with its findings no later than
21 December 31, 2025.

22 (3) This section expires January 31, 2026.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.68 RCW
24 to read as follows:

25 (1) Subject to the availability of funds appropriated for this
26 purpose, the commercially sexually exploited children statewide
27 coordinating committee is established to address the issue of
28 children who are commercially sexually exploited, to examine the
29 practices of local and regional entities involved in addressing
30 sexually exploited children, and to make recommendations on statewide
31 laws and practices.

32 (2) The committee is convened by the office of the attorney
33 general with the department of commerce assisting with agenda
34 planning and administrative and clerical support. The committee
35 consists of the following members:

36 (a) One member from each of the two largest caucuses of the house
37 of representatives appointed by the speaker of the house of
38 representatives;

1 (b) One member from each of the two largest caucuses of the
2 senate appointed by the president of the senate;

3 (c) A representative of the governor's office appointed by the
4 governor;

5 (d) The secretary of the department of children, youth, and
6 families or his or her designee;

7 (e) The secretary of the juvenile rehabilitation administration
8 or his or her designee;

9 (f) The attorney general or his or her designee;

10 (g) The superintendent of public instruction or his or her
11 designee;

12 (h) A representative of the administrative office of the courts
13 appointed by the administrative office of the courts;

14 (i) The executive director of the Washington association of
15 sheriffs and police chiefs or his or her designee;

16 (j) The executive director of the Washington state criminal
17 justice training commission or his or her designee;

18 (k) A representative of the Washington association of prosecuting
19 attorneys appointed by the association;

20 (l) The executive director of the office of public defense or his
21 or her designee;

22 (m) Three representatives of community service providers that
23 provide direct services to commercially sexually exploited children
24 appointed by the attorney general;

25 (n) Two representatives of nongovernmental organizations familiar
26 with the issues affecting commercially sexually exploited children
27 appointed by the attorney general;

28 (o) The president of the superior court judges' association or
29 his or her designee;

30 (p) The president of the juvenile court administrators or his or
31 her designee;

32 (q) Any existing chairs of regional task forces on commercially
33 sexually exploited children;

34 (r) A representative from the criminal defense bar;

35 (s) A representative of the center for children and youth
36 justice;

37 (t) A representative from the office of crime victims advocacy;

38 (u) The executive director of the Washington coalition of sexual
39 assault programs;

1 (v) The executive director of the statewide organization
2 representing children's advocacy centers or his or her designee;

3 (w) A representative of an organization that provides inpatient
4 chemical dependency treatment to youth, appointed by the attorney
5 general;

6 (x) A representative of an organization that provides mental
7 health treatment to youth, appointed by the attorney general; and

8 (y) A survivor of human trafficking, appointed by the attorney
9 general.

10 (3) The duties of the committee include, but are not limited to:

11 (a) Overseeing and reviewing the implementation of the Washington
12 state model protocol for commercially sexually exploited children at
13 task force sites;

14 (b) Receiving reports and data from local and regional entities
15 regarding the incidence of commercially sexually exploited children
16 in their areas as well as data information regarding perpetrators,
17 geographic data and location trends, and any other data deemed
18 relevant;

19 (c) Receiving reports on local coordinated community response
20 practices and results of the community responses;

21 (d) Reviewing recommendations from local and regional entities
22 regarding policy and legislative changes that would improve the
23 efficiency and effectiveness of local response practices;

24 (e) Making recommendations regarding policy and legislative
25 changes that would improve the effectiveness of the state's response
26 to and promote best practices for suppression of the commercial
27 sexual exploitation of children;

28 (f) Making recommendations regarding data collection useful to
29 understanding or addressing the problem of commercially sexually
30 exploited children;

31 (g) Reviewing and making recommendations regarding strategic
32 local investments or opportunities for federal and state funding to
33 address the commercial sexual exploitation of children;

34 (h) Reviewing the extent to which chapter 289, Laws of 2010
35 (Engrossed Substitute Senate Bill No. 6476) is understood and applied
36 by enforcement authorities;

37 (i) Researching any barriers that exist to full implementation of
38 chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476)
39 throughout the state; and

1 (j) Compiling data on the number of juveniles believed to be
2 victims of sexual exploitation taken into custody under RCW
3 43.185C.260.

4 (4) The committee must meet no less than annually.

5 (5) The committee shall annually report its findings and
6 recommendations to the appropriate committees of the legislature and
7 to any other known statewide committees addressing trafficking or the
8 commercial sex trade.

9 (6) This section expires June 30, 2030.

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