

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 6476**

Chapter 289, Laws of 2010

(partial veto)

61st Legislature  
2010 Regular Session

SEX CRIMES INVOLVING MINORS

EFFECTIVE DATE: 06/10/10 - Except section 1, which becomes effective 07/01/11.

Passed by the Senate March 9, 2010  
YEAS 47 NAYS 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House March 3, 2010  
YEAS 98 NAYS 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Approved April 1, 2010, 3:20 p.m., with the exception of Section 4 which is vetoed.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6476** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

April 2, 2010

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6476**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

**State of Washington                      61st Legislature                      2010 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach, and Kohl-Welles)

READ FIRST TIME 02/05/10.

1            AN ACT Relating to sex crimes involving minors; amending RCW  
2 13.32A.030, 7.68.070, 13.40.070, 13.40.213, 9A.88.140, 9.68A.100,  
3 9.68A.101, 9.68A.105, 9.68A.110, and 43.63A.740; reenacting and  
4 amending RCW 9.94A.515; adding new sections to chapter 13.32A RCW;  
5 adding new sections to chapter 13.40 RCW; adding a new section to  
6 chapter 74.15 RCW; creating a new section; repealing 2009 c 252 s 4  
7 (uncodified); prescribing penalties; and providing an effective date.

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

9            **Sec. 1.** RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read  
10 as follows:

11            As used in this chapter the following terms have the meanings  
12 indicated unless the context clearly requires otherwise:

13            (1) "Abuse or neglect" means the injury, sexual abuse, sexual  
14 exploitation, negligent treatment, or maltreatment of a child by any  
15 person under circumstances which indicate that the child's health,  
16 welfare, and safety is harmed, excluding conduct permitted under RCW  
17 9A.16.100. An abused child is a child who has been subjected to child  
18 abuse or neglect as defined in this section.

1 (2) "Administrator" means the individual who has the daily  
2 administrative responsibility of a crisis residential center, or his or  
3 her designee.

4 (3) "At-risk youth" means a juvenile:

5 (a) Who is absent from home for at least seventy-two consecutive  
6 hours without consent of his or her parent;

7 (b) Who is beyond the control of his or her parent such that the  
8 child's behavior endangers the health, safety, or welfare of the child  
9 or any other person; or

10 (c) Who has a substance abuse problem for which there are no  
11 pending criminal charges related to the substance abuse.

12 (4) "Child," "juvenile," and "youth" mean any unemancipated  
13 individual who is under the chronological age of eighteen years.

14 (5) "Child in need of services" means a juvenile:

15 (a) Who is beyond the control of his or her parent such that the  
16 child's behavior endangers the health, safety, or welfare of the child  
17 or other person;

18 (b) Who has been reported to law enforcement as absent without  
19 consent for at least twenty-four consecutive hours on two or more  
20 separate occasions from the home of either parent, a crisis residential  
21 center, an out-of-home placement, or a court-ordered placement; and

22 (i) Has exhibited a serious substance abuse problem; or

23 (ii) Has exhibited behaviors that create a serious risk of harm to  
24 the health, safety, or welfare of the child or any other person; (~~(e)~~)

25 (c)(i) Who is in need of: (A) Necessary services, including food,  
26 shelter, health care, clothing, or education; or (B) services designed  
27 to maintain or reunite the family;

28 (ii) Who lacks access to, or has declined to utilize, these  
29 services; and

30 (iii) Whose parents have evidenced continuing but unsuccessful  
31 efforts to maintain the family structure or are unable or unwilling to  
32 continue efforts to maintain the family structure; or

33 (d) Who is a "sexually exploited child".

34 (6) "Child in need of services petition" means a petition filed in  
35 juvenile court by a parent, child, or the department seeking  
36 adjudication of placement of the child.

37 (7) "Crisis residential center" means a secure or semi-secure  
38 facility established pursuant to chapter 74.13 RCW.

1 (8) "Custodian" means the person or entity who has the legal right  
2 to the custody of the child.

3 (9) "Department" means the department of social and health  
4 services.

5 (10) "Extended family member" means an adult who is a grandparent,  
6 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin  
7 with whom the child has a relationship and is comfortable, and who is  
8 willing and available to care for the child.

9 (11) "Guardian" means that person or agency that (a) has been  
10 appointed as the guardian of a child in a legal proceeding other than  
11 a proceeding under chapter 13.34 RCW, and (b) has the right to legal  
12 custody of the child pursuant to such appointment. The term "guardian"  
13 does not include a "dependency guardian" appointed pursuant to a  
14 proceeding under chapter 13.34 RCW.

15 (12) "Multidisciplinary team" means a group formed to provide  
16 assistance and support to a child who is an at-risk youth or a child in  
17 need of services and his or her parent. The team shall include the  
18 parent, a department case worker, a local government representative  
19 when authorized by the local government, and when appropriate, members  
20 from the mental health and substance abuse disciplines. The team may  
21 also include, but is not limited to, the following persons: Educators,  
22 law enforcement personnel, probation officers, employers, church  
23 persons, tribal members, therapists, medical personnel, social service  
24 providers, placement providers, and extended family members. The team  
25 members shall be volunteers who do not receive compensation while  
26 acting in a capacity as a team member, unless the member's employer  
27 chooses to provide compensation or the member is a state employee.

28 (13) "Out-of-home placement" means a placement in a foster family  
29 home or group care facility licensed pursuant to chapter 74.15 RCW or  
30 placement in a home, other than that of the child's parent, guardian,  
31 or legal custodian, not required to be licensed pursuant to chapter  
32 74.15 RCW.

33 (14) "Parent" means the parent or parents who have the legal right  
34 to custody of the child. "Parent" includes custodian or guardian.

35 (15) "Secure facility" means a crisis residential center, or  
36 portion thereof, that has locking doors, locking windows, or a secured  
37 perimeter, designed and operated to prevent a child from leaving  
38 without permission of the facility staff.

1 (16) "Semi-secure facility" means any facility, including but not  
2 limited to crisis residential centers or specialized foster family  
3 homes, operated in a manner to reasonably assure that youth placed  
4 there will not run away. Pursuant to rules established by the  
5 department, the facility administrator shall establish reasonable hours  
6 for residents to come and go from the facility such that no residents  
7 are free to come and go at all hours of the day and night. To prevent  
8 residents from taking unreasonable actions, the facility administrator,  
9 where appropriate, may condition a resident's leaving the facility upon  
10 the resident being accompanied by the administrator or the  
11 administrator's designee and the resident may be required to notify the  
12 administrator or the administrator's designee of any intent to leave,  
13 his or her intended destination, and the probable time of his or her  
14 return to the center.

15 (17) "Sexually exploited child" means any person under the age of  
16 eighteen who is a victim of the crime of commercial sex abuse of a  
17 minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor  
18 under RCW 9.68A.101, or promoting travel for commercial sexual abuse of  
19 a minor under RCW 9.68A.102.

20 (18) "Staff secure facility" means a structured group care facility  
21 licensed under rules adopted by the department with a ratio of at least  
22 one adult staff member to every two children.

23 ((+18+)) (19) "Temporary out-of-home placement" means an out-of-  
24 home placement of not more than fourteen days ordered by the court at  
25 a fact-finding hearing on a child in need of services petition.

26 NEW SECTION. Sec. 2. Section 1 of this act takes effect July 1,  
27 2011.

28 NEW SECTION. Sec. 3. A new section is added to chapter 13.32A RCW  
29 to read as follows:

30 Within available funding, when a youth who has been diverted under  
31 RCW 13.40.070 for an alleged offense of prostitution or prostitution  
32 loitering is referred to the department, the department shall connect  
33 that child with the services and treatment specified in RCW 74.14B.060  
34 and 74.14B.070.

1        **\*NEW SECTION.** **Sec. 4.** *A new section is added to chapter 13.32A RCW*  
2 *to read as follows:*

3        *By November 1, 2010, the department shall report to the relevant*  
4 *policy and fiscal committees of the legislature regarding training*  
5 *needed to allow staff of the children's administration and crisis*  
6 *residential centers to work effectively with sexually exploited youth.*  
7 *The report shall identify the evidence-based training programs to be*  
8 *used and the cost of such training.*

*\*Sec. 4 was vetoed. See message at end of chapter.*

9        **NEW SECTION.** **Sec. 5.** A new section is added to chapter 13.40 RCW  
10 to read as follows:

11        Within available funding, when a youth who has been diverted under  
12 RCW 13.40.070 for an alleged offense of prostitution or prostitution  
13 loitering is referred to the department, the department shall connect  
14 that youth with the services and treatment specified in RCW 74.14B.060  
15 and 74.14B.070.

16        **Sec. 6.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as  
17 follows:

18        The right to benefits under this chapter and the amount thereof  
19 will be governed insofar as is applicable by the provisions contained  
20 in chapter 51.32 RCW except as provided in this section:

21        (1) The provisions contained in RCW 51.32.015, 51.32.030,  
22 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
23 applicable to this chapter.

24        (2) Each victim injured as a result of a criminal act, including  
25 criminal acts committed between July 1, 1981, and January 1, 1983, or  
26 the victim's family or dependents in case of death of the victim, are  
27 entitled to benefits in accordance with this chapter, subject to the  
28 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
29 limitations, and procedures applicable to a worker as contained in RCW  
30 51.32.010 are applicable to this chapter.

31        (3)(a) The limitations contained in RCW 51.32.020 are applicable to  
32 claims under this chapter. In addition (~~thereto~~), no person or  
33 spouse, child, or dependent of such person is entitled to benefits  
34 under this chapter when the injury for which benefits are sought, was:

35        (~~(a)~~) (i) The result of consent, provocation, or incitement by

1 the victim, unless an injury resulting from a criminal act caused the  
2 death of the victim;

3 ~~((b))~~ (ii) Sustained while the crime victim was engaged in the  
4 attempt to commit, or the commission of, a felony; or

5 ~~((c))~~ (iii) Sustained while the victim was confined in any county  
6 or city jail, federal jail or prison or in any other federal  
7 institution, or any state correctional institution maintained and  
8 operated by the department of social and health services or the  
9 department of corrections, prior to release from lawful custody; or  
10 confined or living in any other institution maintained and operated by  
11 the department of social and health services or the department of  
12 corrections.

13 (b) A person identified as the "minor" in the charge of commercial  
14 sexual abuse of a minor under RCW 9.68A.100, promoting commercial  
15 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for  
16 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a  
17 victim of a criminal act for the purpose of the right to benefits under  
18 this chapter even if the person is also charged with prostitution under  
19 RCW 9A.88.030.

20 (4) The benefits established upon the death of a worker and  
21 contained in RCW 51.32.050 shall be the benefits obtainable under this  
22 chapter and provisions relating to payment contained in that section  
23 shall equally apply under this chapter(~~(:—PROVIDED, That)~~). Benefits  
24 for burial expenses shall not exceed the amount paid by the department  
25 in case of the death of a worker as provided in chapter 51.32 RCW in  
26 any claim(~~(:—PROVIDED FURTHER, That)~~). If the criminal act results in  
27 the death of a victim who was not gainfully employed at the time of the  
28 criminal act, and who was not so employed for at least three  
29 consecutive months of the twelve months immediately preceding the  
30 criminal act;

31 (a) Benefits payable to an eligible surviving spouse, where there  
32 are no children of the victim at the time of the criminal act who have  
33 survived the victim or where such spouse has legal custody of all of  
34 his or her children, shall be limited to burial expenses and a lump sum  
35 payment of seven thousand five hundred dollars without reference to  
36 number of children, if any;

37 (b) Where any such spouse has legal custody of one or more but not  
38 all of such children, then such burial expenses shall be paid, and such

1 spouse shall receive a lump sum payment of three thousand seven hundred  
2 fifty dollars and any such child or children not in the legal custody  
3 of such spouse shall receive a lump sum of three thousand seven hundred  
4 fifty dollars to be divided equally among such child or children;

5 (c) If any such spouse does not have legal custody of any of the  
6 children, the burial expenses shall be paid and the spouse shall  
7 receive a lump sum payment of up to three thousand seven hundred fifty  
8 dollars and any such child or children not in the legal custody of the  
9 spouse shall receive a lump sum payment of up to three thousand seven  
10 hundred fifty dollars to be divided equally among the child or  
11 children;

12 (d) If no such spouse survives, then such burial expenses shall be  
13 paid, and each surviving child of the victim at the time of the  
14 criminal act shall receive a lump sum payment of three thousand seven  
15 hundred fifty dollars up to a total of two such children and where  
16 there are more than two such children the sum of seven thousand five  
17 hundred dollars shall be divided equally among such children.

18 No other benefits may be paid or payable under these circumstances.

19 (5) The benefits established in RCW 51.32.060 for permanent total  
20 disability proximately caused by the criminal act shall be the benefits  
21 obtainable under this chapter, and provisions relating to payment  
22 contained in that section apply under this chapter: PROVIDED, That if  
23 a victim becomes permanently and totally disabled as a proximate result  
24 of the criminal act and was not gainfully employed at the time of the  
25 criminal act, the victim shall receive monthly during the period of the  
26 disability the following percentages, where applicable, of the average  
27 monthly wage determined as of the date of the criminal act pursuant to  
28 RCW 51.08.018:

29 (a) If married at the time of the criminal act, twenty-nine percent  
30 of the average monthly wage.

31 (b) If married with one child at the time of the criminal act,  
32 thirty-four percent of the average monthly wage.

33 (c) If married with two children at the time of the criminal act,  
34 thirty-eight percent of the average monthly wage.

35 (d) If married with three children at the time of the criminal act,  
36 forty-one percent of the average monthly wage.

37 (e) If married with four children at the time of the criminal act,  
38 forty-four percent of the average monthly wage.



1 (f) If married with five or more children at the time of the  
2 criminal act, forty-seven percent of the average monthly wage.

3 (g) If unmarried at the time of the criminal act, twenty-five  
4 percent of the average monthly wage.

5 (h) If unmarried with one child at the time of the criminal act,  
6 thirty percent of the average monthly wage.

7 (i) If unmarried with two children at the time of the criminal act,  
8 thirty-four percent of the average monthly wage.

9 (j) If unmarried with three children at the time of the criminal  
10 act, thirty-seven percent of the average monthly wage.

11 (k) If unmarried with four children at the time of the criminal  
12 act, forty percent of the average monthly wage.

13 (l) If unmarried with five or more children at the time of the  
14 criminal act, forty-three percent of the average monthly wage.

15 (6) The benefits established in RCW 51.32.080 for permanent partial  
16 disability shall be the benefits obtainable under this chapter, and  
17 provisions relating to payment contained in that section equally apply  
18 under this chapter.

19 (7) The benefits established in RCW 51.32.090 for temporary total  
20 disability shall be the benefits obtainable under this chapter, and  
21 provisions relating to payment contained in that section apply under  
22 this chapter(~~(+PROVIDED, That)~~). No person is eligible for temporary  
23 total disability benefits under this chapter if such person was not  
24 gainfully employed at the time of the criminal act, and was not so  
25 employed for at least three consecutive months of the twelve months  
26 immediately preceding the criminal act.

27 (8) The benefits established in RCW 51.32.095 for continuation of  
28 benefits during vocational rehabilitation shall be benefits obtainable  
29 under this chapter, and provisions relating to payment contained in  
30 that section apply under this chapter(~~(+PROVIDED, That)~~). Benefits  
31 shall not exceed five thousand dollars for any single injury.

32 (9) The provisions for lump sum payment of benefits upon death or  
33 permanent total disability as contained in RCW 51.32.130 apply under  
34 this chapter.

35 (10) The provisions relating to payment of benefits to, for or on  
36 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
37 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and

1 51.32.210 are applicable to payment of benefits to, for or on behalf of  
2 victims under this chapter.

3 (11) No person or spouse, child, or dependent of such person is  
4 entitled to benefits under this chapter where the person making a claim  
5 for such benefits has refused to give reasonable cooperation to state  
6 or local law enforcement agencies in their efforts to apprehend and  
7 convict the perpetrator(s) of the criminal act which gave rise to the  
8 claim.

9 (12) In addition to other benefits provided under this chapter,  
10 victims of sexual assault are entitled to receive appropriate  
11 counseling. Fees for such counseling shall be determined by the  
12 department in accordance with RCW 51.04.030, subject to the limitations  
13 of RCW 7.68.080. Counseling services may include, if determined  
14 appropriate by the department, counseling of members of the victim's  
15 immediate family, other than the perpetrator of the assault.

16 (13) Except for medical benefits authorized under RCW 7.68.080, no  
17 more than thirty thousand dollars shall be granted as a result of a  
18 single injury or death, except that benefits granted as the result of  
19 total permanent disability or death shall not exceed forty thousand  
20 dollars.

21 (14) Notwithstanding other provisions of this chapter and Title 51  
22 RCW, benefits payable for total temporary disability under subsection  
23 (7) of this section, shall be limited to fifteen thousand dollars.

24 (15) Any person who is responsible for the victim's injuries, or  
25 who would otherwise be unjustly enriched as a result of the victim's  
26 injuries, shall not be a beneficiary under this chapter.

27 (16) Crime victims' compensation is not available to pay for  
28 services covered under chapter 74.09 RCW or Title XIX of the federal  
29 social security act, except to the extent that the costs for such  
30 services exceed service limits established by the department of social  
31 and health services or, during the 1993-95 fiscal biennium, to the  
32 extent necessary to provide matching funds for federal medicaid  
33 reimbursement.

34 (17) In addition to other benefits provided under this chapter,  
35 immediate family members of a homicide victim may receive appropriate  
36 counseling to assist in dealing with the immediate, near-term  
37 consequences of the related effects of the homicide. Fees for  
38 counseling shall be determined by the department in accordance with RCW

1 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
2 counseling benefits under this section may not be provided to the  
3 perpetrator of the homicide. The benefits under this subsection may be  
4 provided only with respect to homicides committed on or after July 1,  
5 1992.

6 (18) A dependent mother, father, stepmother, or stepfather, as  
7 defined in RCW 51.08.050, who is a survivor of her or his child's  
8 homicide, who has been requested by a law enforcement agency or a  
9 prosecutor to assist in the judicial proceedings related to the death  
10 of the victim, and who is not domiciled in Washington state at the time  
11 of the request, may receive a lump-sum payment upon arrival in this  
12 state. Total benefits under this subsection may not exceed seven  
13 thousand five hundred dollars. If more than one dependent parent is  
14 eligible for this benefit, the lump-sum payment of seven thousand five  
15 hundred dollars shall be divided equally among the dependent parents.

16 (19) A victim whose crime occurred in another state who qualifies  
17 for benefits under RCW 7.68.060(4) may receive appropriate mental  
18 health counseling to address distress arising from participation in the  
19 civil commitment proceedings. Fees for counseling shall be determined  
20 by the department in accordance with RCW 51.04.030, subject to the  
21 limitations of RCW 7.68.080.

22 **Sec. 7.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read  
23 as follows:

24 (1) Complaints referred to the juvenile court alleging the  
25 commission of an offense shall be referred directly to the prosecutor.  
26 The prosecutor, upon receipt of a complaint, shall screen the complaint  
27 to determine whether:

28 (a) The alleged facts bring the case within the jurisdiction of the  
29 court; and

30 (b) On a basis of available evidence there is probable cause to  
31 believe that the juvenile did commit the offense.

32 (2) If the identical alleged acts constitute an offense under both  
33 the law of this state and an ordinance of any city or county of this  
34 state, state law shall govern the prosecutor's screening and charging  
35 decision for both filed and diverted cases.

36 (3) If the requirements of subsections (1)(a) and (b) of this  
37 section are met, the prosecutor shall either file an information in

1 juvenile court or divert the case, as set forth in subsections (5),  
2 (6), and (~~(7)~~) (8) of this section. If the prosecutor finds that the  
3 requirements of subsection (1)(a) and (b) of this section are not met,  
4 the prosecutor shall maintain a record, for one year, of such decision  
5 and the reasons therefor. In lieu of filing an information or  
6 diverting an offense a prosecutor may file a motion to modify community  
7 supervision where such offense constitutes a violation of community  
8 supervision.

9 (4) An information shall be a plain, concise, and definite written  
10 statement of the essential facts constituting the offense charged. It  
11 shall be signed by the prosecuting attorney and conform to chapter  
12 10.37 RCW.

13 (5) Except as provided in RCW 13.40.213 and subsection (7) of this  
14 section, where a case is legally sufficient, the prosecutor shall file  
15 an information with the juvenile court if:

16 (a) An alleged offender is accused of a class A felony, a class B  
17 felony, an attempt to commit a class B felony, a class C felony listed  
18 in RCW 9.94A.411(2) as a crime against persons or listed in RCW  
19 9A.46.060 as a crime of harassment, or a class C felony that is a  
20 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

21 (b) An alleged offender is accused of a felony and has a criminal  
22 history of any felony, or at least two gross misdemeanors, or at least  
23 two misdemeanors; or

24 (c) An alleged offender has previously been committed to the  
25 department; or

26 (d) An alleged offender has been referred by a diversion unit for  
27 prosecution or desires prosecution instead of diversion; or

28 (e) An alleged offender has two or more diversion agreements on the  
29 alleged offender's criminal history; or

30 (f) A special allegation has been filed that the offender or an  
31 accomplice was armed with a firearm when the offense was committed.

32 (6) Where a case is legally sufficient the prosecutor shall divert  
33 the case if the alleged offense is a misdemeanor or gross misdemeanor  
34 or violation and the alleged offense is the offender's first offense or  
35 violation. If the alleged offender is charged with a related offense  
36 that must or may be filed under subsections (5) and (~~(7)~~) (8) of this  
37 section, a case under this subsection may also be filed.

1       (7) Where a case is legally sufficient to charge an alleged  
2 offender with either prostitution or prostitution loitering and the  
3 alleged offense is the offender's first prostitution or prostitution  
4 loitering offense, the prosecutor shall divert the case.

5       (8) Where a case is legally sufficient and falls into neither  
6 subsection (5) nor (6) of this section, it may be filed or diverted.  
7 In deciding whether to file or divert an offense under this section the  
8 prosecutor shall be guided only by the length, seriousness, and recency  
9 of the alleged offender's criminal history and the circumstances  
10 surrounding the commission of the alleged offense.

11       ~~((+8))~~ (9) Whenever a juvenile is placed in custody or, where not  
12 placed in custody, referred to a diversion interview, the parent or  
13 legal guardian of the juvenile shall be notified as soon as possible  
14 concerning the allegation made against the juvenile and the current  
15 status of the juvenile. Where a case involves victims of crimes  
16 against persons or victims whose property has not been recovered at the  
17 time a juvenile is referred to a diversion unit, the victim shall be  
18 notified of the referral and informed how to contact the unit.

19       ~~((+9))~~ (10) The responsibilities of the prosecutor under  
20 subsections (1) through ~~((+8))~~ (9) of this section may be performed by  
21 a juvenile court probation counselor for any complaint referred to the  
22 court alleging the commission of an offense which would not be a felony  
23 if committed by an adult, if the prosecutor has given sufficient  
24 written notice to the juvenile court that the prosecutor will not  
25 review such complaints.

26       ~~((+10))~~ (11) The prosecutor, juvenile court probation counselor,  
27 or diversion unit may, in exercising their authority under this section  
28 or RCW 13.40.080, refer juveniles to mediation or victim offender  
29 reconciliation programs. Such mediation or victim offender  
30 reconciliation programs shall be voluntary for victims.

31       **Sec. 8.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read  
32 as follows:

33       (1) When a juvenile is alleged to have committed the offenses of  
34 prostitution or prostitution loitering, and the allegation, if proved,  
35 would not be the juvenile's first offense, a prosecutor may divert the  
36 offense if the county in which the offense is alleged to have been  
37 committed has a comprehensive program that provides:

- 1 (a) Safe and stable housing;  
2 (b) Comprehensive on-site case management;  
3 (c) Integrated mental health and chemical dependency services,  
4 including specialized trauma recovery services;  
5 (d) Education and employment training delivered on-site; and  
6 (e) Referrals to off-site specialized services, as appropriate.

7 (2) A prosecutor may divert a case for prostitution or prostitution  
8 loitering into the comprehensive program described in this section,  
9 notwithstanding the filing criteria set forth in RCW 13.40.070(5).

10 (3) A diversion agreement under this section may extend to twelve  
11 months.

12 (4)(a) The administrative office of the courts shall compile data  
13 regarding:

14 (i) The number of juveniles whose cases are diverted into the  
15 comprehensive program described in this section;

16 (ii) Whether the juveniles complete their diversion agreements  
17 under this section; and

18 (iii) Whether juveniles whose cases have been diverted under this  
19 section have been subsequently arrested or committed subsequent  
20 offenses.

21 (b) ((A)) An annual report of the data compiled shall be provided  
22 to the governor and the appropriate committee of the legislature. The  
23 first report is due by November 1, 2010.

24 NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW  
25 to read as follows:

26 In any proceeding under this chapter related to an arrest for  
27 prostitution or prostitution loitering, there is a presumption that the  
28 alleged offender meets the criteria for a certification as a victim of  
29 a severe form of trafficking in persons as defined in section 7105 of  
30 Title 22 of the United States code, and that the alleged offender is  
31 also a victim of commercial sex abuse of a minor.

32 NEW SECTION. Sec. 10. A new section is added to chapter 74.15 RCW  
33 to read as follows:

34 The department shall require that to be licensed or continue to be  
35 licensed as a secure or semi-secure crisis residential center or HOPE  
36 center that the center has on staff, or otherwise has access to, a

1 person who has been trained to work with the needs of sexually  
2 exploited children. For purposes of this section, "sexually exploited  
3 child" means that person as defined in RCW 13.32A.030(17).

4 **Sec. 11.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are  
5 each reenacted and amended to read as follows:  
6

7

8 TABLE 2

9 CRIMES INCLUDED WITHIN

10 EACH SERIOUSNESS LEVEL

|    |      |                                          |
|----|------|------------------------------------------|
| 11 | XVI  | Aggravated Murder 1 (RCW                 |
| 12 |      | 10.95.020)                               |
| 13 | XV   | Homicide by abuse (RCW 9A.32.055)        |
| 14 |      | Malicious explosion 1 (RCW               |
| 15 |      | 70.74.280(1))                            |
| 16 |      | Murder 1 (RCW 9A.32.030)                 |
| 17 | XIV  | Murder 2 (RCW 9A.32.050)                 |
| 18 |      | Trafficking 1 (RCW 9A.40.100(1))         |
| 19 | XIII | Malicious explosion 2 (RCW               |
| 20 |      | 70.74.280(2))                            |
| 21 |      | Malicious placement of an explosive 1    |
| 22 |      | (RCW 70.74.270(1))                       |
| 23 | XII  | Assault 1 (RCW 9A.36.011)                |
| 24 |      | Assault of a Child 1 (RCW 9A.36.120)     |
| 25 |      | Malicious placement of an imitation      |
| 26 |      | device 1 (RCW 70.74.272(1)(a))           |
| 27 |      | <u>Promoting Commercial Sexual Abuse</u> |
| 28 |      | <u>of a Minor (RCW 9.68A.101)</u>        |
| 29 |      | Rape 1 (RCW 9A.44.040)                   |
| 30 |      | Rape of a Child 1 (RCW 9A.44.073)        |
| 31 |      | Trafficking 2 (RCW 9A.40.100(2))         |
| 32 | XI   | Manslaughter 1 (RCW 9A.32.060)           |
| 33 |      | Rape 2 (RCW 9A.44.050)                   |
| 34 |      | Rape of a Child 2 (RCW 9A.44.076)        |
| 35 | X    | Child Molestation 1 (RCW 9A.44.083)      |
| 36 |      | Criminal Mistreatment 1 (RCW             |
|    |      | 9A.42.020)                               |

1 Indecent Liberties (with forcible  
2 compulsion) (RCW  
3 9A.44.100(1)(a))  
4 Kidnapping 1 (RCW 9A.40.020)  
5 Leading Organized Crime (RCW  
6 9A.82.060(1)(a))  
7 Malicious explosion 3 (RCW  
8 70.74.280(3))  
9 Sexually Violent Predator Escape  
10 (RCW 9A.76.115)  
11 IX Abandonment of Dependent Person 1  
12 (RCW 9A.42.060)  
13 Assault of a Child 2 (RCW 9A.36.130)  
14 Explosive devices prohibited (RCW  
15 70.74.180)  
16 Hit and Run--Death (RCW  
17 46.52.020(4)(a))  
18 Homicide by Watercraft, by being  
19 under the influence of intoxicating liquor or any drug (RCW  
20 79A.60.050)  
21  
22 Inciting Criminal Profiteering (RCW  
23 9A.82.060(1)(b))  
24 Malicious placement of an explosive 2  
25 (RCW 70.74.270(2))  
26 Robbery 1 (RCW 9A.56.200)  
27 Sexual Exploitation (RCW 9.68A.040)  
28 Vehicular Homicide, by being under  
29 the influence of intoxicating liquor or any drug (RCW 46.61.520)  
30  
31 VIII Arson 1 (RCW 9A.48.020)  
32 Commercial Sexual Abuse of a Minor  
33 (RCW 9.68A.100)  
34 Homicide by Watercraft, by the  
35 operation of any vessel in a  
36 reckless manner (RCW  
37 79A.60.050)



1 Manslaughter 2 (RCW 9A.32.070)  
2 (~~Promoting Commercial Sexual Abuse of a Minor (RCW 9A.68A.101))~~  
3  
4 Promoting Prostitution 1 (RCW  
5 9A.88.070)  
6 Theft of Ammonia (RCW 69.55.010)  
7 Vehicular Homicide, by the operation  
8 of a vehicle in a reckless manner (RCW 46.61.520)  
9  
10 VII Burglary 1 (RCW 9A.52.020)  
11 Child Molestation 2 (RCW 9A.44.086)  
12 Civil Disorder Training (RCW  
13 9A.48.120)  
14 Dealing in depictions of a minor engaged in sexually explicit conduct (RCW  
15 9.68A.050)  
16  
17 Drive-by Shooting (RCW 9A.36.045)  
18 Homicide by Watercraft, by disregard  
19 for the safety of others (RCW  
20 79A.60.050)  
21 Indecent Liberties (without forcible  
22 compulsion) (RCW 9A.44.100(1)  
23 (b) and (c))  
24 Introducing Contraband 1 (RCW  
25 9A.76.140)  
26 Malicious placement of an explosive 3  
27 (RCW 70.74.270(3))  
28 Negligently Causing Death by Use of a Signal Preemption Device (RCW  
29 46.37.675)  
30  
31 Sending, bringing into state depictions  
32 of minor engaged in sexually  
33 explicit conduct (RCW 9.68A.060)  
34 Unlawful Possession of a Firearm in  
35 the first degree (RCW 9.41.040(1))  
36 Use of a Machine Gun in Commission  
37 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for  
2 the safety of others (RCW  
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW  
5 9A.76.170(3)(a))  
6 Bribery (RCW 9A.68.010)  
7 Incest 1 (RCW 9A.64.020(1))  
8 Intimidating a Judge (RCW 9A.72.160)  
9 Intimidating a Juror/Witness (RCW  
10 9A.72.110, 9A.72.130)  
11 Malicious placement of an imitation  
12 device 2 (RCW 70.74.272(1)(b))  
13 Possession of Depictions of a Minor  
14 Engaged in Sexually Explicit  
15 Conduct (RCW 9.68A.070)  
16 Rape of a Child 3 (RCW 9A.44.079)  
17 Theft of a Firearm (RCW 9A.56.300)  
18 Unlawful Storage of Ammonia (RCW  
19 69.55.020)

20 V Abandonment of Dependent Person 2  
21 (RCW 9A.42.070)  
22 Advancing money or property for  
23 extortionate extension of credit  
24 (RCW 9A.82.030)  
25 Bail Jumping with class A Felony  
26 (RCW 9A.76.170(3)(b))  
27 Child Molestation 3 (RCW 9A.44.089)  
28 Criminal Mistreatment 2 (RCW  
29 9A.42.030)  
30 Custodial Sexual Misconduct 1 (RCW  
31 9A.44.160)  
32 Domestic Violence Court Order  
33 Violation (RCW 10.99.040,  
34 10.99.050, 26.09.300, 26.10.220,  
35 26.26.138, 26.50.110, 26.52.070,  
36 or 74.34.145)

1 Driving While Under the Influence  
2 (RCW 46.61.502(6))  
3 Extortion 1 (RCW 9A.56.120)  
4 Extortionate Extension of Credit (RCW 9A.82.020)  
5  
6 Extortionate Means to Collect  
7 Extensions of Credit (RCW  
8 9A.82.040)  
9 Incest 2 (RCW 9A.64.020(2))  
10 Kidnapping 2 (RCW 9A.40.030)  
11 Perjury 1 (RCW 9A.72.020)  
12 Persistent prison misbehavior (RCW  
13 9.94.070)  
14 Physical Control of a Vehicle While  
15 Under the Influence (RCW  
16 46.61.504(6))  
17 Possession of a Stolen Firearm (RCW  
18 9A.56.310)  
19 Rape 3 (RCW 9A.44.060)  
20 Rendering Criminal Assistance 1  
21 (RCW 9A.76.070)  
22 Sexual Misconduct with a Minor 1  
23 (RCW 9A.44.093)  
24 Sexually Violating Human Remains  
25 (RCW 9A.44.105)  
26 Stalking (RCW 9A.46.110)  
27 Taking Motor Vehicle Without  
28 Permission 1 (RCW 9A.56.070)  
29 IV Arson 2 (RCW 9A.48.030)  
30 Assault 2 (RCW 9A.36.021)  
31 Assault 3 (of a Peace Officer with a  
32 Projectile Stun Gun) (RCW  
33 9A.36.031(1)(h))  
34 Assault by Watercraft (RCW  
35 79A.60.060)

1 Bribing a Witness/Bribe Received by  
2 Witness (RCW 9A.72.090,  
3 9A.72.100)  
4 Cheating 1 (RCW 9.46.1961)  
5 Commercial Bribery (RCW 9A.68.060)  
6 Counterfeiting (RCW 9.16.035(4))  
7 Endangerment with a Controlled  
8 Substance (RCW 9A.42.100)  
9 Escape 1 (RCW 9A.76.110)  
10 Hit and Run--Injury (RCW  
11 46.52.020(4)(b))  
12 Hit and Run with Vessel--Injury  
13 Accident (RCW 79A.60.200(3))  
14 Identity Theft 1 (RCW 9.35.020(2))  
15 Indecent Exposure to Person Under  
16 Age Fourteen (subsequent sex  
17 offense) (RCW 9A.88.010)  
18 Influencing Outcome of Sporting Event (RCW 9A.82.070)  
19  
20 Malicious Harassment (RCW  
21 9A.36.080)  
22 Residential Burglary (RCW  
23 9A.52.025)  
24 Robbery 2 (RCW 9A.56.210)  
25 Theft of Livestock 1 (RCW 9A.56.080)  
26 Threats to Bomb (RCW 9.61.160)  
27 Trafficking Stolen Property (RCW 9A.82.050)  
28  
29 Unlawful factoring of a credit card or  
30 payment card transaction (RCW  
31 9A.56.290(4)(b))  
32 Unlawful transaction of health  
33 coverage as a health care service  
34 contractor (RCW 48.44.016(3))  
35 Unlawful transaction of health  
36 coverage as a health maintenance  
37 organization (RCW 48.46.033(3))

1 Unlawful transaction of insurance  
2 business (RCW 48.15.023(3))  
3 Unlicensed practice as an insurance  
4 professional (RCW  
5 48.17.063(~~(3)~~)(2))  
6 Use of Proceeds of Criminal  
7 Profiteering (RCW 9A.82.080(1)  
8 and (2))  
9 Vehicular Assault, by being under the  
10 influence of intoxicating liquor or  
11 any drug, or by the operation or  
12 driving of a vehicle in a reckless  
13 manner (RCW 46.61.522)  
14 Willful Failure to Return from  
15 Furlough (RCW 72.66.060)  
16 III Animal Cruelty 1 (Sexual Conduct or  
17 Contact) (RCW 16.52.205(3))  
18 Assault 3 (Except Assault 3 of a Peace  
19 Officer With a Projectile Stun  
20 Gun) (RCW 9A.36.031 except  
21 subsection (1)(h))  
22 Assault of a Child 3 (RCW 9A.36.140)  
23 Bail Jumping with class B or C Felony  
24 (RCW 9A.76.170(3)(c))  
25 Burglary 2 (RCW 9A.52.030)  
26 (~~Commercial Sexual Abuse of a Minor (RCW 9A.68A.100)~~)  
27  
28 Communication with a Minor for  
29 Immoral Purposes (RCW  
30 9.68A.090)  
31 Criminal Gang Intimidation (RCW  
32 9A.46.120)  
33 Custodial Assault (RCW 9A.36.100)  
34 Cyberstalking (subsequent conviction  
35 or threat of death) (RCW  
36 9.61.260(3))  
37 Escape 2 (RCW 9A.76.120)

1 Extortion 2 (RCW 9A.56.130)  
2 Harassment (RCW 9A.46.020)  
3 Intimidating a Public Servant (RCW  
4 9A.76.180)  
5 Introducing Contraband 2 (RCW  
6 9A.76.150)  
7 Malicious Injury to Railroad Property  
8 (RCW 81.60.070)  
9 Mortgage Fraud (RCW 19.144.080)  
10 Negligently Causing Substantial Bodily Harm By Use of Signal  
11 Preemption Device (RCW  
12 46.37.674)  
13  
14 Organized Retail Theft 1 (RCW  
15 9A.56.350(2))  
16 Perjury 2 (RCW 9A.72.030)  
17 Possession of Incendiary Device (RCW 9A.40.120)  
18  
19 Possession of Machine Gun or Short-  
20 Barreled Shotgun or Rifle (RCW  
21 9.41.190)  
22 Promoting Prostitution 2 (RCW  
23 9A.88.080)  
24 Retail Theft with Extenuating  
25 Circumstances 1 (RCW  
26 9A.56.360(2))  
27 Securities Act violation (RCW  
28 21.20.400)  
29 Tampering with a Witness (RCW  
30 9A.72.120)  
31 Telephone Harassment (subsequent  
32 conviction or threat of death)  
33 (RCW 9.61.230(2))  
34 Theft of Livestock 2 (RCW 9A.56.083)  
35 Theft with Intent to Resell (RCW 9A.56.340(2))  
36

1 Trafficking Stolen Property (RCW 9A.82.055)  
2  
3 Unlawful Imprisonment (RCW  
4 9A.40.040)  
5 Unlawful possession of firearm in the  
6 second degree (RCW 9A.41.040(2))  
7 Vehicular Assault, by the operation or  
8 driving of a vehicle with disregard for the safety of others (RCW  
9 46.61.522)  
10  
11 Willful Failure to Return from Work  
12 Release (RCW 72.65.070)  
13 II Computer Trespass 1 (RCW  
14 9A.52.110)  
15 Counterfeiting (RCW 9.16.035(3))  
16 Escape from Community Custody  
17 (RCW 72.09.310)  
18 Failure to Register as a Sex Offender  
19 (second or subsequent offense)  
20 (RCW 9A.44.130(11)(a))  
21 Health Care False Claims (RCW  
22 48.80.030)  
23 Identity Theft 2 (RCW 9.35.020(3))  
24 Improperly Obtaining Financial  
25 Information (RCW 9.35.010)  
26 Malicious Mischief 1 (RCW  
27 9A.48.070)  
28 Organized Retail Theft 2 (RCW  
29 9A.56.350(3))  
30 Possession of Stolen Property (RCW 9A.56.150)  
31  
32 Possession of a Stolen Vehicle (RCW  
33 9A.56.068)  
34 Retail Theft with Extenuating  
35 Circumstances 2 (RCW  
36 9A.56.360(3))  
37 Theft 1 (RCW 9A.56.030)

1 Theft of a Motor Vehicle (RCW  
2 9A.56.065)  
3 Theft of Rental, Leased, or Lease-  
4 purchased Property valued at one thousand five hundred dollars or  
5 more) (RCW 9A.56.096(5)(a))  
6  
7 Theft with Intent to Resell (RCW 9A.56.340(3))  
8  
9 Trafficking Insurance Claims (RCW 48.30A.015)  
10  
11 Unlawful factoring of a credit card or  
12 payment card transaction (RCW  
13 9A.56.290(4)(a))  
14 Unlawful Practice of Law (RCW  
15 2.48.180)  
16 Unlicensed Practice of a Profession or  
17 Business (RCW 18.130.190(7))  
18 Voyeurism (RCW 9A.44.115)  
19 I Attempting to Elude a Pursuing Police  
20 Vehicle (RCW 46.61.024)  
21 False Verification for Welfare (RCW  
22 74.08.055)  
23 Forgery (RCW 9A.60.020)  
24 Fraudulent Creation, Revocation, Mental Health Advance Directive  
25 (RCW 9A.60.060)  
26  
27 Malicious Mischief 2 (RCW  
28 9A.48.080)  
29 Mineral Trespass (RCW 78.44.330)  
30 Possession of Stolen Property (RCW 9A.56.160)  
31  
32 Reckless Burning 1 (RCW 9A.48.040)  
33 Taking Motor Vehicle Without  
34 Permission 2 (RCW 9A.56.075)  
35 Theft 2 (RCW 9A.56.040)



1 Theft of Rental, Leased, or Lease-  
2 purchased Property valued at two hundred fifty dollars or more but  
3 less than one thousand five  
4 hundred dollars) (RCW  
5 9A.56.096(5)(b))  
6  
7 Transaction of insurance business  
8 beyond the scope of licensure  
9 (RCW 48.17.063(((4))))  
10 Unlawful Issuance of Checks Draft (RCW 9A.56.060)  
11  
12 Unlawful Possession of Fictitious  
13 Identification (RCW 9A.56.320)  
14 Unlawful Possession of Instruments of  
15 Financial Fraud (RCW 9A.56.320)  
16 Unlawful Possession of Payment  
17 Instruments (RCW 9A.56.320)  
18 Unlawful Possession of a Personal  
19 Identification Device (RCW  
20 9A.56.320)  
21 Unlawful Production of Payment  
22 Instruments (RCW 9A.56.320)  
23 Unlawful Trafficking in Food Stamps  
24 (RCW 9.91.142)  
25 Unlawful Use of Food Stamps (RCW  
26 9.91.144)  
27 Vehicle Prowl 1 (RCW 9A.52.095)

28 **Sec. 12.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read  
29 as follows:

30 (1)(a) Upon an arrest for a suspected violation of patronizing a  
31 prostitute, promoting prostitution in the first degree, promoting  
32 prostitution in the second degree, promoting travel for prostitution(~~(~~  
33 ~~commercial sexual abuse of a minor, promoting commercial sexual abuse~~  
34 ~~of a minor, or promoting travel for commercial sexual abuse of a~~  
35 ~~minor~~)), the arresting law enforcement officer may impound the person's  
36 vehicle if (i) the motor vehicle was used in the commission of the  
37 crime; (ii) the person arrested is the owner of the vehicle or the

1 vehicle is a rental car as defined in RCW 46.04.465; and (iii) either  
2 (A) the person arrested has previously been convicted of one of the  
3 offenses listed in this subsection or (B) the offense was committed  
4 within an area designated under (b) of this subsection.

5 (b) A local governing authority may designate areas within which  
6 vehicles are subject to impoundment under this section regardless of  
7 whether the person arrested has previously been convicted of any of the  
8 offenses listed in (a) of this subsection.

9 (i) The designation must be based on evidence indicating that the  
10 area has a disproportionately higher number of arrests for the offenses  
11 listed in (a) of this subsection as compared to other areas within the  
12 same jurisdiction.

13 (ii) The local governing authority shall post signs at the  
14 boundaries of the designated area to indicate that the area has been  
15 designated under this subsection.

16 (2) Upon an arrest for a suspected violation of commercial sexual  
17 abuse of a minor, promoting commercial sexual abuse of a minor, or  
18 promoting travel for commercial sexual abuse of a minor, the arresting  
19 law enforcement officer shall impound the person's vehicle if (a) the  
20 motor vehicle was used in the commission of the crime; and (b) the  
21 person arrested is the owner of the vehicle or the vehicle is a rental  
22 car as defined in RCW 46.04.465.

23 (3) Impoundments performed under this section shall be in  
24 accordance with chapter 46.55 RCW and the impoundment order must  
25 clearly state "prostitution hold."

26 ~~((+3))~~ (4)(a) Prior to redeeming the impounded vehicle, and in  
27 addition to all applicable impoundment, towing, and storage fees paid  
28 to the towing company under chapter 46.55 RCW, the owner of the  
29 impounded vehicle must pay a fine ~~((of five hundred dollars))~~ to the  
30 impounding agency. The fine shall be five hundred dollars for the  
31 offenses specified in subsection (1) of this section, or two thousand  
32 five hundred dollars for the offenses specified in subsection (2) of  
33 this section. The fine shall be deposited in the prostitution  
34 prevention and intervention account established under RCW 43.63A.740.

35 (b) Upon receipt of the fine paid under (a) of this subsection, the  
36 impounding agency shall issue a written receipt to the owner of the  
37 impounded vehicle.

1       (~~(4)~~) (5)(a) In order to redeem a vehicle impounded under this  
2 section, the owner must provide the towing company with the written  
3 receipt issued under subsection (~~(3)~~) (4)(b) of this section.

4       (b) The written receipt issued under subsection (~~(3)~~) (4)(b) of  
5 this section authorizes the towing company to release the impounded  
6 vehicle upon payment of all impoundment, towing, and storage fees.

7       (c) A towing company that relies on a forged receipt to release a  
8 vehicle impounded under this section is not liable to the impounding  
9 authority for any unpaid fine under subsection (~~(3)~~) (4)(a) of this  
10 section.

11       (~~(5)~~) (6)(a) In any proceeding under chapter 46.55 RCW to contest  
12 the validity of an impoundment under this section where the claimant  
13 substantially prevails, the claimant is entitled to a full refund of  
14 the impoundment, towing, and storage fees paid under chapter 46.55 RCW  
15 and the five hundred dollar fine paid under subsection (~~(3)~~) (4) of  
16 this section.

17       (b) If the person is found not guilty at trial for a crime listed  
18 under subsection (1) of this section, the person is entitled to a full  
19 refund of the impoundment, towing, and storage fees paid under chapter  
20 46.55 RCW and the (~~five hundred dollar~~) fine paid under subsection  
21 (~~(3)~~) (4) of this section.

22       (c) All refunds made under this section shall be paid by the  
23 impounding agency.

24       (d) Prior to receiving any refund under this section, the claimant  
25 must provide proof of payment.

26       **Sec. 13.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read  
27 as follows:

28       (1) A person is guilty of commercial sexual abuse of a minor if:

29       (a) He or she pays a fee to a minor or a third person as  
30 compensation for a minor having engaged in sexual conduct with him or  
31 her;

32       (b) He or she pays or agrees to pay a fee to a minor or a third  
33 person pursuant to an understanding that in return therefore such minor  
34 will engage in sexual conduct with him or her; or

35       (c) He or she solicits, offers, or requests to engage in sexual  
36 conduct with a minor in return for a fee.

1 (2) Commercial sexual abuse of a minor is a class ((E)) B felony  
2 punishable under chapter 9A.20 RCW.

3 (3) In addition to any other penalty provided under chapter 9A.20  
4 RCW, a person guilty of commercial sexual abuse of a minor is subject  
5 to the provisions under RCW 9A.88.130 and 9A.88.140.

6 (4) For purposes of this section, "sexual conduct" means sexual  
7 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

8 **Sec. 14.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read  
9 as follows:

10 (1) A person is guilty of promoting commercial sexual abuse of a  
11 minor if he or she knowingly advances commercial sexual abuse of a  
12 minor or profits from a minor engaged in sexual conduct.

13 (2) Promoting commercial sexual abuse of a minor is a class ((B))  
14 A felony.

15 (3) For the purposes of this section:

16 (a) A person "advances commercial sexual abuse of a minor" if,  
17 acting other than as a minor receiving compensation for personally  
18 rendered sexual conduct or as a person engaged in commercial sexual  
19 abuse of a minor, he or she causes or aids a person to commit or engage  
20 in commercial sexual abuse of a minor, procures or solicits customers  
21 for commercial sexual abuse of a minor, provides persons or premises  
22 for the purposes of engaging in commercial sexual abuse of a minor,  
23 operates or assists in the operation of a house or enterprise for the  
24 purposes of engaging in commercial sexual abuse of a minor, or engages  
25 in any other conduct designed to institute, aid, cause, assist, or  
26 facilitate an act or enterprise of commercial sexual abuse of a minor.

27 (b) A person "profits from commercial sexual abuse of a minor" if,  
28 acting other than as a minor receiving compensation for personally  
29 rendered sexual conduct, he or she accepts or receives money or other  
30 property pursuant to an agreement or understanding with any person  
31 whereby he or she participates or will participate in the proceeds of  
32 commercial sexual abuse of a minor.

33 (4) For purposes of this section, "sexual conduct" means sexual  
34 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

35 **Sec. 15.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to  
36 read as follows:

1 (1)(a) In addition to penalties set forth in RCW 9.68A.100,  
2 9.68A.101, and 9.68A.102, a person who is either convicted or given a  
3 deferred sentence or a deferred prosecution or who has entered into a  
4 statutory or nonstatutory diversion agreement as a result of an arrest  
5 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable  
6 county or municipal ordinance shall be assessed a five (~~hundred~~  
7 ~~fifty~~) thousand dollar fee.

8 (b) The court may not suspend payment of all or part of the fee  
9 unless it finds that the person does not have the ability to pay.

10 (c) When a minor has been adjudicated a juvenile offender or has  
11 entered into a statutory or nonstatutory diversion agreement for an  
12 offense which, if committed by an adult, would constitute a violation  
13 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or  
14 municipal ordinance, the court shall assess the fee under (a) of this  
15 subsection. The court may not suspend payment of all or part of the  
16 fee unless it finds that the minor does not have the ability to pay the  
17 fee.

18 (2) The fee assessed under subsection (1) of this section shall be  
19 collected by the clerk of the court and distributed each month to the  
20 state treasurer for deposit in the prostitution prevention and  
21 intervention account under RCW 43.63A.740 for the purpose of funding  
22 prostitution prevention and intervention activities.

23 (3) For the purposes of this section:

24 (a) "Statutory or nonstatutory diversion agreement" means an  
25 agreement under RCW 13.40.080 or any written agreement between a person  
26 accused of an offense listed in subsection (1) of this section and a  
27 court, county or city prosecutor, or designee thereof, whereby the  
28 person agrees to fulfill certain conditions in lieu of prosecution.

29 (b) "Deferred sentence" means a sentence that will not be carried  
30 out if the defendant meets certain requirements, such as complying with  
31 the conditions of probation.

32 NEW SECTION. Sec. 16. If funds are appropriated specifically for  
33 this purpose, the criminal justice training commission, in consultation  
34 with the Washington association of sheriffs and police chiefs, shall,  
35 by December 1, 2010, develop a model policy on law enforcement officer  
36 implementation of the procedures provided in this act relating to  
37 contact with a minor who is a "sexually exploited child" as defined in

1 this act or who is a victim of offenses related to commercial sexual  
2 abuse of a minor as defined in chapter 9.68A RCW. The commission shall  
3 develop a curriculum based on the model policy for inclusion in its  
4 basic training academy by January 1, 2011.

5 **Sec. 17.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read  
6 as follows:

7 (1) In a prosecution under RCW 9.68A.040, it is not a defense that  
8 the defendant was involved in activities of law enforcement and  
9 prosecution agencies in the investigation and prosecution of criminal  
10 offenses. Law enforcement and prosecution agencies shall not employ  
11 minors to aid in the investigation of a violation of RCW 9.68A.090 or  
12 9.68A.100. This chapter does not apply to lawful conduct between  
13 spouses.

14 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or  
15 9.68A.080, it is not a defense that the defendant did not know the age  
16 of the child depicted in the visual or printed matter(~~(:—PROVIDED,~~  
17 ~~That)).~~ It is a defense, which the defendant must prove by a  
18 preponderance of the evidence, that at the time of the offense the  
19 defendant was not in possession of any facts on the basis of which he  
20 or she should reasonably have known that the person depicted was a  
21 minor.

22 (3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100,  
23 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not  
24 know the alleged victim's age(~~(:—PROVIDED, That)).~~ It is a defense,  
25 which the defendant must prove by a preponderance of the evidence, that  
26 at the time of the offense, the defendant made a reasonable bona fide  
27 attempt to ascertain the true age of the minor by requiring production  
28 of a driver's license, marriage license, birth certificate, or other  
29 governmental or educational identification card or paper and did not  
30 rely solely on the oral allegations or apparent age of the minor.

31 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,  
32 it shall be an affirmative defense that the defendant was a law  
33 enforcement officer in the process of conducting an official  
34 investigation of a sex-related crime against a minor, or that the  
35 defendant was providing individual case treatment as a recognized  
36 medical facility or as a psychiatrist or psychologist licensed under  
37 Title 18 RCW.

1 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,  
2 the state is not required to establish the identity of the alleged  
3 victim.

4 **Sec. 18.** RCW 43.63A.740 and 2009 c 387 s 2 are each amended to  
5 read as follows:

6 The prostitution prevention and intervention account is created in  
7 the state treasury. All designated receipts from fees under RCW  
8 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall  
9 be deposited into the account. Expenditures from the account may be  
10 used (~~only for~~) in the following order of priority:

11 (1) Programs that provide mental health and substance abuse  
12 counseling, parenting skills training, housing relief, education, and  
13 vocational training for youth who have been diverted for a prostitution  
14 or prostitution loitering offense pursuant to RCW 13.40.213;

15 (2) Funding for services provided to sexually exploited children as  
16 defined in RCW 13.32A.030 in secure and semi-secure crisis residential  
17 centers with access to staff trained to meet their specific needs;

18 (3) Funding for services specified in RCW 74.14B.060 and 74.14B.070  
19 for sexually exploited children; and

20 (4) Funding the grant program to enhance prostitution prevention  
21 and intervention services under RCW 43.63A.720.

22 NEW SECTION. **Sec. 19.** The following acts or parts of acts are  
23 each repealed: 2009 c 252 s 4 (uncodified).

Passed by the Senate March 9, 2010.  
Passed by the House March 3, 2010.  
Approved by the Governor April 1, 2010, with the exception of  
certain items that were vetoed.  
Filed in Office of Secretary of State April 2, 2010.

Note: Governor's explanation of partial veto is as follows:  
"I am returning herewith, without my approval as to Section 4  
Engrossed Substitute Senate Bill 6476 entitled:

"AN ACT Relating to sex crimes involving minors."

Section 4 requires the Department of Social and Health Services to  
provide a report to the relevant policy and fiscal committees of the  
Legislature by November 1, 2010, regarding the training needed to  
allow staff of the Children's Administration and crisis residential  
centers to work effectively with sexually exploited youth. The  
report must identify the evidence-based training programs to be used  
and the cost of such training. This section would be codified in  
chapter 13.32A RCW.

The Department will make the information available. A statutorily  
required report is unnecessary.

For these reasons, I have vetoed sections Section 4 of Engrossed Substitute Senate Bill 6476.

With the exception of Section 4, Engrossed Substitute Senate Bill 6476 is approved."