

HOUSE BILL REPORT

HB 2878

As Reported by House Committee On: Public Safety

Title: An act relating to creating a penalty assessment for crimes involving the abuse of children used to support child advocacy centers.

Brief Description: Creating a penalty assessment for crimes involving the abuse of children used to support child advocacy centers.

Sponsors: Representatives Kilduff, Robinson, Muri and Ormsby.

Brief History:

Committee Activity:

Public Safety: 2/2/16, 2/5/16 [DPS].

Brief Summary of Substitute Bill

- Authorizes courts to impose a penalty assessment of up to \$1,000 for convictions involving the physical or sexual abuse of children in order to fund children's advocacy centers.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Kelly Leonard (786-7147).

Background:

Crimes Involving the Physical or Sexual Abuse of Children. Several state felony and gross misdemeanor offenses could apply to facts involving the physical or sexual abuse of a child, depending on the circumstances. This includes, for example: Homicide, Murder, Manslaughter, Assault, Assault of a Child, Kidnapping, Trafficking, Criminal Mistreatment,

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Abandonment of a Dependent Person, Harassment, and a wide range of sex offenses and domestic violence offenses.

Legal Financial Obligations. When a defendant is convicted of a crime, the court may impose certain legal financial obligations as part of the judgment and sentence. Legal financial obligations include: victim restitution; crime victims' compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

Children's Advocacy Centers. A children's advocacy center is a child-focused facility that uses a multidisciplinary process for the investigation and prosecution of crimes involving the physical and sexual abuse of children as well as for the treatment of victims in such crimes. Children's advocacy centers provide a location for forensic interviews and coordinate access to services, including medical evaluations, advocacy, therapy, and case review.

Summary of Substitute Bill:

Courts may impose a penalty assessment not to exceed \$1,000 on any adult offender convicted of a crime involving the physical abuse or sexual abuse of children.

A court may not impose a penalty assessment unless the defendant is or will be able to pay it. The court must evaluate the financial resources of the defendant and the burden of the penalty assessment. The court is encouraged to solicit input from the victim or his or her representatives in assessing the defendant's ability to pay the penalty assessment, including information regarding current financial obligations, family circumstances, and ongoing restitution.

Revenue from the assessment is not subject to any state laws requiring remittance of the funds to the state or certain local entities. Revenue from the assessment must be used solely for establishing and funding children's advocacy centers. If a local government does not have a children's advocacy center, revenue may be used to fund a contract with a community-based children's advocacy program provider.

Substitute Bill Compared to Original Bill:

The substitute bill prohibits a court from imposing the penalty assessment unless a defendant is or will be able to pay it. The substitute bill adds requirements for assessing the defendant's financial resources and the burden of the assessment.

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) Physical and sexual abuse of children causes irreparable harm. The bill creates a discretionary penalty to be imposed upon convicted defendants, which could in turn fund child advocacy centers. Child advocacy centers are places of healing and support. No child should ever have to experience abuse, but if it does happen, these centers can provide services. This bill could support those efforts.

It is important to fund the efforts of child advocacy centers. Child advocacy centers utilize multidisciplinary teams throughout the state to provide assistance to child victims, including evaluations, advocacy, and therapy. There is a need for getting more teams in place and expanding upon current efforts.

There is a nexus between those who would pay the penalty assessment and how the revenues will be used. The convicted defendants are the ones creating the need for the services, and it makes sense that they should share the financial cost of their crimes. The bill should be amended to require courts to assess a defendant's ability to pay the penalty assessment. However, for those who can pay, they should pay.

(Opposed) Child advocacy centers are great programs and they do fantastic work. However, the Legislature should not fund these programs on the backs of offenders who are unable to pay for them. Offenders face huge barriers with reentry and reintegration after incarceration, including housing and employment. While some offenders may have financial means prior to conviction, most offenders have difficulties handling the burden of financial obligations after conviction and incarceration. There are already an array of fines available to the courts to impose upon defendants with financial means, and those existing fines could be used to fund child advocacy centers and other programs.

(Other) Child advocacy centers do important work for child victims and survivors of abuse; however, child advocacy centers are not the only type of organizations providing these types of services. The bill should be amended to include community sexual assault programs. Community sexual assault programs assist over 5,000 children per year in Washington.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; Seth Dawson and Randy Ryan, The Child Advocacy Centers of Washington.

(Opposed) Brad Meryhew, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

(Other) Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: None.