

Public Safety Committee

SB 5813

Brief Description: Concerning crimes against minors.

Sponsors: Senator Padden.

Brief Summary of Bill

- Increases certain second degree offenses involving depictions of minors engaged in sexually explicit conduct from class C felonies to class B felonies.
- Specifies it is not a defense to Trafficking or Luring that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older.

Hearing Date: 3/20/17

Staff: Kelly Leonard (786-7147).

Background:

Sentencing. Crimes are classified as misdemeanors, gross misdemeanors, or felonies. While there are exceptions, the classification of a crime generally determines the maximum term of confinement and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of sentence within the statutory maximum. Sentences for felony offenses are determined by reference to a sentencing grid. The sentencing grid provides a standard range of

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months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. If a calculated standard range exceeds the statutory maximum for an offense, then the imposed sentence is reduced to the maximum allowable sentence.

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct. A person commits the offense of Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct. For the purposes of determining the unit of prosecution, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and level VI offense, and the second degree offense is a class C felony and level IV offense.

Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct. A person commits the crime of Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct in the first degree or second degree when he or she knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in sexually explicit conduct. The crime is also committed when a person possesses the visual or printed matter with the intent to develop, duplicate, publish, print, disseminate, exchange, or sell it.

The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and level VII offense, and the second degree offense is a class C felony and level V offense.

Sending or Bringing into the State Depictions of a Minor Engaged in Sexually Explicit Conduct. A person commits the crime of Sending or Bringing into the State Depictions of a Minor Engaged in Sexually Explicit Conduct in the first or second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct.

The degree of the offense depends on the type of conduct depicted. The first degree offense is a class B felony and a level VII offense, and the second degree offense is a class C felony and level V offense.

Trafficking. A person commits Trafficking in the second degree when he or she: (1) recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person, knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act or a commercial sex act, or that the person has not reached the age of 18 years and is caused to engage in a sexually explicit act or a commercial sex act; or (2) benefits financially or receives anything of value from participation in a venture that has engaged in the above acts.

The offense is Trafficking in the first degree if the acts involve kidnapping, sexual motivation, or illegal harvesting of human organs or result in a death.

Trafficking in the first or second degree is a class A felony, except first degree is a level XIV offense and second degree is a level XII offense.

Luring. A person commits the crime of luring if the person, with the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or with the intent to facilitate the commission of any crime:

- orders, lures, or attempts to lure a person under age 16 years or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle;
- does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; and
- is unknown to the person under age 16 years or developmentally disabled person.

Luring is an unranked class C felony.

Summary of Bill:

The second degree offenses for Possession, Dealing, and Sending or Bringing into the State Depictions of a Minor Engaged in Sexually Explicit conduct are raised from class C felonies to class B felonies.

In any prosecution of Trafficking in the first or second degree or Luring, it is not a defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older.

Appropriation: None.

Fiscal Note: Requested on March 15, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.