

CERTIFICATION OF ENROLLMENT

SENATE BILL 5813

65th Legislature
2017 Regular Session

Passed by the Senate March 8, 2017
Yeas 48 Nays 0

President of the Senate

Passed by the House April 6, 2017
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5813** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5813

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Senator Padden

Read first time 02/15/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes against minors; amending RCW 9A.40.100,
2 9.68A.070, 9.68A.050, and 9.68A.060; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.40.100 and 2014 c 188 s 1 are each amended to
5 read as follows:

6 (1) A person is guilty of trafficking in the first degree when:

7 (a) Such person:

8 (i) Recruits, harbors, transports, transfers, provides, obtains,
9 buys, purchases, or receives by any means another person knowing, or
10 in reckless disregard of the fact, (A) that force, fraud, or coercion
11 as defined in RCW 9A.36.070 will be used to cause the person to
12 engage in:

13 (I) Forced labor;

14 (II) Involuntary servitude;

15 (III) A sexually explicit act; or

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

19 (ii) Benefits financially or by receiving anything of value from
20 participation in a venture that has engaged in acts set forth in

21 (a)(i) of this subsection; and

1 (b) The acts or venture set forth in (a) of this subsection:

2 (i) Involve committing or attempting to commit kidnapping;

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

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

5 (iv) Result in a death.

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

7 (3)(a) A person is guilty of trafficking in the second degree
8 when such person:

9 (i) Recruits, harbors, transports, transfers, provides, obtains,
10 buys, purchases, or receives by any means another person knowing, or
11 in reckless disregard of the fact, that force, fraud, or coercion as
12 defined in RCW 9A.36.070 will be used to cause the person to engage
13 in forced labor, involuntary servitude, a sexually explicit act, or a
14 commercial sex act, or that the person has not attained the age of
15 eighteen years and is caused to engage in a sexually explicit act or
16 a commercial sex act; or

17 (ii) Benefits financially or by receiving anything of value from
18 participation in a venture that has engaged in acts set forth in
19 (a)(i) of this subsection.

20 (b) Trafficking in the second degree is a class A felony.

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

25 (b) A person who is either convicted or given a deferred sentence
26 or a deferred prosecution or who has entered into a statutory or
27 nonstatutory diversion agreement as a result of an arrest for a
28 violation of a trafficking crime shall be assessed a ten thousand
29 dollar fee.

30 ~~((b))~~ (c) The court shall not reduce, waive, or suspend payment
31 of all or part of the fee assessed in this section unless it finds,
32 on the record, that the offender does not have the ability to pay the
33 fee in which case it may reduce the fee by an amount up to two-thirds
34 of the maximum allowable fee.

35 ~~((e))~~ (d) Fees assessed under this section shall be collected
36 by the clerk of the court and remitted to the treasurer of the county
37 where the offense occurred for deposit in the county general fund,
38 except in cases in which the offense occurred in a city or town that
39 provides for its own law enforcement, in which case these amounts
40 shall be remitted to the treasurer of the city or town for deposit in

1 the general fund of the city or town. Revenue from the fees must be
2 used for local efforts to reduce the commercial sale of sex
3 including, but not limited to, increasing enforcement of commercial
4 sex laws.

5 (i) At least fifty percent of the revenue from fees imposed under
6 this section must be spent on prevention, including education
7 programs for offenders, such as john school, and rehabilitative
8 services, such as mental health and substance abuse counseling,
9 parenting skills, training, housing relief, education, vocational
10 training, drop-in centers, and employment counseling.

11 (ii) Revenues from these fees are not subject to the distribution
12 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
13 35.20.220.

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

18 (6) For purposes of this section:

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

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

26 **Sec. 2.** RCW 9.68A.070 and 2010 c 227 s 6 are each amended to
27 read as follows:

28 (1)(a) A person commits the crime of possession of depictions of
29 a minor engaged in sexually explicit conduct in the first degree when
30 he or she knowingly possesses a visual or printed matter depicting a
31 minor engaged in sexually explicit conduct as defined in RCW
32 9.68A.011(4) (a) through (e).

33 (b) Possession of depictions of a minor engaged in sexually
34 explicit conduct in the first degree is a class B felony punishable
35 under chapter 9A.20 RCW.

36 (c) For the purposes of determining the unit of prosecution under
37 this subsection, each depiction or image of visual or printed matter
38 constitutes a separate offense.

1 (2)(a) A person commits the crime of possession of depictions of
2 a minor engaged in sexually explicit conduct in the second degree
3 when he or she knowingly possesses any visual or printed matter
4 depicting a minor engaged in sexually explicit conduct as defined in
5 RCW 9.68A.011(4) (f) or (g).

6 (b) Possession of depictions of a minor engaged in sexually
7 explicit conduct in the second degree is a class ((C)) B felony
8 punishable under chapter 9A.20 RCW.

9 (c) For the purposes of determining the unit of prosecution under
10 this subsection, each incident of possession of one or more
11 depictions or images of visual or printed matter constitutes a
12 separate offense.

13 **Sec. 3.** RCW 9.68A.050 and 2010 c 227 s 4 are each amended to
14 read as follows:

15 (1)(a) A person commits the crime of dealing in depictions of a
16 minor engaged in sexually explicit conduct in the first degree when
17 he or she:

18 (i) Knowingly develops, duplicates, publishes, prints,
19 disseminates, exchanges, finances, attempts to finance, or sells a
20 visual or printed matter that depicts a minor engaged in an act of
21 sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through
22 (e); or

23 (ii) Possesses with intent to develop, duplicate, publish, print,
24 disseminate, exchange, or sell any visual or printed matter that
25 depicts a minor engaged in an act of sexually explicit conduct as
26 defined in RCW 9.68A.011(4) (a) through (e).

27 (b) Dealing in depictions of a minor engaged in sexually explicit
28 conduct in the first degree is a class B felony punishable under
29 chapter 9A.20 RCW.

30 (c) For the purposes of determining the unit of prosecution under
31 this subsection, each depiction or image of visual or printed matter
32 constitutes a separate offense.

33 (2)(a) A person commits the crime of dealing in depictions of a
34 minor engaged in sexually explicit conduct in the second degree when
35 he or she:

36 (i) Knowingly develops, duplicates, publishes, prints,
37 disseminates, exchanges, finances, attempts to finance, or sells any
38 visual or printed matter that depicts a minor engaged in an act of

1 sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g);
2 or

3 (ii) Possesses with intent to develop, duplicate, publish, print,
4 disseminate, exchange, or sell any visual or printed matter that
5 depicts a minor engaged in an act of sexually explicit conduct as
6 defined in RCW 9.68A.011(4) (f) or (g).

7 (b) Dealing in depictions of a minor engaged in sexually explicit
8 conduct in the second degree is a class ((C)) B felony punishable
9 under chapter 9A.20 RCW.

10 (c) For the purposes of determining the unit of prosecution under
11 this subsection, each incident of dealing in one or more depictions
12 or images of visual or printed matter constitutes a separate offense.

13 **Sec. 4.** RCW 9.68A.060 and 2010 c 227 s 5 are each amended to
14 read as follows:

15 (1)(a) A person commits the crime of sending or bringing into the
16 state depictions of a minor engaged in sexually explicit conduct in
17 the first degree when he or she knowingly sends or causes to be sent,
18 or brings or causes to be brought, into this state for sale or
19 distribution, a visual or printed matter that depicts a minor engaged
20 in sexually explicit conduct as defined in RCW 9.68A.011(4) (a)
21 through (e).

22 (b) Sending or bringing into the state depictions of a minor
23 engaged in sexually explicit conduct in the first degree is a class B
24 felony punishable under chapter 9A.20 RCW.

25 (c) For the purposes of determining the unit of prosecution under
26 this subsection, each depiction or image of visual or printed matter
27 constitutes a separate offense.

28 (2)(a) A person commits the crime of sending or bringing into the
29 state depictions of a minor engaged in sexually explicit conduct in
30 the second degree when he or she knowingly sends or causes to be
31 sent, or brings or causes to be brought, into this state for sale or
32 distribution, any visual or printed matter that depicts a minor
33 engaged in sexually explicit conduct as defined in RCW 9.68A.011(4)
34 (f) or (g).

35 (b) Sending or bringing into the state depictions of a minor
36 engaged in sexually explicit conduct in the second degree is a class
37 ((C)) B felony punishable under chapter 9A.20 RCW.

38 (c) For the purposes of determining the unit of prosecution under
39 this subsection, each incident of sending or bringing into the state

1 one or more depictions or images of visual or printed matter
2 constitutes a separate offense.

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