

---

**SECOND SUBSTITUTE SENATE BILL 5744**

---

**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Dhingra, Das, Randall, Darneille, Hasegawa, Saldaña, Keiser, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 01/30/20.

1 AN ACT Relating to commercially sexually exploited children;  
2 amending RCW 9A.88.030, 13.40.070, 13.40.213, 7.68.801, 43.185C.260,  
3 and 74.14B.070; adding new sections to chapter 7.68 RCW; adding a new  
4 section to chapter 43.280 RCW; creating a new section; providing an  
5 effective date; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that commercial  
8 sexual exploitation of children is a severe form of human trafficking  
9 and a severe human rights and public health issue, leaving children  
10 at substantial risk of physical harm, substantial physical and  
11 emotional pain, and trauma. This trauma has a long-term impact on the  
12 social, emotional, and economic future of these children. The state  
13 shall provide a victim-centered, trauma-informed response to children  
14 who are exploited in this manner rather than treating them as  
15 criminals. The state shall also hold accountable the buyers and  
16 traffickers who exploit children.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.68 RCW  
18 to read as follows:

19 (1) Subject to the availability of amounts appropriated for this  
20 specific purpose, the department of children, youth, and families

1 shall administer funding for two receiving center programs for  
2 commercially sexually exploited children. One of these programs must  
3 be located west of the crest of the Cascade mountains and one of  
4 these programs must be located east of the crest of the Cascade  
5 mountains. Law enforcement and service providers may refer children  
6 to these programs or children may self-refer into these programs.

7 (2) The receiving center programs established under this section  
8 shall:

9 (a) Begin providing services by January 1, 2021;

10 (b) Develop, in consultation with the department of children,  
11 youth, and families, the eligibility criteria for serving  
12 commercially sexually exploited children that allows referral from  
13 service providers and prioritizes referral from law enforcement;

14 (c) Utilize existing facilities and not require the construction  
15 of new facilities; and

16 (d) Provide ongoing case management for all children who are  
17 being served or were served by the programs.

18 (3) The receiving centers established under this section shall:

19 (a) Include a short-term evaluation function that is accessible  
20 twenty-four hours per day seven days per week that has the capacity  
21 to evaluate the immediate needs of commercially sexually exploited  
22 children ages twelve through seventeen and either meet those  
23 immediate needs or refer those children to the appropriate services;

24 (b) Assess children for mental health and substance use disorder  
25 needs and provide appropriate referrals as needed; and

26 (c) Provide individual and group counseling focused on developing  
27 and strengthening coping skills, and improving self-esteem and  
28 dignity.

29 (4) The department of children, youth, and families shall:

30 (a) Collect nonidentifiable demographic data of the children  
31 served by the programs established under this section;

32 (b) Collect data regarding the locations that children exit to  
33 after being served by the programs; and

34 (c) Report the data described in this subsection along with  
35 recommendations for modification or expansion of these programs to  
36 the relevant committees of the legislature by December 1, 2022.

37 (5) For the purposes of this section, the following definitions  
38 apply:

39 (a) "Receiving center" means a trauma-informed, secure location  
40 that meets the multidisciplinary needs of commercially sexually

1 exploited children ages twelve through seventeen in a licensed or  
2 certified behavioral health entity providing residential services;  
3 and

4 (b) "Short-term evaluation function" means a short-term emergency  
5 shelter that is accessible twenty-four hours per day seven days per  
6 week that has the capacity to evaluate the immediate needs of  
7 commercially sexually exploited children under age eighteen and  
8 either meet those immediate needs or refer those children to the  
9 appropriate services.

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

12 (1) The following individuals or entities may refer a child to  
13 receiving centers as defined in section 2 of this act:

14 (a) Law enforcement, who shall:

15 (i) Transport a child eligible for receiving center services to a  
16 receiving center; or

17 (ii) Coordinate transportation with a liaison dedicated to  
18 serving commercially sexually exploited children established under  
19 RCW 74.14B.070 or a community service provider;

20 (b) The department of children, youth, and families;

21 (c) Juvenile courts;

22 (d) Community service providers;

23 (e) A parent or guardian; and

24 (f) A child may self-refer.

25 (2) Eligibility for placement in a receiving center is children  
26 ages twelve through seventeen, of all genders, who have been, or are  
27 at risk for being commercially sexually exploited.

28 **Sec. 4.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to  
29 read as follows:

30 (1) A person age eighteen or older is guilty of prostitution if  
31 such person engages or agrees or offers to engage in sexual conduct  
32 with another person in return for a fee.

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

36 (3) Prostitution is a misdemeanor.

1       **Sec. 5.** RCW 13.40.070 and 2019 c 128 s 8 are each amended to  
2 read as follows:

3       (1) Complaints referred to the juvenile court alleging the  
4 commission of an offense shall be referred directly to the  
5 prosecutor. The prosecutor, upon receipt of a complaint, shall screen  
6 the complaint to determine whether:

7       (a) The alleged facts bring the case within the jurisdiction of  
8 the court; and

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

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

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

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

29       (5) The prosecutor shall file an information with the juvenile  
30 court if (a) an alleged offender is accused of an offense that is  
31 defined as a sex offense or violent offense under RCW 9.94A.030,  
32 other than assault in the second degree or robbery in the second  
33 degree; or (b) an alleged offender has been referred by a diversion  
34 unit for prosecution or desires prosecution instead of diversion.

35       (6) Where a case is legally sufficient the prosecutor shall  
36 divert the case if the alleged offense is a misdemeanor or gross  
37 misdemeanor or violation and the alleged offense is the offender's  
38 first offense or violation. If the alleged offender is charged with a  
39 related offense that may be filed under subsections (5) and (8) of  
40 this 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:

3 (a) (~~Either prostitution or prostitution~~) Prostitution  
4 loitering and the alleged offense is the offender's first  
5 (~~prostitution or~~) prostitution loitering offense, the prosecutor  
6 shall divert the case;

7 (b) Voyeurism in the second degree, the offender is under  
8 seventeen years of age, and the alleged offense is the offender's  
9 first voyeurism in the second degree offense, the prosecutor shall  
10 divert the case, unless the offender has received two diversions for  
11 any offense in the previous two years;

12 (c) Minor selling depictions of himself or herself engaged in  
13 sexually explicit conduct under RCW 9.68A.053(5) and the alleged  
14 offense is the offender's first violation of RCW 9.68A.053(5), the  
15 prosecutor shall divert the case; or

16 (d) A distribution, transfer, dissemination, or exchange of  
17 sexually explicit images of other minors thirteen years of age or  
18 older offense as provided in RCW 9.68A.053(1) and the alleged offense  
19 is the offender's first violation of RCW 9.68A.053(1), the prosecutor  
20 shall divert the case.

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

27 (9) Whenever a juvenile is placed in custody or, where not placed  
28 in custody, referred to a diversion interview, the parent or legal  
29 guardian of the juvenile shall be notified as soon as possible  
30 concerning the allegation made against the juvenile and the current  
31 status of the juvenile. Where a case involves victims of crimes  
32 against persons or victims whose property has not been recovered at  
33 the time a juvenile is referred to a diversion unit, the victim shall  
34 be notified of the referral and informed how to contact the unit.

35 (10) The responsibilities of the prosecutor under subsections (1)  
36 through (9) of this section may be performed by a juvenile court  
37 probation counselor for any complaint referred to the court alleging  
38 the commission of an offense which would not be a felony if committed  
39 by an adult, if the prosecutor has given sufficient written notice to

1 the juvenile court that the prosecutor will not review such  
2 complaints.

3 (11) The prosecutor, juvenile court probation counselor, or  
4 diversion unit may, in exercising their authority under this section  
5 or RCW 13.40.080, refer juveniles to community-based programs,  
6 restorative justice programs, mediation, or victim offender  
7 reconciliation programs. Such mediation or victim offender  
8 reconciliation programs shall be voluntary for victims.

9 (12) Prosecutors and juvenile courts are encouraged to engage  
10 with and partner with community-based programs to expand, improve,  
11 and increase options to divert youth from formal processing in  
12 juvenile court. Nothing in this chapter should be read to limit  
13 partnership with community-based programs to create diversion  
14 opportunities for juveniles.

15 **Sec. 6.** RCW 13.40.213 and 2010 c 289 s 8 are each amended to  
16 read as follows:

17 (1) When a juvenile is alleged to have committed (~~the offenses~~  
18 ~~of prostitution or~~) a prostitution loitering offense, and the  
19 allegation, if proved, would not be the juvenile's first offense, a  
20 prosecutor may divert the offense if the county in which the offense  
21 is alleged to have been committed has a comprehensive program that  
22 provides:

- 23 (a) Safe and stable housing;
- 24 (b) Comprehensive on-site case management;
- 25 (c) Integrated mental health and chemical dependency services,  
26 including specialized trauma recovery services;
- 27 (d) Education and employment training delivered on-site; and
- 28 (e) Referrals to off-site specialized services, as appropriate.

29 (2) A prosecutor may divert a case for (~~prostitution or~~)  
30 prostitution loitering into the comprehensive program described in  
31 this section, notwithstanding the filing criteria set forth in RCW  
32 13.40.070(5).

33 (3) A diversion agreement under this section may extend to twelve  
34 months.

35 (4)(a) The administrative office of the courts shall compile data  
36 regarding:

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

1 (ii) Whether the juveniles complete their diversion agreements  
2 under this section; and

3 (iii) Whether juveniles whose cases have been diverted under this  
4 section have been subsequently arrested or committed subsequent  
5 offenses.

6 (b) An annual report of the data compiled shall be provided to  
7 the governor and the appropriate committee of the legislature. ((The  
8 ~~first report is due by November 1, 2010.~~))

9 **Sec. 7.** RCW 7.68.801 and 2018 c 58 s 65 are each amended to read  
10 as follows:

11 (1) The commercially sexually exploited children statewide  
12 coordinating committee is established to address the issue of  
13 children who are commercially sexually exploited, to examine the  
14 practices of local and regional entities involved in addressing  
15 sexually exploited children, and to make recommendations on statewide  
16 laws and practices.

17 (2) The committee is convened by the office of the attorney  
18 general with the department of commerce assisting with agenda  
19 planning and administrative and clerical support. The committee  
20 consists of the following members:

21 (a) One member from each of the two largest caucuses of the house  
22 of representatives appointed by the speaker of the house;

23 (b) One member from each of the two largest caucuses of the  
24 senate appointed by the ((~~speaker~~) president) of the senate;

25 (c) A representative of the governor's office appointed by the  
26 governor;

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

29 (e) The secretary of the juvenile rehabilitation administration  
30 or his or her designee;

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

32 (g) The superintendent of public instruction or his or her  
33 designee;

34 (h) A representative of the administrative office of the courts  
35 appointed by the administrative office of the courts;

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

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

1 (k) A representative of the Washington association of prosecuting  
2 attorneys appointed by the association;

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

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

8 (n) Two representatives of nongovernmental organizations familiar  
9 with the issues affecting commercially sexually exploited children  
10 appointed by the attorney general;

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

13 (p) The president of the juvenile court administrators or his or  
14 her designee;

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

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

18 (s) A representative of the center for children and youth  
19 justice;

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

21 (u) The executive director of the Washington coalition of sexual  
22 assault programs;

23 (v) A representative of an organization that provides inpatient  
24 chemical dependency treatment to youth, appointed by the attorney  
25 general;

26 (w) A representative of an organization that provides mental  
27 health treatment to youth, appointed by the attorney general; and

28 (x) A survivor of human trafficking, appointed by the attorney  
29 general.

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

31 (a) Overseeing and reviewing the implementation of the Washington  
32 state model protocol for commercially sexually exploited children at  
33 task force sites;

34 (b) Receiving reports and data from local and regional entities  
35 regarding the incidence of commercially sexually exploited children  
36 in their areas as well as data information regarding perpetrators,  
37 geographic data and location trends, and any other data deemed  
38 relevant;

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

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

4 (e) Making recommendations regarding policy and legislative  
5 changes that would improve the effectiveness of the state's response  
6 to and promote best practices for suppression of the commercial  
7 sexual exploitation of children;

8 (f) Making recommendations regarding data collection useful to  
9 understanding or addressing the problem of commercially sexually  
10 exploited children;

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

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

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

20 (j) Convening a meeting and providing recommendations required  
21 under section 10 of this act; and

22 (k) Compiling data on the number of juveniles believed to be  
23 victims of sexual exploitation taken into custody under RCW  
24 43.185C.260.

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

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

30 (6) This section expires June 30, 2023.

31 **Sec. 8.** RCW 43.185C.260 and 2019 c 312 s 15 are each amended to  
32 read as follows:

33 (1) A law enforcement officer shall take a child into custody:

34 (a) If a law enforcement agency has been contacted by the parent  
35 of the child that the child is absent from parental custody without  
36 consent; or

37 (b) If a law enforcement officer reasonably believes, considering  
38 the child's age, the location, and the time of day, that a child is

1 in circumstances which constitute a danger to the child's safety or  
2 that a child is violating a local curfew ordinance; or

3 (c) If an agency legally charged with the supervision of a child  
4 has notified a law enforcement agency that the child has run away  
5 from placement.

6 (2) Law enforcement custody shall not extend beyond the amount of  
7 time reasonably necessary to transport the child to a destination  
8 authorized by law and to place the child at that destination. Law  
9 enforcement custody continues until the law enforcement officer  
10 transfers custody to a person, agency, or other authorized entity  
11 under this chapter, or releases the child because no placement is  
12 available. Transfer of custody is not complete unless the person,  
13 agency, or entity to whom the child is released agrees to accept  
14 custody.

15 (3) If a law enforcement officer takes a child into custody  
16 pursuant to either subsection (1)(a) or (b) of this section and  
17 transports the child to a crisis residential center, the officer  
18 shall, within twenty-four hours of delivering the child to the  
19 center, provide to the center a written report detailing the reasons  
20 the officer took the child into custody. The center shall provide the  
21 department of children, youth, and families with a copy of the  
22 officer's report if the youth is in the care of or receiving services  
23 from the department of children, youth, and families.

24 (4) If the law enforcement officer who initially takes the  
25 juvenile into custody or the staff of the crisis residential center  
26 have reasonable cause to believe that the child is absent from home  
27 because he or she is abused or neglected, a report shall be made  
28 immediately to the department of children, youth, and families.

29 (5) Nothing in this section affects the authority of any  
30 political subdivision to make regulations concerning the conduct of  
31 minors in public places by ordinance or other local law.

32 (6) If a law enforcement officer has a reasonable suspicion that  
33 a child is being unlawfully harbored in violation of RCW 13.32A.080,  
34 the officer shall remove the child from the custody of the person  
35 harboring the child and shall transport the child to one of the  
36 locations specified in RCW 43.185C.265.

37 (7) If a law enforcement officer takes a juvenile into custody  
38 pursuant to subsection (1)(b) of this section and reasonably believes  
39 that the juvenile may be the victim of sexual exploitation, the  
40 officer shall transport the child to an evaluation and treatment

1 facility as defined in RCW 71.34.020, including the receiving centers  
2 established in section 2 of this act, for purposes of evaluation for  
3 behavioral health treatment authorized under chapter 71.34 RCW,  
4 including adolescent-initiated treatment, family-initiated treatment,  
5 or involuntary treatment.

6 (8) Law enforcement shall have the authority to take into  
7 protective custody a child who is or is attempting to engage in  
8 sexual conduct with another person for money or anything of value for  
9 purposes of investigating the individual or individuals who may be  
10 exploiting the child and deliver the child to an evaluation and  
11 treatment facility as defined in RCW 71.34.020, including the  
12 receiving centers established in section 2 of this act, for purposes  
13 of evaluation for behavioral health treatment authorized under  
14 chapter 71.34 RCW, including adolescent-initiated treatment, family-  
15 initiated treatment, or involuntary treatment.

16 (9) No child may be placed in a secure facility except as  
17 provided in this chapter.

18 **Sec. 9.** RCW 74.14B.070 and 2017 3rd sp.s. c 6 s 508 are each  
19 amended to read as follows:

20 (1) The department shall, subject to available funds, establish a  
21 system of early identification and referral to treatment of child  
22 victims of sexual assault or sexual abuse. The system shall include  
23 schools, physicians, sexual assault centers, domestic violence  
24 centers, child protective services, and foster parents. A mechanism  
25 shall be developed to identify communities that have experienced  
26 success in this area and share their expertise and methodology with  
27 other communities statewide.

28 (2) The department shall provide services to support commercially  
29 sexually exploited children.

30 (a) To provide services supporting commercially sexually  
31 exploited children, the department must provide:

32 (i) At least one liaison position in each region of the  
33 department dedicated to serving commercially sexually exploited  
34 children who report directly to the statewide program manager under  
35 (a)(ii) of this subsection; and

36 (ii) One statewide program manager.

37 (b) The department shall collect nonidentifiable data regarding  
38 the number of commercially sexually exploited children, including

1 reports of commercially sexually exploited children received from law  
2 enforcement under chapter 26.44 RCW.

3 (3) The department shall provide an annual report to the  
4 commercially sexually exploited children statewide coordinating  
5 committee established under RCW 7.68.801 by December 1st that  
6 includes:

7 (a) A description of services provided by the department to  
8 commercially sexually exploited children; and

9 (b) Nonidentifiable data regarding the number of commercially  
10 sexually exploited children.

11 (4) The department may solicit and accept gifts, grants,  
12 conveyances, bequests, and devices for supporting the purposes of  
13 this section.

14 NEW SECTION. Sec. 10. A new section is added to chapter 43.280  
15 RCW to read as follows:

16 (1) By September 1, 2020, the commercially sexually exploited  
17 children statewide coordinating committee established under RCW  
18 7.68.801 shall convene a meeting related to the role that child  
19 advocacy centers have in responding to and supporting commercially  
20 sexually exploited children.

21 (a) The meeting required under this subsection must include  
22 representatives from child advocacy centers.

23 (b) By October 1, 2020, and following the meeting required under  
24 this subsection, the commercially sexually exploited children  
25 statewide coordinating committee established under RCW 7.68.801 shall  
26 provide recommendations to the department regarding:

27 (i) Expanded use of child advocacy centers in providing  
28 additional services for commercially sexually exploited children; and

29 (ii) Ensuring that child advocacy centers connect commercially  
30 sexually exploited children with available services in the community.

31 (2) By December 1, 2020, and in compliance with RCW 43.01.036,  
32 the department must provide a report to the relevant committees of  
33 the legislature that includes:

34 (a) An inventory of the number and location of child advocacy  
35 centers in the state;

36 (b) A description of the services provided by each of the child  
37 advocacy centers in the state;

1 (c) Recommendations for expanded use of child advocacy centers in  
2 providing additional services for commercially sexually exploited  
3 children; and

4 (d) Recommendations for ensuring that child advocacy centers  
5 connect commercially sexually exploited children with available  
6 services in the community.

7 (3) For purposes of this section:

8 (a) "Child advocacy center" has the same meaning as the  
9 definition provided under RCW 26.44.020.

10 (b) "Department" means the department of commerce.

11 (4) This section expires June 30, 2021.

12 NEW SECTION. **Sec. 11.** Sections 4, 5, and 6 of this act take  
13 effect January 1, 2024.

--- END ---