
SUBSTITUTE HOUSE BILL 2076

State of Washington

68th Legislature

2024 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representatives Orwall, Mosbrucker, Leavitt, Barnard, Graham, Rule, Cheney, Reeves, and Hackney)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to addressing crimes involving human trafficking
2 or sexual exploitation; amending RCW 9A.40.100; adding a new section
3 to chapter 7.68 RCW; creating a new section; and providing expiration
4 dates.

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

6 **Sec. 1.** RCW 9A.40.100 and 2017 c 126 s 1 are each amended to
7 read as follows:

8 (1) A person is guilty of trafficking in the first degree when(~~(~~
9 ~~(a) Such person:~~

10 ~~(i) Recruits))~~ such person recruits, entices, harbors,
11 transports, ((transfers)) isolates, solicits, provides, obtains,
12 buys, purchases, maintains, or receives by any means another person
13 ~~((knowing))~~ and:

14 (a)(i) Knows, or acts in reckless disregard of the fact, ((A))
15 that force, fraud, or coercion ((as defined in RCW 9A.36.070)) will
16 be used to cause the person to engage in(~~(~~

17 ~~(I) Forced labor;~~

18 ~~(II) Involuntary servitude;~~

19 ~~(III) A sexually explicit act; or~~

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

4 ~~(ii) Benefits)) forced labor, involuntary servitude, a sexually~~
5 ~~explicit act, or a commercial sex act; or~~

6 (ii) Such person knowingly, or in reckless disregard, causes a
7 person under 18 years of age to engage in a sexually explicit act or
8 commercial sex act, or benefits financially or by receiving anything
9 of value from participation in a venture that has engaged in acts set
10 forth in (a) (i) or (ii) of this subsection; provided, that it is not
11 a defense that such person did not know, or recklessly disregarded
12 the fact, that the other person was under 18 years of age or believed
13 the other person was older, as the case may be; and

14 (b) The acts or venture set forth in (a) (i) or (ii) of this
15 subsection:

16 (i) Involve such person committing or attempting to commit
17 kidnapping;

18 (ii) Involve a finding of sexual motivation (~~under RCW~~
19 ~~9.94A.835));~~

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

21 (iv) Result in a death.

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

23 (3) ~~((a))~~ A person is guilty of trafficking in the second degree
24 when such person ~~((~~

25 ~~(i) Recruits)) recruits, entices, harbors, transports,~~
26 ~~((transfers)) isolates, solicits, provides, obtains, buys, purchases,~~
27 ~~maintains, or receives by any means another person ~~((knowing))~~ and:~~

28 (a) Knows, or acts in reckless disregard of the fact, that force,
29 fraud, or coercion ~~((as defined in RCW 9A.36.070))~~ will be used to
30 cause the person to engage in forced labor, involuntary servitude, a
31 sexually explicit act, or a commercial sex act ~~((, or that the person~~
32 has not attained the age of eighteen years and is caused to engage in
33 a sexually explicit act or a commercial sex act; or

34 ~~(ii) Benefits)) ; or~~

35 (b) Such person knowingly, or in reckless disregard, causes a
36 person under 18 years of age to engage in a sexually explicit act or
37 commercial sex act, or benefits financially or by receiving anything
38 of value from participation in a venture that has engaged in acts set
39 forth in (a) ~~((i))~~ or (b) of this subsection; provided, that it is
40 not a defense that such person did not know, or recklessly

1 disregarded the fact, that the other person was under 18 years of age
2 or believed the other person was older, as the case may be.

3 ~~((b))~~ (4) Trafficking in the second degree is a class A felony.

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

9 ~~(b))~~ (5) If the victim of any offense identified in this section
10 is a minor, then force, fraud, or coercion are not necessary elements
11 of an offense and consent to the sexually explicit act or commercial
12 sex act does not constitute a defense.

13 (6) For purposes of this section:

14 (a) "Coercion" includes, but is not limited to, the following
15 circumstances:

16 (i) Using or threatening to use physical force against any
17 person;

18 (ii) Restraining, isolating, or confining or threatening to
19 restrain, isolate, or confine any person without lawful authority and
20 against their will;

21 (iii) Using lending or other credit methods to establish a debt
22 by any person when labor or services are pledged as a security for
23 the debt, constituting debt bondage, if the value of the labor or
24 services are pledged as a security for the debt, the value of the
25 labor or services as reasonably assessed is not applied toward the
26 liquidation of the debt, or the length and nature of the labor or
27 services are not respectively limited and defined;

28 (iv) Destroying, concealing, removing, confiscating, withholding,
29 or possessing any actual or purported passport, visa, or other
30 immigration document, or any other actual or purported government
31 identification document, of any person;

32 (v) Causing or threatening to cause financial harm to any person;

33 (vi) Enticing or luring any person by fraud or deceit;

34 (vii) Providing or withholding any drug, alcohol, controlled
35 substance, property, or necessities of life including money, food,
36 lodging, or anything else of value that belongs to or was promised to
37 another person knowing that this other person will be caused to
38 engage in forced labor, involuntary servitude, a sexually explicit
39 act, or a commercial sex act;

1 (viii) Accusing any person of a crime or causing criminal charges
2 to be instituted against any person;

3 (ix) Exposing a secret or publicizing an asserted fact, whether
4 true or false, tending to subject any person to hatred, contempt, or
5 ridicule;

6 (x) Testifying or providing information, or withholding testimony
7 or information, with respect to another's legal claim or defense;

8 (xi) Taking wrongful action as an official against anyone or
9 anything, or wrongfully withholding official action, or causing such
10 action or withholding;

11 (xii) Committing any other act which is intended to harm
12 substantially the person threatened or another with respect to his or
13 her health, safety, business, financial condition, or personal
14 relationships; or

15 (xiii) Holding or returning a person to a condition of
16 involuntary servitude, debt bondage, or forced labor, with the intent
17 of placing them in or returning them to a condition of involuntary
18 servitude, debt bondage, or forced labor, where such condition is
19 based on the alleged, implied, or actual inheritance of another's
20 debt, constituting peonage.

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

24 (c) "Kidnapping" means intentionally abducting another person.

25 (d) "Maintain" means, in relation to forced labor, involuntary
26 servitude, a sexually explicit act, or a commercial sex act, to
27 secure or make possible continued performance thereof, regardless of
28 any initial agreement on the part of the victim to perform such
29 labor, servitude, or act.

30 (e) "Sexual motivation" means that one of the purposes for which
31 the defendant committed the crime was for the purpose of his or her
32 sexual gratification.

33 (f) "Sexually explicit act" means a public, private, or live
34 photographed, recorded, or videotaped act or show intended to arouse
35 or satisfy the sexual desires or appeal to the prurient interests of
36 patrons for which something of value is given or received.

37 (7) A person who is (~~either~~) convicted (~~or~~), enters into a
38 plea agreement to a reduced or different charge, is given a deferred
39 sentence or a deferred prosecution, or (~~who has entered~~) enters
40 into a statutory or nonstatutory diversion agreement as a result of

1 an arrest for a violation of a trafficking crime shall be assessed a
2 (~~ten thousand dollar~~) \$10,000 fee. The court shall not reduce,
3 waive, or suspend payment of all or part of the fee assessed in this
4 section unless it finds, on the record, that the offender does not
5 have the ability to pay the fee in which case it may reduce the fee
6 by an amount up to two-thirds of the maximum allowable fee.

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

12 ~~(d)) (8)(a) Fees assessed under this section shall be collected~~
13 ~~by the clerk of the court and remitted ((to the treasurer of the~~
14 ~~county where the offense occurred for deposit in the county general~~
15 ~~fund, except in cases in which the offense occurred in a city or town~~
16 ~~that provides for its own law enforcement, in which case these~~
17 ~~amounts shall be remitted to the treasurer of the city or town for~~
18 ~~deposit in the general fund of the city or town. Revenue from the~~
19 ~~fees must be used for local efforts to reduce the commercial sale of~~
20 ~~sex including, but not limited to, increasing enforcement of~~
21 ~~commercial sex laws.~~

22 ~~(i) At least fifty percent of the revenue from fees imposed under~~
23 ~~this section must be spent on prevention, including education~~
24 ~~programs for offenders, such as john school, and rehabilitative~~
25 ~~services, such as mental health and substance abuse counseling,~~
26 ~~parenting skills, training, housing relief, education, vocational~~
27 ~~training, drop-in centers, and employment counseling.~~

28 ~~(ii)) as follows:~~

29 (i) 45 percent to the treasurer of the county where the offense
30 occurred for deposit in the county general fund, except in cases in
31 which the offense occurred in a city or town that provides for its
32 own law enforcement, in which case these amounts shall be remitted to
33 the treasurer of the city or town for deposit in the general fund of
34 the city or town, and which must be spent on services for victims of
35 trafficking crimes in that jurisdiction;

36 (ii) 45 percent to the treasurer of the county where the offense
37 occurred for deposit in the county general fund, except in cases in
38 which the offense occurred in a city or town that provides for its
39 own law enforcement, in which case these amounts shall be remitted to
40 the treasurer of the city or town for deposit in the general fund of

1 the city or town, and which must be spent on: (A) Local efforts to
2 reduce the commercial sale of sex, including but not limited to
3 increasing enforcement of commercial sex laws; (B) prevention,
4 including education programs for offenders, such as programs to
5 educate and divert persons from soliciting commercial sexual
6 services; and (C) rehabilitative services, such as mental health and
7 substance abuse counseling, parenting skills, training, housing
8 relief, education, vocational training, drop-in centers, and
9 employment counseling; and

10 (iii) 10 percent must be retained by the clerks of the courts for
11 their official services.

12 (b) Revenues from these fees are not subject to the distribution
13 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
14 35.20.220.

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

19 ~~(6) For purposes of this section:~~

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

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

27 NEW SECTION. Sec. 2. (1) The state auditor must conduct a
28 performance audit of the collection and use of mandatory fees
29 assessed pursuant to RCW 9A.40.100. In addition to other measures
30 established by the state auditor, the audit shall:

31 (a) Determine whether jurisdictions are assessing fees consistent
32 with the requirements of RCW 9A.40.100;

33 (b) Determine whether jurisdictions are using the revenue from
34 assessed fees to fund local efforts to reduce the commercial sale of
35 sex as required by RCW 9A.40.100;

36 (c) Determine whether jurisdictions are using at least 50 percent
37 of the revenue from assessed fees on prevention and rehabilitative
38 services as required by RCW 9A.40.100; and

1 (d) If fees are not being assessed or used as required, make
2 recommendations for corrective action.

3 (2) The state auditor may conduct the audit at a sample of
4 jurisdictions as needed.

5 (3) The state auditor shall publish its final audit report no
6 later than December 31, 2025.

7 (4) This section expires January 31, 2026.

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

10 (1) Subject to the availability of funds appropriated for this
11 purpose, the commercially sexually exploited children statewide
12 coordinating committee is established to facilitate a statewide
13 coordinated response to the commercial sexual exploitation of
14 children, youth, and young adults 24 years old and younger by relying
15 on the voices of those with lived experience, qualitative and
16 quantitative data, and the collective expertise of youth-serving
17 professionals and youth policy experts to increase supports,
18 protections, and resource identification in the areas of prevention
19 and intervention with a particular emphasis on improving the response
20 of systems of care, including but not limited to child welfare,
21 juvenile criminal legal, health care, and education.

22 (2) The committee is convened by the office of the attorney
23 general with the department of commerce assisting with agenda
24 planning and administrative and clerical support. The committee
25 consists of the following members:

26 (a) One member from each of the two largest caucuses of the house
27 of representatives appointed by the speaker of the house of
28 representatives;

29 (b) One member from each of the two largest caucuses of the
30 senate appointed by the president of the senate;

31 (c) A representative of the governor's office appointed by the
32 governor;

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

35 (e) The secretary of the juvenile rehabilitation administration
36 or his or her designee;

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

38 (g) The superintendent of public instruction or his or her
39 designee;

- 1 (h) A representative of the administrative office of the courts
2 appointed by the administrative office of the courts;
- 3 (i) A representative of the Washington state patrol;
- 4 (j) The executive director of the Washington association of
5 sheriffs and police chiefs or his or her designee;
- 6 (k) The executive director of the Washington state criminal
7 justice training commission or his or her designee;
- 8 (l) A representative of the Washington association of prosecuting
9 attorneys appointed by the association;
- 10 (m) The executive director of the office of public defense or his
11 or her designee;
- 12 (n) Three representatives of community service providers that
13 provide direct services to commercially sexually exploited children
14 appointed by the attorney general;
- 15 (o) Two representatives of nongovernmental organizations familiar
16 with the issues affecting commercially sexually exploited children
17 appointed by the attorney general;
- 18 (p) The president of the superior court judges' association or
19 his or her designee;
- 20 (q) The president of the juvenile court administrators or his or
21 her designee;
- 22 (r) Any existing chairs of regional task forces on commercially
23 sexually exploited children;
- 24 (s) A representative from the criminal defense bar;
- 25 (t) A representative of the center for children and youth
26 justice;
- 27 (u) A representative from the office of crime victims advocacy;
- 28 (v) The executive director of the Washington coalition of sexual
29 assault programs;
- 30 (w) The executive director of the statewide organization
31 representing children's advocacy centers or his or her designee;
- 32 (x) A representative of an organization that provides inpatient
33 chemical dependency treatment to youth, appointed by the attorney
34 general;
- 35 (y) A representative of an organization that provides mental
36 health treatment to youth, appointed by the attorney general;
- 37 (z) A survivor of human trafficking, appointed by the attorney
38 general;
- 39 (aa) Two subject matter experts in intervention and prevention of
40 commercial sexual exploitation of children, youth, and young adults;

- 1 (bb) A representative from a youth advocacy organization;
2 (cc) A representative from the office of homeless youth;
3 (dd) A representative from a homeless youth policy advocacy
4 organization; and
5 (ee) A representative from the LGBTQ+ community.

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

7 (a) Overseeing and reviewing the implementation of the Washington
8 state model protocol for commercially sexually exploited children at
9 task force sites;

10 (b) Receiving reports and data from local and regional entities
11 regarding the incidence of commercially sexually exploited children
12 in their areas as well as data information regarding perpetrators,
13 geographic data and location trends, and any other data deemed
14 relevant;

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

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

20 (e) Making recommendations regarding policy and legislative
21 changes that would improve the effectiveness of the state's response
22 to and promote best practices for suppression of the commercial
23 sexual exploitation of children;

24 (f) Making recommendations regarding data collection useful to
25 understanding or addressing the problem of commercially sexually
26 exploited children;

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

30 (h) Compiling data on the number of juveniles believed to be
31 victims of sexual exploitation taken into custody under RCW
32 43.185C.260;

33 (i) Making recommendations on how to fulfill and improve
34 Washington's safe harbor law, chapter 331, Laws of 2020 (Engrossed
35 Third Substitute House Bill 1775), including addressing the lack of
36 receiving centers; and

37 (j) Coordinating efforts on behalf of commercially sexually
38 exploited children and youth across the state so as to avoid
39 duplicative efforts, use resources more efficiently, and increase
40 awareness of available resources.

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

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

6 (6) This section expires June 30, 2030.

--- **END** ---