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**SUBSTITUTE SENATE BILL 6131**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Fairley, Fraser, Kohl, Quigley and Rasmussen)

Read first time 01/30/96.

1 AN ACT Relating to a civil action as a remedy for coercion in the  
2 making of sexually explicit films or videos; adding new sections to  
3 chapter 9.68 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that preventing and  
6 remedying sexual exploitation is a government objective of extreme  
7 importance. The legislature further finds that individuals have been  
8 coerced into performing sexual acts in films and other media for the  
9 financial gain of others. The legislature also finds that the victim  
10 is further victimized when the reproduction of the sexual exploitation  
11 is viewed by others.

12 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
13 otherwise, the definitions in this section apply throughout sections 3  
14 through 6 of this act.

15 (1) "Coerced" means that coercion as defined in RCW 9A.36.070 has  
16 been applied.

17 (2) "Sexually explicit conduct" has the same meaning as in RCW  
18 9.68A.011(3) (a),(b),(c),(d), and (f).

1        NEW SECTION.    **Sec. 3.** Any person who is coerced into performing  
2 sexually explicit conduct in a film or video may bring a cause of  
3 action against any person who coerced the person into the performance.  
4 If the court or jury finds that the performance is the result of  
5 coercion, the court shall order that the original and all copies of the  
6 film or video in the possession or control of the defendant or  
7 defendants be surrendered to the court for destruction and may award  
8 actual damages, punitive damages of up to fifty thousand dollars,  
9 injunctive relief including the prevention of any further display of  
10 the coerced performance, attorneys' fees, and court costs.

11        NEW SECTION.    **Sec. 4.** After a court or jury has found that a  
12 performance is the result of coercion under section 3 of this act, the  
13 coerced person may file an action against any person who has been  
14 served with a copy of the judgment obtained under section 3 of this act  
15 and who makes, copies, distributes, exhibits, or sells a film or video  
16 of the performance. If the plaintiff prevails in this action, the  
17 court may award damages, injunctive relief including the prevention of  
18 any further display of the coerced performance, attorneys' fees, and  
19 court costs. The court shall also order that the original and all  
20 copies of the film or video in the possession or control of the  
21 defendant or defendants in this action be surrendered to the court for  
22 destruction.

23        NEW SECTION.    **Sec. 5.** If the film or video containing the coerced  
24 performance is enjoined from further display under section 3 or 4 of  
25 this act, a purchaser of the product containing the coerced performance  
26 is entitled to be reimbursed by the seller for the actual cost of the  
27 product and may bring an action in any court to enforce this section.  
28 Any person who prevails in a court action for reimbursement under this  
29 section shall be awarded attorneys' fees and court costs. All copies  
30 of the film or video that are subject to reimbursement under this  
31 section shall be surrendered to the court for destruction.

32        NEW SECTION.    **Sec. 6.** (1) A claim brought under sections 3 through  
33 5 of this act shall not expire before six years have elapsed from the  
34 date of the coerced performance or performances or from the last  
35 appearance or sale of any product of the performance or performances,  
36 whichever date is later, except that if the person who is coerced is

1 under eighteen years of age at the time of the coerced performance or  
2 performances, the claim shall not expire before six years have elapsed  
3 from the coerced person's eighteenth birthday.

4 (2) A court or jury may find that coercion occurred despite the  
5 proof of any of the following:

6 (a) The person is or has been a prostitute;

7 (b) The person has attained the age of majority;

8 (c) The person is connected by blood or marriage to anyone involved  
9 in or related to the making of the film or video;

10 (d) The person has previously had, or been thought to have had,  
11 sexual relations with anyone, including anyone involved in or related  
12 to the making of the film or video;

13 (e) The person has previously posed for sexually explicit pictures  
14 for or with anyone, including anyone involved in or related to the  
15 making of the film or video that is the subject of the claim;

16 (f) Anyone else, including a spouse or other relative, has given  
17 permission on the person's behalf;

18 (g) The person knew the purpose of the acts or events in question  
19 was to make the film or video;

20 (h) The person showed no resistance or appeared to cooperate  
21 actively in the photographic sessions or in the events that produced  
22 the film or video;

23 (i) The person signed a contract, or made statements affirming a  
24 willingness to cooperate in the production of the film or video;

25 (j) No physical force or weapons were used in the making of the  
26 film or video;

27 (k) The person was paid or otherwise compensated.

28 NEW SECTION. **Sec. 7.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act are each  
33 added to chapter 9.68 RCW.

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