

SENATE BILL REPORT

ESSB 6476

As Amended by House, March 9, 2010

Title: An act relating to sex crimes involving minors.

Brief Description: Revising provisions relating to sex crimes involving minors.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach and Kohl-Welles).

Brief History:

Committee Activity: Human Services & Corrections: 1/22/10, 2/03/10 [DPS].

Passed Senate: 2/13/10, 45-0; 3/09/10, 47-0.

Passed House: 3/03/10, 98-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6476 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Jennifer Strus (786-7316)

Background: The crime of sexual abuse of a minor is a class C felony. The crime of promoting commercial sexual abuse of a minor is a class B felony. Persons convicted of sexual abuse of a minor or who receive a deferred sentence or deferred prosecution or who have entered into a statutory or non-statutory diversion agreement must be assessed a \$550 fee.

Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the 1st degree, promoting prostitution in the 2nd degree, promoting travel for prostitution, commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting office may impound the person's vehicle if the vehicle was used in the commission of the crime; if the person arrested is the owner of the vehicle or the vehicle is a rental car; and the person arrested had been previously convicted for one of the above offenses or the offense occurred in an area

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designated by local government. The owner must pay a fine of \$500 to the impounding agency, among other fees, to redeem his or her vehicle.

When a prosecutor receives a complaint that a juvenile has committed a crime, and there is sufficient evidence that the juvenile did commit the offense, the prosecutor may either file an information in juvenile court or divert the case depending on the type and level of crime alleged to have been committed. A juvenile alleged to have committed prostitution or prostitution loitering may be diverted if the county in which the offense occurred has a program that provides safe and stable housing, comprehensive on-site case management, integrated mental health and chemical dependency services, education and employment training, and referrals to specialized services.

A child in need of services (CHINS) is a juvenile who: (1) is beyond the control of his or her parents; (2) has been reported to the police as absent without consent for at least 24 hours on two or more occasions and (a) has exhibited a serious substance abuse problem, or (b) has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or (3) is in need of necessary services or services designed to maintain or reunify the family. When a juvenile meets the CHINS definition, a CHINS petition can be filed with the court seeking services and assistance from the Department of Social and Health Services (DSHS).

Crime victims are not entitled to crime victim compensation benefits when the injury for which benefits are sought was (1) the result of consent, provocation or incitement by the victim, unless the injury resulting from a criminal act caused the victim's death; (2) sustained while the crime victim was engaged in the attempt to commit or in the commission of a felony; or (3) sustained while the victim was confined in a jail or correctional facility operated by DSHS.

Summary of Engrossed Substitute Bill: If a juvenile is alleged to have committed the offense of prostitution or prostitution loitering and this is the juvenile's first offense, the prosecutor must divert the case. For subsequent allegations that the same minor has committed the above offenses, the prosecutor may either file an information in juvenile court or divert the case depending on the type of crime alleged and the level of the crime.

If a juvenile is a sexually exploited child, a petition may be filed alleging that the juvenile is a child in need of supervision. A sexually exploited child is defined as any person under the age of 18 who is a victim of the crime of commercial sexual abuse of a minor, and promoting sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor. Within available funding, when a sexually exploited child is referred to DSHS, DSHS must connect the child with services and treatment for sexually abused youth.

A juvenile charged with prostitution who is also the victim in a commercial sexual abuse of a minor, promoting sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor charge is nevertheless considered a victim of a criminal act for purposes of qualifying to receive benefits from the Crime Victim's Compensation fund.

Designated receipts from the fines levied on those convicted of commercial sexual abuse of a minor, promoting sexual abuse of a minor, and promoting travel for commercial sexual abuse

of a minor that are deposited into the prostitution prevention and intervention account must be spent as follows: half for secure and semi-secure crisis residence centers to provide for staff trained to work with sexually exploited children and half for funding the grant program to enhance prostitution and intervention services.

It is not a defense to the crime of commercial sexual abuse of a minor that the defendant did not know the age of the victim.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: In America, a girl who is charged with prostitution is criminalized and the man who pays her is not, or if he is charged, it is a minor crime. The bill allows for five days in a secure crisis residence center and that is not enough time - it is hard to take these girls from their environment and help them change their lives. This bill is needed so they can be helped. They need a safe place to go. It is important to fine the pimps and the johns and so the increase in the fine in this bill is a good thing. The impoundment of the cars portion of the bill is also good. Diverting teens from an adjudication for prostitution is not good enough because they are still criminalized. The portion of the bill that adds to the definition of CHINS does not capture prostitution loitering and it should. There should be services available to these youth that go beyond their 18th birthday. To qualify for crime victims compensation benefits, the victim needs to assist in the prosecution of the perpetrator - the victims should not be required to do this and the law should be changed to reflect this. A well trained victim specialist is needed to work with these youth. This bill will provide improvements to the plight of domestic minor trafficking.

Persons Testifying: PRO: Rose Gunderson, Seattle Against Slavery; Bob Higley, citizen; Linda Smith, Briana LNU, Shared Hope International; Sheila Houston, New Horizons; Catherine Elliott, Washington Defense Lawyers/Washington Association of Criminal Defense Lawyers; Marc Boldt, Child Abuse Intervention Center.

House Amendment(s): The provision adding sexually exploited child to the definition of a Child in Need of Services (CHINS) takes effect on July 1, 2011. Adds a requirement that by November 1, 2010, DSHS must report to the Legislature regarding the training needed to equip staff at crisis residential centers and with the Children's Administration to work with sexually exploited children. The report is to identify evidence-based programs to be used and the costs associated with those programs. Adds a priority list by which funds in the Prostitution Prevention and Intervention Account must be spent. Removes the expiration date on the statutes governing the prostitution diversion community programs.