

HOUSE BILL REPORT

ESSB 6252

As Passed House:
February 27, 2012

Title: An act relating to commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree.

Brief Description: Addressing commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Zarelli, Kohl-Welles, Shin, Conway, Eide, Chase, Delvin, Litzow, Stevens, Fraser, Pflug, Regala, Nelson, Keiser and Roach).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/15/12, 2/21/12 [DP].

Floor Activity:

Passed House: 2/27/12, 96-0.

Brief Summary of Engrossed Substitute Bill

- Includes Commercial Sexual Abuse of a Minor and Promoting Commercial Sexual Abuse of a Minor under the definition of criminal profiteering.
- Allows victims and prosecuting attorneys to sue to recover damages and civil penalties for Commercial Sex Abuse of a Minor, Promoting Commercial Sex Abuse of a Minor, and Promoting Prostitution in the first degree.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 11 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Sarah Koster (786-7303).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Criminal profiteering is any act that is committed for financial gain and which is chargeable as one of a list of 43 offenses, even if the act is not charged or indicted. The offenses listed include, but are not limited to: Murder, Kidnapping, Theft, Extortion, Leading Organized Crime, Sexual Exploitation of Children, Mortgage Fraud, Unlicensed Practice of a Profession, and Unlawful Possession of Fictitious Identification.

A pattern of criminal profiteering is at least three acts of criminal profiteering in a five-year period with similar intent, results, accomplices, principals, victims, or methods of commission.

A person who sustains injury to his or her person, business, or property by an act of criminal profiteering that is part of a pattern of criminal profiteering activity may file an action in superior court for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees. Also, a person who sustains injury from an act of Trafficking, Leading Organized Crime, or Use of Proceeds of Criminal Profiteering may file such an action, even if the offense was not part of a pattern of criminal profiteering.

Alternately, the Attorney General or a county's prosecuting attorney may file a civil action based on criminal profiteering, Use of Proceeds of Criminal Profiteering, Trafficking, or Leading Organized Crime. An action filed by a prosecutor can be:

- on behalf of those persons injured;
- on behalf of the state or a county, if injured; or
- to prevent, restrain, or remedy a pattern of criminal profiteering activity or a violation of Trafficking, Leading Organized Crime, or Use of Proceeds of Criminal Profiteering.

In the first two types of actions, the court may award damages and costs. In the third type of action, the court may impose a civil penalty of up to \$250,000 and issue orders to prevent, restrain or remedy a pattern of criminal profiteering activity or a violation of Trafficking, Leading Organized Crime, or Use of Proceeds of Criminal Profiteering. Such orders may include: mandatory dissolution of an enterprise or divesture of a person's interest in that enterprise; payment of triple damages to persons injured; and forfeiture to individuals injured, then the state.

Summary of Bill:

An act which could be chargeable as Commercial Sexual Abuse of a Minor or Promoting Commercial Sexual Abuse of a Minor and was committed for financial gain is included in the definition of criminal profiteering.

A person injured by an act of Commercial Sexual Abuse of a Minor, Promoting Sexual Abuse of a Minor, or Promoting Prostitution in the first degree may file an action for the recovery of damages and the costs of the suit. Similarly, the Attorney General or a county prosecutor may file an action on behalf of the injured person or the county or state to recover damages, impose a civil penalty, or prevent or remedy an offense.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is part of a package of 10 bills with bipartisan support. The 2012 legislative session is the tenth anniversary of Washington's first anti-trafficking legislation. Washington has led the way for the country on this issue. These bills will reduce the harm of childhood sexual abuse. Pimps of child victims should not be allowed to keep the gains of their actions. This bill includes civil liability in the field of crime. You can be sued for a particular series of crimes. Commercial Sexual Abuse of a Minor and Promoting Commercial Sexual Abuse of a Minor are added to the list of crimes. This bill should include Promoting Prostitution in the definition of criminal profiteering.

(Opposed) None.

Persons Testifying: Senator Kline, prime sponsor; Senator Kohl-Welles; Chris Johnson, Office of the Attorney General; Velma Veloria and Sutapa Basu, University of Washington Women's Center; Emma Catague, Asian and Pacific Islander Women and Family Safety Center; Rose Gundersen, Washington Engage; and Craig Engelking and Jim Pugel, City of Seattle Police Department.

Persons Signed In To Testify But Not Testifying: None.