
SENATE BILL 6260

State of Washington

62nd Legislature

2012 Regular Session

By Senators Delvin, Kohl-Welles, Regala, Roach, Conway, Carrell, Shin, Eide, Ericksen, Litzow, Chase, and Stevens

Read first time 01/16/12. Referred to Committee on Judiciary.

1 AN ACT Relating to criminal offenses; amending RCW 9A.40.100,
2 9A.44.128, 9A.88.120, and 9.68A.105; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.40.100 and 2011 c 111 s 1 are each amended to read
5 as follows:

6 (1)(a) A person is guilty of trafficking in the first degree when:

7 (i) Such person:

8 (A) Recruits, harbors, transports, transfers, provides, obtains, or
9 receives by any means another person knowing that force, fraud, or
10 coercion as defined in RCW 9A.36.070 will be used to cause the person
11 to engage in forced labor, involuntary servitude, or a commercial sex
12 act; or

13 (B) Benefits financially or by receiving anything of value from
14 participation in a venture that has engaged in acts set forth in
15 (a)(i)(A) of this subsection; and

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

17 (A) Involve committing or attempting to commit kidnapping;

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

19 (C) Involve the illegal harvesting or sale of human organs; or

1 (D) Result in a death.

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

3 (2)(a) A person is guilty of trafficking in the second degree when
4 such person:

5 (i) Recruits, harbors, transports, transfers, provides, obtains, or
6 receives by any means another person knowing that force, fraud, or
7 coercion as defined in RCW 9A.36.070 will be used to cause the person
8 to engage in forced labor, involuntary servitude, or a commercial sex
9 act; or

10 (ii) Benefits financially or by receiving anything of value from
11 participation in a venture that has engaged in acts set forth in (a)(i)
12 of this subsection.

13 (b) Trafficking in the second degree is a class A felony.

14 (3)(a) A person who is either convicted or given a deferred
15 sentence or a deferred prosecution or who has entered into a statutory
16 or nonstatutory diversion agreement as a result of an arrest for a
17 violation of a trafficking crime shall be assessed a three thousand
18 dollar fee.

19 (b) The total fee collected by the court shall not exceed the
20 amount of the greatest fee that may be imposed by statute, local
21 ordinance, or code.

22 (c) The fee imposed shall be collected by the clerk of the court
23 and distributed each month to the state treasurer for deposit in the
24 prostitution prevention and intervention account under RCW 43.63A.740
25 for the purpose of funding prostitution prevention and intervention
26 activities.

27 **Sec. 2.** RCW 9A.44.128 and 2011 c 337 s 2 are each amended to read
28 as follows:

29 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
30 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

31 (1) "Business day" means any day other than Saturday, Sunday, or a
32 legal local, state, or federal holiday.

33 (2) "Conviction" means any adult conviction or juvenile
34 adjudication for a sex offense or kidnapping offense.

35 (3) "Disqualifying offense" means a conviction for: Any offense
36 that is a felony; a sex offense as defined in this section; a crime
37 against children or persons as defined in RCW 43.43.830(5) and

1 9.94A.411(2)(a); an offense with a domestic violence designation as
2 provided in RCW 10.99.020; permitting the commercial sexual abuse of a
3 minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88
4 RCW.

5 (4) "Employed" or "carries on a vocation" means employment that is
6 full time or part time for a period of time exceeding fourteen days, or
7 for an aggregate period of time exceeding thirty days during any
8 calendar year. A person is employed or carries on a vocation whether
9 the person's employment is financially compensated, volunteered, or for
10 the purpose of government or educational benefit.

11 (5) "Fixed residence" means a building that a person lawfully and
12 habitually uses as living quarters a majority of the week. Uses as
13 living quarters means to conduct activities consistent with the common
14 understanding of residing, such as sleeping; eating; keeping personal
15 belongings; receiving mail; and paying utilities, rent, or mortgage.
16 A nonpermanent structure including, but not limited to, a motor home,
17 travel trailer, camper, or boat may qualify as a residence provided it
18 is lawfully and habitually used as living quarters a majority of the
19 week, primarily kept at one location with a physical address, and the
20 location it is kept at is either owned or rented by the person or used
21 by the person with the permission of the owner or renter. A shelter
22 program may qualify as a residence provided it is a shelter program
23 designed to provide temporary living accommodations for the homeless,
24 provides an offender with a personally assigned living space, and the
25 offender is permitted to store belongings in the living space.

26 (6) "In the community" means residing outside of confinement or
27 incarceration for a disqualifying offense.

28 (7) "Institution of higher education" means any public or private
29 institution dedicated to postsecondary education, including any
30 college, university, community college, trade, or professional school.

31 (8) "Kidnapping offense" means:

32 (a) The crimes of kidnapping in the first degree, kidnapping in the
33 second degree, and unlawful imprisonment, as defined in chapter 9A.40
34 RCW, where the victim is a minor and the offender is not the minor's
35 parent;

36 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
37 attempt, criminal solicitation, or criminal conspiracy to commit an

1 offense that is classified as a kidnapping offense under this
2 subsection; and

3 (c) Any federal or out-of-state conviction for: An offense for
4 which the person would be required to register as a kidnapping offender
5 if residing in the state of conviction; or, if not required to register
6 in the state of conviction, an offense that under the laws of this
7 state would be classified as a kidnapping offense under this
8 subsection.

9 (9) "Lacks a fixed residence" means the person does not have a
10 living situation that meets the definition of a fixed residence and
11 includes, but is not limited to, a shelter program designed to provide
12 temporary living accommodations for the homeless, an outdoor sleeping
13 location, or locations where the person does not have permission to
14 stay.

15 (10) "Sex offense" means:

16 (a) Any offense defined as a sex offense by RCW 9.94A.030;

17 (b) Any violation under RCW 9A.44.096 (sexual misconduct with a
18 minor in the second degree);

19 (c) Any violation under RCW 9.68A.090 (communication with a minor
20 for immoral purposes);

21 (d) A second or subsequent violation under RCW 9A.88.070 (promoting
22 prostitution in the first degree) or RCW 9A.88.080 (promoting
23 prostitution in the second degree);

24 (e) A second or subsequent violation under RCW 9A.88.110
25 (patronizing a prostitute);

26 (f) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
27 criminal attempt, criminal solicitation, or criminal conspiracy to
28 commit an offense that is classified as a sex offense under RCW
29 9.94A.030 or this subsection;

30 ((+e)) (g) Any out-of-state conviction for an offense for which
31 the person would be required to register as a sex offender while
32 residing in the state of conviction; or, if not required to register in
33 the state of conviction, an offense that under the laws of this state
34 would be classified as a sex offense under this subsection;

35 ((+f)) (h) Any federal conviction classified as a sex offense
36 under 42 U.S.C. Sec. 16911 (SORNA);

37 ((+g)) (i) Any military conviction for a sex offense. This

1 includes sex offenses under the uniform code of military justice, as
2 specified by the United States secretary of defense;

3 ~~((h))~~ (j) Any conviction in a foreign country for a sex offense
4 if it was obtained with sufficient safeguards for fundamental fairness
5 and due process for the accused under guidelines or regulations
6 established pursuant to 42 U.S.C. Sec. 16912.

7 (11) "School" means a public or private school regulated under
8 Title 28A RCW or chapter 72.40 RCW.

9 (12) "Student" means a person who is enrolled, on a full-time or
10 part-time basis, in any school or institution of higher education.

11 **Sec. 3.** RCW 9A.88.120 and 2007 c 368 s 12 are each amended to read
12 as follows:

13 (1)(a) In addition to penalties set forth in RCW 9A.88.010~~((7))~~ and
14 9A.88.030~~((, and 9A.88.090))~~, a person who is either convicted or given
15 a deferred sentence or a deferred prosecution or who has entered into
16 a statutory or nonstatutory diversion agreement as a result of an
17 arrest for violating RCW 9A.88.010, 9A.88.030, ~~((9A.88.090,))~~ or
18 comparable county or municipal ordinances shall be assessed a fifty
19 dollar fee.

20 (b) In addition to penalties set forth in RCW 9A.88.090, a person
21 who is either convicted or given a deferred sentence or a deferred
22 prosecution or who has entered into a statutory or nonstatutory
23 diversion agreement as a result of an arrest for violating RCW
24 9A.88.090 or comparable county or municipal ordinances shall be
25 assessed a one thousand five hundred dollar fee for the first offense,
26 a two thousand five hundred dollar fee for a second offense, and a five
27 thousand dollar fee for each subsequent offense. The total fee
28 collected by the court shall not exceed the amount of the greatest fee
29 that may be imposed by statute, local ordinance, or code.

30 (c) In addition to penalties set forth in RCW 9A.88.110, a person
31 who is either convicted or given a deferred sentence or a deferred
32 prosecution or who has entered into a statutory or nonstatutory
33 diversion agreement as a result of an arrest for violating RCW
34 9A.88.110 or a comparable county or municipal ordinance shall be
35 assessed a one thousand five hundred ~~((fifty))~~ dollar fee for the first
36 offense and a two thousand five hundred dollar fee for each subsequent
37 offense.

1 (~~(e)~~) (d) In addition to penalties set forth in RCW 9A.88.070 and
2 9A.88.080, a person who is either convicted or given a deferred
3 sentence or a deferred prosecution or who has entered into a statutory
4 or nonstatutory diversion agreement as a result of an arrest for
5 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal
6 ordinances shall be assessed a (~~three~~) two thousand five hundred
7 dollar fee for the first offense and a three thousand five hundred
8 dollar fee for each subsequent offense. The total fee collected by the
9 court shall not exceed the amount of the greatest fee that may be
10 imposed by statute, local ordinance, or code.

11 (2)(a) The court may not suspend payment of all or part of the fee
12 unless it finds, on the record, that the person does not have the
13 ability to pay.

14 (b) The court shall not suspend payment of all or part of the fee
15 if the offender entered into a statutory or nonstatutory diversion
16 agreement.

17 (3)(a) When a minor has been adjudicated a juvenile offender or has
18 entered into a statutory or nonstatutory diversion agreement for an
19 offense which, if committed by an adult, would constitute a violation
20 under this chapter or comparable county or municipal ordinances, the
21 court shall assess the fee as specified under subsection (1) of this
22 section. The court may not suspend payment of all or part of the fee
23 unless it finds, on the record, that the minor does not have the
24 ability to pay the fee.

25 (b) The court shall not suspend payment of all or part of the fee
26 if the offender entered into a statutory or nonstatutory diversion
27 agreement.

28 (4) Any fee assessed under this section shall be collected by the
29 clerk of the court and distributed each month to the state treasurer
30 for deposit in the prostitution prevention and intervention account
31 under RCW 43.63A.740 for the purpose of funding prostitution prevention
32 and intervention activities.

33 (5) For the purposes of this section:

34 (a) "Statutory or nonstatutory diversion agreement" means an
35 agreement under RCW 13.40.080 or any written agreement between a person
36 accused of an offense listed in subsection (1) of this section and a
37 court, county, or city prosecutor, or designee thereof, whereby the
38 person agrees to fulfill certain conditions in lieu of prosecution.

1 (b) "Deferred sentence" means a sentence that will not be carried
2 out if the defendant meets certain requirements, such as complying with
3 the conditions of probation.

4 **Sec. 4.** RCW 9.68A.105 and 2010 c 289 s 15 are each amended to read
5 as follows:

6 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
7 9.68A.101, and 9.68A.102, a person who is either convicted or given a
8 deferred sentence or a deferred prosecution or who has entered into a
9 statutory or nonstatutory diversion agreement as a result of an arrest
10 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable
11 county or municipal ordinance shall be assessed a five thousand dollar
12 fee.

13 (b) The court may not suspend payment of all or part of the fee
14 unless it finds, on the record, that the person does not have the
15 ability to pay.

16 (c) The court shall not suspend payment of all or part of the fee
17 if the offender entered into a statutory or nonstatutory diversion
18 agreement.

19 (d) When a minor has been adjudicated a juvenile offender or has
20 entered into a statutory or nonstatutory diversion agreement for an
21 offense which, if committed by an adult, would constitute a violation
22 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or
23 municipal ordinance, the court shall assess the fee under (a) of this
24 subsection. The court may not suspend payment of all or part of the
25 fee unless it finds, on the record, that the minor does not have the
26 ability to pay the fee.

27 (e) The court shall not suspend payment of all or part of the fee
28 if the offender entered into a statutory or nonstatutory diversion
29 agreement.

30 (2) The fee assessed under subsection (1) of this section shall be
31 collected by the clerk of the court and distributed each month to the
32 state treasurer for deposit in the prostitution prevention and
33 intervention account under RCW 43.63A.740 for the purpose of funding
34 prostitution prevention and intervention activities.

35 (3) For the purposes of this section:

36 (a) "Statutory or nonstatutory diversion agreement" means an
37 agreement under RCW 13.40.080 or any written agreement between a person

1 accused of an offense listed in subsection (1) of this section and a
2 court, county or city prosecutor, or designee thereof, whereby the
3 person agrees to fulfill certain conditions in lieu of prosecution.

4 (b) "Deferred sentence" means a sentence that will not be carried
5 out if the defendant meets certain requirements, such as complying with
6 the conditions of probation.

--- END ---