

# SENATE BILL REPORT

## SB 5488

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As Passed Senate, March 4, 2013

**Title:** An act relating to establishing an enhanced penalty for the use of an internet advertisement to facilitate the commission of a sex-trafficking crime.

**Brief Description:** Establishing an enhanced penalty for the use of an internet advertisement to facilitate the commission of a sex-trafficking crime.

**Sponsors:** Senators Kohl-Welles, Padden, Kline, Darneille, Fraser, Ranker, Keiser, Delvin, Carrell, McAuliffe, Chase and Conway.

**Brief History:**

**Committee Activity:** Law & Justice: 2/13/13, 2/18/13 [DP].

Passed Senate: 3/04/13, 49-0.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

**Staff:** Jessica Stevenson (786-7465)

**Background:** Human trafficking is a growing criminal enterprise. Although trafficking affects many states across the country, the ports and international border in Washington State make it prone to trafficking. Additionally, the internet has become a prominent vehicle for sex trafficking of young adults and minors because more people can be solicited through online advertisements.

Commercial sexual abuse of a minor, a class B felony, occurs when a person pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with that person, pays or agrees to pay a fee to a minor or third person pursuant to an understanding that in return the minor will engage in sexual conduct with that person, or solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee. In addition to penalties imposed for a class B felony, the court must require that the person is not subsequently arrested for patronizing a prostitute or commercial sexual abuse of a minor, remains outside the geographical area in which the person was arrested, and completes a program designed to educate about the negative costs of prostitution.

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*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.*

Promoting commercial sexual abuse of a minor, a class A felony, occurs when a person knowingly advances commercial sexual abuse or a sexually explicit act of a minor or profits from a minor engaged in sexual conduct or a sexually explicit act.

Promoting travel for commercial sexual abuse of a minor, a class C felony, occurs when a person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

Advertising commercial sexual abuse of a minor, a class C felony, occurs when a person knowingly publishes, disseminates, or displays, or causes directly or indirectly to be published, disseminated, or displayed any advertisement for a commercial sex act, which is to occur in Washington and depicts a minor.

**Summary of Bill:** In addition to other penalties imposed for sexual exploitation of a child, a fee of \$5,000 must be imposed when a person is convicted of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor and the court finds that an internet advertisement that described or depicted the victim of the crime was instrumental in facilitating the commission of the crime.

All fees collected must be deposited in the prostitution prevention and intervention account.

Internet advertisement is defined as a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse in exchange for something of value.

The offense of advertising commercial sexual abuse of a minor is repealed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Some of the internet venues, such as backpage.com, do not have any way of determining age for the person responding to the advertisement or for the person depicted in the advertisement. The pictures in some of the ads are symbolic by including items that are generally used by children, such as a swing. The average age of minors who are recruited by pimps into trafficking is 12 to 14 years old, which makes them particularly vulnerable. Minors are frequently sought at malls and bus stops. Police see victims of sex trafficking on a weekly basis, and the horrific stories from victims continue to get worse. Law enforcement needs more tools and funding to help victims. The bill should be passed since it takes a victim-centered approach. Once rescued, many victims have no sense of normalcy. The method of funding should be amended because depositing the fees into the prostitution prevention account will delay law

enforcement receiving funding for enforcing trafficking laws. The monetary penalties for sex trafficking should be very high. The internet is a powerful tool, and it should not be used to destroy the lives of young adults. Washington needs to be a safe haven for children to experience a full childhood. Trafficking is an abuse of humanity and an assault on the human spirit since it treats children as sexual commodities. The bill is important for preventing trafficking. Fraud, coercion, and forceful measures are used against the victims if they do not meet their quota for the day. Many victims are introduced to drugs during trafficking.

CON: The bill is constitutional, but a fine will be ineffective in deterring individuals from committing sex trafficking crimes. Imprisonment penalties for sex trafficking of minors are quite lengthy so the person will be more concerned about imprisonment time than fines. Many people who commit sex trafficking crimes have an offender score, which will increase their imprisonment time.

OTHER: Since this law does not target speech, it should be considered constitutional.

**Persons Testifying:** PRO: Senator Kohl-Welles, prime sponsor; Dick Reed, Seattle Police Department; Andy Connor, Joel Banks, King County Sherriff's Office, The Genesis Project; Rose Gunderson, WA Engage; Tim Heffer, Justice and Mercy Foundation; Nick Lembo, Jo Lembo, Overcomer Covenant Church.

CON: Thomas Weaver, WA Assn. of Criminal Defense Lawyers, WA Defenders Assn.

OTHER: Lana Weinman, Attorney General's Office.