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**SUBSTITUTE SENATE BILL 5744**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Dhingra, Das, Randall, Darneille, Hasegawa, Saldaña, Keiser, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to commercially sexually exploited children;  
2 amending RCW 9A.88.030, 13.40.070, 13.40.213, 7.68.801, and  
3 43.185C.260; adding a new section to chapter 7.68 RCW; creating a new  
4 section; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that child  
7 prostitution is a form of commercial sexual exploitation of children.  
8 The legislature further finds that commercial sexual exploitation of  
9 children is a critical human rights and public health issue, leaving  
10 especially vulnerable youth at substantial risk of physical harm,  
11 substantial pain, and trauma. The children who are exploited in this  
12 manner should be treated as the victims that they are and not as  
13 criminals. In making this shift in response to these children, law  
14 enforcement will have the authority to take into custody children who  
15 are or are attempting to engage in sexual conduct with another person  
16 for money or anything of value for purposes of investigating the  
17 individual or individuals who may be exploiting that child and  
18 delivering the child to a service resource.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.68 RCW  
20 to read as follows:

1 (1) Subject to the availability of amounts appropriated for this  
2 specific purpose, the office of homeless youth prevention and  
3 protection programs shall administer funding for two receiving center  
4 programs for commercially sexually exploited youth. One of these  
5 programs must be located west of the crest of the Cascade mountains  
6 and one of these programs must be located east of the crest of the  
7 Cascade mountains. Law enforcement and service providers may refer  
8 youth to these programs or youth may self-refer into these programs.

9 (2) The receiving center programs established under this section  
10 shall:

11 (a) Begin providing services by January 1, 2020;

12 (b) Develop, in consultation with the office of homeless youth  
13 prevention and protection programs, the eligibility criteria for  
14 serving commercially sexually exploited youth that allows referral  
15 from service providers and prioritizes referral from law enforcement;  
16 and

17 (c) Provide ongoing case management for all youth who are being  
18 served or were served by the programs.

19 (3) The receiving centers established under this section shall:

20 (a) Include a short-term evaluation function that is accessible  
21 twenty-four hours per day seven days per week that has the capacity  
22 to evaluate the immediate needs of commercially sexually exploited  
23 youth ages twelve through seventeen and either meet those immediate  
24 needs or refer those youth to the appropriate services;

25 (b) Provide licensed residential substance use disorder and  
26 mental health treatment up to one year at the same location as the  
27 site with a short-term evaluation function;

28 (c) Assess youth for mental health and substance use disorder  
29 needs and provide appropriate referrals as needed; and

30 (d) Provide individual and group counseling focused on developing  
31 and strengthening coping skills, and improving self-esteem and  
32 dignity.

33 (4) The office of homeless youth prevention and protection  
34 programs shall:

35 (a) Collect nonidentifiable demographic data of the youth served  
36 by the programs established under this section;

37 (b) Collect data regarding the locations that youth exit to after  
38 being served by the programs; and

1 (c) Report the data described in this subsection along with  
2 recommendations for modification or expansion of these programs to  
3 the relevant committees of the legislature by December 1, 2022.

4 (5) For the purposes of this section, the following definitions  
5 apply:

6 (a) "Receiving center" means a trauma-informed, secure location  
7 that meets the multidisciplinary needs of commercially sexually  
8 exploited youth ages twelve through seventeen; and

9 (b) "Short-term evaluation function" means a short-term emergency  
10 shelter that is accessible twenty-four hours per day seven days per  
11 week that has the capacity to evaluate the immediate needs of  
12 commercially sexually exploited youth under age eighteen and either  
13 meet those immediate needs or refer those youth to the appropriate  
14 services.

15 **Sec. 3.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to  
16 read as follows:

17 (1) A person age eighteen or older is guilty of prostitution if  
18 such person engages or agrees or offers to engage in sexual conduct  
19 with another person in return for a fee.

20 (2) For purposes of this section, "sexual conduct" means "sexual  
21 intercourse" or "sexual contact," both as defined in chapter 9A.44  
22 RCW.

23 (3) Prostitution is a misdemeanor.

24 **Sec. 4.** RCW 13.40.070 and 2018 c 82 s 1 are each amended to read  
25 as follows:

26 (1) Complaints referred to the juvenile court alleging the  
27 commission of an offense shall be referred directly to the  
28 prosecutor. The prosecutor, upon receipt of a complaint, shall screen  
29 the complaint to determine whether:

30 (a) The alleged facts bring the case within the jurisdiction of  
31 the court; and

32 (b) On a basis of available evidence there is probable cause to  
33 believe that the juvenile did commit the offense.

34 (2) If the identical alleged acts constitute an offense under  
35 both the law of this state and an ordinance of any city or county of  
36 this state, state law shall govern the prosecutor's screening and  
37 charging decision for both filed and diverted cases.

1 (3) If the requirements of subsection (1)(a) and (b) of this  
2 section are met, the prosecutor shall either file an information in  
3 juvenile court or divert the case, as set forth in subsections (5),  
4 (6), and (8) of this section. If the prosecutor finds that the  
5 requirements of subsection (1)(a) and (b) of this section are not  
6 met, the prosecutor shall maintain a record, for one year, of such  
7 decision and the reasons therefor. In lieu of filing an information  
8 or diverting an offense a prosecutor may file a motion to modify  
9 community supervision where such offense constitutes a violation of  
10 community supervision.

11 (4) An information shall be a plain, concise, and definite  
12 written statement of the essential facts constituting the offense  
13 charged. It shall be signed by the prosecuting attorney and conform  
14 to chapter 10.37 RCW.

15 (5) The prosecutor shall file an information with the juvenile  
16 court if (a) an alleged offender is accused of an offense that is  
17 defined as a sex offense or violent offense under RCW 9.94A.030,  
18 other than assault in the second degree or robbery in the second  
19 degree; or (b) an alleged offender has been referred by a diversion  
20 unit for prosecution or desires prosecution instead of diversion.

21 (6) Where a case is legally sufficient the prosecutor shall  
22 divert the case if the alleged offense is a misdemeanor or gross  
23 misdemeanor or violation and the alleged offense is the offender's  
24 first offense or violation. If the alleged offender is charged with a  
25 related offense that may be filed under subsections (5) and (8) of  
26 this section, a case under this subsection may also be filed.

27 (7) Where a case is legally sufficient to charge an alleged  
28 offender with:

29 (a) (~~Either prostitution or~~) Prostitution loitering and the  
30 alleged offense is the offender's first (~~prostitution or~~)  
31 prostitution loitering offense, the prosecutor shall divert the case;  
32 or

33 (b) Voyeurism in the second degree, the offender is under  
34 seventeen years of age, and the alleged offense is the offender's  
35 first voyeurism in the second degree offense, the prosecutor shall  
36 divert the case, unless the offender has received two diversions for  
37 any offense in the previous two years.

38 (8) Where a case is legally sufficient and falls into neither  
39 subsection (5) nor (6) of this section, it may be filed or diverted.  
40 In deciding whether to file or divert an offense under this section

1 the prosecutor may be guided by the length, seriousness, and recency  
2 of the alleged offender's criminal history and the circumstances  
3 surrounding the commission of the alleged offense.

4 (9) Whenever a juvenile is placed in custody or, where not placed  
5 in custody, referred to a diversion interview, the parent or legal  
6 guardian of the juvenile shall be notified as soon as possible  
7 concerning the allegation made against the juvenile and the current  
8 status of the juvenile. Where a case involves victims of crimes  
9 against persons or victims whose property has not been recovered at  
10 the time a juvenile is referred to a diversion unit, the victim shall  
11 be notified of the referral and informed how to contact the unit.

12 (10) The responsibilities of the prosecutor under subsections (1)  
13 through (9) of this section may be performed by a juvenile court  
14 probation counselor for any complaint referred to the court alleging  
15 the commission of an offense which would not be a felony if committed  
16 by an adult, if the prosecutor has given sufficient written notice to  
17 the juvenile court that the prosecutor will not review such  
18 complaints.

19 (11) The prosecutor, juvenile court probation counselor, or  
20 diversion unit may, in exercising their authority under this section  
21 or RCW 13.40.080, refer juveniles to community-based programs,  
22 restorative justice programs, mediation, or victim offender  
23 reconciliation programs. Such mediation or victim offender  
24 reconciliation programs shall be voluntary for victims.

25 (12) Prosecutors and juvenile courts are encouraged to engage  
26 with and partner with community-based programs to expand, improve,  
27 and increase options to divert youth from formal processing in  
28 juvenile court. Nothing in this chapter should be read to limit  
29 partnership with community-based programs to create diversion  
30 opportunities for juveniles.

31 **Sec. 5.** RCW 13.40.213 and 2010 c 289 s 8 are each amended to  
32 read as follows:

33 (1) When a juvenile is alleged to have committed (~~the offenses~~  
34 ~~of prostitution or~~) a prostitution loitering offense, and the  
35 allegation, if proved, would not be the juvenile's first offense, a  
36 prosecutor may divert the offense if the county in which the offense  
37 is alleged to have been committed has a comprehensive program that  
38 provides:

39 (a) Safe and stable housing;

1 (b) Comprehensive on-site case management;

2 (c) Integrated mental health and chemical dependency services,  
3 including specialized trauma recovery services;

4 (d) Education and employment training delivered on-site; and

5 (e) Referrals to off-site specialized services, as appropriate.

6 (2) A prosecutor may divert a case for (~~prostitution or~~)  
7 prostitution loitering into the comprehensive program described in  
8 this section, notwithstanding the filing criteria set forth in RCW  
9 13.40.070(5).

10 (3) A diversion agreement under this section may extend to twelve  
11 months.

12 (4)(a) The administrative office of the courts shall compile data  
13 regarding:

14 (i) The number of juveniles whose cases are diverted into the  
15 comprehensive program described in this section;

16 (ii) Whether the juveniles complete their diversion agreements  
17 under this section; and

18 (iii) Whether juveniles whose cases have been diverted under this  
19 section have been subsequently arrested or committed subsequent  
20 offenses.

21 (b) An annual report of the data compiled shall be provided to  
22 the governor and the appropriate committee of the legislature. (~~The~~  
23 ~~first report is due by November 1, 2010.~~)

24 **Sec. 6.** RCW 7.68.801 and 2018 c 58 s 65 are each amended to read  
25 as follows:

26 (1) The commercially sexually exploited children statewide  
27 coordinating committee is established to address the issue of  
28 children who are commercially sexually exploited, to examine the  
29 practices of local and regional entities involved in addressing  
30 sexually exploited children, and to make recommendations on statewide  
31 laws and practices.

32 (2) The committee is convened by the office of the attorney  
33 general with the department of commerce assisting with agenda  
34 planning and administrative and clerical support. The committee  
35 consists of the following members:

36 (a) One member from each of the two largest caucuses of the house  
37 of representatives appointed by the speaker of the house;

38 (b) One member from each of the two largest caucuses of the  
39 senate appointed by the (~~speaker~~) president of the senate;

1 (c) A representative of the governor's office appointed by the  
2 governor;

3 (d) The secretary of the department of children, youth, and  
4 families or his or her designee;

5 (e) The secretary of the juvenile rehabilitation administration  
6 or his or her designee;

7 (f) The attorney general or his or her designee;

8 (g) The superintendent of public instruction or his or her  
9 designee;

10 (h) A representative of the administrative office of the courts  
11 appointed by the administrative office of the courts;

12 (i) The executive director of the Washington association of  
13 sheriffs and police chiefs or his or her designee;

14 (j) The executive director of the Washington state criminal  
15 justice training commission or his or her designee;

16 (k) A representative of the Washington association of prosecuting  
17 attorneys appointed by the association;

18 (l) The executive director of the office of public defense or his  
19 or her designee;

20 (m) Three representatives of community service providers that  
21 provide direct services to commercially sexually exploited children  
22 appointed by the attorney general;

23 (n) Two representatives of nongovernmental organizations familiar  
24 with the issues affecting commercially sexually exploited children  
25 appointed by the attorney general;

26 (o) The president of the superior court judges' association or  
27 his or her designee;

28 (p) The president of the juvenile court administrators or his or  
29 her designee;

30 (q) Any existing chairs of regional task forces on commercially  
31 sexually exploited children;

32 (r) A representative from the criminal defense bar;

33 (s) A representative of the center for children and youth  
34 justice;

35 (t) A representative from the office of crime victims advocacy;

36 (u) The executive director of the Washington coalition of sexual  
37 assault programs;

38 (v) A representative of an organization that provides in-patient  
39 chemical dependency treatment to youth, appointed by the attorney  
40 general;

1 (w) A representative of an organization that provides mental  
2 health treatment to youth, appointed by the attorney general; and

3 (x) A survivor of human trafficking, appointed by the attorney  
4 general.

5 (3) The duties of the committee include, but are not limited to:

6 (a) Overseeing and reviewing the implementation of the Washington  
7 state model protocol for commercially sexually exploited children at  
8 task force sites;

9 (b) Receiving reports and data from local and regional entities  
10 regarding the incidence of commercially sexually exploited children  
11 in their areas as well as data information regarding perpetrators,  
12 geographic data and location trends, and any other data deemed  
13 relevant;

14 (c) Receiving reports on local coordinated community response  
15 practices and results of the community responses;

16 (d) Reviewing recommendations from local and regional entities  
17 regarding policy and legislative changes that would improve the  
18 efficiency and effectiveness of local response practices;

19 (e) Making recommendations regarding policy and legislative  
20 changes that would improve the effectiveness of the state's response  
21 to and promote best practices for suppression of the commercial  
22 sexual exploitation of children;

23 (f) Making recommendations regarding data collection useful to  
24 understanding or addressing the problem of commercially sexually  
25 exploited children;

26 (g) Reviewing and making recommendations regarding strategic  
27 local investments or opportunities for federal and state funding to  
28 address the commercial sexual exploitation of children;

29 (h) Reviewing the extent to which chapter 289, Laws of 2010  
30 (Engrossed Substitute Senate Bill No. 6476) is understood and applied  
31 by enforcement authorities; (~~and~~)

32 (i) Researching any barriers that exist to full implementation of  
33 chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476)  
34 throughout the state; and

35 (j) Compiling data on the number of children taken into custody  
36 under RCW 43.185C.260.

37 (4) The committee must meet no less than annually.

38 (5) The committee shall annually report its findings and  
39 recommendations to the appropriate committees of the legislature and



1 to any other known statewide committees addressing trafficking or the  
2 commercial sex trade.

3 (6) This section expires June 30, 2023.

4 **Sec. 7.** RCW 43.185C.260 and 2018 c 58 s 61 are each amended to  
5 read as follows:

6 (1) A law enforcement officer shall take a child into custody:

7 (a) If a law enforcement agency has been contacted by the parent  
8 of the child that the child is absent from parental custody without  
9 consent; or

10 (b) If a law enforcement officer reasonably believes, considering  
11 the child's age, the location, and the time of day, that a child is  
12 in circumstances which constitute a danger to the child's safety or  
13 that a child is violating a local curfew ordinance; or

14 (c) If an agency legally charged with the supervision of a child  
15 has notified a law enforcement agency that the child has run away  
16 from placement; or

17 (d) If a law enforcement agency has been notified by the juvenile  
18 court that the court finds probable cause exists to believe that the  
19 child has violated a court placement order issued under this chapter  
20 or chapter 13.34 RCW or that the court has issued an order for law  
21 enforcement pick-up of the child under this chapter or chapter 13.34  
22 RCW.

23 (2) Law enforcement custody shall not extend beyond the amount of  
24 time reasonably necessary to transport the child to a destination  
25 authorized by law and to place the child at that destination. Law  
26 enforcement custody continues until the law enforcement officer  
27 transfers custody to a person, agency, or other authorized entity  
28 under this chapter, or releases the child because no placement is  
29 available. Transfer of custody is not complete unless the person,  
30 agency, or entity to whom the child is released agrees to accept  
31 custody.

32 (3) If a law enforcement officer takes a child into custody  
33 pursuant to either subsection (1)(a) or (b) of this section and  
34 transports the child to a crisis residential center, the officer  
35 shall, within twenty-four hours of delivering the child to the  
36 center, provide to the center a written report detailing the reasons  
37 the officer took the child into custody. The center shall provide the  
38 department of children, youth, and families with a copy of the  
39 officer's report if the (~~youth~~) child is in the care of or

1 receiving services from the department of children, youth, and  
2 families.

3 (4) If the law enforcement officer who initially takes the  
4 (~~juvenile~~) child into custody or the staff of the crisis  
5 residential center have reasonable cause to believe that the child is  
6 absent from home because he or she is abused or neglected, a report  
7 shall be made immediately to the department of children, youth, and  
8 families.

9 (5) Nothing in this section affects the authority of any  
10 political subdivision to make regulations concerning the conduct of  
11 minors in public places by ordinance or other local law.

12 (6) If a law enforcement officer has a reasonable suspicion that  
13 a child is being unlawfully harbored in violation of RCW 13.32A.080,  
14 the officer shall remove the child from the custody of the person  
15 harboring the child and shall transport the child to one of the  
16 locations specified in RCW 43.185C.265.

17 (7) If a law enforcement officer takes a child into custody  
18 pursuant to subsection (1)(b) of this section and reasonably believes  
19 that the child may be the victim of sexual exploitation, the officer  
20 may transport the child to an evaluation and treatment facility as  
21 defined in RCW 71.34.020, including the receiving centers established  
22 in section 2 of this act, for purposes of evaluation for behavioral  
23 health treatment authorized under chapter 71.34 RCW, including minor-  
24 initiated treatment, parent-initiated treatment, or involuntary  
25 treatment.

26 (8) No child may be placed in a secure facility except as  
27 provided in this chapter.

28 NEW SECTION. **Sec. 8.** Sections 3, 4, and 5 of this act take  
29 effect July 1, 2021.

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