
SECOND SUBSTITUTE SENATE BILL 5744

State of Washington

66th Legislature

2020 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 01/30/20.

1 AN ACT Relating to commercially sexually exploited children;
2 amending RCW 9A.88.030, 13.40.070, 13.40.213, 7.68.801, 43.185C.260,
3 and 74.14B.070; adding new sections to chapter 7.68 RCW; adding a new
4 section to chapter 43.280 RCW; creating a new section; providing an
5 effective date; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that commercial
8 sexual exploitation of children is a severe form of human trafficking
9 and a severe human rights and public health issue, leaving children
10 at substantial risk of physical harm, substantial physical and
11 emotional pain, and trauma. This trauma has a long-term impact on the
12 social, emotional, and economic future of these children. The state
13 shall provide a victim-centered, trauma-informed response to children
14 who are exploited in this manner rather than treating them as
15 criminals. The state shall also hold accountable the buyers and
16 traffickers who exploit children.

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

19 (1) Subject to the availability of amounts appropriated for this
20 specific purpose, the department of children, youth, and families

1 shall administer funding for two receiving center programs for
2 commercially sexually exploited children. One of these programs must
3 be located west of the crest of the Cascade mountains and one of
4 these programs must be located east of the crest of the Cascade
5 mountains. Law enforcement and service providers may refer children
6 to these programs or children may self-refer into these programs.

7 (2) The receiving center programs established under this section
8 shall:

9 (a) Begin providing services by January 1, 2021;

10 (b) Develop, in consultation with the department of children,
11 youth, and families, the eligibility criteria for serving
12 commercially sexually exploited children that allows referral from
13 service providers and prioritizes referral from law enforcement;

14 (c) Utilize existing facilities and not require the construction
15 of new facilities; and

16 (d) Provide ongoing case management for all children who are
17 being served or were served by the programs.

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

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

24 (b) Assess children for mental health and substance use disorder
25 needs and provide appropriate referrals as needed; and

26 (c) Provide individual and group counseling focused on developing
27 and strengthening coping skills, and improving self-esteem and
28 dignity.

29 (4) The department of children, youth, and families shall:

30 (a) Collect nonidentifiable demographic data of the children
31 served by the programs established under this section;

32 (b) Collect data regarding the locations that children exit to
33 after being served by the programs; and

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

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

39 (a) "Receiving center" means a trauma-informed, secure location
40 that meets the multidisciplinary needs of commercially sexually

1 exploited children ages twelve through seventeen in a licensed or
2 certified behavioral health entity providing residential services;
3 and

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

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.68 RCW
11 to read as follows:

12 (1) The following individuals or entities may refer a child to
13 receiving centers as defined in section 2 of this act:

14 (a) Law enforcement, who shall:

15 (i) Transport a child eligible for receiving center services to a
16 receiving center; or

17 (ii) Coordinate transportation with a liaison dedicated to
18 serving commercially sexually exploited children established under
19 RCW 74.14B.070 or a community service provider;

20 (b) The department of children, youth, and families;

21 (c) Juvenile courts;

22 (d) Community service providers;

23 (e) A parent or guardian; and

24 (f) A child may self-refer.

25 (2) Eligibility for placement in a receiving center is children
26 ages twelve through seventeen, of all genders, who have been, or are
27 at risk for being commercially sexually exploited.

28 **Sec. 4.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to
29 read as follows:

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

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

36 (3) Prostitution is a misdemeanor.

1 **Sec. 5.** RCW 13.40.070 and 2019 c 128 s 8 are each amended to
2 read as follows:

3 (1) Complaints referred to the juvenile court alleging the
4 commission of an offense shall be referred directly to the
5 prosecutor. The prosecutor, upon receipt of a complaint, shall screen
6 the complaint to determine whether:

7 (a) The alleged facts bring the case within the jurisdiction of
8 the court; and

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

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

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

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

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

35 (6) Where a case is legally sufficient the prosecutor shall
36 divert the case if the alleged offense is a misdemeanor or gross
37 misdemeanor or violation and the alleged offense is the offender's
38 first offense or violation. If the alleged offender is charged with a
39 related offense that may be filed under subsections (5) and (8) of
40 this section, a case under this subsection may also be filed.

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

3 (a) (~~Either prostitution or prostitution~~) Prostitution
4 loitering and the alleged offense is the offender's first
5 (~~prostitution or~~) prostitution loitering offense, the prosecutor
6 shall divert the case;

7 (b) Voyeurism in the second degree, the offender is under
8 seventeen years of age, and the alleged offense is the offender's
9 first voyeurism in the second degree offense, the prosecutor shall
10 divert the case, unless the offender has received two diversions for
11 any offense in the previous two years;

12 (c) Minor selling depictions of himself or herself engaged in
13 sexually explicit conduct under RCW 9.68A.053(5) and the alleged
14 offense is the offender's first violation of RCW 9.68A.053(5), the
15 prosecutor shall divert the case; or

16 (d) A distribution, transfer, dissemination, or exchange of
17 sexually explicit images of other minors thirteen years of age or
18 older offense as provided in RCW 9.68A.053(1) and the alleged offense
19 is the offender's first violation of RCW 9.68A.053(1), the prosecutor
20 shall divert the case.

21 (8) Where a case is legally sufficient and falls into neither
22 subsection (5) nor (6) of this section, it may be filed or diverted.
23 In deciding whether to file or divert an offense under this section
24 the prosecutor may be guided by the length, seriousness, and recency
25 of the alleged offender's criminal history and the circumstances
26 surrounding the commission of the alleged offense.

27 (9) Whenever a juvenile is placed in custody or, where not placed
28 in custody, referred to a diversion interview, the parent or legal
29 guardian of the juvenile shall be notified as soon as possible
30 concerning the allegation made against the juvenile and the current
31 status of the juvenile. Where a case involves victims of crimes
32 against persons or victims whose property has not been recovered at
33 the time a juvenile is referred to a diversion unit, the victim shall
34 be notified of the referral and informed how to contact the unit.

35 (10) The responsibilities of the prosecutor under subsections (1)
36 through (9) of this section may be performed by a juvenile court
37 probation counselor for any complaint referred to the court alleging
38 the commission of an offense which would not be a felony if committed
39 by an adult, if the prosecutor has given sufficient written notice to

1 the juvenile court that the prosecutor will not review such
2 complaints.

3 (11) The prosecutor, juvenile court probation counselor, or
4 diversion unit may, in exercising their authority under this section
5 or RCW 13.40.080, refer juveniles to community-based programs,
6 restorative justice programs, mediation, or victim offender
7 reconciliation programs. Such mediation or victim offender
8 reconciliation programs shall be voluntary for victims.

9 (12) Prosecutors and juvenile courts are encouraged to engage
10 with and partner with community-based programs to expand, improve,
11 and increase options to divert youth from formal processing in
12 juvenile court. Nothing in this chapter should be read to limit
13 partnership with community-based programs to create diversion
14 opportunities for juveniles.

15 **Sec. 6.** RCW 13.40.213 and 2010 c 289 s 8 are each amended to
16 read as follows:

17 (1) When a juvenile is alleged to have committed (~~the offenses~~
18 ~~of prostitution or~~) a prostitution loitering offense, and the
19 allegation, if proved, would not be the juvenile's first offense, a
20 prosecutor may divert the offense if the county in which the offense
21 is alleged to have been committed has a comprehensive program that
22 provides:

- 23 (a) Safe and stable housing;
- 24 (b) Comprehensive on-site case management;
- 25 (c) Integrated mental health and chemical dependency services,
26 including specialized trauma recovery services;
- 27 (d) Education and employment training delivered on-site; and
- 28 (e) Referrals to off-site specialized services, as appropriate.

29 (2) A prosecutor may divert a case for (~~prostitution or~~)
30 prostitution loitering into the comprehensive program described in
31 this section, notwithstanding the filing criteria set forth in RCW
32 13.40.070(5).

33 (3) A diversion agreement under this section may extend to twelve
34 months.

35 (4)(a) The administrative office of the courts shall compile data
36 regarding:

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

1 (ii) Whether the juveniles complete their diversion agreements
2 under this section; and

3 (iii) Whether juveniles whose cases have been diverted under this
4 section have been subsequently arrested or committed subsequent
5 offenses.

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

9 **Sec. 7.** RCW 7.68.801 and 2018 c 58 s 65 are each amended to read
10 as follows:

11 (1) The commercially sexually exploited children statewide
12 coordinating committee is established to address the issue of
13 children who are commercially sexually exploited, to examine the
14 practices of local and regional entities involved in addressing
15 sexually exploited children, and to make recommendations on statewide
16 laws and practices.

17 (2) The committee is convened by the office of the attorney
18 general with the department of commerce assisting with agenda
19 planning and administrative and clerical support. The committee
20 consists of the following members:

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

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

25 (c) A representative of the governor's office appointed by the
26 governor;

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

29 (e) The secretary of the juvenile rehabilitation administration
30 or his or her designee;

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

32 (g) The superintendent of public instruction or his or her
33 designee;

34 (h) A representative of the administrative office of the courts
35 appointed by the administrative office of the courts;

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

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

1 (k) A representative of the Washington association of prosecuting
2 attorneys appointed by the association;

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

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

8 (n) Two representatives of nongovernmental organizations familiar
9 with the issues affecting commercially sexually exploited children
10 appointed by the attorney general;

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

13 (p) The president of the juvenile court administrators or his or
14 her designee;

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

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

18 (s) A representative of the center for children and youth
19 justice;

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

21 (u) The executive director of the Washington coalition of sexual
22 assault programs;

23 (v) A representative of an organization that provides inpatient
24 chemical dependency treatment to youth, appointed by the attorney
25 general;

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

28 (x) A survivor of human trafficking, appointed by the attorney
29 general.

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

31 (a) Overseeing and reviewing the implementation of the Washington
32 state model protocol for commercially sexually exploited children at
33 task force sites;

34 (b) Receiving reports and data from local and regional entities
35 regarding the incidence of commercially sexually exploited children
36 in their areas as well as data information regarding perpetrators,
37 geographic data and location trends, and any other data deemed
38 relevant;

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

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

4 (e) Making recommendations regarding policy and legislative
5 changes that would improve the effectiveness of the state's response
6 to and promote best practices for suppression of the commercial
7 sexual exploitation of children;

8 (f) Making recommendations regarding data collection useful to
9 understanding or addressing the problem of commercially sexually
10 exploited children;

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

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

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

20 (j) Convening a meeting and providing recommendations required
21 under section 10 of this act; and

22 (k) Compiling data on the number of juveniles believed to be
23 victims of sexual exploitation taken into custody under RCW
24 43.185C.260.

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

26 (5) The committee shall annually report its findings and
27 recommendations to the appropriate committees of the legislature and
28 to any other known statewide committees addressing trafficking or the
29 commercial sex trade.

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

31 **Sec. 8.** RCW 43.185C.260 and 2019 c 312 s 15 are each amended to
32 read as follows:

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

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

37 (b) If a law enforcement officer reasonably believes, considering
38 the child's age, the location, and the time of day, that a child is

1 in circumstances which constitute a danger to the child's safety or
2 that a child is violating a local curfew ordinance; or

3 (c) If an agency legally charged with the supervision of a child
4 has notified a law enforcement agency that the child has run away
5 from placement.

6 (2) Law enforcement custody shall not extend beyond the amount of
7 time reasonably necessary to transport the child to a destination
8 authorized by law and to place the child at that destination. Law
9 enforcement custody continues until the law enforcement officer
10 transfers custody to a person, agency, or other authorized entity
11 under this chapter, or releases the child because no placement is
12 available. Transfer of custody is not complete unless the person,
13 agency, or entity to whom the child is released agrees to accept
14 custody.

15 (3) If a law enforcement officer takes a child into custody
16 pursuant to either subsection (1)(a) or (b) of this section and
17 transports the child to a crisis residential center, the officer
18 shall, within twenty-four hours of delivering the child to the
19 center, provide to the center a written report detailing the reasons
20 the officer took the child into custody. The center shall provide the
21 department of children, youth, and families with a copy of the
22 officer's report if the youth is in the care of or receiving services
23 from the department of children, youth, and families.

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

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

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

37 (7) If a law enforcement officer takes a juvenile into custody
38 pursuant to subsection (1)(b) of this section and reasonably believes
39 that the juvenile may be the victim of sexual exploitation, the
40 officer shall transport the child to an evaluation and treatment

1 facility as defined in RCW 71.34.020, including the receiving centers
2 established in section 2 of this act, for purposes of evaluation for
3 behavioral health treatment authorized under chapter 71.34 RCW,
4 including adolescent-initiated treatment, family-initiated treatment,
5 or involuntary treatment.

6 (8) Law enforcement shall have the authority to take into
7 protective custody a child who is or is attempting to engage in
8 sexual conduct with another person for money or anything of value for
9 purposes of investigating the individual or individuals who may be
10 exploiting the child and deliver the child to an evaluation and
11 treatment facility as defined in RCW 71.34.020, including the
12 receiving centers established in section 2 of this act, for purposes
13 of evaluation for behavioral health treatment authorized under
14 chapter 71.34 RCW, including adolescent-initiated treatment, family-
15 initiated treatment, or involuntary treatment.

16 (9) No child may be placed in a secure facility except as
17 provided in this chapter.

18 **Sec. 9.** RCW 74.14B.070 and 2017 3rd sp.s. c 6 s 508 are each
19 amended to read as follows:

20 (1) The department shall, subject to available funds, establish a
21 system of early identification and referral to treatment of child
22 victims of sexual assault or sexual abuse. The system shall include
23 schools, physicians, sexual assault centers, domestic violence
24 centers, child protective services, and foster parents. A mechanism
25 shall be developed to identify communities that have experienced
26 success in this area and share their expertise and methodology with
27 other communities statewide.

28 (2) The department shall provide services to support commercially
29 sexually exploited children.

30 (a) To provide services supporting commercially sexually
31 exploited children, the department must provide:

32 (i) At least one liaison position in each region of the
33 department dedicated to serving commercially sexually exploited
34 children who report directly to the statewide program manager under
35 (a)(ii) of this subsection; and

36 (ii) One statewide program manager.

37 (b) The department shall collect nonidentifiable data regarding
38 the number of commercially sexually exploited children, including

1 reports of commercially sexually exploited children received from law
2 enforcement under chapter 26.44 RCW.

3 (3) The department shall provide an annual report to the
4 commercially sexually exploited children statewide coordinating
5 committee established under RCW 7.68.801 by December 1st that
6 includes:

7 (a) A description of services provided by the department to
8 commercially sexually exploited children; and

9 (b) Nonidentifiable data regarding the number of commercially
10 sexually exploited children.

11 (4) The department may solicit and accept gifts, grants,
12 conveyances, bequests, and devices for supporting the purposes of
13 this section.

14 NEW SECTION. Sec. 10. A new section is added to chapter 43.280
15 RCW to read as follows:

16 (1) By September 1, 2020, the commercially sexually exploited
17 children statewide coordinating committee established under RCW
18 7.68.801 shall convene a meeting related to the role that child
19 advocacy centers have in responding to and supporting commercially
20 sexually exploited children.

21 (a) The meeting required under this subsection must include
22 representatives from child advocacy centers.

23 (b) By October 1, 2020, and following the meeting required under
24 this subsection, the commercially sexually exploited children
25 statewide coordinating committee established under RCW 7.68.801 shall
26 provide recommendations to the department regarding:

27 (i) Expanded use of child advocacy centers in providing
28 additional services for commercially sexually exploited children; and

29 (ii) Ensuring that child advocacy centers connect commercially
30 sexually exploited children with available services in the community.

31 (2) By December 1, 2020, and in compliance with RCW 43.01.036,
32 the department must provide a report to the relevant committees of
33 the legislature that includes:

34 (a) An inventory of the number and location of child advocacy
35 centers in the state;

36 (b) A description of the services provided by each of the child
37 advocacy centers in the state;

1 (c) Recommendations for expanded use of child advocacy centers in
2 providing additional services for commercially sexually exploited
3 children; and

4 (d) Recommendations for ensuring that child advocacy centers
5 connect commercially sexually exploited children with available
6 services in the community.

7 (3) For purposes of this section:

8 (a) "Child advocacy center" has the same meaning as the
9 definition provided under RCW 26.44.020.

10 (b) "Department" means the department of commerce.

11 (4) This section expires June 30, 2021.

12 NEW SECTION. **Sec. 11.** Sections 4, 5, and 6 of this act take
13 effect January 1, 2024.

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