

HOUSE BILL REPORT

2SSB 5108

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to missing and exploited children.

Brief Description: Creating a task force on missing and exploited children.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Patterson, Johnson, Eide, Rossi, Prentice, T. Sheldon, Winsley, McAuliffe, Oke, Kohl-Welles and Costa; by request of Lieutenant Governor).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/30/99, 4/2/99 [DPA].

Brief Summary of Second Substitute Bill
(As Amended by House Committee)

- Adds "digital images" as well as anything tangible or "intangible" to the definition of "photography" in the chapter dealing with the sexual exploitation of children.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Dianne Ramerman (786-7172).

Background:

A "digital image" can be described as an array of dots over space. These dots are commonly referred to as PIXELS.

To "photograph" means to make a print, negative, slide, motion picture, or videotape. A "photograph" means any tangible item produced by photographing. "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph.

A person is guilty of sexual exploitation of a minor if they compel a minor by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed. In a prosecution under sexual exploitation of a minor, it is not a defense that the defendant did not know the alleged victim's age. Furthermore, all personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of the child pornography chapter, is subject to seizure and forfeiture.

Summary of Amended Bill:

In the chapter dealing with sexually exploited children or child pornography, the definition of "photography" is changed to include "digital images" as well as anything tangible or "intangible" produced by photographing. Changing the definition of "photography" affects other sections in the chapter dealing with child pornography. First, the amendment affects the definition of "visual or printed matter," which means any photograph or other material that contains a reproduction of a photograph. Second, the amendment affects various crimes and defenses, as well as the section of the chapter that deals with the seizure and forfeiture of property.

For example, with this amendment, a person would be guilty of sexual exploitation of a minor if they knew that such conduct would be made into a digital image.

Amended Bill Compared to Second Substitute Bill: The original bill creates a multi-agency task force within the Washington State Patrol (WSP) that will operate under the direction of the chief of the WSP. The task force is authorized to assist local law enforcement agencies, upon request, in cases involving missing or exploited children.

"Exploited children" is defined as children under the age of 18 who are employed, used, persuaded, induced, enticed, or coerced to engage in, or assist another person to engage in, sexually explicit conduct; and the rape, molestation, or use for prostitution of children under their age of 18.

The task force must use existing facilities, systems, and staff made available by the state patrol and other local, state, interstate, and federal law enforcement, and social service agencies. However, the chief of the WSP can employ additional personnel as necessary

for the work of the task force. Personnel costs for any additional employees may be shared with other agencies.

The chief of the WSP is required to seek public and private grants and gifts to support the work of the task force. The chief, by December 1, 2001, and annually thereafter, must submit a report to the Legislature and that report must include established performance measures and objectives for the task force, as well as assess the accomplishments of the task force.

The original bill also creates a six-member advisory board on missing and exploited children to advise the chief of the WSP on objectives, conduct, management, and coordination of the activities of the task force. The following five members will be appointed by the chief to the advisory board: 1) a county prosecuting attorney or representative; 2) a municipal police chief or representative; 3) a county sheriff or representative; 4) a representative of the state patrol; 5) a representative of parents of missing or exploited children. The sixth member of the board will be appointed by the Attorney General. Members will decide when meetings will be held, and will serve for two-year terms.

The amendment entirely removes all sections of the bill that deal with both the multi-agency-task force on missing and exploited children and the six-member advisory board on missing and exploited children, and adds a section that changes the definition of "photography" in the chapter dealing with sexual exploitation of children.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Law enforcement and the Lieutenant Governor addressed the issue of missing children over the interim. Because Washington's and other state's procedures regarding missing children are different, it is difficult to bring children found in other states back to this state. Washington ranks 12th in the nation for active missing children cases. That statistic shows Washington should do something. The problem is that local officers do not receive the needed training. Now, there is a new avenue for exploiting children called the Internet. In the Lewis case, Tacoma police did not have the needed resources. This is a humanitarian and not a partisan issue. This is a serious issue. Local agencies should assign personnel to help defray the costs.

The Clearinghouse was established in 1985 to assist in locating missing children and to provide investigative services. There is only one WSP staff person assigned to deal with

missing children cases. That person, the Clearinghouse Coordinator, fields 3,000 toll-free phone calls a year. The coordinator researches state and national databases, creates analytical charts/posters, provides hands-on training to law enforcement officers, and works with custodial parents. The number of active cases increases 10 percent every year. Juveniles make up 85-90 percent of missing children. There are many programs in the state to help children become active in the community, but none that helps kids who have been exploited on the Internet. Washington could be ranked 12th because it is popular with teens, and it is not illegal in this state for kids to run away from home.

Law enforcement officers do not know how to conduct missing children investigations. This problem is exacerbated by the fact that federal agencies will not assist local officers without the proper warrants, and county prosecutors are not familiar with the necessary warrant procedures. Although the Clearinghouse helps local officers, every step is a battle. However, local officers who have previously conducted an investigation could use what they have learned to teach others. Since 40 percent of an officer's yearly salary can be invested on a search, the task force would be a valuable resource and actually reduce costs. This bill will enable us to find children before they become psychologically "lost."

Testimony Against: None.

Testified: Lieutenant Governor Brad Owen; Captain Eric Robertson, Washington State Patrol; Sue Wagner, Washington State Patrol; and Michael Frank, Mason County Sheriff's Office.