

SENATE BILL REPORT

SHB 1175

As Reported By Senate Committee On:
Children & Family Services & Corrections, April 2, 2003

Title: An act relating to trafficking persons.

Brief Description: Making it a crime to traffic in persons.

Sponsors: House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, Roach, O'Brien, Conway, Clements, Lantz, Linville, Moeller, Delvin, Benson, Darneille, Kenney, Kessler, Simpson, Chase, McMahan and Upthegrove).

Brief History:

Committee Activity: Children & Family Services & Corrections: 4/02/03 [DPA].

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Stevens, Chair; Parlette, Vice Chair; Carlson, Deccio, Hargrove, McAuliffe and Regala.

Staff: Edith Rice (786-7444)

Background: Trafficking. Trafficking can generally be defined as any act that involves the recruitment or transportation of a person, within or across national borders, for work or services, by means of violence or threat of violence, debt bondage, deception or other coercion. A person may be trafficked for a number of reasons including forced prostitution, exploitative domestic service in private homes, and indentured servitude in sweatshops.

The United Nations estimates that criminal groups make more than \$7 billion annually from trafficking human beings. Originally, Latin America and Asia were the main sources for the trafficking business. However, over the last decade or so, persons from Germany and Russia have added to the market economy of trafficking.

Washington has statutes that prohibit prostitution offenses. Unlike federal law, it does not have a criminal statute specifically prohibiting the trafficking of persons. Federal statutes governing trafficking crimes prohibit these types of offenses which are punishable by a fine and up to 20 years of incarceration. If death results from the violation of a trafficking offense, or if the violation includes kidnapping, aggravated sexual abuse, or a victim under the age of 14 years old, the punishment can increase to life imprisonment.

The maximum sentence for all class A felonies under Washington's statute is life imprisonment and a \$50,000 fine.

Aggravating Factor. The standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that in exceptional cases, a court has the

discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act (SRA) provides a list of illustrative factors that a court may consider in deciding whether to impose an exceptional sentence outside of the standard range. Some of the illustrative aggravating factors provided by the SRA include: behavior that manifested into deliberate cruelty to a victim; vulnerability of a victim; sexual motivation on the part of the defendant; and an ongoing pattern of multiple incidents of abuse to a victim.

Summary of Amended Bill: Two crimes relating to the trafficking of persons are created.

Trafficking. A person is guilty of trafficking in the second degree, regardless of whether he or she benefitted financially or received anything of value, when the perpetrator knowingly, recruited, harbored, transported, provided, or obtained by any means, another person, knowing that force, fraud, or coercion would be used to cause the victim to engage in forced labor or involuntary servitude. Trafficking in the second degree is a seriousness level XII, class A felony offense.

A person is guilty of trafficking in the first degree if, in the process of violating trafficking in the second degree, his or her criminal act results in a death, involves kidnapping or an attempt to commit kidnapping, or the offense involves a finding of sexual motivation. Trafficking in the first degree is a seriousness level XIV, class A felony offense.

Aggravating Factor. The list of illustrative aggravating factors in the SRA is expanded to include any trafficking crime that is committed where the victim involved in the trafficking offense was a minor at the time of the offense.

Amended Bill Compared to Substitute Bill: The striking amendment adds a cross reference to the definition of "coercion" in 9A.36.070 for clarity.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed, except Section 3, which takes effect July 1, 2004.

Testimony For: Trafficking is an international problem, with over four million individuals affected each year, 50,000 in the United States. Women and children are sold into slavery for cheap labor and the sex trade. Washington is significantly impacted by this activity because much of the movement involving these individual takes place along the I-5 corridor.

Testimony Against: Federal law already addresses this issue; there are concerns regarding the higher ranking of the crimes listed in this bill. The state may end up prosecuting more crimes as a result.

Testified: Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs (pro); Pamela Crone, Washington State Coalition Against Domestic Violence, the Northwest

Women's Law Center (pro); Amanda Lee, Washington Association of Criminal Defense Lawyers, Washington Defender Association (con).