

# SENATE BILL REPORT

## SHB 1826

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

**Title:** An act relating to trafficking in persons.

**Brief Description:** Including trafficking in persons in the criminal profiteering law.

**Sponsors:** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, McMahan, O'Brien, Kenney, Boldt, Mielke, Santos, Hudgins, Upthegrove, Simpson and Conway).

**Brief History:**

**Committee Activity:** Children & Family Services & Corrections: 3/25/03, 4/2/03 [DPA].

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### SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

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**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:** "Criminal profiteering" includes the commission, for financial gain, of any one of a number of crimes listed in the statute. Crimes which may constitute profiteering include violent felonies and felonies associated with gambling, drugs, pornography, prostitution, extortion, and securities fraud. The crime of "trafficking" is not included in the definition of criminal profiteering.

A "pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering within a five-year period. To constitute a "pattern" the three acts must have the same or similar intent, results, accomplices, principals, victims or methods of commission, or otherwise be interrelated by distinguishing characteristics including a nexus to the same enterprise.

In addition to its criminal penalties, the Criminal Profiteering Act provides the following three civil remedies: (a) monetary penalties; (b) injunctive remedies; and (c) forfeiture. Monetary penalties include the actual damages payable to the victim, resulting from an act of criminal profiteering or of leading organized crime. The court has the discretion to triple those damages. The court may also order the defendant to pay a civil fine of up to \$250,000 and the costs and expenses of the litigation. Injunctive remedies may include court orders restricting the defendant's future activities or investments.

Forfeiture penalties include forfeiting:

- (i) any property or other interest acquired or maintained by a person in violation of the statutes on leading organized crime to the extent of the investment of funds and any appreciation or income attributable to the investment;
- (ii) any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of the statutes on leading organized crime; and
- (iii) all proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used to facilitate commission of the offense.

Initiation of civil proceedings must commence within three years of discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered.

Substitute House Bill (SHB) 1175, which is a bill before the 2003 Legislature, defines and creates two degrees of trafficking. Under that bill, a person is guilty of trafficking in the second degree (a seriousness level XII, class A felony offense), 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. A person is guilty of trafficking in the first degree (a seriousness level XIV, class A felony offense), 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.

**Summary of Amended Bill:** International matchmaking organizations doing business in Washington State are required to notify foreign recruits that they may have access to background and personal information about the Washington State resident using the matchmaking services. This includes information about prior marriages; founded allegations of child abuse or neglect; and any existing no contact or antiharassment protection orders.

**Amended Bill Compared to Substitute Bill:** The striking amendment removes the content of SHB 1826 relating to trafficking in persons and replaces it with the content of SB 5532 relating to international matchmaking organizations. The striking amendment requires international matchmaking organizations to make personal information available to recruits using their services.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**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 sex. Much of the movement involving these individuals takes place along the I-5 corridor.

**Testimony Against:** None.

**Testified:** (Original bill) Representative Velma Veloria, prime sponsor (pro); Senator Linda Smith (pro); Rani Hong, Shared Hope (pro); Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs (pro); Pamela Crone, NW Women's Law Center (pro); Emma Catague, Asian Pacific Island Women's Safety Center (pro).