

SB 6386 - S AMD to SB 6386 80

By Senator Hargrove

1 Strike everything after the enacting clause and insert the  
2 following:

3  
4 NEW SECTION. **Sec. 1**

5 (1) The legislature finds:

6 (a) The sexual abuse of a child is a most serious crime and an  
7 act repugnant to moral instincts;

8 (b) A pedophile is a person who has fantasies, urges, or  
9 behaviors that involve sexual activity with a child; and

10 (c) When a person acts on a pedophilic urge, he or she has  
11 committed a criminal act against the most vulnerable segment of our  
12 society, children. The main method for preventing pedophilia is  
13 avoiding situations that may promote pedophilic acts.

14 (2) It is the intent of the legislature to criminalize conduct  
15 that is intended to provide a person the information necessary to  
16 commit a pedophilic act.

17 NEW SECTION. **Sec. 2** A new section is added to chapter 9.68A RCW to  
18 read as follows:

19 (1) Every person who knowingly publishes information relating to  
20 the location of children or a place where children regularly gather,  
21 or the specific time and location in which children or a particular  
22 child may be found, or the personal information of a child, for the  
23 purpose of arousing or gratifying the sexual desire of any person, is  
24 guilty of a gross misdemeanor. It is a defense to a charge against an  
25 internet service provider or social networking site that the internet  
26 service provider or social networking site had only constructive  
27 knowledge and not actual knowledge.

28 (2) It is not a defense to prosecution under this section that  
29 the information includes a specific disclaimer of intention to incite  
30 a sexual offense against a child if it is clear from the overall

1 character of the communication that its purpose is to promote the  
2 commission of a sexual offense against a child.

3 (3) For the purposes of this act:

4 (a) "Location of children or a place where children regularly  
5 gather" means any public facility or private facility whose primary  
6 purpose, at any time, is to provide for the education, care, or  
7 recreation of a child.

8 (b) "Child" means any person under the age of sixteen.

9 (c) "Personal information" means the name of the public or  
10 private elementary, middle, or high school attended by a child; a  
11 child's school address, home address, home telephone number, cell  
12 phone number, and home e-mail address; directions to a child's school  
13 or home; physical description of a child; or photographs of a child.

14 (d) "Public facility" means a facility operated by a unit of  
15 local or state government, or by a nonprofit organization.

16 (e) "Publishes" means makes information available to another  
17 person through any medium, including, but not limited to, the  
18 internet, the world wide web, or e-mail.

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20  
21 **NEW SECTION. Sec. 3** A new section is added to chapter 4.24 RCW to  
22 read as follows:

23 (1) Whenever it appears that any person is committing or has  
24 committed any act that constitutes a violation of section 2 of this  
25 act, the prosecuting attorney or the parents or guardian of any child  
26 harmed by an alleged violation of section 2 of this act may initiate  
27 a civil proceeding in superior court to enjoin such violation, and  
28 may petition the court to issue an order for the discontinuance of  
29 the publication of the information in violation of section 2 of this  
30 act.

31 (2) An action under this section shall be brought in the county  
32 in which the violation is alleged to have taken place, and shall be  
33 commenced by the filing of a verified complaint, or shall be  
34 accompanied by an affidavit.

35 (3) If it is shown to the satisfaction of the court, either by  
36 verified complaint or affidavit, that a person is committing or has  
37 committed any act that constitutes a violation of section 2 of this  
38 act, the court may issue a temporary restraining order to abate and  
39 prevent the continuance or recurrence of the act.

1 (4) The court may issue a permanent injunction to restrain,  
2 abate, or prevent the continuance or recurrence of the violation of  
3 section 2 of this act. The court may grant declaratory relief,  
4 mandatory orders, or any other relief deemed necessary to accomplish  
5 the purposes of the injunction. The court may retain jurisdiction of  
6 the case for the purpose of enforcing its orders.

7 NEW SECTION. **Sec. 4** A new section is added to chapter 4.24 RCW to  
8 read as follows:

9 (1) The parents or guardian of any child whose personal  
10 information is published in violation of section 2 of this act and  
11 who suffers damages as a result of such conduct may bring a cause of  
12 action against the person who published such information, for actual  
13 damages sustained and reasonable attorneys' fees and costs.

14 (2) If a court has found that any person has engaged in any act  
15 that constitutes a violation of section 2 of this act the court shall  
16 award liquidated damages to the child whose personal information is  
17 published in violation of section 2 of this act in the amount of ten  
18 thousand dollars for each violation.

19 NEW SECTION. **Sec. 5** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

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**EFFECT:**

- Adds an intent section.
- Amends the elements of the new crime to include "publication for the purpose of arousing or gratifying the sexual desire of any person" instead of "with the intent that another person use the information to commit a crime against a child and the publication of the information is likely to aid in the imminent commission of a crime against a child."
- Clarifies that parents of a child who suffers actual damages as a result of the prohibited acts has a cause of action.
- Clarifies that a court shall award the child liquidated damages in the amount of ten thousand dollars for each violation when the court finds any person or organization has engaged in the

- prohibited acts.
- Clarifies definitions used throughout the act, including that "child" means a person under the age of sixteen.