

# SENATE BILL REPORT

## SSB 5718

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As Amended by House, April 3, 2007

**Title:** An act relating to penalties for engaging in the commercial sexual abuse of minors.

**Brief Description:** Imposing penalties for engaging in the commercial sexual abuse of minors.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Regala, Stevens, Keiser and Rasmussen).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/08/07, 2/20/07 [DPS].

Passed Senate: 3/08/07, 47-0.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5718 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

**Staff:** Shani Bauer (786-7468)

**Background:** A person is guilty of patronizing a juvenile prostitute if that person engages or agrees or offers to engage in sexual conduct with a minor in return for a fee and is guilty of a class C felony.

When engaged in juvenile prostitution, a person is guilty of promoting prostitution in the first degree if the person advances or profits from prostitution of a person less than 18 years old. Promoting prostitution in the first degree is a class B felony.

A person who patronizes a juvenile prostitute may also be charged with the rape of a child or child molestation. Rape of a child in the first and second degree and molestation of a child in the first degree are class A felonies; molestation of a child is a class B felony; and rape of a child in the third degree and molestation of a child in the third degree are class C felonies.

The Prostitution Prevention and Intervention Services grant program was established with the Department of Community, Trade, and Economic Development (CTED) in 1995. That fund was to provide prevention and intervention services to prostitutes or those seeking to leave prostitution, such as counseling, parenting, housing relief, education, and vocational training.

**Summary of Substitute Bill:** A person is guilty of commercial sexual abuse of a minor if the person pays a fee to engage in sexual conduct with a minor, pays or agrees to pay a fee

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pursuant to an understanding that the minor will engage in sexual conduct with him or her, or he or she solicits, offers, or requests to engage in sexual conduct with a minor. This crime is a class C felony.

A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances or profits from a minor engaged in sexual conduct. This crime is a class B felony. A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services to facilitate commercial sexual abuse of a minor. This crime is a class C felony.

A person is guilty of permitting commercial sexual abuse of a minor if the person has control of premises which he or she knows are being used for commercial sexual abuse of a minor. This crime is a gross misdemeanor.

Promoting commercial sexual abuse of a minor and promoting travel for the commercial sexual abuse of a minor are added to those crimes for which lack of knowledge as to the age of the victim is not a defense.

If a person is guilty of rape of a child or child molestation after July 1, 2007, an additional one-year enhancement must be added to the standard sentence range for the crime.

A person who has entered into a statutory or nonstatutory diversion agreement for the commercial sexual abuse of a minor or the crimes of indecent exposure, prostitution, permitting prostitution, or patronizing a prostitute is subject to the same financial penalties as those that apply to a person who has been convicted of the crime.

If funds are appropriated to the prostitution prevention and intervention account, CTED must prioritize the funds to provide services to minors who have a history of engaging in sexual conduct for a fee or are victims of commercial sexual abuse of a minor as well as the training of law enforcement and community outreach and education on minors who have a history of engaging in sexual conduct for a fee or are victims of commercial sexual abuse of a minor.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Youth engaged in prostitution are typically not treated as sexual assault victims and are therefore not referred for victim services. On the other hand, offenders are typically not charged with the rape of a child. This bill is to encourage teens to seek prevention services and hold those accountable that victimize them.

This bill is about commercial sexual abuse of minors. On a recent ride-a-long targeting prostitution, four out of six prostitutes picked up were juveniles. These young women are arrested, driven to the station and are then back on the street. This bill will allow strong punishment for those selling and exploiting young women and will allow some support for the young women. More severe penalties in this bill bring state law into line with federal law. Additional penalties also lessen the demand for prostitutes and is a worthwhile undertaking.

Further, these offenders have the means to pay the additional fines for these crimes and should be responsible to finance services for a problem they have helped create.

**Persons Testifying:** PRO: Senator Kohl-Welles, prime sponsor; Harvey Sloan, Seattle Police Department; Nick Licata, Seattle City Council; Dave Johnson, Washington Coalition of Crime Victim Advocates.

**House Amendment(s):** A special verdict process is created for the purpose of determining whether the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in sexual conduct in return for a fee in prosecutions for Rape of a Child in the first, second, and third degrees; Child Molestation in the first, second, and third degrees; and anticipatory crimes related to the offenses. The prosecution is required to prove the special verdict to a jury (or to the court if no jury is had) beyond a reasonable doubt.

"Sexual conduct" is defined for purposes of Promoting Commercial Sexual Abuse of a Minor. Minors receiving compensation for personally rendered sexual conduct are exempted from the definition of "advances commercial sexual abuse of a minor" for purposes of the crime of Promoting Sexual Abuse of a Minor (the underlying striking amendment exempts all minors from the definition).

For purposes of the 12-month enhancement, "anticipatory offense" includes attempt, conspiracy, and solicitation, instead of only attempt.

Language indicating that the 12-month enhancement will be added for anticipatory offenses "based on the felony crime of conviction as classified under RCW 9A.28.020" is removed (the sentencing enhancements in the underlying bill do not depend on the classification of the crime).

The date upon which the 12-month enhancements take effect is changed from July 1, 2007, to the effective date of the act (July 22, 2007).