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**ENGROSSED SUBSTITUTE SENATE BILL 6476**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach, and Kohl-Welles)

READ FIRST TIME 02/05/10.

1       AN ACT Relating to sex crimes involving minors; amending RCW  
2 13.32A.030, 7.68.070, 13.40.070, 13.40.070, 13.40.213, 9A.88.140,  
3 9.68A.100, 9.68A.101, 9.68A.105, 43.63A.740, and 9.68A.110; reenacting  
4 and amending RCW 9.94A.515; adding a new section to chapter 13.32A RCW;  
5 adding a new section to chapter 13.40 RCW; adding a new section to  
6 chapter 74.15 RCW; creating a new section; prescribing penalties;  
7 providing an effective date; and providing an expiration date.

8       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9       **Sec. 1.** RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read  
10 as follows:

11       As used in this chapter the following terms have the meanings  
12 indicated unless the context clearly requires otherwise:

13       (1) "Abuse or neglect" means the injury, sexual abuse, sexual  
14 exploitation, negligent treatment, or maltreatment of a child by any  
15 person under circumstances which indicate that the child's health,  
16 welfare, and safety is harmed, excluding conduct permitted under RCW  
17 9A.16.100. An abused child is a child who has been subjected to child  
18 abuse or neglect as defined in this section.

1 (2) "Administrator" means the individual who has the daily  
2 administrative responsibility of a crisis residential center, or his or  
3 her designee.

4 (3) "At-risk youth" means a juvenile:

5 (a) Who is absent from home for at least seventy-two consecutive  
6 hours without consent of his or her parent;

7 (b) Who is beyond the control of his or her parent such that the  
8 child's behavior endangers the health, safety, or welfare of the child  
9 or any other person; or

10 (c) Who has a substance abuse problem for which there are no  
11 pending criminal charges related to the substance abuse.

12 (4) "Child," "juvenile," and "youth" mean any unemancipated  
13 individual who is under the chronological age of eighteen years.

14 (5) "Child in need of services" means a juvenile:

15 (a) Who is beyond the control of his or her parent such that the  
16 child's behavior endangers the health, safety, or welfare of the child  
17 or other person;

18 (b) Who has been reported to law enforcement as absent without  
19 consent for at least twenty-four consecutive hours on two or more  
20 separate occasions from the home of either parent, a crisis residential  
21 center, an out-of-home placement, or a court-ordered placement; and

22 (i) Has exhibited a serious substance abuse problem; or

23 (ii) Has exhibited behaviors that create a serious risk of harm to  
24 the health, safety, or welfare of the child or any other person; (~~(c)~~)

25 (c)(i) Who is in need of: (A) Necessary services, including food,  
26 shelter, health care, clothing, or education; or (B) services designed  
27 to maintain or reunite the family;

28 (ii) Who lacks access to, or has declined to utilize, these  
29 services; and

30 (iii) Whose parents have evidenced continuing but unsuccessful  
31 efforts to maintain the family structure or are unable or unwilling to  
32 continue efforts to maintain the family structure; or

33 (d) Who is a "sexually exploited child".

34 (6) "Child in need of services petition" means a petition filed in  
35 juvenile court by a parent, child, or the department seeking  
36 adjudication of placement of the child.

37 (7) "Crisis residential center" means a secure or semi-secure  
38 facility established pursuant to chapter 74.13 RCW.

1 (8) "Custodian" means the person or entity who has the legal right  
2 to the custody of the child.

3 (9) "Department" means the department of social and health  
4 services.

5 (10) "Extended family member" means an adult who is a grandparent,  
6 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin  
7 with whom the child has a relationship and is comfortable, and who is  
8 willing and available to care for the child.

9 (11) "Guardian" means that person or agency that (a) has been  
10 appointed as the guardian of a child in a legal proceeding other than  
11 a proceeding under chapter 13.34 RCW, and (b) has the right to legal  
12 custody of the child pursuant to such appointment. The term "guardian"  
13 does not include a "dependency guardian" appointed pursuant to a  
14 proceeding under chapter 13.34 RCW.

15 (12) "Multidisciplinary team" means a group formed to provide  
16 assistance and support to a child who is an at-risk youth or a child in  
17 need of services and his or her parent. The team shall include the  
18 parent, a department case worker, a local government representative  
19 when authorized by the local government, and when appropriate, members  
20 from the mental health and substance abuse disciplines. The team may  
21 also include, but is not limited to, the following persons: Educators,  
22 law enforcement personnel, probation officers, employers, church  
23 persons, tribal members, therapists, medical personnel, social service  
24 providers, placement providers, and extended family members. The team  
25 members shall be volunteers who do not receive compensation while  
26 acting in a capacity as a team member, unless the member's employer  
27 chooses to provide compensation or the member is a state employee.

28 (13) "Out-of-home placement" means a placement in a foster family  
29 home or group care facility licensed pursuant to chapter 74.15 RCW or  
30 placement in a home, other than that of the child's parent, guardian,  
31 or legal custodian, not required to be licensed pursuant to chapter  
32 74.15 RCW.

33 (14) "Parent" means the parent or parents who have the legal right  
34 to custody of the child. "Parent" includes custodian or guardian.

35 (15) "Secure facility" means a crisis residential center, or  
36 portion thereof, that has locking doors, locking windows, or a secured  
37 perimeter, designed and operated to prevent a child from leaving  
38 without permission of the facility staff.

1 (16) "Semi-secure facility" means any facility, including but not  
2 limited to crisis residential centers or specialized foster family  
3 homes, operated in a manner to reasonably assure that youth placed  
4 there will not run away. Pursuant to rules established by the  
5 department, the facility administrator shall establish reasonable hours  
6 for residents to come and go from the facility such that no residents  
7 are free to come and go at all hours of the day and night. To prevent  
8 residents from taking unreasonable actions, the facility administrator,  
9 where appropriate, may condition a resident's leaving the facility upon  
10 the resident being accompanied by the administrator or the  
11 administrator's designee and the resident may be required to notify the  
12 administrator or the administrator's designee of any intent to leave,  
13 his or her intended destination, and the probable time of his or her  
14 return to the center.

15 (17) "Sexually exploited child" means any person under the age of  
16 eighteen who is a victim of the crime of commercial sex abuse of a  
17 minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor  
18 under RCW 9.68A.101, or promoting travel for commercial sexual abuse of  
19 a minor under RCW 9.68A.102.

20 (18) "Staff secure facility" means a structured group care facility  
21 licensed under rules adopted by the department with a ratio of at least  
22 one adult staff member to every two children.

23 ((+18+)) (19) "Temporary out-of-home placement" means an out-of-  
24 home placement of not more than fourteen days ordered by the court at  
25 a fact-finding hearing on a child in need of services petition.

26 NEW SECTION. Sec. 2. A new section is added to chapter 13.32A RCW  
27 to read as follows:

28 Within available funding, when a sexually exploited child is  
29 referred to the department, the department shall connect that child  
30 with the services and treatment specified in RCW 74.14B.060 and  
31 74.14B.070.

32 Sec. 3. RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as  
33 follows:

34 The right to benefits under this chapter and the amount thereof  
35 will be governed insofar as is applicable by the provisions contained  
36 in chapter 51.32 RCW except as provided in this section:

1 (1) The provisions contained in RCW 51.32.015, 51.32.030,  
2 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
3 applicable to this chapter.

4 (2) Each victim injured as a result of a criminal act, including  
5 criminal acts committed between July 1, 1981, and January 1, 1983, or  
6 the victim's family or dependents in case of death of the victim, are  
7 entitled to benefits in accordance with this chapter, subject to the  
8 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
9 limitations, and procedures applicable to a worker as contained in RCW  
10 51.32.010 are applicable to this chapter.

11 (3)(a) The limitations contained in RCW 51.32.020 are applicable to  
12 claims under this chapter. In addition (~~thereto~~), no person or  
13 spouse, child, or dependent of such person is entitled to benefits  
14 under this chapter when the injury for which benefits are sought, was:

15 (~~(a)~~) (i) The result of consent, provocation, or incitement by  
16 the victim, unless an injury resulting from a criminal act caused the  
17 death of the victim;

18 (~~(b)~~) (ii) Sustained while the crime victim was engaged in the  
19 attempt to commit, or the commission of, a felony; or

20 (~~(c)~~) (iii) Sustained while the victim was confined in any county  
21 or city jail, federal jail or prison or in any other federal  
22 institution, or any state correctional institution maintained and  
23 operated by the department of social and health services or the  
24 department of corrections, prior to release from lawful custody; or  
25 confined or living in any other institution maintained and operated by  
26 the department of social and health services or the department of  
27 corrections.

28 (b) A person identified as the "minor" in the charge of commercial  
29 sexual abuse of a minor under RCW 9.68A.100, promoting commercial  
30 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for  
31 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a  
32 victim of a criminal act for the purpose of the right to benefits under  
33 this chapter even if the person is also charged with prostitution under  
34 RCW 9A.88.030.

35 (4) The benefits established upon the death of a worker and  
36 contained in RCW 51.32.050 shall be the benefits obtainable under this  
37 chapter and provisions relating to payment contained in that section  
38 shall equally apply under this chapter(~~(:—PROVIDED, That)~~). Benefits

1 for burial expenses shall not exceed the amount paid by the department  
2 in case of the death of a worker as provided in chapter 51.32 RCW in  
3 any claim(~~(- PROVIDED FURTHER, That)~~). If the criminal act results in  
4 the death of a victim who was not gainfully employed at the time of the  
5 criminal act, and who was not so employed for at least three  
6 consecutive months of the twelve months immediately preceding the  
7 criminal act;

8 (a) Benefits payable to an eligible surviving spouse, where there  
9 are no children of the victim at the time of the criminal act who have  
10 survived the victim or where such spouse has legal custody of all of  
11 his or her children, shall be limited to burial expenses and a lump sum  
12 payment of seven thousand five hundred dollars without reference to  
13 number of children, if any;

14 (b) Where any such spouse has legal custody of one or more but not  
15 all of such children, then such burial expenses shall be paid, and such  
16 spouse shall receive a lump sum payment of three thousand seven hundred  
17 fifty dollars and any such child or children not in the legal custody  
18 of such spouse shall receive a lump sum of three thousand seven hundred  
19 fifty dollars to be divided equally among such child or children;

20 (c) If any such spouse does not have legal custody of any of the  
21 children, the burial expenses shall be paid and the spouse shall  
22 receive a lump sum payment of up to three thousand seven hundred fifty  
23 dollars and any such child or children not in the legal custody of the  
24 spouse shall receive a lump sum payment of up to three thousand seven  
25 hundred fifty dollars to be divided equally among the child or  
26 children;

27 (d) If no such spouse survives, then such burial expenses shall be  
28 paid, and each surviving child of the victim at the time of the  
29 criminal act shall receive a lump sum payment of three thousand seven  
30 hundred fifty dollars up to a total of two such children and where  
31 there are more than two such children the sum of seven thousand five  
32 hundred dollars shall be divided equally among such children.

33 No other benefits may be paid or payable under these circumstances.

34 (5) The benefits established in RCW 51.32.060 for permanent total  
35 disability proximately caused by the criminal act shall be the benefits  
36 obtainable under this chapter, and provisions relating to payment  
37 contained in that section apply under this chapter: PROVIDED, That if  
38 a victim becomes permanently and totally disabled as a proximate result

1 of the criminal act and was not gainfully employed at the time of the  
2 criminal act, the victim shall receive monthly during the period of the  
3 disability the following percentages, where applicable, of the average  
4 monthly wage determined as of the date of the criminal act pursuant to  
5 RCW 51.08.018:

6 (a) If married at the time of the criminal act, twenty-nine percent  
7 of the average monthly wage.

8 (b) If married with one child at the time of the criminal act,  
9 thirty-four percent of the average monthly wage.

10 (c) If married with two children at the time of the criminal act,  
11 thirty-eight percent of the average monthly wage.

12 (d) If married with three children at the time of the criminal act,  
13 forty-one percent of the average monthly wage.

14 (e) If married with four children at the time of the criminal act,  
15 forty-four percent of the average monthly wage.

16 (f) If married with five or more children at the time of the  
17 criminal act, forty-seven percent of the average monthly wage.

18 (g) If unmarried at the time of the criminal act, twenty-five  
19 percent of the average monthly wage.

20 (h) If unmarried with one child at the time of the criminal act,  
21 thirty percent of the average monthly wage.

22 (i) If unmarried with two children at the time of the criminal act,  
23 thirty-four percent of the average monthly wage.

24 (j) If unmarried with three children at the time of the criminal  
25 act, thirty-seven percent of the average monthly wage.

26 (k) If unmarried with four children at the time of the criminal  
27 act, forty percent of the average monthly wage.

28 (l) If unmarried with five or more children at the time of the  
29 criminal act, forty-three percent of the average monthly wage.

30 (6) The benefits established in RCW 51.32.080 for permanent partial  
31 disability shall be the benefits obtainable under this chapter, and  
32 provisions relating to payment contained in that section equally apply  
33 under this chapter.

34 (7) The benefits established in RCW 51.32.090 for temporary total  
35 disability shall be the benefits obtainable under this chapter, and  
36 provisions relating to payment contained in that section apply under  
37 this chapter(~~(-PROVIDED, That)~~). No person is eligible for temporary  
38 total disability benefits under this chapter if such person was not

1 gainfully employed at the time of the criminal act, and was not so  
2 employed for at least three consecutive months of the twelve months  
3 immediately preceding the criminal act.

4 (8) The benefits established in RCW 51.32.095 for continuation of  
5 benefits during vocational rehabilitation shall be benefits obtainable  
6 under this chapter, and provisions relating to payment contained in  
7 that section apply under this chapter(~~(+PROVIDED, That)~~). Benefits  
8 shall not exceed five thousand dollars for any single injury.

9 (9) The provisions for lump sum payment of benefits upon death or  
10 permanent total disability as contained in RCW 51.32.130 apply under  
11 this chapter.

12 (10) The provisions relating to payment of benefits to, for or on  
13 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
14 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and  
15 51.32.210 are applicable to payment of benefits to, for or on behalf of  
16 victims under this chapter.

17 (11) No person or spouse, child, or dependent of such person is  
18 entitled to benefits under this chapter where the person making a claim  
19 for such benefits has refused to give reasonable cooperation to state  
20 or local law enforcement agencies in their efforts to apprehend and  
21 convict the perpetrator(s) of the criminal act which gave rise to the  
22 claim.

23 (12) In addition to other benefits provided under this chapter,  
24 victims of sexual assault are entitled to receive appropriate  
25 counseling. Fees for such counseling shall be determined by the  
26 department in accordance with RCW 51.04.030, subject to the limitations  
27 of RCW 7.68.080. Counseling services may include, if determined  
28 appropriate by the department, counseling of members of the victim's  
29 immediate family, other than the perpetrator of the assault.

30 (13) Except for medical benefits authorized under RCW 7.68.080, no  
31 more than thirty thousand dollars shall be granted as a result of a  
32 single injury or death, except that benefits granted as the result of  
33 total permanent disability or death shall not exceed forty thousand  
34 dollars.

35 (14) Notwithstanding other provisions of this chapter and Title 51  
36 RCW, benefits payable for total temporary disability under subsection  
37 (7) of this section, shall be limited to fifteen thousand dollars.



1 (15) Any person who is responsible for the victim's injuries, or  
2 who would otherwise be unjustly enriched as a result of the victim's  
3 injuries, shall not be a beneficiary under this chapter.

4 (16) Crime victims' compensation is not available to pay for  
5 services covered under chapter 74.09 RCW or Title XIX of the federal  
6 social security act, except to the extent that the costs for such  
7 services exceed service limits established by the department of social  
8 and health services or, during the 1993-95 fiscal biennium, to the  
9 extent necessary to provide matching funds for federal medicaid  
10 reimbursement.

11 (17) In addition to other benefits provided under this chapter,  
12 immediate family members of a homicide victim may receive appropriate  
13 counseling to assist in dealing with the immediate, near-term  
14 consequences of the related effects of the homicide. Fees for  
15 counseling shall be determined by the department in accordance with RCW  
16 51.04.030, subject to the limitations of RCW 7.68.080. Payment of  
17 counseling benefits under this section may not be provided to the  
18 perpetrator of the homicide. The benefits under this subsection may be  
19 provided only with respect to homicides committed on or after July 1,  
20 1992.

21 (18) A dependent mother, father, stepmother, or stepfather, as  
22 defined in RCW 51.08.050, who is a survivor of her or his child's  
23 homicide, who has been requested by a law enforcement agency or a  
24 prosecutor to assist in the judicial proceedings related to the death  
25 of the victim, and who is not domiciled in Washington state at the time  
26 of the request, may receive a lump-sum payment upon arrival in this  
27 state. Total benefits under this subsection may not exceed seven  
28 thousand five hundred dollars. If more than one dependent parent is  
29 eligible for this benefit, the lump-sum payment of seven thousand five  
30 hundred dollars shall be divided equally among the dependent parents.

31 (19) A victim whose crime occurred in another state who qualifies  
32 for benefits under RCW 7.68.060(4) may receive appropriate mental  
33 health counseling to address distress arising from participation in the  
34 civil commitment proceedings. Fees for counseling shall be determined  
35 by the department in accordance with RCW 51.04.030, subject to the  
36 limitations of RCW 7.68.080.

1       **Sec. 4.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read  
2 as follows:

3       (1) Complaints referred to the juvenile court alleging the  
4 commission of an offense shall be referred directly to the prosecutor.  
5 The prosecutor, upon receipt of a complaint, shall screen the complaint  
6 to determine whether:

7       (a) The alleged facts bring the case within the jurisdiction of the  
8 court; and

9       (b) On a basis of available evidence there is probable cause to  
10 believe that the juvenile did commit the offense.

11       (2) If the identical alleged acts constitute an offense under both  
12 the law of this state and an ordinance of any city or county of this  
13 state, state law shall govern the prosecutor's screening and charging  
14 decision for both filed and diverted cases.

15       (3) If the requirements of subsections (1)(a) and (b) of this  
16 section are met, the prosecutor shall either file an information in  
17 juvenile court or divert the case, as set forth in subsections (5),  
18 (6), and (~~(+7)~~) (8) of this section. If the prosecutor finds that the  
19 requirements of subsection (1)(a) and (b) of this section are not met,  
20 the prosecutor shall maintain a record, for one year, of such decision  
21 and the reasons therefor. In lieu of filing an information or  
22 diverting an offense a prosecutor may file a motion to modify community  
23 supervision where such offense constitutes a violation of community  
24 supervision.

25       (4) An information shall be a plain, concise, and definite written  
26 statement of the essential facts constituting the offense charged. It  
27 shall be signed by the prosecuting attorney and conform to chapter  
28 10.37 RCW.

29       (5) Except as provided in RCW 13.40.213 and subsection (7) of this  
30 section, where a case is legally sufficient, the prosecutor shall file  
31 an information with the juvenile court if:

32       (a) An alleged offender is accused of a class A felony, a class B  
33 felony, an attempt to commit a class B felony, a class C felony listed  
34 in RCW 9.94A.411(2) as a crime against persons or listed in RCW  
35 9A.46.060 as a crime of harassment, or a class C felony that is a  
36 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

37       (b) An alleged offender is accused of a felony and has a criminal

1 history of any felony, or at least two gross misdemeanors, or at least  
2 two misdemeanors; or

3 (c) An alleged offender has previously been committed to the  
4 department; or

5 (d) An alleged offender has been referred by a diversion unit for  
6 prosecution or desires prosecution instead of diversion; or

7 (e) An alleged offender has two or more diversion agreements on the  
8 alleged offender's criminal history; or

9 (f) A special allegation has been filed that the offender or an  
10 accomplice was armed with a firearm when the offense was committed.

11 (6) Except as provided in subsection (7) of this section, where a  
12 case is legally sufficient the prosecutor shall divert the case if the  
13 alleged offense is a misdemeanor or gross misdemeanor or violation and  
14 the alleged offense is the offender's first offense or violation. If  
15 the alleged offender is charged with a related offense that must or may  
16 be filed under subsections (5) and (~~(7)~~) (8) of this section, a case  
17 under this subsection may also be filed.

18 (7) Where a case is legally sufficient to charge an alleged  
19 offender with either prostitution or prostitution loitering and the  
20 alleged offense is the offender's first offense, the prosecutor shall  
21 divert the case.

22 (8) Where a case is legally sufficient and falls into neither  
23 subsection (5) nor (6) of this section, it may be filed or diverted.  
24 In deciding whether to file or divert an offense under this section the  
25 prosecutor shall be guided only by the length, seriousness, and recency  
26 of the alleged offender's criminal history and the circumstances  
27 surrounding the commission of the alleged offense.

28 (~~(8)~~) (9) Whenever a juvenile is placed in custody or, where not  
29 placed in custody, referred to a diversion interview, the parent or  
30 legal guardian of the juvenile shall be notified as soon as possible  
31 concerning the allegation made against the juvenile and the current  
32 status of the juvenile. Where a case involves victims of crimes  
33 against persons or victims whose property has not been recovered at the  
34 time a juvenile is referred to a diversion unit, the victim shall be  
35 notified of the referral and informed how to contact the unit.

36 (~~(9)~~) (10) The responsibilities of the prosecutor under  
37 subsections (1) through (~~(8)~~) (9) of this section may be performed by  
38 a juvenile court probation counselor for any complaint referred to the

1 court alleging the commission of an offense which would not be a felony  
2 if committed by an adult, if the prosecutor has given sufficient  
3 written notice to the juvenile court that the prosecutor will not  
4 review such complaints.

5 ~~((+10))~~ (11) The prosecutor, juvenile court probation counselor,  
6 or diversion unit may, in exercising their authority under this section  
7 or RCW 13.40.080, refer juveniles to mediation or victim offender  
8 reconciliation programs. Such mediation or victim offender  
9 reconciliation programs shall be voluntary for victims.

10 **Sec. 5.** RCW 13.40.070 and 2003 c 53 s 98 are each amended to read  
11 as follows:

12 (1) Complaints referred to the juvenile court alleging the  
13 commission of an offense shall be referred directly to the prosecutor.  
14 The prosecutor, upon receipt of a complaint, shall screen the complaint  
15 to determine whether:

16 (a) The alleged facts bring the case within the jurisdiction of the  
17 court; and

18 (b) On a basis of available evidence there is probable cause to  
19 believe that the juvenile did commit the offense.

20 (2) If the identical alleged acts constitute an offense under both  
21 the law of this state and an ordinance of any city or county of this  
22 state, state law shall govern the prosecutor's screening and charging  
23 decision for both filed and diverted cases.

24 (3) If the requirements of subsections (1)(a) and (b) of this  
25 section are met, the prosecutor shall either file an information in  
26 juvenile court or divert the case, as set forth in subsections (5),  
27 (6), and (7) of this section. If the alleged acts constitute the crime  
28 of prostitution or prostitution loitering, and this is the alleged  
29 offender's first offense, the prosecutor shall divert the case. If the  
30 prosecutor finds that the requirements of subsection (1)(a) and (b) of  
31 this section are not met, the prosecutor shall maintain a record, for  
32 one year, of such decision and the reasons therefor. In lieu of filing  
33 an information or diverting an offense a prosecutor may file a motion  
34 to modify community supervision where such offense constitutes a  
35 violation of community supervision.

36 (4) An information shall be a plain, concise, and definite written

1 statement of the essential facts constituting the offense charged. It  
2 shall be signed by the prosecuting attorney and conform to chapter  
3 10.37 RCW.

4 (5) Except as provided in subsection (3) of this section, where a  
5 case is legally sufficient, the prosecutor shall file an information  
6 with the juvenile court if:

7 (a) An alleged offender is accused of a class A felony, a class B  
8 felony, an attempt to commit a class B felony, a class C felony listed  
9 in RCW 9.94A.411(2) as a crime against persons or listed in RCW  
10 9A.46.060 as a crime of harassment, or a class C felony that is a  
11 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

12 (b) An alleged offender is accused of a felony and has a criminal  
13 history of any felony, or at least two gross misdemeanors, or at least  
14 two misdemeanors; or

15 (c) An alleged offender has previously been committed to the  
16 department; or

17 (d) An alleged offender has been referred by a diversion unit for  
18 prosecution or desires prosecution instead of diversion; or

19 (e) An alleged offender has two or more diversion agreements on the  
20 alleged offender's criminal history; or

21 (f) A special allegation has been filed that the offender or an  
22 accomplice was armed with a firearm when the offense was committed.

23 (6) Except as provided in subsection (3) of this section, where a  
24 case is legally sufficient the prosecutor shall divert the case if the  
25 alleged offense is a misdemeanor or gross misdemeanor or violation and  
26 the alleged offense is the offender's first offense or violation. If  
27 the alleged offender is charged with a related offense that must or may  
28 be filed under subsections (5) and (7) of this section, a case under  
29 this subsection may also be filed.

30 (7) Where a case is legally sufficient and falls into neither  
31 subsection (5) nor (6) of this section, it may be filed or diverted.  
32 In deciding whether to file or divert an offense under this section the  
33 prosecutor shall be guided only by the length, seriousness, and recency  
34 of the alleged offender's criminal history and the circumstances  
35 surrounding the commission of the alleged offense.

36 (8) Whenever a juvenile is placed in custody or, where not placed  
37 in custody, referred to a diversion interview, the parent or legal  
38 guardian of the juvenile shall be notified as soon as possible

1 concerning the allegation made against the juvenile and the current  
2 status of the juvenile. Where a case involves victims of crimes  
3 against persons or victims whose property has not been recovered at the  
4 time a juvenile is referred to a diversion unit, the victim shall be  
5 notified of the referral and informed how to contact the unit.

6 (9) The responsibilities of the prosecutor under subsections (1)  
7 through (8) of this section may be performed by a juvenile court  
8 probation counselor for any complaint referred to the court alleging  
9 the commission of an offense which would not be a felony if committed  
10 by an adult, if the prosecutor has given sufficient written notice to  
11 the juvenile court that the prosecutor will not review such complaints.

12 (10) The prosecutor, juvenile court probation counselor, or  
13 diversion unit may, in exercising their authority under this section or  
14 RCW 13.40.080, refer juveniles to mediation or victim offender  
15 reconciliation programs. Such mediation or victim offender  
16 reconciliation programs shall be voluntary for victims.

17 **Sec. 6.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read  
18 as follows:

19 (1) When a juvenile is alleged to have committed the offenses of  
20 prostitution or prostitution loitering, and the allegation, if proved,  
21 would not be the juvenile's first offense, a prosecutor may divert the  
22 offense if the county in which the offense is alleged to have been  
23 committed has a comprehensive program that provides:

24 (a) Safe and stable housing;

25 (b) Comprehensive on-site case management;

26 (c) Integrated mental health and chemical dependency services,  
27 including specialized trauma recovery services;

28 (d) Education and employment training delivered on-site; and

29 (e) Referrals to off-site specialized services, as appropriate.

30 (2) A prosecutor may divert a case for prostitution or prostitution  
31 loitering into the comprehensive program described in this section,  
32 notwithstanding the filing criteria set forth in RCW 13.40.070(5).

33 (3) A diversion agreement under this section may extend to twelve  
34 months.

35 (4)(a) The administrative office of the courts shall compile data  
36 regarding:

1 (i) The number of juveniles whose cases are diverted into the  
2 comprehensive program described in this section;

3 (ii) Whether the juveniles complete their diversion agreements  
4 under this section; and

5 (iii) Whether juveniles whose cases have been diverted under this  
6 section have been subsequently arrested or committed subsequent  
7 offenses.

8 (b) A report of the data compiled shall be provided to the governor  
9 and the appropriate committee of the legislature by November 1, 2010.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.40 RCW  
11 to read as follows:

12 In any proceeding under this chapter related to an arrest for  
13 prostitution or prostitution loitering, there is a presumption that the  
14 alleged offender meets the criteria for a certification as a victim of  
15 a severe form of trafficking in persons as defined in section 7105 of  
16 Title 22 of the United States code, and that the alleged offender is  
17 also a victim of commercial sex abuse of a minor.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.15 RCW  
19 to read as follows:

20 The department shall require that to be licensed or continue to be  
21 licensed as a secure or semi-secure crisis residential center or HOPE  
22 center that the center has on staff, or otherwise has access to, a  
23 person who has been trained to work with the needs of sexually  
24 exploited children. For purposes of this section, "sexually exploited  
25 child" means that person as defined in RCW 13.32A.030(17).

26 **Sec. 9.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are  
27 each reenacted and amended to read as follows:

28

29 **TABLE 2**

30 **CRIMES INCLUDED WITHIN**

31 **EACH SERIOUSNESS LEVEL**

32 XVI Aggravated Murder 1 (RCW

33 10.95.020)

34 XV Homicide by abuse (RCW 9A.32.055)

1 Malicious explosion 1 (RCW  
2 70.74.280(1))  
3 Murder 1 (RCW 9A.32.030)  
4 XIV Murder 2 (RCW 9A.32.050)  
5 Trafficking 1 (RCW 9A.40.100(1))  
6 XIII Malicious explosion 2 (RCW  
7 70.74.280(2))  
8 Malicious placement of an explosive 1  
9 (RCW 70.74.270(1))  
10 XII Assault 1 (RCW 9A.36.011)  
11 Assault of a Child 1 (RCW 9A.36.120)  
12 Malicious placement of an imitation  
13 device 1 (RCW 70.74.272(1)(a))  
14 Promoting Commercial Sexual Abuse  
15 of a Minor (RCW 9.68A.101)  
16 Rape 1 (RCW 9A.44.040)  
17 Rape of a Child 1 (RCW 9A.44.073)  
18 Trafficking 2 (RCW 9A.40.100(2))  
19 XI Manslaughter 1 (RCW 9A.32.060)  
20 Rape 2 (RCW 9A.44.050)  
21 Rape of a Child 2 (RCW 9A.44.076)  
22 X Child Molestation 1 (RCW 9A.44.083)  
23 Criminal Mistreatment 1 (RCW  
24 9A.42.020)  
25 Indecent Liberties (with forcible  
26 compulsion) (RCW  
27 9A.44.100(1)(a))  
28 Kidnapping 1 (RCW 9A.40.020)  
29 Leading Organized Crime (RCW  
30 9A.82.060(1)(a))  
31 Malicious explosion 3 (RCW  
32 70.74.280(3))  
33 Sexually Violent Predator Escape  
34 (RCW 9A.76.115)  
35 IX Abandonment of Dependent Person 1  
36 (RCW 9A.42.060)  
37 Assault of a Child 2 (RCW 9A.36.130)



1 Explosive devices prohibited (RCW  
2 70.74.180)  
3 Hit and Run--Death (RCW  
4 46.52.020(4)(a))  
5 Homicide by Watercraft, by being  
6 under the influence of intoxicating  
7 liquor or any drug (RCW  
8 79A.60.050)  
9 Inciting Criminal Profiteering (RCW  
10 9A.82.060(1)(b))  
11 Malicious placement of an explosive 2  
12 (RCW 70.74.270(2))  
13 Robbery 1 (RCW 9A.56.200)  
14 Sexual Exploitation (RCW 9.68A.040)  
15 Vehicular Homicide, by being under  
16 the influence of intoxicating liquor  
17 or any drug (RCW 46.61.520)  
18 VIII Arson 1 (RCW 9A.48.020)  
19 Commercial Sexual Abuse of a Minor  
20 (RCW 9.68A.100)  
21 Homicide by Watercraft, by the  
22 operation of any vessel in a  
23 reckless manner (RCW  
24 79A.60.050)  
25 Manslaughter 2 (RCW 9A.32.070)  
26 ~~((Promoting Commercial Sexual Abuse~~  
27 ~~of a Minor (RCW 9.68A.101))~~  
28 Promoting Prostitution 1 (RCW  
29 9A.88.070)  
30 Theft of Ammonia (RCW 69.55.010)  
31 Vehicular Homicide, by the operation  
32 of any vehicle in a reckless manner  
33 (RCW 46.61.520)  
34 VII Burglary 1 (RCW 9A.52.020)  
35 Child Molestation 2 (RCW 9A.44.086)  
36 Civil Disorder Training (RCW  
37 9A.48.120)

1 Dealing in depictions of minor engaged  
2 in sexually explicit conduct (RCW  
3 9.68A.050)  
4 Drive-by Shooting (RCW 9A.36.045)  
5 Homicide by Watercraft, by disregard  
6 for the safety of others (RCW  
7 79A.60.050)  
8 Indecent Liberties (without forcible  
9 compulsion) (RCW 9A.44.100(1)  
10 (b) and (c))  
11 Introducing Contraband 1 (RCW  
12 9A.76.140)  
13 Malicious placement of an explosive 3  
14 (RCW 70.74.270(3))  
15 Negligently Causing Death By Use of a  
16 Signal Preemption Device (RCW  
17 46.37.675)  
18 Sending, bringing into state depictions  
19 of minor engaged in sexually  
20 explicit conduct (RCW 9.68A.060)  
21 Unlawful Possession of a Firearm in  
22 the first degree (RCW 9.41.040(1))  
23 Use of a Machine Gun in Commission  
24 of a Felony (RCW 9.41.225)  
25 Vehicular Homicide, by disregard for  
26 the safety of others (RCW  
27 46.61.520)  
28 VI Bail Jumping with Murder 1 (RCW  
29 9A.76.170(3)(a))  
30 Bribery (RCW 9A.68.010)  
31 Incest 1 (RCW 9A.64.020(1))  
32 Intimidating a Judge (RCW 9A.72.160)  
33 Intimidating a Juror/Witness (RCW  
34 9A.72.110, 9A.72.130)  
35 Malicious placement of an imitation  
36 device 2 (RCW 70.74.272(1)(b))

1 Possession of Depictions of a Minor  
2 Engaged in Sexually Explicit  
3 Conduct (RCW 9.68A.070)  
4 Rape of a Child 3 (RCW 9A.44.079)  
5 Theft of a Firearm (RCW 9A.56.300)  
6 Unlawful Storage of Ammonia (RCW  
7 69.55.020)  
8 V Abandonment of Dependent Person 2  
9 (RCW 9A.42.070)  
10 Advancing money or property for  
11 extortionate extension of credit  
12 (RCW 9A.82.030)  
13 Bail Jumping with class A Felony  
14 (RCW 9A.76.170(3)(b))  
15 Child Molestation 3 (RCW 9A.44.089)  
16 Criminal Mistreatment 2 (RCW  
17 9A.42.030)  
18 Custodial Sexual Misconduct 1 (RCW  
19 9A.44.160)  
20 Domestic Violence Court Order  
21 Violation (RCW 10.99.040,  
22 10.99.050, 26.09.300, 26.10.220,  
23 26.26.138, 26.50.110, 26.52.070,  
24 or 74.34.145)  
25 Driving While Under the Influence  
26 (RCW 46.61.502(6))  
27 Extortion 1 (RCW 9A.56.120)  
28 Extortionate Extension of Credit (RCW  
29 9A.82.020)  
30 Extortionate Means to Collect  
31 Extensions of Credit (RCW  
32 9A.82.040)  
33 Incest 2 (RCW 9A.64.020(2))  
34 Kidnapping 2 (RCW 9A.40.030)  
35 Perjury 1 (RCW 9A.72.020)  
36 Persistent prison misbehavior (RCW  
37 9.94.070)

1 Physical Control of a Vehicle While  
2 Under the Influence (RCW  
3 46.61.504(6))  
4 Possession of a Stolen Firearm (RCW  
5 9A.56.310)  
6 Rape 3 (RCW 9A.44.060)  
7 Rendering Criminal Assistance 1  
8 (RCW 9A.76.070)  
9 Sexual Misconduct with a Minor 1  
10 (RCW 9A.44.093)  
11 Sexually Violating Human Remains  
12 (RCW 9A.44.105)  
13 Stalking (RCW 9A.46.110)  
14 Taking Motor Vehicle Without  
15 Permission 1 (RCW 9A.56.070)  
16 IV Arson 2 (RCW 9A.48.030)  
17 Assault 2 (RCW 9A.36.021)  
18 Assault 3 (of a Peace Officer with a  
19 Projectile Stun Gun) (RCW  
20 9A.36.031(1)(h))  
21 Assault by Watercraft (RCW  
22 79A.60.060)  
23 Bribing a Witness/Bribe Received by  
24 Witness (RCW 9A.72.090,  
25 9A.72.100)  
26 Cheating 1 (RCW 9.46.1961)  
27 Commercial Bribery (RCW 9A.68.060)  
28 Counterfeiting (RCW 9.16.035(4))  
29 Endangerment with a Controlled  
30 Substance (RCW 9A.42.100)  
31 Escape 1 (RCW 9A.76.110)  
32 Hit and Run--Injury (RCW  
33 46.52.020(4)(b))  
34 Hit and Run with Vessel--Injury  
35 Accident (RCW 79A.60.200(3))  
36 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under  
2 Age Fourteen (subsequent sex  
3 offense) (RCW 9A.88.010)  
4 Influencing Outcome of Sporting Event  
5 (RCW 9A.82.070)  
6 Malicious Harassment (RCW  
7 9A.36.080)  
8 Residential Burglary (RCW  
9 9A.52.025)  
10 Robbery 2 (RCW 9A.56.210)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Threats to Bomb (RCW 9.61.160)  
13 Trafficking in Stolen Property 1 (RCW  
14 9A.82.050)  
15 Unlawful factoring of a credit card or  
16 payment card transaction (RCW  
17 9A.56.290(4)(b))  
18 Unlawful transaction of health  
19 coverage as a health care service  
20 contractor (RCW 48.44.016(3))  
21 Unlawful transaction of health  
22 coverage as a health maintenance  
23 organization (RCW 48.46.033(3))  
24 Unlawful transaction of insurance  
25 business (RCW 48.15.023(3))  
26 Unlicensed practice as an insurance  
27 professional (RCW  
28 48.17.063(~~(3)~~)(2))  
29 Use of Proceeds of Criminal  
30 Profiteering (RCW 9A.82.080(1)  
31 and (2))  
32 Vehicular Assault, by being under the  
33 influence of intoxicating liquor or  
34 any drug, or by the operation or  
35 driving of a vehicle in a reckless  
36 manner (RCW 46.61.522)

1 Willful Failure to Return from  
2 Furlough (RCW 72.66.060)  
3 III Animal Cruelty 1 (Sexual Conduct or  
4 Contact) (RCW 16.52.205(3))  
5 Assault 3 (Except Assault 3 of a Peace  
6 Officer With a Projectile Stun  
7 Gun) (RCW 9A.36.031 except  
8 subsection (1)(h))  
9 Assault of a Child 3 (RCW 9A.36.140)  
10 Bail Jumping with class B or C Felony  
11 (RCW 9A.76.170(3)(c))  
12 Burglary 2 (RCW 9A.52.030)  
13 ~~((Commercial Sexual Abuse of a Minor  
14 (RCW 9.68A.100)))~~  
15 Communication with a Minor for  
16 Immoral Purposes (RCW  
17 9.68A.090)  
18 Criminal Gang Intimidation (RCW  
19 9A.46.120)  
20 Custodial Assault (RCW 9A.36.100)  
21 Cyberstalking (subsequent conviction  
22 or threat of death) (RCW  
23 9.61.260(3))  
24 Escape 2 (RCW 9A.76.120)  
25 Extortion 2 (RCW 9A.56.130)  
26 Harassment (RCW 9A.46.020)  
27 Intimidating a Public Servant (RCW  
28 9A.76.180)  
29 Introducing Contraband 2 (RCW  
30 9A.76.150)  
31 Malicious Injury to Railroad Property  
32 (RCW 81.60.070)  
33 Mortgage Fraud (RCW 19.144.080)  
34 Negligently Causing Substantial Bodily  
35 Harm By Use of a Signal  
36 Preemption Device (RCW  
37 46.37.674)

1 Organized Retail Theft 1 (RCW  
2 9A.56.350(2))  
3 Perjury 2 (RCW 9A.72.030)  
4 Possession of Incendiary Device (RCW  
5 9.40.120)  
6 Possession of Machine Gun or Short-  
7 Barreled Shotgun or Rifle (RCW  
8 9.41.190)  
9 Promoting Prostitution 2 (RCW  
10 9A.88.080)  
11 Retail Theft with Extenuating  
12 Circumstances 1 (RCW  
13 9A.56.360(2))  
14 Securities Act violation (RCW  
15 21.20.400)  
16 Tampering with a Witness (RCW  
17 9A.72.120)  
18 Telephone Harassment (subsequent  
19 conviction or threat of death)  
20 (RCW 9.61.230(2))  
21 Theft of Livestock 2 (RCW 9A.56.083)  
22 Theft with the Intent to Resell 1 (RCW  
23 9A.56.340(2))  
24 Trafficking in Stolen Property 2 (RCW  
25 9A.82.055)  
26 Unlawful Imprisonment (RCW  
27 9A.40.040)  
28 Unlawful possession of firearm in the  
29 second degree (RCW 9.41.040(2))  
30 Vehicular Assault, by the operation or  
31 driving of a vehicle with disregard  
32 for the safety of others (RCW  
33 46.61.522)  
34 Willful Failure to Return from Work  
35 Release (RCW 72.65.070)  
36 II Computer Trespass 1 (RCW  
37 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))  
2 Escape from Community Custody  
3 (RCW 72.09.310)  
4 Failure to Register as a Sex Offender  
5 (second or subsequent offense)  
6 (RCW 9A.44.130(11)(a))  
7 Health Care False Claims (RCW  
8 48.80.030)  
9 Identity Theft 2 (RCW 9.35.020(3))  
10 Improperly Obtaining Financial  
11 Information (RCW 9.35.010)  
12 Malicious Mischief 1 (RCW  
13 9A.48.070)  
14 Organized Retail Theft 2 (RCW  
15 9A.56.350(3))  
16 Possession of Stolen Property 1 (RCW  
17 9A.56.150)  
18 Possession of a Stolen Vehicle (RCW  
19 9A.56.068)  
20 Retail Theft with Extenuating  
21 Circumstances 2 (RCW  
22 9A.56.360(3))  
23 Theft 1 (RCW 9A.56.030)  
24 Theft of a Motor Vehicle (RCW  
25 9A.56.065)  
26 Theft of Rental, Leased, or Lease-  
27 purchased Property (valued at one  
28 thousand five hundred dollars or  
29 more) (RCW 9A.56.096(5)(a))  
30 Theft with the Intent to Resell 2 (RCW  
31 9A.56.340(3))  
32 Trafficking in Insurance Claims (RCW  
33 48.30A.015)  
34 Unlawful factoring of a credit card or  
35 payment card transaction (RCW  
36 9A.56.290(4)(a))



1 Unlawful Practice of Law (RCW  
2 2.48.180)  
3 Unlicensed Practice of a Profession or  
4 Business (RCW 18.130.190(7))  
5 Voyeurism (RCW 9A.44.115)  
6 I Attempting to Elude a Pursuing Police  
7 Vehicle (RCW 46.61.024)  
8 False Verification for Welfare (RCW  
9 74.08.055)  
10 Forgery (RCW 9A.60.020)  
11 Fraudulent Creation or Revocation of a  
12 Mental Health Advance Directive  
13 (RCW 9A.60.060)  
14 Malicious Mischief 2 (RCW  
15 9A.48.080)  
16 Mineral Trespass (RCW 78.44.330)  
17 Possession of Stolen Property 2 (RCW  
18 9A.56.160)  
19 Reckless Burning 1 (RCW 9A.48.040)  
20 Taking Motor Vehicle Without  
21 Permission 2 (RCW 9A.56.075)  
22 Theft 2 (RCW 9A.56.040)  
23 Theft of Rental, Leased, or Lease-  
24 purchased Property (valued at two  
25 hundred fifty dollars or more but  
26 less than one thousand five  
27 hundred dollars) (RCW  
28 9A.56.096(5)(b))  
29 Transaction of insurance business  
30 beyond the scope of licensure  
31 (RCW 48.17.063(((4))))  
32 Unlawful Issuance of Checks or Drafts  
33 (RCW 9A.56.060)  
34 Unlawful Possession of Fictitious  
35 Identification (RCW 9A.56.320)  
36 Unlawful Possession of Instruments of  
37 Financial Fraud (RCW 9A.56.320)

1 Unlawful Possession of Payment  
2 Instruments (RCW 9A.56.320)  
3 Unlawful Possession of a Personal  
4 Identification Device (RCW  
5 9A.56.320)  
6 Unlawful Production of Payment  
7 Instruments (RCW 9A.56.320)  
8 Unlawful Trafficking in Food Stamps  
9 (RCW 9.91.142)  
10 Unlawful Use of Food Stamps (RCW  
11 9.91.144)  
12 Vehicle Prowl I (RCW 9A.52.095)

13 **Sec. 10.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read  
14 as follows:

15 (1)(a) Upon an arrest for a suspected violation of patronizing a  
16 prostitute, promoting prostitution in the first degree, promoting  
17 prostitution in the second degree, promoting travel for prostitution(~~(~~  
18 ~~commercial sexual abuse of a minor, promoting commercial sexual abuse~~  
19 ~~of a minor, or promoting travel for commercial sexual abuse of a~~  
20 ~~minor~~)), the arresting law enforcement officer may impound the person's  
21 vehicle if (i) the motor vehicle was used in the commission of the  
22 crime; (ii) the person arrested is the owner of the vehicle or the  
23 vehicle is a rental car as defined in RCW 46.04.465; and (iii) either  
24 (A) the person arrested has previously been convicted of one of the  
25 offenses listed in this subsection or (B) the offense was committed  
26 within an area designated under (b) of this subsection.

27 (b) A local governing authority may designate areas within which  
28 vehicles are subject to impoundment under this section regardless of  
29 whether the person arrested has previously been convicted of any of the  
30 offenses listed in (a) of this subsection.

31 (i) The designation must be based on evidence indicating that the  
32 area has a disproportionately higher number of arrests for the offenses  
33 listed in (a) of this subsection as compared to other areas within the  
34 same jurisdiction.

35 (ii) The local governing authority shall post signs at the  
36 boundaries of the designated area to indicate that the area has been  
37 designated under this subsection.

1           (2) Upon an arrest for a suspected violation of commercial sexual  
2 abuse of a minor, promoting commercial sexual abuse of a minor, or  
3 promoting travel for commercial sexual abuse of a minor, the arresting  
4 law enforcement officer shall impound the person's vehicle if (a) the  
5 motor vehicle was used in the commission of the crime; and (b) the  
6 person arrested is the owner of the vehicle or the vehicle is a rental  
7 car as defined in RCW 46.04.465.

8           (3) Impoundments performed under this section shall be in  
9 accordance with chapter 46.55 RCW and the impoundment order must  
10 clearly state "prostitution hold."

11           ~~((+3+))~~ (4)(a) Prior to redeeming the impounded vehicle, and in  
12 addition to all applicable impoundment, towing, and storage fees paid  
13 to the towing company under chapter 46.55 RCW, the owner of the  
14 impounded vehicle must pay a fine ~~((of five hundred dollars))~~ to the  
15 impounding agency. The fine shall be five hundred dollars for the  
16 offenses specified in subsection (1) of this section, or two thousand  
17 five hundred dollars for the offenses specified in subsection (2) of  
18 this section. The fine shall be deposited in the prostitution  
19 prevention and intervention account established under RCW 43.63A.740.

20           (b) Upon receipt of the fine paid under (a) of this subsection, the  
21 impounding agency shall issue a written receipt to the owner of the  
22 impounded vehicle.

23           ~~((+4+))~~ (5)(a) In order to redeem a vehicle impounded under this  
24 section, the owner must provide the towing company with the written  
25 receipt issued under subsection ~~((+3+))~~ (4)(b) of this section.

26           (b) The written receipt issued under subsection ~~((+3+))~~ (4)(b) of  
27 this section authorizes the towing company to release the impounded  
28 vehicle upon payment of all impoundment, towing, and storage fees.

29           (c) A towing company that relies on a forged receipt to release a  
30 vehicle impounded under this section is not liable to the impounding  
31 authority for any unpaid fine under subsection ~~((+3+))~~ (4)(a) of this  
32 section.

33           ~~((+5+))~~ (6)(a) In any proceeding under chapter 46.55 RCW to contest  
34 the validity of an impoundment under this section where the claimant  
35 substantially prevails, the claimant is entitled to a full refund of  
36 the impoundment, towing, and storage fees paid under chapter 46.55 RCW  
37 and the five hundred dollar fine paid under subsection ~~((+3+))~~ (4) of  
38 this section.

1 (b) If the person is found not guilty at trial for a crime listed  
2 under subsection (1) of this section, the person is entitled to a full  
3 refund of the impoundment, towing, and storage fees paid under chapter  
4 46.55 RCW and the (~~five hundred dollar~~) fine paid under subsection  
5 (~~(3)~~) (4) of this section.

6 (c) All refunds made under this section shall be paid by the  
7 impounding agency.

8 (d) Prior to receiving any refund under this section, the claimant  
9 must provide proof of payment.

10 **Sec. 11.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read  
11 as follows:

12 (1) A person is guilty of commercial sexual abuse of a minor if:

13 (a) He or she pays a fee to a minor or a third person as  
14 compensation for a minor having engaged in sexual conduct with him or  
15 her;

16 (b) He or she pays or agrees to pay a fee to a minor or a third  
17 person pursuant to an understanding that in return therefore such minor  
18 will engage in sexual conduct with him or her; or

19 (c) He or she solicits, offers, or requests to engage in sexual  
20 conduct with a minor in return for a fee.

21 (2) Commercial sexual abuse of a minor is a class (~~(C)~~) B felony  
22 punishable under chapter 9A.20 RCW.

23 (3) In addition to any other penalty provided under chapter 9A.20  
24 RCW, a person guilty of commercial sexual abuse of a minor is subject  
25 to the provisions under RCW 9A.88.130 and 9A.88.140.

26 (4) For purposes of this section, "sexual conduct" means sexual  
27 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

28 **Sec. 12.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read  
29 as follows:

30 (1) A person is guilty of promoting commercial sexual abuse of a  
31 minor if he or she knowingly advances commercial sexual abuse of a  
32 minor or profits from a minor engaged in sexual conduct.

33 (2) Promoting commercial sexual abuse of a minor is a class (~~(B)~~)  
34 A felony.

35 (3) For the purposes of this section:

1 (a) A person "advances commercial sexual abuse of a minor" if,  
2 acting other than as a minor receiving compensation for personally  
3 rendered sexual conduct or as a person engaged in commercial sexual  
4 abuse of a minor, he or she causes or aids a person to commit or engage  
5 in commercial sexual abuse of a minor, procures or solicits customers  
6 for commercial sexual abuse of a minor, provides persons or premises  
7 for the purposes of engaging in commercial sexual abuse of a minor,  
8 operates or assists in the operation of a house or enterprise for the  
9 purposes of engaging in commercial sexual abuse of a minor, or engages  
10 in any other conduct designed to institute, aid, cause, assist, or  
11 facilitate an act or enterprise of commercial sexual abuse of a minor.

12 (b) A person "profits from commercial sexual abuse of a minor" if,  
13 acting other than as a minor receiving compensation for personally  
14 rendered sexual conduct, he or she accepts or receives money or other  
15 property pursuant to an agreement or understanding with any person  
16 whereby he or she participates or will participate in the proceeds of  
17 commercial sexual abuse of a minor.

18 (4) For purposes of this section, "sexual conduct" means sexual  
19 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

20 **Sec. 13.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to  
21 read as follows:

22 (1)(a) In addition to penalties set forth in RCW 9.68A.100,  
23 9.68A.101, and 9.68A.102, a person who is either convicted or given a  
24 deferred sentence or a deferred prosecution or who has entered into a  
25 statutory or nonstatutory diversion agreement as a result of an arrest  
26 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable  
27 county or municipal ordinance shall be assessed a five (~~hundred~~  
28 ~~fifty~~) thousand dollar fee.

29 (b) The court may not suspend payment of all or part of the fee  
30 unless it finds that the person does not have the ability to pay.

31 (c) When a minor has been adjudicated a juvenile offender or has  
32 entered into a statutory or nonstatutory diversion agreement for an  
33 offense which, if committed by an adult, would constitute a violation  
34 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or  
35 municipal ordinance, the court shall assess the fee under (a) of this  
36 subsection. The court may not suspend payment of all or part of the

1 fee unless it finds that the minor does not have the ability to pay the  
2 fee.

3 (2) The fee assessed under subsection (1) of this section shall be  
4 collected by the clerk of the court and distributed each month to the  
5 state treasurer for deposit in the prostitution prevention and  
6 intervention account under RCW 43.63A.740 for the purpose of funding  
7 prostitution prevention and intervention activities.

8 (3) For the purposes of this section:

9 (a) "Statutory or nonstatutory diversion agreement" means an  
10 agreement under RCW 13.40.080 or any written agreement between a person  
11 accused of an offense listed in subsection (1) of this section and a  
12 court, county or city prosecutor, or designee thereof, whereby the  
13 person agrees to fulfill certain conditions in lieu of prosecution.

14 (b) "Deferred sentence" means a sentence that will not be carried  
15 out if the defendant meets certain requirements, such as complying with  
16 the conditions of probation.

17 **Sec. 14.** RCW 43.63A.740 and 2009 c 387 s 2 are each amended to  
18 read as follows:

19 The prostitution prevention and intervention account is created in  
20 the state treasury. All designated receipts from fees under RCW  
21 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall  
22 be deposited into the account. Expenditures from the account may be  
23 used as follows: Fifty percent of the money collected shall be used by  
24 the department of social and health services only for secure and semi-  
25 secure crisis residential centers to provide sexually exploited  
26 children with access to staff trained to meet their specific needs as  
27 provided in section 8 of this act or to provide the services specified  
28 in RCW 74.14B.060 and 74.14B.070. Fifty percent of the money shall be  
29 used only for funding the grant program to enhance prostitution  
30 prevention and intervention services under RCW 43.63A.720.

31 NEW SECTION. **Sec. 15.** If funds are appropriated specifically for  
32 this purpose, the criminal justice training commission, in consultation  
33 with the Washington association of sheriffs and police chiefs, shall,  
34 by December 1, 2010, develop a model policy on law enforcement officer  
35 implementation of the procedures provided in this act relating to  
36 contact with a minor who is a "sexually exploited child" as defined in

1 this act or who is a victim of offenses related to commercial sexual  
2 abuse of a minor as defined in chapter 9.68A RCW. The commission shall  
3 develop a curriculum based on the model policy for inclusion in its  
4 basic training academy by January 1, 2011.

5 **Sec. 16.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read  
6 as follows:

7 (1) In a prosecution under RCW 9.68A.040, it is not a defense that  
8 the defendant was involved in activities of law enforcement and  
9 prosecution agencies in the investigation and prosecution of criminal  
10 offenses. Law enforcement and prosecution agencies shall not employ  
11 minors to aid in the investigation of a violation of RCW 9.68A.090 or  
12 9.68A.100. This chapter does not apply to lawful conduct between  
13 spouses.

14 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or  
15 9.68A.080, it is not a defense that the defendant did not know the age  
16 of the child depicted in the visual or printed matter(~~(:—PROVIDED,~~  
17 ~~That)).~~ It is a defense, which the defendant must prove by a  
18 preponderance of the evidence, that at the time of the offense the  
19 defendant was not in possession of any facts on the basis of which he  
20 or she should reasonably have known that the person depicted was a  
21 minor.

22 (3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100,  
23 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not  
24 know the alleged victim's age(~~(:—PROVIDED, That)).~~ It is a defense,  
25 which the defendant must prove by a preponderance of the evidence, that  
26 at the time of the offense, the defendant made a reasonable bona fide  
27 attempt to ascertain the true age of the minor by requiring production  
28 of a driver's license, marriage license, birth certificate, or other  
29 governmental or educational identification card or paper and did not  
30 rely solely on the oral allegations or apparent age of the minor.

31 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,  
32 it shall be an affirmative defense that the defendant was a law  
33 enforcement officer in the process of conducting an official  
34 investigation of a sex-related crime against a minor, or that the  
35 defendant was providing individual case treatment as a recognized  
36 medical facility or as a psychiatrist or psychologist licensed under  
37 Title 18 RCW.

1           (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,  
2 the state is not required to establish the identity of the alleged  
3 victim.

4           NEW SECTION.   **Sec. 17.** Sections 4 and 6 of this act expire July 1,  
5 2011.

6           NEW SECTION.   **Sec. 18.** Section 5 of this act takes effect July 1,  
7 2011.

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