

HOUSE BILL REPORT

HB 2692

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to the reduction of the commercial sale of sex.

Brief Description: Concerning the reduction of the commercial sale of sex.

Sponsors: Representatives Orwall, Asay, Parker, Carlyle, Kelley, Hurst, Ormsby, Kagi, Dickerson, Upthegrove, Goodman, Pettigrew, Maxwell, Dahlquist, Dammeier, Moscoso, Pearson and Kenney.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/31/12 [DPS].

Brief Summary of Substitute Bill

- Increases an additional fine imposed in relation to a prosecution for Patronizing a Prostitute.
- Directs revenue from this fine to the jurisdiction in which the offense occurred to pay for increased enforcement and prevention programs.
- Mandates john school for first-time offenders.
- Allows publication of offender photos.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Sarah Koster (786-7303).

Background:

A person is guilty of Patronizing a Prostitute if:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her;
- he or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person will engage in sexual conduct with him or her; or
- he or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.

For purposes of this section, "sexual conduct" has the meaning given in RCW 9A.88.030. Patronizing a Prostitute is a misdemeanor.

Under current law, a person who has been convicted, given a deferred sentence or prosecution, or entered into a statutory or nonstatutory diversion agreement as a result of an arrest for Indecent Exposure, Prostitution, Promoting Prostitution in the first or second degree, Permitting Prostitution or Patronizing a Prostitute (or a similar county or municipal ordinance), is assessed a fee. The fee is assessed in addition to the criminal penalties for commission of the crime.

The additional fee for Patronizing a Prostitute is \$150.

"Statutory or nonstatutory diversion agreement" is defined as a written agreement between a person and a court, county, or city prosecutor, or designee thereof, where the person agrees to fulfill certain conditions in lieu of prosecution.

"Deferred sentence" is defined as a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

Prostitution Prevention and Intervention Account.

The additional fees imposed for these offenses are collected by the clerk of the court and distributed each month for deposit in a state account, the Prostitution Prevention and Intervention Account (Account). The funds in the Account may be used to:

1. support programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense;
2. fund services provided to sexually exploited children in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;
3. fund services for sexually exploited children; and
4. fund a grant program to enhance prostitution prevention and intervention services.

Educational Programs for Offenders ("John Schools").

Some cities in Washington, including Tacoma and Seattle, have created "john schools," court-ordered educational programs for persons arrested for patronizing a prostitute. These programs, which typically involve presentations by former prostitutes, are designed to show offenders the impact of prostitution on individuals involved in the sex trade, as well as the risks of prostitution to purchasers of sexual services.

Summary of Substitute Bill:

Fines.

The substitute bill increases the fine to be paid by an individual who has been convicted, given a deferred sentence or prosecution, or entered into a statutory or nonstatutory diversion agreement as a result of an arrest for patronizing a prostitute, in addition to the criminal penalties and the currently existing additional fees.

The additional fine is \$1,500 for a first offense, \$2,500 for a second offense, and \$5,000 for a third or subsequent offense. These fines may not be reduced, suspended, or waived. The revenue raised from this fine is collected by the clerk of the court and remitted to the county where the offense occurred for the county general fund, except if the offense occurred within a city or town which provides for its own law enforcement, in which case the funds will be deposited in the city or town general fund.

The funds must be used for local efforts to reduce the commercial sale of sex including prevention and increased enforcement of commercial sex laws. Specifically, at least half of the funds must be spent on prevention, including education programs for offenders, such as john schools, and rehabilitative services such as: mental health and substance abuse counseling, parenting skills training, housing relief, education, vocational training, drop-in centers, and employment counseling to help individuals transition out of the commercial sex industry.

Typically, a certain percentage of the fines, fees, penalties, and costs collected by the courts must be remitted to the state. The revenue from the fines imposed under this bill is not subject to this requirement.

Nonmonetary Penalties.

The bill also contains nonmonetary provisions: first-time offenders are required to fulfill the terms of a program, designated by the sentencing court, designed to educate offenders about the negative costs of prostitution. An example of such a program is a john school.

The substitute bill also requires a picture and other identifying information of certain offenders to be published in local newspapers. The offenders who are subject to this rule are: (1) persons who failed to complete a mandated education program within a reasonable time; and (2) persons who have been convicted a second or subsequent time of patronizing a prostitute.

The published notices will contain the photograph taken by the arresting law enforcement agency at the time of arrest, the name of the convicted person, the city, county, and zip code of the convicted person's residential address, and the date, time, and place of arrest and disposition of the case. The notice will be published once in a newspaper of general circulation in the county in which the person resides or, in the case of nonresidents, in the county in which the person was convicted.

The offender will be assessed a \$25 fee for the cost of publication.

The clerk of the court, the publisher of any newspaper that publishes a notice of conviction, and any other person involved in the publication of an erroneous notice of conviction shall be immune from civil or criminal liability for such erroneous publication, provided the publication was made in good faith.

Substitute Bill Compared to Original Bill:

The substitute bill increased the fine amounts from \$1,000, \$2,000, and \$3,000 for first, second, and third or subsequent offenses, respectively, to \$1,500, \$2,500, and \$5,000 and moved the new fine into RCW 9A.88.120, where it replaces the current \$150 fine. The substitute bill also clarified that only funds from RCW 9A.88.120 are exempt from the remittance requirements, not all funds collected under chapter 9A.88 RCW.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill gives law enforcement the tools it needs to put pressure on the commercial sex industry and helps these young victims transition out of the sex trade. To reduce trafficking, it is necessary to reduce the demand for commercial sexual exploitation. This bill will go a long way towards accomplishing this goal. The photo publication creates an effective disincentive.

(With concerns) The court clerks will have administrative and actual costs from the photo publication provisions. The picture is not easily available to the court clerks. The publication provision may be accomplished without costs, because newspapers will want to publish this information. It is worth looking at the sex offender notification statute to model changes to this bill.

(Opposed) None.

Persons Testifying: (In support) Representative Orwall, prime sponsor; and Charlene Hudon, Intercommunity Peace and Justice Center.

(With concerns) James McMahan, Washington Association County Officials; and Rowland Thompson, Allied Daily Newspaper.

Persons Signed In To Testify But Not Testifying: Rose Gundersen, Washington Engage.