

# SENATE BILL REPORT

## SHB 1874

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As of March 23, 2011

**Title:** An act relating to police investigations of commercial sexual exploitation of children and human trafficking.

**Brief Description:** Addressing police investigations of commercial sexual exploitation of children and human trafficking.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Dickerson, Hurst, Klippert, Pearson, Parker, Shea, Kenney, Angel, Kristiansen, Stanford, McCune and Ormsby).

**Brief History:** Passed House: 3/07/11, 87-9.

**Committee Activity:** Human Services & Corrections: 3/22/11.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** As part of a criminal investigation, a law enforcement officer above the rank of line supervisor may authorize the interception and recording of a conversation when one party to the conversation has consented and there is probable cause to believe the conversation involves the unlawful manufacture, delivery, or sale of controlled substances. A record must be kept of this authorization which must be submitted to the court for review within two judicial days. Notice that the recording has occurred must subsequently be mailed to the non-consenting party.

Law enforcement officers are prohibited from employing minors to aid in the investigation of the offenses of commercial sex abuse of a minor or communication with a minor for immoral purposes.

**Summary of Bill:** Law enforcement is authorized to follow procedures for the interception and recording of a conversation with the consent of only one party to the conversation when there is probable cause to believe the conversation involves the commercial sexual abuse of a minor. Law enforcement is authorized to use a minor as a cooperating witness in such a case if the minor is an alleged victim and the minor's aid involves only telephone or electronic communication with the defendant. The minor must be advised of the risk that the alleged perpetrator may learn of the minor's participation in the investigation.

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*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.*

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Effective Date:** The bill takes effect on August 1, 2011.

**Staff Summary of Public Testimony:** PRO: Child prostitution has been a problem in this state for many years. This bill gives law enforcement a new tool to fight against criminals who exploit children. The time constraints prevent the police from using surreptitious recording under present circumstances. We prefer the Senate version of this bill because it provides the strongest protection for victims. This bill does not violate rights under the state Constitution. Pimps are opportunists who will take advantage of any vulnerability to exploit children for profit. We don't need to give pimps a break.

CON: It is bad policy to use vulnerable children as tools of law enforcement. These children may face contempt or perjury charges if they don't participate in the prosecution of the alleged pimp. Law enforcement will not be able to get informed consent in the brief timeframes allowed by this bill. The bill does not grant the child immunity against prosecution for other crimes which may be disclosed. Use of the recordings in court could expose the child to violent retaliation by the pimp or the pimp's associates. A twelve-year-old child does not have the capacity to give informed consent without the opportunity to speak to a parent, guardian, or lawyer. Records of text messages or voicemail can be subpoenaed for use as evidence currently without the passage of this bill.

OTHER: We are concerned about any expansion of the one party consent law. However, we prefer the Senate version of this bill and urge you to restore the Senate language if this bill moves forward.

**Persons Testifying:** PRO: Representative Dickerson, prime sponsor; Ryan Long, Seattle Police Department; Rose Gunderson, Washington Anti-Trafficking Engagement; Tim Heffner, The Justice and Mercy Foundation; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Victims.

CON: Catherine Chaney, Washington Association of Criminal Defense Attorneys and Washington Defender Association.

OTHER: Shankar Narayan, American Civil Liberties Union of Washington.