

SENATE BILL REPORT

ESHB 2692

As Reported by Senate Committee On:
Judiciary, February 23, 2012

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: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Orwall, Asay, Parker, Carlyle, Kelley, Hurst, Ormsby, Kagi, Dickerson, Upthegrove, Goodman, Pettigrew, Maxwell, Dahlquist, Dammeier, Moscoso, Pearson and Kenney).

Brief History: Passed House: 2/10/12, 96-0.

Committee Activity: Judiciary: 2/22/12, 2/23/12 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Hargrove, Padden, Regala and Roach.

Staff: Katherine Taylor (786-7434)

Background: A person is guilty of Patronizing a Prostitute if:

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

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

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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.

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:

- 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;
- 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;
- fund services for sexually exploited children; and
- 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 Bill (Recommended Amendments): Fines are increased and are 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. The court must not reduce, waive, or suspend payment of all or part of the assessed fees, unless it finds, on the record that the offender does not have the ability to pay the fees, in which case it may reduce the fees by an amount up to two-thirds of the maximum allowable fees. 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.

First-time offenders must fulfill the terms of a program, such as a john school, designed to educate offenders about the negative costs of prostitution. The specific program will be designated by the sentencing court.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): Removes language that states no fee under this section must be reduced, waived, or suspended. Adds language that states that the court may reduce, waive, or suspend payment of assessed fees by an amount of up to two-thirds of the maximum allowable fee, if it finds on the record that the offender does not have the ability to pay the fees.

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 as Heard in Committee: PRO: Gives local law enforcement more tools. Resources are needed at the local level. John school works. We need to help people transition out of this industry. The current fine is way too low. These victims need services to recover. The economy is in bad shape. We do not have enough money for vice funds. Fines need to be increased. Victims lives are totally taken away.

OTHER: Fines should not be mandatory.

Persons Testifying: PRO: Rose Gundersen, WA Engage; Nacole Svendgard, Parent of victim; Joel Banks, King Co. Sheriff's Dept.; Louisa Dvorak, Ken Thomas, Kent Police Department; Andy Conner, Seattle Police Department.

OTHER: Amy Mutu, WA Assn. of Criminal Defense Lawyers, WA Defenders Assn.