

ESHB 1291 - S AMD 262

By Senators Padden, Kohl-Welles

ADOPTED 04/15/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes there are many
4 state agencies and private organizations that might be called on to
5 provide services to victims of sex trafficking. Victims of human
6 trafficking are often in need of services such as emergency medical
7 attention, food and shelter, vocational and English language training,
8 mental health counseling, and legal support. The state intends to
9 improve the response of state, local, and private entities to incidents
10 of trafficking of humans. Victims would be better served if there is
11 an established, coordinated system of identifying the needs of sex
12 trafficking victims, training of service delivery agencies and staff,
13 timely and appropriate delivery of services, and better investigations
14 and prosecutions of trafficking.

15 Leadership in providing services to victims of sex trafficking also
16 extends beyond government efforts and is grounded in the work of highly
17 dedicated individuals and community-based groups. Without these
18 efforts the struggle against human trafficking will be very difficult
19 to win. The legislature, therefore, finds that such efforts merit
20 regular public recognition and appreciation. Such recognition and
21 appreciation will encourage the efforts of all persons to end sex
22 trafficking, and provide the public with information and education
23 about the necessity of its involvement in this struggle.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.280 RCW
25 to read as follows:

26 (1) The statewide coordinating committee on sex trafficking is
27 established to address the issues of sex trafficking, to examine the
28 practices of local and regional entities involved in addressing sex

1 trafficking, and to develop a statewide plan to address sex
2 trafficking.

3 (2) The committee is administered by the department of commerce and
4 consists of the following members:

5 (a) Two members of the house of representatives, one from each
6 caucus, and two members of the senate, one from each caucus, to be
7 appointed by the speaker of the house of representatives and the
8 president of the senate, respectively;

9 (b) A representative of the Washington attorney general's office;

10 (c) The president or corporate executive officer of the center for
11 children and youth justice or his or her designee;

12 (d) The secretary of the children's administration or his or her
13 designee;

14 (e) The secretary of the juvenile rehabilitation administration or
15 his or her designee;

16 (f) The superintendent of public instruction or his or her
17 designee;

18 (g) A representative of the administrative office of the courts
19 appointed by the administrative office of the courts;

20 (h) The executive director of the Washington association of
21 sheriffs and police chiefs or his or her designee;

22 (i) The executive director of the Washington state criminal justice
23 training commission or his or her designee;

24 (j) Representatives of community advocacy groups that work to
25 address the issues of human trafficking, to be appointed by the
26 department of commerce's office of crime victims advocacy;

27 (k) A representative of the Washington association of prosecuting
28 attorneys appointed by the association;

29 (l) Representatives of community service providers that serve
30 victims of human trafficking, to be appointed by the department of
31 commerce's office of crime victims advocacy;

32 (m) The executive director of Washington engage or his or her
33 designee;

34 (n) A representative from shared hope international or his or her
35 designee;

36 (o) The executive director of the Washington coalition of crime
37 victim advocates or his or her designee;

1 (p) The executive director of the Washington coalition of sexual
2 assault programs or his or her designee;

3 (q) The executive director of the Washington state coalition
4 against domestic violence or his or her designee;

5 (r) The executive director of the Washington association of cities
6 or his or her designee;

7 (s) The executive director of the Washington association of
8 counties or his or her designee; and

9 (t) The director or a representative from the crime victims
10 compensation program.

11 (3) The duties of the committee include, but are not limited to:

12 (a) Gathering and assessing service practices from diverse sources
13 regarding service demand and delivery;

14 (b) Analyzing data regarding the implementation of sex trafficking
15 legislation passed in recent years by the legislature, including
16 reports submitted to the department of commerce pursuant to RCW
17 9.68A.105, 9A.88.120, and 9A.88.140, and assessing the efficacy of such
18 legislation in addressing sex trafficking, as well as any obstacles to
19 the impact of legislation on the commercial sex trade;

20 (c) Receiving and reviewing reports, recommendations, and statewide
21 protocols as implemented in the pilot sites selected by the center for
22 children and youth justice regarding commercially sexually exploited
23 youth submitted to the committee by organizations that coordinate local
24 community response practices and regional entities concerned with
25 commercially sexually exploited youth; and

26 (d) Gathering and reviewing existing data, research, and literature
27 to help shape a plan of action to address human trafficking in
28 Washington to include:

29 (i) Strategies for Washington to undertake to end sex trafficking;
30 and

31 (ii) Necessary data collection improvements.

32 (4) The committee shall meet twice and, by December 2014, produce
33 a report on its activities, together with a statewide plan to address
34 sex trafficking in Washington, to the governor's office and the
35 legislature.

36 (5) All expenses of the committee shall come from the prostitution
37 prevention and intervention account created in RCW 43.63A.740.

1 (6) The members of the committee shall serve without compensation,
2 but shall be reimbursed for travel expenses as provided in RCW
3 43.03.050 and 43.03.060, within available resources.

4 (7) The committee expires June 30, 2015.

5 **Sec. 3.** RCW 43.63A.740 and 2010 c 289 s 18 are each amended to
6 read as follows:

7 The prostitution prevention and intervention account is created in
8 the state treasury. ~~((All designated receipts from fees under RCW
9 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall
10 be deposited into the account.))~~ Expenditures from the account may be
11 used in the following order of priority:

12 (1) Funding the statewide coordinating committee on sex
13 trafficking;

14 (2) Programs that provide mental health and substance abuse
15 counseling, parenting skills training, housing relief, education, and
16 vocational training for youth who have been diverted for a prostitution
17 or prostitution loitering offense pursuant to RCW 13.40.213;

18 ~~((+2))~~ (3) Funding for services provided to sexually exploited
19 children as defined in RCW 13.32A.030 in secure and semi-secure crisis
20 residential centers with access to staff trained to meet their specific
21 needs;

22 ~~((+3))~~ (4) Funding for services specified in RCW 74.14B.060 and
23 74.14B.070 for sexually exploited children; and

24 ~~((+4))~~ (5) Funding the grant program to enhance prostitution
25 prevention and intervention services under RCW 43.63A.720.

26 **Sec. 4.** RCW 9.68A.105 and 2012 c 134 s 4 are each amended to read
27 as follows:

28 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
29 9.68A.101, and 9.68A.102, a person who is either convicted or given a
30 deferred sentence or a deferred prosecution or who has entered into a
31 statutory or nonstatutory diversion agreement as a result of an arrest
32 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable
33 county or municipal ordinance shall be assessed a five thousand dollar
34 fee.

35 (b) The court may not reduce, waive, or suspend payment of all or

1 part of the fee assessed unless it finds, on the record, that the
2 person does not have the ability to pay in which case it may reduce the
3 fee by an amount up to two-thirds of the maximum allowable fee.

4 (c) When a minor has been adjudicated a juvenile offender or has
5 entered into a statutory or nonstatutory diversion agreement for an
6 offense which, if committed by an adult, would constitute a violation
7 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or
8 municipal ordinance, the court shall assess the fee under (a) of this
9 subsection. The court may not reduce, waive, or suspend payment of all
10 or part of the fee assessed unless it finds, on the record, that the
11 minor does not have the ability to pay the fee in which case it may
12 reduce the fee by an amount up to two-thirds of the maximum allowable
13 fee.

14 (2) Fees assessed under this section shall be collected by the
15 clerk of the court and remitted to the treasurer of the county where
16 the offense occurred for deposit in the county general fund, except in
17 cases in which the offense occurred in a city or town that provides for
18 its own law enforcement, in which case these amounts shall be remitted
19 to the treasurer of the city or town for deposit in the general fund of
20 the city or town. Revenue from the fees must be used for local efforts
21 to reduce the commercial sale of sex including, but not limited to,
22 increasing enforcement of commercial sex laws.

23 (a) At least fifty percent of the revenue from fees imposed under
24 this section must be spent on prevention, including education programs
25 for offenders, such as john school, and rehabilitative services for
26 victims, such as mental health and substance abuse counseling,
27 parenting skills, training, housing relief, education, vocational
28 training, drop-in centers, and employment counseling.

29 (b) Two percent of the revenue from fees imposed under this section
30 shall be remitted quarterly to the department of commerce, together
31 with a report detailing the fees assessed, the revenue received, and
32 how that revenue was spent.

33 (c) Revenues from these fees are not subject to the distribution
34 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
35 35.20.220.

36 (3) For the purposes of this section:

37 (a) "Statutory or nonstatutory diversion agreement" means an
38 agreement under RCW 13.40.080 or any written agreement between a person

1 accused of an offense listed in subsection (1) of this section and a
2 court, county or city prosecutor, or designee thereof, whereby the
3 person agrees to fulfill certain conditions in lieu of prosecution.

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

7 **Sec. 5.** RCW 9A.88.120 and 2012 c 134 s 3 are each amended to read
8 as follows:

9 (1)(a) In addition to penalties set forth in RCW 9A.88.010 and
10 9A.88.030, a person who is either convicted or given a deferred
11 sentence or a deferred prosecution or who has entered into a statutory
12 or nonstatutory diversion agreement as a result of an arrest for
13 violating RCW 9A.88.010, 9A.88.030, or comparable county or municipal
14 ordinances shall be assessed a fifty dollar fee.

15 (b) In addition to penalties set forth in RCW 9A.88.090, a person
16 who is either convicted or given a deferred sentence or a deferred
17 prosecution or who has entered into a statutory or nonstatutory
18 diversion agreement as a result of an arrest for violating RCW
19 9A.88.090 or comparable county or municipal ordinances shall be
20 assessed a fee in the amount of:

21 (i) One thousand five hundred dollars if the defendant has no prior
22 convictions, deferred sentences, deferred prosecutions, or statutory or
23 nonstatutory diversion agreements for this offense;

24 (ii) Two thousand five hundred dollars if the defendant has one
25 prior conviction, deferred sentence, deferred prosecution, or statutory
26 or nonstatutory diversion agreement for this offense; and

27 (iii) Five thousand dollars if the defendant has two or more prior
28 convictions, deferred sentences, deferred prosecutions, or statutory or
29 nonstatutory diversion agreements for this offense.

30 (c) In addition to penalties set forth in RCW 9A.88.110, a person
31 who is either convicted or given a deferred sentence or a deferred
32 prosecution or who has entered into a statutory or nonstatutory
33 diversion agreement as a result of an arrest for violating RCW
34 9A.88.110 or a comparable county or municipal ordinance shall be
35 assessed a fee in the amount of:

36 (i) One thousand five hundred dollars if the defendant has no prior

1 convictions, deferred sentences, deferred prosecutions, or statutory or
2 nonstatutory diversion agreements for this offense;

3 (ii) Two thousand five hundred dollars if the defendant has one
4 prior conviction, deferred sentence, deferred prosecution, or statutory
5 or nonstatutory diversion agreement for this offense; and

6 (iii) Five thousand dollars if the defendant has two or more prior
7 convictions, deferred sentences, deferred prosecutions, or statutory or
8 nonstatutory diversion agreements for this offense.

9 (d) In addition to penalties set forth in RCW 9A.88.070 and
10 9A.88.080, a person who is either convicted or given a deferred
11 sentence or a deferred prosecution or who has entered into a statutory
12 or nonstatutory diversion agreement as a result of an arrest for
13 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal
14 ordinances shall be assessed a fee in the amount of:

15 (i) Three thousand dollars if the defendant has no prior
16 convictions, deferred sentences, deferred prosecutions, or statutory or
17 nonstatutory diversion agreements for this offense;

18 (ii) Six thousand dollars if the defendant has one prior
19 conviction, deferred sentence, deferred prosecution, or statutory or
20 nonstatutory diversion agreement for this offense; and

21 (iii) Ten thousand dollars if the defendant has two or more prior
22 convictions, deferred sentences, deferred prosecutions, or statutory or
23 nonstatutory diversion agreements for this offense.

24 (2) When a minor has been adjudicated a juvenile offender or has
25 entered into a statutory or nonstatutory diversion agreement for an
26 offense which, if committed by an adult, would constitute a violation
27 under this chapter or comparable county or municipal ordinances, the
28 court shall assess the fee as specified under subsection (1) of this
29 section.

30 (3) The court shall not reduce, waive, or suspend payment of all or
31 part of the assessed fee in this section unless it finds, on the
32 record, that the offender does not have the ability to pay the fee in
33 which case it may reduce the fee by an amount up to two-thirds of the
34 maximum allowable fee.

35 (a) A superior court may, as described in RCW 9.94A.760, set a sum
36 that the offender is required to pay on a monthly basis towards
37 satisfying the fee imposed in this section.

1 (b) A district or municipal court may enter into a payment plan
2 with the defendant, in which the fee assessed in this section is paid
3 through scheduled periodic payments. The court may assess the
4 defendant a reasonable fee for administrative services related to the
5 operation of the payment plan.

6 (4) Fees assessed under this section shall be collected by the
7 clerk of the court and remitted to the treasurer of the county where
8 the offense occurred for deposit in the county general fund, except in
9 cases in which the offense occurred in a city or town that provides for
10 its own law enforcement, in which case these amounts shall be remitted
11 to the treasurer of the city or town for deposit in the general fund of
12 the city or town. Revenue from the fees must be used for local efforts
13 to reduce the commercial sale of sex including, but not limited to,
14 increasing enforcement of commercial sex laws.

15 (a) At least fifty percent of the revenue from fees imposed under
16 this section must be spent on prevention, including education programs
17 for offenders, such as john school, and rehabilitative services for
18 victims, such as mental health and substance abuse counseling,
19 parenting skills, training, housing relief, education, vocational
20 training, drop-in centers, and employment counseling.

21 (b) Two percent of the revenue from fees imposed under this section
22 shall be remitted quarterly to the department of commerce, together
23 with a report detailing the fees assessed, the revenue received, and
24 how that revenue was spent.

25 (c) Revenues from these fees are not subject to the distribution
26 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
27 35.20.220.

28 (5) For the purposes of this section:

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

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

1 **Sec. 6.** RCW 9A.88.140 and 2010 c 289 s 12 are each amended to read
2 as follows:

3 (1)(a) Upon an arrest for a suspected violation of patronizing a
4 prostitute, promoting prostitution in the first degree, promoting
5 prostitution in the second degree, promoting travel for prostitution,
6 the arresting law enforcement officer may impound the person's vehicle
7 if (i) the motor vehicle was used in the commission of the crime; (ii)
8 the person arrested is the owner of the vehicle or the vehicle is a
9 rental car as defined in RCW 46.04.465; and (iii) either (A) the person
10 arrested has previously been convicted of one of the offenses listed in
11 this subsection or (B) the offense was committed within an area
12 designated under (b) of this subsection.

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

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

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

24 (2) Upon an arrest for a suspected violation of commercial sexual
25 abuse of a minor, promoting commercial sexual abuse of a minor, or
26 promoting travel for commercial sexual abuse of a minor, the arresting
27 law enforcement officer shall impound the person's vehicle if (a) the
28 motor vehicle was used in the commission of the crime; and (b) the
29 person arrested is the owner of the vehicle or the vehicle is a rental
30 car as defined in RCW 46.04.465.

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

34 (4)(a) Prior to redeeming the impounded vehicle, and in addition to
35 all applicable impoundment, towing, and storage fees paid to the towing
36 company under chapter 46.55 RCW, the owner of the impounded vehicle
37 must pay a fine to the impounding agency. The fine shall be five
38 hundred dollars for the offenses specified in subsection (1) of this

1 section, or two thousand five hundred dollars for the offenses
2 specified in subsection (2) of this section. (~~The fine shall be~~
3 ~~deposited in the prostitution prevention and intervention account~~
4 ~~established under RCW 43.63A.740.~~)

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

8 (c) Fines assessed under this section shall be collected by the
9 clerk of the court and remitted to the treasurer of the county where
10 the offense occurred for deposit in the county general fund, except in
11 cases in which the offense occurred in a city or town that provides for
12 its own law enforcement, in which case these amounts shall be remitted
13 to the treasurer of the city or town for deposit in the general fund of
14 the city or town. Revenue from the fines must be used for local
15 efforts to reduce the commercial sale of sex including, but not limited
16 to, increasing enforcement of commercial sex laws.

17 (i) At least fifty percent of the revenue from fines imposed under
18 this section must be spent on prevention, including education programs
19 for offenders, such as john school, and rehabilitative services for
20 victims, such as mental health and substance abuse counseling,
21 parenting skills, training, housing relief, education, vocational
22 training, drop-in centers, and employment counseling.

23 (ii) Two percent of the revenue from fines imposed under this
24 section shall be remitted quarterly to the department of commerce,
25 together with a report detailing the fees assessed, the revenue
26 received, and how that revenue was spent.

27 (iii) Revenues from these fees are not subject to the distribution
28 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
29 35.20.220.

30 (5)(a) In order to redeem a vehicle impounded under this section,
31 the owner must provide the towing company with the written receipt
32 issued under subsection (4)(b) of this section.

33 (b) The written receipt issued under subsection (4)(b) of this
34 section authorizes the towing company to release the impounded vehicle
35 upon payment of all impoundment, towing, and storage fees.

36 (c) A towing company that relies on a forged receipt to release a
37 vehicle impounded under this section is not liable to the impounding
38 authority for any unpaid fine under subsection (4)(a) of this section.

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

7 (b) If the person is found not guilty at trial for a crime listed
8 under subsection (1) of this section, the person is entitled to a full
9 refund of the impoundment, towing, and storage fees paid under chapter
10 46.55 RCW and the fine paid under subsection (4) of this section.

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

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

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.280 RCW
16 to read as follows:

17 (1) The department of commerce shall prepare and submit an annual
18 report to the legislature on the amount of revenue collected by local
19 jurisdictions under RCW 9.68A.105, 9A.88.120, or 9A.88.140 and the
20 expenditure of that revenue.

21 (2) Any funds remitted to the department of commerce pursuant to
22 RCW 9.68A.105, 9A.88.120, or 9A.88.140 shall be spent on the
23 fulfillment of the duties described in subsection (1) of this section.
24 Any remaining funds may be spent on the administration of grants for
25 services for victims of the commercial sex trade, consistent with this
26 chapter."

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By Senators Padden, Kohl-Welles

ADOPTED 04/15/2013

27 On page 1, line 1 of the title, after "trade;" strike the remainder
28 of the title and insert "amending RCW 43.63A.740, 9.68A.105, 9A.88.120,
29 and 9A.88.140; adding new sections to chapter 43.280 RCW; and creating

1 a new section."

EFFECT: A representative of the Washington Attorney General's Office, the president or corporate executive officer of the Center for Children and Youth Justice, the executive director of Washington Engage, and a representative from Shared Hope International are members of the statewide coordinated committee on sex trafficking. Representatives of community advocacy groups that work to address the issues of human trafficking, to be appointed by the department of commerce's office of crime victims advocacy, are members of the statewide coordinated committee on sex trafficking. The existing chairs of regional task forces that address human trafficking are no longer members of the committee. An additional duty of the committee is to receive and review reports, recommendations, and statewide protocols as implemented in the pilot sites selected by the Center for Children and Youth Justice regarding commercially sexually exploited youth submitted to the committee by organizations that coordinate local community response practices and regional entities concerned with commercially sexually exploited youth. The committee expires June 30, 2015.

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