

FINAL BILL REPORT

ESSB 5669

C 302 L 13
Synopsis as Enacted

Brief Description: Concerning trafficking.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden, Kohl-Welles, Smith, Hargrove, Pearson, Darneille, Bailey, Nelson, Becker, Benton, Brown, Baumgartner, Conway, Roach and Holmquist Newbry).

Senate Committee on Law & Justice
House Committee on Public Safety

Background: Communication with a minor for immoral purposes is a gross misdemeanor. However, it is a class C felony if the offense is committed by the sending of an electronic communication.

The possible use of consent of the minor as a defense is not currently addressed for the crimes of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, promoting travel for the commercial sexual abuse of a minor, permitting commercial sexual abuse of a minor, trafficking in the first and second degree, or indecent liberties.

The offenses of trafficking in the first or second degree require knowledge that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act.

Offenders convicted of sex offenses or kidnapping or have been found not guilty by reason of insanity must register with the sheriff in the county in which they reside. The duration of the duty to register varies depending upon the felony classification of the crime. Failure to register when required is a sex offense upon the second conviction.

In a criminal proceeding, the court may order that a child under the age of ten may testify in a room outside the presence of the defendant and the jury while one-way closed-circuit television equipment simultaneously projects the child's testimony so the defendant and the jury can watch and hear the child testify in cases involving certain crimes against children. The prosecutor, defense attorney, and a neutral and trained victim's advocate, if any, must always be in the room where the child witness is testifying. The court in the court's discretion, depending on the circumstances and whether the jury or defendant or both are excluded from the room where the child is testifying, may or may not remain in the room with the child.

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.

The state Criminal Profiteering Act provides civil penalties and remedies for a variety of criminal activities. Profiteering is defined to include the commission, or attempted commission, for financial gain, of any one of a number of crimes, including child selling or buying, sexual exploitation of children, and promoting prostitution. The act provides that a pattern of criminal profiteering activity means engaging in at least three acts of criminal profiteering within a five-year period. An injured person, the Attorney General, or the county prosecuting attorney may file an action to prevent or restrain a pattern of criminal profiteering and recover up to three times actual damages as well as the costs of suit. A civil penalty of up to \$200,000 may also be awarded. Each of the following may be subject to forfeiture as such:

- property used to commit the offenses;
- property acquired or maintained by profits from the offenses;
- property acquired or maintained by profits used to commit the offenses; and
- proceeds from the offenses.

A person is guilty of patronizing a prostitute if the person pays or agrees to pay a fee as compensation for sexual conduct. Patronizing a prostitute is a misdemeanor.

In proceedings for termination of a parent-child relationship, reasonable efforts to unify the family are not required if the court finds, by clear, cogent, and convincing evidence that aggravating circumstances exist. Conviction of the parent, when a child is born of the offense, of a sex offense or incest is an aggravating circumstance.

Summary: Communication with a minor for immoral purposes is a class C felony if the person communicates with a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, by the sending of an electronic communication. Consent of the minor is not a defense for the crimes of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, promoting travel for the commercial sexual abuse of a minor, permitting commercial sexual abuse of a minor, or trafficking in the first and second degree.

The offenses of trafficking in the first or second degree do not require actions with knowledge, or in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in a sexually explicit act or a commercial sex act if the victim of the offense is a minor. Evidence of a victim's past sexual behavior is not admissible if offered to attack the victim's credibility in trafficking and sexual exploitation of a minor cases.

Trafficking with a finding of sexual motivation is defined as a sex offense for the purposes of requiring registration as a sex offender.

In a criminal proceeding, the court may order that a child under the age of 14, instead of 10, may testify in a room outside the presence of the defendant and the jury by using closed-circuit television. The types of trials in which this testimony may be used is expanded to include trafficking and sexual exploitation of a minor.

Trafficking, promoting travel for the commercial sexual abuse of a minor, and permitting commercial sexual abuse of a minor are added as offenses that can lead to a criminal profiteering action.

In proceedings for the termination of a parent-child relationship when the court is determining whether reasonable efforts are required to unify the family, it is considered an aggravating circumstance if the parent has been convicted of trafficking or promoting commercial sexual abuse of a minor when the victim of the crime is the child, the child's other parent, a sibling of the child, or another child.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: August 1, 2013.