
HOUSE BILL 1291

State of Washington

63rd Legislature

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By Representatives Orwall, Kochmar, Hope, Parker, Goodman, Jinkins, Upthegrove, Ryu, Stanford, Roberts, Hurst, Morrell, Tarleton, Wylie, Bergquist, and Ormsby

Read first time 01/22/13. Referred to Committee on Public Safety.

1 AN ACT Relating to services for victims of the sex trade; and
2 amending RCW 9.68A.105, 9A.88.120, and 9A.88.140.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.68A.105 and 2012 c 134 s 4 are each amended to read
5 as follows:

6 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
7 9.68A.101, and 9.68A.102, a person who is either convicted or given a
8 deferred sentence or a deferred prosecution or who has entered into a
9 statutory or nonstatutory diversion agreement as a result of an arrest
10 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable
11 county or municipal ordinance shall be assessed a five thousand dollar
12 fee.

13 (b) The court may not reduce, waive, or suspend payment of all or
14 part of the fee assessed unless it finds, on the record, that the
15 person does not have the ability to pay in which case it may reduce the
16 fee by an amount up to two-thirds of the maximum allowable fee.

17 (c) When a minor has been adjudicated a juvenile offender or has
18 entered into a statutory or nonstatutory diversion agreement for an
19 offense which, if committed by an adult, would constitute a violation

1 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or
2 municipal ordinance, the court shall assess the fee under (a) of this
3 subsection. The court may not reduce, waive, or suspend payment of all
4 or part of the fee assessed unless it finds, on the record, that the
5 minor does not have the ability to pay the fee in which case it may
6 reduce the fee by an amount up to two-thirds of the maximum allowable
7 fee.

8 (2) Fees 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 fees must be used for local efforts
15 to reduce the commercial sale of sex including, but not limited to,
16 increasing enforcement of commercial sex laws.

17 (a) At least fifty percent of the revenue from fees 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 (b) Revenues from these fees are not subject to the distribution
24 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
25 35.20.220.

26 (3) For the purposes of this section:

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

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

35 **Sec. 2.** RCW 9A.88.120 and 2012 c 134 s 3 are each amended to read
36 as follows:

37 (1)(a) In addition to penalties set forth in RCW 9A.88.010 and

1 9A.88.030, a person who is either convicted or given a deferred
2 sentence or a deferred prosecution or who has entered into a statutory
3 or nonstatutory diversion agreement as a result of an arrest for
4 violating RCW 9A.88.010, 9A.88.030, or comparable county or municipal
5 ordinances shall be assessed a fifty dollar fee.

6 (b) In addition to penalties set forth in RCW 9A.88.090, a person
7 who is either convicted or given a deferred sentence or a deferred
8 prosecution or who has entered into a statutory or nonstatutory
9 diversion agreement as a result of an arrest for violating RCW
10 9A.88.090 or comparable county or municipal ordinances shall be
11 assessed a fee in the amount of:

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

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

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

21 (c) In addition to penalties set forth in RCW 9A.88.110, a person
22 who is either convicted or given a deferred sentence or a deferred
23 prosecution or who has entered into a statutory or nonstatutory
24 diversion agreement as a result of an arrest for violating RCW
25 9A.88.110 or a comparable county or municipal ordinance shall be
26 assessed a fee in the amount of:

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

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

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

36 (d) In addition to penalties set forth in RCW 9A.88.070 and
37 9A.88.080, a person who is either convicted or given a deferred
38 sentence or a deferred prosecution or who has entered into a statutory

1 or nonstatutory diversion agreement as a result of an arrest for
2 violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal
3 ordinances shall be assessed a fee in the amount of:

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

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

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

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

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

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

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

32 (4) Fees assessed under this section shall be collected by the
33 clerk of the court and remitted to the treasurer of the county where
34 the offense occurred for deposit in the county general fund, except in
35 cases in which the offense occurred in a city or town that provides for
36 its own law enforcement, in which case these amounts shall be remitted
37 to the treasurer of the city or town for deposit in the general fund of

1 the city or town. Revenue from the fees must be used for local efforts
2 to reduce the commercial sale of sex including, but not limited to,
3 increasing enforcement of commercial sex laws.

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

10 (b) Revenues from these fees are not subject to the distribution
11 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
12 35.20.220.

13 (5) For the purposes of this section:

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

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

22 **Sec. 3.** RCW 9A.88.140 and 2010 c 289 s 12 are each amended to read
23 as follows:

24 (1)(a) Upon an arrest for a suspected violation of patronizing a
25 prostitute, promoting prostitution in the first degree, promoting
26 prostitution in the second degree, promoting travel for prostitution,
27 the arresting law enforcement officer may impound the person's vehicle
28 if (i) the motor vehicle was used in the commission of the crime; (ii)
29 the person arrested is the owner of the vehicle or the vehicle is a
30 rental car as defined in RCW 46.04.465; and (iii) either (A) the person
31 arrested has previously been convicted of one of the offenses listed in
32 this subsection or (B) the offense was committed within an area
33 designated under (b) of this subsection.

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

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

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

8 (2) Upon an arrest for a suspected violation of commercial sexual
9 abuse of a minor, promoting commercial sexual abuse of a minor, or
10 promoting travel for commercial sexual abuse of a minor, the arresting
11 law enforcement officer shall impound the person's vehicle if (a) the
12 motor vehicle was used in the commission of the crime; and (b) the
13 person arrested is the owner of the vehicle or the vehicle is a rental
14 car as defined in RCW 46.04.465.

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

18 (4)(a) Prior to redeeming the impounded vehicle, and in addition to
19 all applicable impoundment, towing, and storage fees paid to the towing
20 company under chapter 46.55 RCW, the owner of the impounded vehicle
21 must pay a fine to the impounding agency. The fine shall be five
22 hundred dollars for the offenses specified in subsection (1) of this
23 section, or two thousand five hundred dollars for the offenses
24 specified in subsection (2) of this section. ~~((The fine shall be
25 deposited in the prostitution prevention and intervention account
26 established under RCW 43.63A.740.))~~

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

30 (c) Fines assessed under this section shall be collected by the
31 clerk of the court and remitted to the treasurer of the county where
32 the offense occurred for deposit in the county general fund, except in
33 cases in which the offense occurred in a city or town that provides for
34 its own law enforcement, in which case these amounts shall be remitted
35 to the treasurer of the city or town for deposit in the general fund of
36 the city or town. Revenue from the fines must be used for local
37 efforts to reduce the commercial sale of sex including, but not limited
38 to, increasing enforcement of commercial sex laws.

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

7 (ii) Revenues from these fees are not subject to the distribution
8 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
9 35.20.220.

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

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

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

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

25 (b) If the person is found not guilty at trial for a crime listed
26 under subsection (1) of this section, the person is entitled to a full
27 refund of the impoundment, towing, and storage fees paid under chapter
28 46.55 RCW and the fine paid under subsection (4) of this section.

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

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

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