

HOUSE BILL REPORT

SSB 6463

As Passed House:
March 2, 2016

Title: An act relating to luring.

Brief Description: Concerning the crime of luring.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Pearson, Darneille, O'Ban, Padden and Dammeier).

Brief History:

Committee Activity:

Public Safety: 2/23/16, 2/24/16 [DP].

Floor Activity:

Passed House: 3/2/16, 97-0.

Brief Summary of Substitute Bill

- Modifies the crime of Luring by requiring the prosecutor to prove that a defendant had the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or to facilitate the commission of any crime.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Kelly Leonard (786-7147).

Background:

A person commits the crime of Luring if the person:

- orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away

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- from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle;
- does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; and
- is unknown to the child or developmentally disabled person.

It is an affirmative defense to the crime of Luring, which the defendant must prove by a preponderance of the evidence, if the defendant acted reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the minor or the person with the developmental disability.

Luring is an unranked class C felony.

Summary of Bill:

The affirmative defense to the crime of Luring is removed. The crime of Luring is modified. In addition to the current elements of the crime, the prosecutor must prove the defendant had the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or to facilitate the commission of any crime.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Luring statute has been in place since the 1990s but there was a Court of Appeals case last December stating that Washington's Luring statute is quite broad. In 1993 when the Legislature adopted the Luring statute there was a debate between the two legislative chambers as to whether to have an affirmative defense that the person did not intend to do anything wrong or whether it should be something that the State of Washington would have to prove. Ultimately, it was decided to make it an affirmative defense. Courts have said that the burden cannot be on the individual and that the state needs to prove that the person intended to harm the child in some manner. This bill will put the burden of intent on the prosecutor to provide that Luring was the intent.

(Opposed) None.

Persons Testifying: Senator Pearson, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.