

HOUSE BILL REPORT

EHB 1078

As Passed House:
February 9, 2017

Title: An act relating to human trafficking, prostitution, and commercial sexual abuse of a minor.

Brief Description: Concerning human trafficking, prostitution, and commercial sexual abuse of a minor.

Sponsors: Representatives Pellicciotti, Klippert, Orwall, Hayes, Goodman, Stokesbary, Chapman, McCabe, Kilduff, Hudgins, Jinkins, Koster, Ortiz-Self, Bergquist, Stanford, Griffey, Hargrove, Smith, Tarleton, Harmsworth, Dolan, Ormsby, Muri, Van Werven, Kraft, Fey, Slatter, McBride, Gregerson and Macri; by request of Attorney General.

Brief History:

Committee Activity:

Public Safety: 1/16/17, 1/19/17 [DP].

Floor Activity:

Passed House: 2/9/17, 98-0.

Brief Summary of Engrossed Bill

- Modifies the crimes of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Prostitution by specifying that the crimes can be committed when providing anything of value (rather than a fee or other property).
- Extends the statute of limitations for Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Travel for Commercial Sexual Abuse of a Minor to the victim's thirtieth birthday or 10 years after the commission of the offense, whichever is later.
- Extends the statute of limitations for Trafficking to 10 years after the commission of the offense.

HOUSE COMMITTEE ON PUBLIC SAFETY

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.

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Kelly Leonard (786-7147).

Background:

Commercial Sexual Abuse of a Minor. A person is guilty of Commercial Sexual Abuse of a Minor if:

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

Promoting Commercial Sexual Abuse of a Minor. A person is guilty of Promoting Commercial Sexual Abuse of a Minor if he or she knowingly advances commercial sexual abuse or a sexually explicit act of a minor or profits from a minor engaged in sexual conduct or a sexually explicit act. Generally, the offense can be committed under certain circumstances involving giving, accepting, or receiving "money or other property" for commercial sexual abuse or a sexually explicit act of a minor.

Promoting Prostitution. A person is guilty of Promoting Prostitution in the first degree if he or she knowingly advances prostitution:

- by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or
- by compelling a person with a mental incapacity or developmental disability that renders the person incapable of consent to engage in prostitution or profits from prostitution that results from such compulsion.

A person "profits from prostitution" if, among other circumstances, he or she accepts or receives "money or other property" in the exchange.

Promoting Travel for Commercial Sexual Abuse of a Minor. A person commits the offense of Promoting Travel for Commercial Sexual Abuse of a Minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

Trafficking. A person is guilty of Trafficking in the second degree when he or she: (1) recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person, knowing 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, or that the person has not reached the age of 18 years and is caused to engage in a sexually explicit act or a commercial sex act; or (2) benefits financially or receives anything of value from

participation in a venture that has engaged in the above acts. The offense is Trafficking in the first degree if the acts involve kidnapping, sexual motivation, or illegal harvesting of human organs or result in a death.

Statute of Limitations. A statute of limitations is a time limit for initiating prosecution after an offense is committed. Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator. Statutes of limitations vary according to the crime. The statute of limitations is three years for Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Trafficking.

Summary of Engrossed Bill:

Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Prostitution are modified. References to paying "fees" and "money or other property" are changed to "anything of value" and "money or anything of value," respectively. Therefore, among the other circumstances delineated in statute, a person commits the offenses by providing, accepting, or receiving anything of value in exchange for the prohibited acts.

Statute of Limitations. The statute of limitations for Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Travel for Commercial Sexual Abuse of a Minor are changed to the victim's thirtieth birthday or 10 years after the offense is committed, whichever is later. The statute of limitations for Trafficking in the first and second degrees is increased to 10 years after the offense is committed.

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) This bill makes a significant change to situations where money is a factor in triggering the criminal offense. Most often, perpetrators use other items of value to entice, manipulate, or coerce victims or attract patrons. Undercover officers see situations where perpetrators are offering all sorts of nonmonetary compensation in exchange for prohibited conduct, like housing, drugs, and bit coins. In one specific case, a victim was given legal services from a defense attorney (including for her trafficker) in exchange for sex. The current offenses do not fully contemplate these situations, and generally require cash or monetary compensation. This bill changes the offenses to include "anything of value." This change reflects what is really happening, and it increases the likelihood of successful prosecutions.

The extension of the statutes of limitation is a critical change for victims of trafficking. Both adult and minor victims are manipulated, controlled, and coerced by their traffickers. Many victims are not initially willing to come forward and report the offenses, and even fewer

participate in investigations and prosecutions. Victims often convince themselves they are not being abused. This can be hard for others to understand. Victims see themselves as criminals, "the product," and even property, and they fear they will not be believed, or worse, fear they will be prosecuted for crimes. It can take many years for a victim to escape and to realize that what happened to them was wrong. This is especially true for child victims, many of which do not come forward until they are in recovery as adults. This potential change to the statutes of limitation acknowledges these issues, and opens up an opportunity to prosecute some cases where victims come forward many years later.

(Opposed) The change to "anything of value" strains credulity. This opens up these offenses to situations involving consensual sex without trafficking or coercion. For example, a young adult in a consensual dating relationship with a minor could buy the minor a gift or meal, which would then give prosecutors the ability to charge the young adult with Commercial Sexual Abuse of a Minor.

The purpose of the statutes of limitation are to promote prosecutions based on reliable evidence and lessen the possibility of erroneous convictions. The stories victims have shared are compelling, but a six-year statute of limitation would be preferable. The statutes of limitation for sex offenses are getting confusing for practitioners. The time limits are being changed on almost a yearly basis, but the changes are only prospective. Practitioners now need special graphs to figure out what applies in any given case.

Persons Testifying: (In support) Representative Pellicciotti, prime sponsor; Lana Weimann, Office of the Attorney General; Coreen Schnepf, Kitsap County Prosecuting Attorney's Office; Johanna Holliday, Engeddi; Carlos Rodriguez, Missing and Exploited Children Task Force-Washington State Patrol; Natalie Mays; and Julia Anderson.

(Opposed) Brad Meryhew, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.