

# HOUSE BILL REPORT

## HB 2857

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**As Reported by House Committee On:**  
Early Learning & Human Services

**Title:** An act relating to therapeutic responses to commercially sexually exploited youth.

**Brief Description:** Concerning therapeutic responses to commercially sexually exploited youth.

**Sponsors:** Representatives Orwall, Kraft, Goodman, Pettigrew, Kagi, Wylie, Frame and Slatter.

**Brief History:**

**Committee Activity:**

Early Learning & Human Services: 1/30/18, 2/2/18 [DPS].

**Brief Summary of Substitute Bill**

- Prohibits prosecution or booking into detention for juvenile prostitution.
- Requires the Department of Social and Health Services utilize existing behavioral health organizations or other qualified and appropriate entities to increase access to behavioral health treatment for commercially sexually exploited youth, subject to the availability of amounts appropriated for that purpose.
- Requires the Washington State Institute for Public Policy to provide a report to the Legislature on the effects of the bill by December 1, 2020.

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### HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Eslick, Frame, Goodman, Griffey, Lovick, Muri and Ortiz-Self.

**Minority Report:** Do not pass. Signed by 1 member: Representative Klippert.

**Staff:** Luke Wickham (786-7146).

**Background:**

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*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.*

*Prostitution.*

A person is guilty of prostitution if the person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Prostitution is a misdemeanor.

Prosecutors must divert a juvenile's first prostitution offense. A juvenile diversion is a contract between a juvenile accused of an offense and a diversion unit where the juvenile agrees to certain conditions in lieu of prosecution. Diversion agreements may include community restitution not to exceed 150 hours, restitution, up to 10 hours of counseling and/or up to 20 hours of educational or informational sessions, requirements to remain during certain hours at home, school, or work, and requirements not to have contact with victims or witnesses. If a youth does not complete the diversion agreement, a prosecutor may file a criminal complaint.

If an individual has a criminal history consisting of one diversion agreement upon turning age 18, the records of that diversion must be destroyed within 90 days.

*Commercially Sexually Exploited Youth.*

The Commercially Sexually Exploited Children Statewide Coordinating Committee (Committee) was established in 2013 to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices. The Committee must meet at least annually.

The Committee is convened by the Office of the Attorney General. The Department of Commerce assists the Office of the Attorney General with the Committee agenda planning and administrative and clerical support.

The Committee members include representatives from the Legislature, the Governor's Office, state agencies, courts, victim advocates, law enforcement, service providers, regional task forces on commercially sexually exploited children, attorneys, and a survivor of human trafficking.

The duties of the Committee include, but are not limited to: overseeing and reviewing the implementation of the Washington State Model Protocol for Commercially Sexually Exploited Children; receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas; reviewing recommendations from local and regional entities regarding policy changes that would improve the effectiveness of local response practices; and making recommendations regarding data collection and strategic local investments to address the commercial sexual exploitation of children.

The Committee expires on June 30, 2023, and must annually report its findings to the appropriate committees of the Legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

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**Summary of Substitute Bill:**

*Juvenile Prostitution.*

Persons under age 18 are prohibited from being prosecuted or booked into detention for a prostitution offense.

Before completing a law enforcement contact with a juvenile suspected of prostitution, law enforcement must make a child abuse or neglect report, deliver the youth to a mental health or substance use disorder evaluation and treatment facility, or refer the youth to any other appropriate services.

*Treatment for Commercially Sexually Exploited Youth.*

The Department of Social and Health Services is required to utilize existing behavioral health organizations or other qualified and appropriate entities to increase access to behavioral health treatment for commercially sexually exploited youth, subject to the availability of amounts appropriated for that purpose. This funding may be used to facilitate access to treatment, to enhance and expand other services, and for outreach and engagement.

*Washington State Institute for Public Policy.*

The Washington State Institute for Public Policy must complete an evaluation of the act and the effects of the act on the availability of treatment for commercially sexually exploited youth, the effectiveness of serving commercially sexually exploited youth, and other effects of the act, and provide a report to the Legislature by December 1, 2020.

**Substitute Bill Compared to Original Bill:**

The substitute bill modifies the intent section.

The substitute bill replaces the receiving center pilot program with a requirement that the Department of Social and Health Services utilize existing behavioral health organizations or other qualified and appropriate entities to increase access to behavioral health treatment for commercially sexually exploited youth, subject to the availability of amounts appropriated for that purpose.

The substitute bill requires the Washington State Institute for Public Policy to complete an evaluation of the act and the effects on availability of treatment options for commercially sexually exploited youth, the effectiveness of serving those individuals, and other effects of the act, and provide a report to the Legislature by December 1, 2020.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** 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 mean age for commercially sexually exploited youth used to be age 15, but it is now 14. This bill provides a therapeutic response to youth who have been sexually exploited. This bill creates receiving centers that allow for evaluation and long-term treatment.

There are several providers that have an interest in providing this therapeutic response, including Navos in Burien. This would not have a detention feel, but a therapeutic feel.

This brings us into alignment with federal law, under which minors cannot provide consent and are always victims of exploitation. This takes these individuals out of the juvenile court process. This bill provides the opportunity for Washington to be a model in the area of serving commercially sexually exploited youth. The unsettling thing about the current system is that individuals who are victims of sex trafficking are treated like criminals. This bill requires diverting youth away from the juvenile justice system and providing a therapeutic response. Many jurisdictions have adopted a model protocol for addressing commercially sexually exploited youth.

There is nothing more unjust than treating a victim of abuse like a criminal. This bill requires awareness of each child's situation. Sex trafficking is consuming the lives of many youth in our state, and it is the role of the Legislature to provide an appropriate therapeutic response.

Too often minors are treated like criminals. Minors engaged in commercial sexual activity are defined by federal law as commercially sexually exploited youth. A charge of prostitution can prevent youth from receiving appropriate services.

This bill provides a safe place for youth to be served in a long-term setting. This bill keeps the focus on who the real victim is in this scenario, the youth. Not charging these youths is critical to putting youth on a path to effective treatment.

Right now the option for these youths is to stay in the life or go to detention, which does not help keep people safe or allow for treatment.

The Center for Children and Youth Justice has developed a victim-centered response to these circumstances outside of the criminal justice system by developing a model protocol for commercially sexually exploited youth.

Under current law, a child can be charged with a crime for being a victim of sex trafficking. This bill will strike the right balance. It is important to not allow for charging of these youths, but allow for law enforcement contact. We need receiving centers available in various places around the state. If we do not have a good place to take youths, pimps are going to use the prosecutorial immunity as a recruiting tool.

There are not many youth who are being charged for prostitution. There were only five youths prosecuted for juvenile prostitution in the last five years.

(Opposed) None.

(Other) The bill shields youth from prosecution, but not from arrest. This appears to be drafted to allow youth to be handcuffed under these circumstances. If there is mere suspicion without probable cause, law enforcement could chase down youth and detain them. This decreased standard should be removed from the bill.

**Persons Testifying:** (In support) Representative Orwall, prime sponsor; Debra Boyer, Organization for Prostitution Survivors; Leslie Briner, YouthCare; Gracie Anderson, Washington State Legislative Youth Advisory Council; Kyra Doubek, Kent Youth and Family Services; Jim Theofolis, A Way Home Washington; Nicholas Oakley, Center for Children and Youth Justice; and Valient Richey, King County Prosecuting Attorney's Office.

(Other) Emi Koyama, Coalition for Rights & Safety for People in the Sex Trade.

**Persons Signed In To Testify But Not Testifying:** None.