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HOUSE BILL 1078

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State of Washington

65th Legislature

2017 Regular Session

By 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

Read first time 01/10/17. Referred to Committee on Public Safety.

1 AN ACT Relating to human trafficking, prostitution, and  
2 commercial sexual abuse of a minor; amending RCW 9A.04.080,  
3 9.68A.100, 9.68A.101, and 9A.88.060; creating a new section; and  
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) Because of the serious nature of human  
7 trafficking related offenses, and the power, control, and  
8 exploitation exerted over victims, the legislature finds the statute  
9 of limitations on these offenses should be extended. Victims are  
10 often under the control of their trafficker for significant periods  
11 of time and may not be willing or able to report their perpetrator  
12 until they are free from their control.

13 (2) The legislature finds that statutes governing commercial  
14 sexual abuse of a minor, promoting commercial sexual abuse of a  
15 minor, and promoting prostitution should be consistent with all human  
16 trafficking related statutes, and reflect the practical reality of  
17 the crimes, which often involve an exchange of drugs or gifts for the  
18 commercial sex act.

19 **Sec. 2.** RCW 9A.04.080 and 2013 c 17 s 1 are each amended to read  
20 as follows:

1 (1) Prosecutions for criminal offenses shall not be commenced  
2 after the periods prescribed in this section.

3 (a) The following offenses may be prosecuted at any time after  
4 their commission:

5 (i) Murder;

6 (ii) Homicide by abuse;

7 (iii) Arson if a death results;

8 (iv) Vehicular homicide;

9 (v) Vehicular assault if a death results;

10 (vi) Hit-and-run injury-accident if a death results (RCW  
11 46.52.020(4)).

12 (b) Except as provided in (c) of this subsection, the following  
13 offenses shall not be prosecuted more than ten years after their  
14 commission:

15 (i) Any felony committed by a public officer if the commission is  
16 in connection with the duties of his or her office or constitutes a  
17 breach of his or her public duty or a violation of the oath of  
18 office;

19 (ii) Arson if no death results;

20 (iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
21 reported to a law enforcement agency within one year of its  
22 commission.

23 (B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported  
24 within one year, the rape may not be prosecuted more than three years  
25 after its commission; (~~or~~)

26 (iv) Indecent liberties under RCW 9A.44.100(1)(b); or

27 (v) Trafficking under RCW 9A.40.100.

28 (c) Violations of the following statutes, when committed against  
29 a victim under the age of eighteen, may be prosecuted up to the  
30 victim's thirtieth birthday: RCW 9A.44.040 (rape in the first  
31 degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a  
32 child in the first degree), 9A.44.076 (rape of a child in the second  
33 degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083  
34 (child molestation in the first degree), 9A.44.086 (child molestation  
35 in the second degree), 9A.44.089 (child molestation in the third  
36 degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest),  
37 (~~or~~) 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.100  
38 (commercial sexual abuse of a minor), and RCW 9.68A.101 (promoting  
39 commercial sexual abuse of a minor).

1 (d) The following offenses shall not be prosecuted more than six  
2 years after their commission or their discovery, whichever occurs  
3 later:

4 (i) Violations of RCW 9A.82.060 or 9A.82.080;

5 (ii) Any felony violation of chapter 9A.83 RCW;

6 (iii) Any felony violation of chapter 9.35 RCW;

7 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
8 when accomplished by color or aid of deception; or

9 (v) Trafficking in stolen property in the first or second degree  
10 under chapter 9A.82 RCW in which the stolen property is a motor  
11 vehicle or major component part of a motor vehicle as defined in RCW  
12 46.80.010.

13 (e) The following offenses shall not be prosecuted more than five  
14 years after their commission: Any class C felony under chapter 74.09,  
15 82.36, or 82.38 RCW.

16 (f) Bigamy shall not be prosecuted more than three years after  
17 the time specified in RCW 9A.64.010.

18 (g) A violation of RCW 9A.56.030 must not be prosecuted more than  
19 three years after the discovery of the offense when the victim is a  
20 tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

21 (h) No other felony may be prosecuted more than three years after  
22 its commission; except that in a prosecution under RCW 9A.44.115, if  
23 the person who was viewed, photographed, or filmed did not realize at  
24 the time that he or she was being viewed, photographed, or filmed,  
25 the prosecution must be commenced within two years of the time the  
26 person who was viewed or in the photograph or film first learns that  
27 he or she was viewed, photographed, or filmed.

28 (i) No gross misdemeanor may be prosecuted more than two years  
29 after its commission.

30 (j) No misdemeanor may be prosecuted more than one year after its  
31 commission.

32 (2) The periods of limitation prescribed in subsection (1) of  
33 this section do not run during any time when the person charged is  
34 not usually and publicly resident within this state.

35 (3) In any prosecution for a sex offense as defined in RCW  
36 9.94A.030, the periods of limitation prescribed in subsection (1) of  
37 this section run from the date of commission or one year from the  
38 date on which the identity of the suspect is conclusively established  
39 by deoxyribonucleic acid testing or by photograph as defined in RCW  
40 9.68A.011, whichever is later.

1 (4) If, before the end of a period of limitation prescribed in  
2 subsection (1) of this section, an indictment has been found or a  
3 complaint or an information has been filed, and the indictment,  
4 complaint, or information is set aside, then the period of limitation  
5 is extended by a period equal to the length of time from the finding  
6 or filing to the setting aside.

7 **Sec. 3.** RCW 9.68A.100 and 2013 c 302 s 2 are each amended to  
8 read as follows:

9 (1) A person is guilty of commercial sexual abuse of a minor if:

10 (a) He or she (~~pays a fee~~) provides anything of value to a  
11 minor or a third person as compensation for a minor having engaged in  
12 sexual conduct with him or her;

13 (b) He or she (~~pays or agrees to pay a fee~~) provides or agrees  
14 to provide anything of value to a minor or a third person pursuant to  
15 an understanding that in return therefore such minor will engage in  
16 sexual conduct with him or her; or

17 (c) He or she solicits, offers, or requests to engage in sexual  
18 conduct with a minor in return for (~~a fee~~) anything of value.

19 (2) Commercial sexual abuse of a minor is a class B felony  
20 punishable under chapter 9A.20 RCW.

21 (3) In addition to any other penalty provided under chapter 9A.20  
22 RCW, a person guilty of commercial sexual abuse of a minor is subject  
23 to the provisions under RCW 9A.88.130 and 9A.88.140.

24 (4) Consent of a minor to the sexual conduct does not constitute  
25 a defense to any offense listed in this section.

26 (5) For purposes of this section, "sexual conduct" means sexual  
27 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

28 **Sec. 4.** RCW 9.68A.101 and 2013 c 302 s 3 are each amended to  
29 read as follows:

30 (1) A person is guilty of promoting commercial sexual abuse of a  
31 minor if he or she knowingly advances commercial sexual abuse or a  
32 sexually explicit act of a minor or profits from a minor engaged in  
33 sexual conduct or a sexually explicit act.

34 (2) Promoting commercial sexual abuse of a minor is a class A  
35 felony.

36 (3) For the purposes of this section:

37 (a) A person "advances commercial sexual abuse of a minor" if,  
38 acting other than as a minor receiving compensation for personally

1 rendered sexual conduct or as a person engaged in commercial sexual  
2 abuse of a minor, he or she causes or aids a person to commit or  
3 engage in commercial sexual abuse of a minor, procures or solicits  
4 customers for commercial sexual abuse of a minor, provides persons or  
5 premises for the purposes of engaging in commercial sexual abuse of a  
6 minor, operates or assists in the operation of a house or enterprise  
7 for the purposes of engaging in commercial sexual abuse of a minor,  
8 or engages in any other conduct designed to institute, aid, cause,  
9 assist, or facilitate an act or enterprise of commercial sexual abuse  
10 of a minor.

11 (b) A person "profits from commercial sexual abuse of a minor"  
12 if, acting other than as a minor receiving compensation for  
13 personally rendered sexual conduct, he or she accepts or receives  
14 money or (~~other property~~) anything of value pursuant to an  
15 agreement or understanding with any person whereby he or she  
16 participates or will participate in the proceeds of commercial sexual  
17 abuse of a minor.

18 (c) A person "advances a sexually explicit act of a minor" if he  
19 or she causes or aids a sexually explicit act of a minor, procures or  
20 solicits customers for a sexually explicit act of a minor, provides  
21 persons or premises for the purposes of a sexually explicit act of a  
22 minor, or engages in any other conduct designed to institute, aid,  
23 cause, assist, or facilitate a sexually explicit act of a minor.

24 (d) A "sexually explicit act" is a public, private, or live  
25 photographed, recorded, or videotaped act or show intended to arouse  
26 or satisfy the sexual desires or appeal to the prurient interests of  
27 patrons and for which (~~something~~) anything of value is given or  
28 received.

29 (e) A "patron" is a person who (~~pays or agrees to pay a fee~~)  
30 provides or agrees to provide anything of value to another person as  
31 compensation for a sexually explicit act of a minor or who solicits  
32 or requests a sexually explicit act of a minor in return for a fee.

33 (4) Consent of a minor to the sexually explicit act or sexual  
34 conduct does not constitute a defense to any offense listed in this  
35 section.

36 (5) For purposes of this section, "sexual conduct" means sexual  
37 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

38 **Sec. 5.** RCW 9A.88.060 and 2011 c 336 s 412 are each amended to  
39 read as follows:

1       The following definitions are applicable in RCW 9A.88.070 through  
2 9A.88.090:

3       (1) "Advances prostitution." A person "advances prostitution" if,  
4 acting other than as a prostitute or as a customer thereof, he or she  
5 causes or aids a person to commit or engage in prostitution, procures  
6 or solicits customers for prostitution, provides persons or premises  
7 for prostitution purposes, operates or assists in the operation of a  
8 house of prostitution or a prostitution enterprise, or engages in any  
9 other conduct designed to institute, aid, or facilitate an act or  
10 enterprise of prostitution.

11       (2) "Profits from prostitution." A person "profits from  
12 prostitution" if, acting other than as a prostitute receiving  
13 compensation for personally rendered prostitution services, he or she  
14 accepts or receives money or (~~other property~~) anything of value  
15 pursuant to an agreement or understanding with any person whereby he  
16 or she participates or is to participate in the proceeds of  
17 prostitution activity.

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