
SUBSTITUTE HOUSE BILL 2360

State of Washington

65th Legislature

2018 Regular Session

By House Public Safety (originally sponsored by Representatives Pellicciotti, Kraft, Dolan, McDonald, Orwall, Hayes, Van Werven, Klippert, Lovick, Kloba, Fey, Tarleton, Johnson, Sawyer, Kirby, Stanford, Reeves, Jinkins, Ryu, Ortiz-Self, Riccelli, and Gregerson)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to increasing penalties for the crime of
2 patronizing a prostitute; amending RCW 9A.88.110, 9A.88.085,
3 9A.88.130, 9A.88.140, and 43.43.754; and prescribing penalties.

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

5 **Sec. 1.** RCW 9A.88.110 and 2017 c 232 s 1 are each amended to
6 read as follows:

7 (1) A person is guilty of (~~patronizing a prostitute~~) sexual
8 exploitation if:

9 (a) Pursuant to a prior understanding, he or she pays a fee to
10 another person as compensation for such person or a third person
11 having engaged in sexual conduct with him or her; or

12 (b) He or she pays or agrees to pay a fee to another person
13 pursuant to an understanding that in return therefor such person will
14 engage in sexual conduct with him or her; or

15 (c) He or she solicits or requests another person to engage in
16 sexual conduct with him or her in return for a fee.

17 (2) The crime of (~~patronizing a prostitute~~) sexual exploitation
18 may be committed in more than one location. The crime is deemed to
19 have been committed in any location in which the defendant commits
20 any act under subsection (1)(a), (b), or (c) of this section that
21 constitutes part of the crime. A person who sends a communication

1 ((~~to patronize a prostitute~~)) in furtherance of a sexual exploitation
2 offense is considered to have committed the crime both at the place
3 from which the contact was made pursuant to subsection (1)(a), (b),
4 or (c) of this section and where the communication is received,
5 provided that this section must be construed to prohibit anyone from
6 being prosecuted twice for substantially the same crime.

7 (3) For purposes of this section, "sexual conduct" has the
8 meaning given in RCW 9A.88.030.

9 (4) ((~~Patronizing a prostitute~~)) Sexual exploitation is a
10 misdemeanor, except that a second or subsequent conviction under this
11 section or under an equivalent municipal ordinance is a gross
12 misdemeanor.

13 **Sec. 2.** RCW 9A.88.085 and 2006 c 250 s 2 are each amended to
14 read as follows:

15 (1) A person commits the offense of promoting travel for
16 prostitution if the person knowingly sells or offers to sell travel
17 services that include or facilitate travel for the purpose of
18 engaging in what would be ((~~patronizing a prostitute~~)) sexual
19 exploitation or promoting prostitution, if occurring in the state.

20 (2) For purposes of this section, "travel services" has the same
21 meaning as defined in RCW 19.138.021.

22 (3) Promoting travel for prostitution is a class C felony.

23 **Sec. 3.** RCW 9A.88.130 and 2012 c 136 s 2 are each amended to
24 read as follows:

25 (1) When sentencing or imposing conditions on a person convicted
26 of, or receiving a deferred sentence or deferred prosecution for,
27 violating RCW 9A.88.110 or 9.68A.100, the court must impose a
28 requirement that the offender:

29 (a) Not be subsequently arrested for ((~~patronizing a prostitute~~))
30 sexual exploitation or commercial sexual abuse of a minor;

31 (b) Remain outside the geographical area, prescribed by the
32 court, in which the person was arrested for violating RCW 9A.88.110
33 or 9.68A.100, unless such a requirement would interfere with the
34 person's legitimate employment or residence or otherwise be
35 infeasible; and

36 (c) Fulfill the terms of a program, if a first-time offender,
37 designated by the sentencing court, designed to educate offenders
38 about the negative costs of prostitution.

1 (2) This requirement is in addition to the penalties set forth in
2 RCW 9A.88.110, 9A.88.120, and 9.68A.100.

3 **Sec. 4.** RCW 9A.88.140 and 2015 c 265 s 21 are each amended to
4 read as follows:

5 (1)(a) Upon an arrest for a suspected violation of (~~patronizing~~
6 ~~a prostitute~~) sexual exploitation, promoting prostitution in the
7 first degree, promoting prostitution in the second degree, promoting
8 travel for prostitution, the arresting law enforcement officer may
9 impound the person's vehicle if (i) the motor vehicle was used in the
10 commission of the crime; (ii) the person arrested is the owner of the
11 vehicle or the vehicle is a rental car as defined in RCW 46.04.465;
12 and (iii) either (A) the person arrested has previously been
13 convicted of one of the offenses listed in this subsection or (B) the
14 offense was committed within an area designated under (b) of this
15 subsection.

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

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

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

27 (2) Upon an arrest for a suspected violation of commercial sexual
28 abuse of a minor, promoting commercial sexual abuse of a minor, or
29 promoting travel for commercial sexual abuse of a minor, the
30 arresting law enforcement officer shall impound the person's vehicle
31 if (a) the motor vehicle was used in the commission of the crime; and
32 (b) the person arrested is the owner of the vehicle or the vehicle is
33 a rental car as defined in RCW 46.04.465.

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

37 (4)(a) Prior to redeeming the impounded vehicle, and in addition
38 to all applicable impoundment, towing, and storage fees paid to the
39 towing company under chapter 46.55 RCW, an adult owner of an

1 impounded vehicle must pay a fine to the impounding agency. The fine
2 shall be five hundred dollars for the offenses specified in
3 subsection (1) of this section, or two thousand five hundred dollars
4 for the offenses specified in subsection (2) of this section.

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

8 (c) Fines 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
11 in cases in which the offense occurred in a city or town that
12 provides for its own law enforcement, in which case these amounts
13 shall be remitted to the treasurer of the city or town for deposit in
14 the general fund of the city or town. Revenue from the fines must be
15 used for local efforts to reduce the commercial sale of sex
16 including, but not limited to, increasing enforcement of commercial
17 sex laws.

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

24 (ii) Two percent of the revenue from fines imposed under this
25 section shall be remitted quarterly to the department of commerce,
26 together with a report detailing the fees assessed, the revenue
27 received, and how that revenue was spent.

28 (iii) Revenues from these fees are not subject to the
29 distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040,
30 10.82.070, or 35.20.220.

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

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

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

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

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

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

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

16 **Sec. 5.** RCW 43.43.754 and 2017 c 272 s 4 are each amended to
17 read as follows:

18 (1) A biological sample must be collected for purposes of DNA
19 identification analysis from:

20 (a) Every adult or juvenile individual convicted of a felony, or
21 any of the following crimes (or equivalent juvenile offenses):

22 (i) Assault in the fourth degree where domestic violence as
23 defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041,
24 9.94A.030);

25 (ii) Assault in the fourth degree with sexual motivation (RCW
26 9A.36.041, 9.94A.835);

27 (iii) Communication with a minor for immoral purposes (RCW
28 9.68A.090);

29 (iv) Custodial sexual misconduct in the second degree (RCW
30 9A.44.170);

31 (v) Failure to register (RCW 9A.44.130 for persons convicted on
32 or before June 10, 2010, and RCW 9A.44.132 for persons convicted
33 after June 10, 2010);

34 (vi) Harassment (RCW 9A.46.020);

35 (vii) (~~Patronizing a prostitute~~) Sexual exploitation (RCW
36 9A.88.110);

37 (viii) Sexual misconduct with a minor in the second degree (RCW
38 9A.44.096);

39 (ix) Stalking (RCW 9A.46.110);

1 (x) Violation of a sexual assault protection order granted under
2 chapter 7.90 RCW; and

3 (b) Every adult or juvenile individual who is required to
4 register under RCW 9A.44.130.

5 (2) If the Washington state patrol crime laboratory already has a
6 DNA sample from an individual for a qualifying offense, a subsequent
7 submission is not required to be submitted.

8 (3) Biological samples shall be collected in the following
9 manner:

10 (a) For persons convicted of any offense listed in subsection
11 (1)(a) of this section or adjudicated guilty of an equivalent
12 juvenile offense who do not serve a term of confinement in a
13 department of corrections facility, and do serve a term of
14 confinement in a city or county jail facility, the city or county
15 shall be responsible for obtaining the biological samples.

16 (b) The local police department or sheriff's office shall be
17 responsible for obtaining the biological samples for:

18 (i) Persons convicted of any offense listed in subsection (1)(a)
19 of this section or adjudicated guilty of an equivalent juvenile
20 offense who do not serve a term of confinement in a department of
21 corrections facility, and do not serve a term of confinement in a
22 city or county jail facility; and

23 (ii) Persons who are required to register under RCW 9A.44.130.

24 (c) For persons convicted of any offense listed in subsection
25 (1)(a) of this section or adjudicated guilty of an equivalent
26 juvenile offense, who are serving or who are to serve a term of
27 confinement in a department of corrections facility or a department
28 of social and health services facility, the facility holding the
29 person shall be responsible for obtaining the biological samples. For
30 those persons incarcerated before June 12, 2008, who have not yet had
31 a biological sample collected, priority shall be given to those
32 persons who will be released the soonest.

33 (4) Any biological sample taken pursuant to RCW 43.43.752 through
34 43.43.758 may be retained by the forensic laboratory services bureau,
35 and shall be used solely for the purpose of providing DNA or other
36 tests for identification analysis and prosecution of a criminal
37 offense or for the identification of human remains or missing
38 persons. Nothing in this section prohibits the submission of results
39 derived from the biological samples to the federal bureau of
40 investigation combined DNA index system.

1 (5) The forensic laboratory services bureau of the Washington
2 state patrol is responsible for testing performed on all biological
3 samples that are collected under subsection (1) of this section, to
4 the extent allowed by funding available for this purpose. The
5 director shall give priority to testing on samples collected from
6 those adults or juveniles convicted of a felony or adjudicated guilty
7 of an equivalent juvenile offense that is defined as a sex offense or
8 a violent offense in RCW 9.94A.030. Known duplicate samples may be
9 excluded from testing unless testing is deemed necessary or advisable
10 by the director.

11 (6) This section applies to:

12 (a) All adults and juveniles to whom this section applied prior
13 to June 12, 2008;

14 (b) All adults and juveniles to whom this section did not apply
15 prior to June 12, 2008, who:

16 (i) Are convicted on or after June 12, 2008, of an offense listed
17 in subsection (1)(a) of this section; or

18 (ii) Were convicted prior to June 12, 2008, of an offense listed
19 in subsection (1)(a) of this section and are still incarcerated on or
20 after June 12, 2008; and

21 (c) All adults and juveniles who are required to register under
22 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,
23 on, or after June 12, 2008.

24 (7) This section creates no rights in a third person. No cause of
25 action may be brought based upon the noncollection or nonanalysis or
26 the delayed collection or analysis of a biological sample authorized
27 to be taken under RCW 43.43.752 through 43.43.758.

28 (8) The detention, arrest, or conviction of a person based upon a
29 database match or database information is not invalidated if it is
30 determined that the sample was obtained or placed in the database by
31 mistake, or if the conviction or juvenile adjudication that resulted
32 in the collection of the biological sample was subsequently vacated
33 or otherwise altered in any future proceeding including but not
34 limited to posttrial or postfact-finding motions, appeals, or
35 collateral attacks.

36 (9) A person commits the crime of refusal to provide DNA if the
37 person has a duty to register under RCW 9A.44.130 and the person
38 willfully refuses to comply with a legal request for a DNA sample as

1 required under this section. The refusal to provide DNA is a gross
2 misdemeanor.

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