

# HOUSE BILL REPORT

## E3SHB 1775

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### As Amended by the Senate

**Title:** An act relating to commercially sexually exploited children.

**Brief Description:** Protecting commercially sexually exploited children.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Orwall, Frame, Wylie, Gregerson and Macri).

#### **Brief History:**

##### **Committee Activity:**

Human Services & Early Learning: 2/12/19, 2/20/19 [DPS], 1/24/20, 1/28/20 [DP2S];  
Appropriations: 2/27/19, 2/8/20, 2/10/20 [DP3S(w/o 2sub HSEL)].

##### **Floor Activity:**

Passed House: 2/18/20, 96-1.  
Senate Amended.  
Passed Senate: 3/6/20, 48-0.

#### **Brief Summary of Engrossed Third Substitute Bill**

- Limits the crime of Prostitution to individuals age 18 or older effective January 1, 2024.
- Requires the Department of Children, Youth, and Families (DCYF) to administer funding for two receiving center programs for commercially sexually exploited youth ages 12–17 on the west and east side of the Cascade Mountains.
- Requires law enforcement officers to take or coordinate transportation for a juvenile who the officer reasonably believes to be a victim of sexual exploitation to an evaluation and treatment facility, including a receiving center for purposes of evaluation for behavioral health treatment.
- Requires the DCYF to provide services to support commercially sexually exploited children.

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### HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

*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:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

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

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 32 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Staff:** Jessica Van Horne (786-7288).

### **Background:**

#### *Prostitution.*

A person is guilty of Prostitution if the person engages or agrees to engage 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 (AGO). The Department of Commerce (Commerce) assists the AGO 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.

*The Department of Children, Youth, and Families.*

The Department of Children, Youth, and Families (DCYF) was created in 2017 and oversees early learning programs, child welfare services, and juvenile justice programs.

### **Summary of Engrossed Third Substitute Bill:**

The crime of Prostitution is limited to individuals age 18 or older, effective January 1, 2024.

The DCYF is required to administer funding for two receiving center programs for commercially sexually exploited youth ages 12–17 on the west and east side of the Cascade Mountains.

The receiving centers must:

- begin providing services by January 1, 2021;
- develop eligibility criteria for youth and prioritize law enforcement referral;
- provide ongoing case management for youth served by the programs;
- include a short-term evaluation function accessible 24 hours per day, seven days per week that has the capacity to meet immediate needs for youth or refer to services;
- assess youth for mental health and substance use disorder needs and provide referrals;
- utilize existing facilities and not require the construction of new facilities; and
- provide individual and group counseling.

The individuals eligible for receiving center services include children ages 12–17, of all genders, who have been, or are at risk for being commercially sexually exploited.

Law enforcement must transport a child eligible for receiving center services to a receiving center or coordinate transportation with a DCYF commercially sexually exploited children liaison.

Law enforcement, the DCYF, juvenile courts, community service providers, a parent or guardian, and a child themselves may be referred for receiving center services.

The DCYF must collect demographic information about the youth served by the programs and the locations the youth exit to after being served by the programs and report the data to the Legislature by December 1, 2022.

Law enforcement officers must take a juvenile or coordinate transportation for a juvenile who the officer reasonably believes to be a victim of sexual exploitation and take the youth to an evaluation and treatment facility, including a receiving center, for purposes of evaluation for behavioral health treatment. Law enforcement may take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility.

The DCYF must provide services to support commercially sexually exploited children, including providing at least one liaison position in each of the six regions of the DCYF.

The Committee is required to compile data on the number of juveniles taken into custody by law enforcement where the officer believes the juvenile may be the victim of sexual exploitation. The Committee has the duty to review and make recommendations regarding expanded use of child advocacy centers to include serving the immediate and long-term needs of commercially sexually exploited children. The Committee must convene a meeting related to the role that child advocacy centers have in responding to and supporting commercially sexually exploited children and provide recommendations to Commerce by October 1, 2020. Commerce must provide a report to the Legislature, by December 1, 2020, that includes an inventory of child advocacy centers, a description of the services that they provide, and recommendations for expanded use of child advocacy centers.

Commerce must provide a report to the Legislature by December 1, 2020, that includes an inventory of child advocacy centers, a description of the services that they provide, and recommendations for expanded use of child advocacy centers.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment does the following:

- requires the DCYF, the Department of Health, and the Division of Behavioral Health and Recovery to meet to coordinate the implementation of receiving centers, including development of the receiving center eligibility criteria, and provide a report to the Governor and Legislature summarizing the implementation plan by December 1, 2020;
- provides additional locations where law enforcement must transport or coordinate transportation for juveniles believed to be victims of sexual exploitation to include: (1) a HOPE Center, (2) a foster home, (3) a crisis residential center, or (4) a community-based program with expertise working with adolescents in crisis;
- specifies that children may voluntarily engage in services to support commercially sexually exploited children offered by the DCYF;

- specifies that the DCYF services to support commercially sexually exploited children do not create a private right of action against the DCYF for failure to identify, offer, or provide services;
- exempts receiving centers from DCYF licensure requirements for entities receiving children outside their own home; and
- requires the DCYF to convene a workgroup to study and issue recommendations regarding how decriminalizing prostitution for persons under age 18 will impact law enforcement and prosecutor efforts and ability to aid in prosecution of a perpetrator or abuser and issue recommendations to the Legislature by October 31, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4, 5, and 6, relating to decriminalizing juvenile prostitution, which take effect January 1, 2024.

**Staff Summary of Public Testimony (Human Services & Early Learning):**

(In support) For years the mean age of sexually exploited youth has been age 15, but some say it is now age 12. There should be a therapeutic response for these youth. There should be accountability for individuals exploiting these youth. The change in the Prostitution offense will occur in four years. These youth will receive evidence-based services to help them. Many of these youth will be eligible for Medicaid, which will allow for additional funding. Child advocacy centers help children heal by coordinating treatment and advocacy services. The bill only requires one meeting with child advocacy centers. Representatives from child advocacy centers should be included on the Committee. Teens have experienced forcible sex all day with adults for money, only to have to hand that money over to another adult. Many children who are victims of sex trafficking are running away from abusive situations. These victims should be treated as victims and not criminals. This state offers some protections for girls who are victims of sex trafficking, but that is not enough. The time is now to fund services and move toward a victim-centered response. Laws that criminalize victimization should be removed. Investments in these youth should be wise, and that is exactly what this bill creates. Washington state was the first to pass safe harbor laws but has now fallen behind other states in creating safe harbor laws for child victims of sex trafficking. This is a complicated problem, and the bill creates a complicated response. Crisis residential centers are not the appropriate response to sex trafficking victimization. This bill should allow anyone to self-refer into these programs, even if sex trafficking is not suspected. Youth in the sex trade should not be punished. If the youth is not suspected of a crime, the youth should not be taken into custody against his or her will. A person cannot be saved from coercion by more coercion. Law enforcement and prosecutors should be granted coercive power over youth once the age of the crime of Prostitution is raised to age 18 and over. Youth cannot wait four more years to be protected from further victimization. Twenty-five states passed laws protecting youth from prostitution offenses last year. Five more states have passed these laws in the past year. Please do not make Washington one of the most regressive states regarding youth victims of sex trafficking. By criminalizing victims of sex

trafficking, power is given to those exploiting these individuals. Children should be protected no matter the cost.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Washington has been at the forefront of combatting human trafficking. However, the state is now falling behind its peers by continuing to allow for the arrest and prosecution of children for the crime of prostitution. This bill will allow Washington to become a true safe harbor state. Many stakeholders have come together to develop a complex set of solutions for a complex issue, including eliminating the ability to arrest and prosecute children for prostitution, creating and funding receiving centers, and creating greater capacity within the DCYF. Children who are sexually trafficked are especially vulnerable and have life-long needs for services and supports, including behavioral health and substance abuse services. Many children in this population have also gone through the state's foster care system. The costs of the bill are outweighed by the long-term implications of not intervening in these cases early on.

(Opposed) None.

**Persons Testifying (Human Services & Early Learning):** Representative Orwall, prime sponsor; Paula Reed, Children's Advocacy Centers of Washington; Jim Theofelis, A Way Home Washington; Ann Muno, Justice for Girls Coalition; Nicholas Oakley, Center for Children and Youth Justice; Leslie Briner, YouthCare; Erik Gray and Jeri Moomaw, Innovations Human Trafficking Collaborative; Kari Lerum, University of Washington; and Emi Koyama, Coalition for Rights and Safety for People in the Sex Trade.

**Persons Testifying (Appropriations):** Leslie Briner, YouthCare; and Jim Theofelis, A Way Home Washington.

**Persons Signed In To Testify But Not Testifying (Human Services & Early Learning):** None.

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