

# HOUSE BILL REPORT

## HB 1836

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### As Reported by House Committee On: Public Safety

**Title:** An act relating to prohibiting the waiver, reduction, or suspension of certain fees charged to persons who commit offenses involving the sexual exploitation of children.

**Brief Description:** Prohibiting the waiver, reduction, or suspension of certain fees charged to persons who commit offenses involving the sexual exploitation of children.

**Sponsors:** Representatives Kraft, Van Werven, Chambers, Maycumber, Graham, Caldier, Eslick and Mosbrucker.

#### **Brief History:**

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

Public Safety: 2/15/19, 2/21/19 [DPS].

#### **Brief Summary of Substitute Bill**

- Modifies fees charged to persons who commit the crimes of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Lovick, Orwall, Pellicciotti and Pettigrew.

**Staff:** Kelly Leonard (786-7147).

#### **Background:**

*Commercial Sexual Abuse of a Minor.* A person commits the crime of Commercial Sexual Abuse of a Minor if:

- he or she provides anything of value to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

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- he or she provides or agrees to provide anything of value to a minor or a third person pursuant to an understanding that the 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 anything of value.

Commercial Sexual Abuse of a Minor is a class B felony and a level VIII offense.

A person commits the crime 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. Promoting Commercial Sexual Abuse of a Minor is a class A felony and a level XII offense.

A person commits the crime 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 Washington. Promoting Travel for Commercial Sexual Abuse of a Minor is a class C felony and an unranked offense.

*Legal Financial Obligations.* The court may impose legal financial obligations as part of a judgment and sentence, depending on the nature of the underlying offense. Legal financial obligations may include: crime victim compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

In addition to other related legal financial obligations, state law mandates certain fees for adults who commit Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Travel for Commercial Sexual Abuse of a Minor. Those fees are as follows:

<b>Circumstances When Assessed</b>	<b>Fee</b>	<b>Revenues</b>
Conviction of, deferred sentence or prosecution for, or a diversion agreement for any of the offenses.	\$5,000	Deposit into respective county or city general fund to be used for enforcement of commercial sex laws and certain prevention and rehabilitative services for victims, except 2 percent is remitted to the Department of Commerce.
Conviction of any of the offenses when an internet advertisement depicting or describing the victim was instrumental in facilitating the offense.	\$5,000 (additional)	Deposit into the Prostitution Prevention and Intervention Account for funding the Statewide Coordinating Committee on Sex Trafficking, certain programming for youth involved in prostitution, services for sexually exploited children, and a grant program to enhance prostitution prevention and intervention.

The court has express statutory authority to reduce, waive, or suspend payment of up to two-thirds of the initial \$5,000 fee if it finds that the offender does not have the ability to pay.

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**Summary of Substitute Bill:**

Both the initial generally applicable fee and the additional specialized fee (for cases involving Internet advertisements) charged to persons who commit Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor are mandatory. The amounts of both fees are modified. The court must determine the amount of each fee, which must be at least \$3,500 and no more than \$7,500. The court is otherwise prohibited from reducing, waiving, or suspending payment of either fee.

**Substitute Bill Compared to Original Bill:**

The fee assessed on a defendant who commits Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor is modified. The court must determine the amount of the fee, which must be at least \$3,500 and no more than \$7,500 (rather than the current law requiring a \$5,000 fee that can be reduced by up to two-thirds, and the underlying bill requiring a \$5,000 fee). The additional fee assessed on a convicted defendant when the offense involved an Internet advertisement is also modified by requiring the court to determine the amount of the fee, which must be at least \$3,500 and no more than \$7,500 (rather than the current law and underlying bill requiring a \$5,000 fee).

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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) This bill addresses the horrendous crime of trafficking of minors. The ultimate objective is to reduce demand for sex trafficking. One practical way to achieve this is to make it more painful for perpetrators by raising monetary penalties. Current state law says that a defendant can be charged \$5,000 for each of the two fees, but the judge can decide to reduce those fees. The "ability to pay" overrides the horrendous acts committed against the child. This bill provides that, if someone does this to a child, they will be required to pay the mandatory \$5,000. Survivors support this bill.

There is a possible amendment to address concerns regarding judicial discretion. The committee could consider allowing the judge to determine the exact fee in each case, but require it to be between \$5,000 and \$7,500.

(Opposed) None.

**Persons Testifying:** Representative Kraft, prime sponsor.

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