

# SENATE BILL REPORT

## SB 5744

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As Reported by Senate Committee On:  
Human Services, Reentry & Rehabilitation, January 28, 2020

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

**Brief Description:** Concerning commercially sexually exploited children. [**Revised for 2nd Substitute:** Protecting commercially sexually exploited children.]

**Sponsors:** Senators Dhingra, Das, Randall, Darneille, Hasegawa, Saldaña, Keiser, Kuderer, Nguyen and Wilson, C.

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 2/14/19, 2/20/19 [DPS-WM]; 1/23/20, 1/28/20 [DP2S-WM].

### Brief Summary of Second Substitute Bill

- Creates two receiving centers, using existing facilities, to provide services to commercially sexually exploited children (CSEC), ages twelve to seventeen.
- Makes effective on July 1, 2024, only a person eighteen or older can be charged with the crime of prostitution.
- Requires the Department of Children, Youth and Families (DCYF) to report on the outcomes of the receiving centers and provide services to support CSEC.
- Allows law enforcement officers to take a child into custody and to a receiving center if the officer reasonably believes the juvenile is a victim of sexual exploitation.
- Directs the CSEC Statewide Coordinating Committee compile data on the number of juveniles taken into custody under the belief a juvenile may be a victim of sexual exploitation; and convene a meeting about the role child advocacy centers have in responding to and supporting commercially sexually exploited youth.
- Directs the Department of Commerce to collect data about child advocacy centers and report its findings to the Legislature.

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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.*

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## SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Majority Report:** That Second Substitute Senate Bill No. 5744 be substituted therefor, and the second substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

**Staff:** Alison Mendiola (786-7488)

**Background:** Commercially Sexually Exploited Children Statewide Coordinating Committee. 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 reports its finding and recommendations annually to the Legislature. The Committee meets at least annually and is convened by the Office of the Attorney General. The Committee is set to expire on June 30, 2023.

The Department of Children, Youth and Families. DCYF was created by the Legislature in 2017. The stated intent of the agency is to improve the delivery of government services relating to early learning, child welfare, and juvenile justice by consolidating the administration of these services into the same agency. At the time DCYF was created, they were directed to establish, subject to available funds, a system of early identification and referral to treatment of child victims of sexual assault or sexual abuse. The system is to include schools, physicians, sexual assault centers, domestic violence centers, child protective services, and foster parents.

Crime of Prostitution. A person is guilty of prostitution if they offer to engage in sexual conduct with another person for a fee. Prostitution is a misdemeanor. If a juvenile is alleged to have committed a first offense of prostitution, the prosecutor is to divert the case. If it is not the juvenile's first offense, if proven, the prosecutor may divert the case if the county in which the offense is alleged to have been committed has a comprehensive program meeting specific conditions. A diversion agreement may extend to 12 months.

Law Enforcement Custody of a Child. There are many circumstances where a law enforcement officer must take a child into custody. This includes when an officer believes, considering the child's age, location, and time of day, a child is in circumstances which constitute a danger to their safety.

Evaluation and Treatment Facility. An evaluation and treatment facility is a public or private facility or unit that is licensed or certified by the Department of Health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Second Substitute):** The Legislature finds commercial sexual exploitation of children is a severe form of human trafficking and a severe human rights and public health issue.

Receiving Centers Programs. Two receiving center programs are created for commercially sexually exploited children (CSEC) to be administered by DCYF. The receiving center programs must:

- begin providing services by January 1, 2021;
- develop, in consultation with DCYF, eligibility criteria for serving CSEC, allowing referral from service providers and prioritizing referrals from law enforcement;
- provide ongoing case management for children who are being served or were served by the programs;
- use existing facilities and not require the construction of new facilities; and
- have one program east of the Cascades and one program west of the Cascades.

Eligibility for placement in a receiving center is for children ages twelve to seventeen, of all genders, who have been, or are at risk for being commercially sexually exploited.

Receiving Center Referrals. The following entities may refer a child to receiving centers:

- law enforcement, who is to transport a child to the receiving center or coordinate transportation with a liaison dedicated to serving CSEC or a community service provider;
- DCYF;
- juvenile courts;
- community service providers;
- a parent or guardian;
- a child who wishes to self-refer.

Functions of the Receiving Centers. A receiving center is a trauma-informed, secure location meeting the multidisciplinary needs of CSEC ages twelve to seventeen. The receiving centers must:

- include a short-term evaluation function, including emergency shelter, accessible 24 hours per day, 7 days per week, having the capacity to evaluate the immediate needs of CSEC and either meet these immediate needs, or refer these youth to appropriate services, including an evaluation for behavioral health treatment, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment;
- assess children for substance use disorder and provide appropriate referrals as needed; and
- provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity.

Data Collection. DCYF is to collect nonidentifiable demographic data of children served, and data regarding the locations that children exit to after being served by the programs, and report this data along with recommendations for medication or expansion of these programs to the relevant committees of the Legislature by December 1, 2022.

Services for Commercially Sexually Exploited Children. DCYF is to provide services to support CSEC. To provide such services, DYCF must provide one statewide program manager and at least one liaison position in each region of DCYF dedicated to serving CSEC. The liaison is to report directly to the statewide program manager. DYCF may solicit and accept gifts, grants, conveyances, bequests, and devices for supporting these services.

DCYF is to collect non-identifiable data regarding the number of CSEC, including reports received from law enforcement. DCYF is to provide an annual report to the CSEC Statewide Coordinating Committee by December 1st including the following information: a description of services provided by DYCF to CSEC; and nonidentifiable data regarding the number of CSEC.

Commercially Sexually Exploited Children Statewide Coordinating Committee. The Committee must compile data on the number of juveniles taken into custody under the belief they were victims of sexual exploitation.

By September 1, 2020, the Committee must convene a meeting related to the role that child advocacy centers (CACs) have in responding to and supporting CSEC. This meeting is to include representatives of CACs.

By October 1, 2020, and following the CAC meeting, the Committee shall provide recommendations to DCYF regarding:

- expanded use of child advocacy centers in providing additional services to CSEC; and
- ensuring CACs connect CSEC with available resources in the community.

By December 1, 2020, the Department of Commerce is to provide a report to the relevant committees of the Legislature that includes:

- the number of and location of CACs in the state;
- a description of services provided by each CAC in the state;
- recommendations for expanded use of CACs in providing additional services for CSEC with available services in the community;
- recommendations for ensuring CACs connect CSEC with available services in the community

This section of the Act expires June 30, 2021.

Law Enforcement Custody and Behavioral Health Treatment. If a law enforcement officer takes a juvenile into custody because the officer reasonably believes the juvenile may be a victim of sexual exploitation, the officer must transport them to an evaluation and treatment facility, including a receiving center, for an evaluation for behavioral health treatment.

Law enforcement has the authority to take a child into protective custody if that child is, or is attempting to engage in sexual conduct with another person for money or anything of value, for purposes of investigating the individual or individuals who may be exploiting the child, and deliver the child to an evaluation and treatment facility, including a receiving center for evaluation for behavioral health treatment, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

Prostitution. Effective January 1, 2024, only a person eighteen or older can be guilty of the crime of prostitution. The relevant statutes are revised accordingly.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (Second Substitute):**

- Modifies intent section.
- Replaces references to “youth” with “child” or “children.”
- Replaces the Office of Homeless Youth Prevention and Protection Programs with the Department of Children, Youth, and Families as the entity administering funding for the receiving centers.
- Requires receiving centers must be existing facilities and not require any new construction.
- Deletes the receiving centers provide treatment for up to one year at the same location.
- Requires law enforcement to transport a child who is eligible for receiving center services to a receiving center or coordinate transportation with a liaison or a community service provider.
- Requires CSEC Steering Committee to convene a meeting on the role that CAC have in responding to CSEC.
- Requires Commerce to report to the Legislature regarding specific information regarding CACs.
- Requires DCYF to create liaison positions in each region with one new program manager.
- Delays the effective date for decriminalization of juvenile prostitution until January 1, 2024.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2020.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill (Regular Session 2019):** *The committee recommended a different version of the bill than what was heard.* PRO: Receiving center are created for commercially and sexually exploited youth, a place where law enforcement can take a child if the officer believes the child is a victim of sexual exploitation. The goal is to move away from criminalizing youth to treating them as the victims that they are. There will be an amendment clarifying the decriminalization of juvenile prostitution only goes into effect if the receiving centers are funded and operational. After a decade of research on this issue, children shouldn't be called prostitutes. We've developed a strategy for working with youth and police. Historically, Washington's law have been stronger on this issue. In twenty-five states and the District of Columbia there's no criminalization of child prostitution and hopefully at the end of this year there will be ten more states. We should not have to wait to decriminalize prostitution.

OTHER: If centers are not funded and prostitution is decriminalized, there's a concern about law enforcement's ability to make contact with the child. Now, prosecutors are using their discretion not charging kids with a crime but rather using it as a way to pick up the kids off the streets.

**Persons Testifying:** PRO: Senator Manka Dhingra, Prime Sponsor; Linda Smith, Shared Hope International; Emi Koyama, Coalition for Rights and Safety for People in the Sex Trade; Liz Trautman, Washington Coalition of Homeless Youth Advocacy; Leslie Briner, Youthcare; Nicholas Oakley, Center for Children and Youth Justice.

OTHER: Russell Brown, Washington Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** No one.

**Staff Summary of Public Testimony on Proposed Substitute (Regular Session 2020):** *The committee recommended a different version of the bill than what was heard.* PRO: This substitute is an improved version of last year's bill. As a state, we have to be clear that these children are victims of crimes, defendants. But, we have to be thoughtful and deliberate on how we go through this change. We need to decriminalize prostitution but there is a delayed implementation date. Within DCYF, liaison positions are created to take the pressure off law enforcement. The liaison can ensure that the victim is getting access to services. While law enforcement is concerned about the decriminalization, it was a very deliberative process and we understand the consequences of this shift in policy. We need to provide support to these vulnerable children. We also do not know how many children are being charted with prostitution because we are told juveniles are not being charged. Washington used to be a leader in addressing anti-human trafficking efforts but has fallen far behind the rest of the country. As of 2019, 30 states and Washington D.C. have passed some sort of safe harbor legislation. Last year it was 25 states. Child Advocacy Centers are a great resource for helping with this work—the state chapter executive director should be added a core member to the Coordinating Committee. It is morally wrong to criminalize children, there are three elements that need to be addressed: eliminate arresting child victims, provide funding for the receiving centers, and create the infrastructure for this work within DCYF.

**Persons Testifying:** PRO: Senator Manka Dhingra, Prime Sponsor; Paula Reed, Children's Advocacy Centers of Washington; Shoshana Wineburg, Washington Coalition for Homeless Youth Advocacy; Jim Theofelis, A Way Home Washington, Executive Director; Lily Cory, Center for Children & Youth Justice; Nancy Sapiro, Justice for Girls Coalition; Leslie Briner, YouthCare; Emi Koyama, Coalition for Rights & Safety for People in the Sex Trade; Lisa Taylor-Lopez, Sex Workers Outreach Project in Seattle; Darin Dorsey, Washington Coalition of Sexual Assault Programs; Marnie Backer, Stolen Youth.

**Persons Signed In To Testify But Not Testifying:** No one.