
THIRD SUBSTITUTE HOUSE BILL 1775

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Orwall, Frame, Wylie, Gregerson, and Macri)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to commercially sexually exploited children;
2 amending RCW 9A.88.030, 13.40.070, 13.40.213, 7.68.801, 43.185C.260,
3 and 74.14B.070; adding new sections to chapter 7.68 RCW; creating a
4 new section; providing an effective date; and providing an expiration
5 date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that commercial
8 sexual exploitation of children is a severe form of human trafficking
9 and a severe human rights and public health issue, leaving children
10 at substantial risk of physical harm, substantial physical and
11 emotional pain, and trauma. This trauma has a long-term impact on the
12 social, emotional, and economic future of these children. The state
13 shall provide a victim-centered, trauma-informed response to children
14 who are exploited in this manner rather than treating them as
15 criminals. The state shall also hold accountable the buyers and
16 traffickers who exploit children.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.68 RCW
18 to read as follows:

19 (1) Subject to the availability of amounts appropriated for this
20 specific purpose, the department of children, youth, and families

1 shall administer funding for two receiving center programs for
2 commercially sexually exploited children. One of these programs must
3 be located west of the crest of the Cascade mountains and one of
4 these programs must be located east of the crest of the Cascade
5 mountains. Law enforcement and service providers may refer children
6 to these programs or children may self-refer into these programs.

7 (2) The receiving center programs established under this section
8 shall:

9 (a) Begin providing services by January 1, 2021;

10 (b) Develop the eligibility criteria for serving commercially
11 sexually exploited children that allows referral from service
12 providers and prioritizes referral from law enforcement;

13 (c) Utilize existing facilities and not require the construction
14 of new facilities; and

15 (d) Provide ongoing case management for all children who are
16 being served or were served by the programs.

17 (3) The receiving centers established under this section shall:

18 (a) Include a short-term evaluation function that is accessible
19 twenty-four hours per day seven days per week that has the capacity
20 to evaluate the immediate needs of commercially sexually exploited
21 children ages twelve through seventeen and either meet those
22 immediate needs or refer those children to the appropriate services;

23 (b) Assess children for mental health and substance use disorder
24 needs and provide appropriate referrals as needed; and

25 (c) Provide individual and group counseling focused on developing
26 and strengthening coping skills, and improving self-esteem and
27 dignity.

28 (4) The department of children, youth, and families shall:

29 (a) Collect nonidentifiable demographic data of the children
30 served by the programs established under this section;

31 (b) Collect data regarding the locations that children exit to
32 after being served by the programs; and

33 (c) Report the data described in this subsection along with
34 recommendations for modification or expansion of these programs to
35 the relevant committees of the legislature by December 1, 2022.

36 (5) For the purposes of this section, the following definitions
37 apply:

38 (a) "Receiving center" means a trauma-informed, secure location
39 that meets the multidisciplinary needs of commercially sexually
40 exploited children ages twelve through seventeen in a licensed or

1 certified behavioral health entity providing residential services;
2 and

3 (b) "Short-term evaluation function" means a short-term emergency
4 shelter that is accessible twenty-four hours per day seven days per
5 week that has the capacity to evaluate the immediate needs of
6 commercially sexually exploited children under age eighteen and
7 either meet those immediate needs or refer those children to the
8 appropriate services.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.68 RCW
10 to read as follows:

11 (1) The following individuals or entities may refer a child to
12 receiving centers as defined in section 2 of this act:

13 (a) Law enforcement, who shall:

14 (i) Transport a child eligible for receiving center services to a
15 receiving center; or

16 (ii) Coordinate transportation with a liaison dedicated to
17 serving commercially sexually exploited children established under
18 RCW 74.14B.070 or a community service provider;

19 (b) The department of children, youth, and families;

20 (c) Juvenile courts;

21 (d) Community service providers;

22 (e) A parent or guardian; and

23 (f) A child may self-refer.

24 (2) Eligibility for placement in a receiving center is children
25 ages twelve through seventeen, of all genders, who have been, or are
26 at risk for being commercially sexually exploited.

27 **Sec. 4.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to
28 read as follows:

29 (1) A person age eighteen or older is guilty of prostitution if
30 such person engages or agrees or offers to engage in sexual conduct
31 with another person in return for a fee.

32 (2) For purposes of this section, "sexual conduct" means "sexual
33 intercourse" or "sexual contact," both as defined in chapter 9A.44
34 RCW.

35 (3) Prostitution is a misdemeanor.

36 **Sec. 5.** RCW 13.40.070 and 2019 c 128 s 8 are each amended to
37 read as follows:

1 (1) Complaints referred to the juvenile court alleging the
2 commission of an offense shall be referred directly to the
3 prosecutor. The prosecutor, upon receipt of a complaint, shall screen
4 the complaint to determine whether:

5 (a) The alleged facts bring the case within the jurisdiction of
6 the court; and

7 (b) On a basis of available evidence there is probable cause to
8 believe that the juvenile did commit the offense.

9 (2) If the identical alleged acts constitute an offense under
10 both the law of this state and an ordinance of any city or county of
11 this state, state law shall govern the prosecutor's screening and
12 charging decision for both filed and diverted cases.

13 (3) If the requirements of subsection (1)(a) and (b) of this
14 section are met, the prosecutor shall either file an information in
15 juvenile court or divert the case, as set forth in subsections (5),
16 (6), and (8) of this section. If the prosecutor finds that the
17 requirements of subsection (1)(a) and (b) of this section are not
18 met, the prosecutor shall maintain a record, for one year, of such
19 decision and the reasons therefor. In lieu of filing an information
20 or diverting an offense a prosecutor may file a motion to modify
21 community supervision where such offense constitutes a violation of
22 community supervision.

23 (4) An information shall be a plain, concise, and definite
24 written statement of the essential facts constituting the offense
25 charged. It shall be signed by the prosecuting attorney and conform
26 to chapter 10.37 RCW.

27 (5) The prosecutor shall file an information with the juvenile
28 court if (a) an alleged offender is accused of an offense that is
29 defined as a sex offense or violent offense under RCW 9.94A.030,
30 other than assault in the second degree or robbery in the second
31 degree; or (b) an alleged offender has been referred by a diversion
32 unit for prosecution or desires prosecution instead of diversion.

33 (6) Where a case is legally sufficient the prosecutor shall
34 divert the case if the alleged offense is a misdemeanor or gross
35 misdemeanor or violation and the alleged offense is the offender's
36 first offense or violation. If the alleged offender is charged with a
37 related offense that may be filed under subsections (5) and (8) of
38 this section, a case under this subsection may also be filed.

39 (7) Where a case is legally sufficient to charge an alleged
40 offender with:

1 (a) (~~(Either prostitution or prostitution)~~) Prostitution
2 loitering and the alleged offense is the offender's first
3 (~~prostitution or~~) prostitution loitering offense, the prosecutor
4 shall divert the case;

5 (b) Voyeurism in the second degree, the offender is under
6 seventeen years of age, and the alleged offense is the offender's
7 first voyeurism in the second degree offense, the prosecutor shall
8 divert the case, unless the offender has received two diversions for
9 any offense in the previous two years;

10 (c) Minor selling depictions of himself or herself engaged in
11 sexually explicit conduct under RCW 9.68A.053(5) and the alleged
12 offense is the offender's first violation of RCW 9.68A.053(5), the
13 prosecutor shall divert the case; or

14 (d) A distribution, transfer, dissemination, or exchange of
15 sexually explicit images of other minors thirteen years of age or
16 older offense as provided in RCW 9.68A.053(1) and the alleged offense
17 is the offender's first violation of RCW 9.68A.053(1), the prosecutor
18 shall divert the case.

19 (8) Where a case is legally sufficient and falls into neither
20 subsection (5) nor (6) of this section, it may be filed or diverted.
21 In deciding whether to file or divert an offense under this section
22 the prosecutor may be guided by the length, seriousness, and recency
23 of the alleged offender's criminal history and the circumstances
24 surrounding the commission of the alleged offense.

25 (9) Whenever a juvenile is placed in custody or, where not placed
26 in custody, referred to a diversion interview, the parent or legal
27 guardian of the juvenile shall be notified as soon as possible
28 concerning the allegation made against the juvenile and the current
29 status of the juvenile. Where a case involves victims of crimes
30 against persons or victims whose property has not been recovered at
31 the time a juvenile is referred to a diversion unit, the victim shall
32 be notified of the referral and informed how to contact the unit.

33 (10) The responsibilities of the prosecutor under subsections (1)
34 through (9) of this section may be performed by a juvenile court
35 probation counselor for any complaint referred to the court alleging
36 the commission of an offense which would not be a felony if committed
37 by an adult, if the prosecutor has given sufficient written notice to
38 the juvenile court that the prosecutor will not review such
39 complaints.

1 (11) The prosecutor, juvenile court probation counselor, or
2 diversion unit may, in exercising their authority under this section
3 or RCW 13.40.080, refer juveniles to community-based programs,
4 restorative justice programs, mediation, or victim offender
5 reconciliation programs. Such mediation or victim offender
6 reconciliation programs shall be voluntary for victims.

7 (12) Prosecutors and juvenile courts are encouraged to engage
8 with and partner with community-based programs to expand, improve,
9 and increase options to divert youth from formal processing in
10 juvenile court. Nothing in this chapter should be read to limit
11 partnership with community-based programs to create diversion
12 opportunities for juveniles.

13 **Sec. 6.** RCW 13.40.213 and 2010 c 289 s 8 are each amended to
14 read as follows:

15 (1) When a juvenile is alleged to have committed (~~the offenses~~
16 ~~of prostitution or~~) a prostitution loitering offense, and the
17 allegation, if proved, would not be the juvenile's first offense, a
18 prosecutor may divert the offense if the county in which the offense
19 is alleged to have been committed has a comprehensive program that
20 provides:

21 (a) Safe and stable housing;

22 (b) Comprehensive on-site case management;

23 (c) Integrated mental health and chemical dependency services,
24 including specialized trauma recovery services;

25 (d) Education and employment training delivered on-site; and

26 (e) Referrals to off-site specialized services, as appropriate.

27 (2) A prosecutor may divert a case for (~~prostitution or~~)
28 prostitution loitering into the comprehensive program described in
29 this section, notwithstanding the filing criteria set forth in RCW
30 13.40.070(5).

31 (3) A diversion agreement under this section may extend to twelve
32 months.

33 (4)(a) The administrative office of the courts shall compile data
34 regarding:

35 (i) The number of juveniles whose cases are diverted into the
36 comprehensive program described in this section;

37 (ii) Whether the juveniles complete their diversion agreements
38 under this section; and

1 (iii) Whether juveniles whose cases have been diverted under this
2 section have been subsequently arrested or committed subsequent
3 offenses.

4 (b) An annual report of the data compiled shall be provided to
5 the governor and the appropriate committee of the legislature. (~~The~~
6 ~~first report is due by November 1, 2010.~~)

7 **Sec. 7.** RCW 7.68.801 and 2018 c 58 s 65 are each amended to read
8 as follows:

9 (1) The commercially sexually exploited children statewide
10 coordinating committee is established to address the issue of
11 children who are commercially sexually exploited, to examine the
12 practices of local and regional entities involved in addressing
13 sexually exploited children, and to make recommendations on statewide
14 laws and practices.

15 (2) The committee is convened by the office of the attorney
16 general with the department of commerce assisting with agenda
17 planning and administrative and clerical support. The committee
18 consists of the following members:

19 (a) One member from each of the two largest caucuses of the house
20 of representatives appointed by the speaker of the house;

21 (b) One member from each of the two largest caucuses of the
22 senate appointed by the (~~speaker~~) president of the senate;

23 (c) A representative of the governor's office appointed by the
24 governor;

25 (d) The secretary of the department of children, youth, and
26 families or his or her designee;

27 (e) The secretary of the juvenile rehabilitation administration
28 or his or her designee;

29 (f) The attorney general or his or her designee;

30 (g) The superintendent of public instruction or his or her
31 designee;

32 (h) A representative of the administrative office of the courts
33 appointed by the administrative office of the courts;

34 (i) The executive director of the Washington association of
35 sheriffs and police chiefs or his or her designee;

36 (j) The executive director of the Washington state criminal
37 justice training commission or his or her designee;

38 (k) A representative of the Washington association of prosecuting
39 attorneys appointed by the association;

- 1 (l) The executive director of the office of public defense or his
2 or her designee;
- 3 (m) Three representatives of community service providers that
4 provide direct services to commercially sexually exploited children
5 appointed by the attorney general;
- 6 (n) Two representatives of nongovernmental organizations familiar
7 with the issues affecting commercially sexually exploited children
8 appointed by the attorney general;
- 9 (o) The president of the superior court judges' association or
10 his or her designee;
- 11 (p) The president of the juvenile court administrators or his or
12 her designee;
- 13 (q) Any existing chairs of regional task forces on commercially
14 sexually exploited children;
- 15 (r) A representative from the criminal defense bar;
- 16 (s) A representative of the center for children and youth
17 justice;
- 18 (t) A representative from the office of crime victims advocacy;
- 19 (u) The executive director of the Washington coalition of sexual
20 assault programs;
- 21 (v) The executive director of the statewide organization
22 representing children's advocacy centers or his or her designee;
- 23 (w) A representative of an organization that provides inpatient
24 chemical dependency treatment to youth, appointed by the attorney
25 general;
- 26 (~~(w)~~) (x) A representative of an organization that provides
27 mental health treatment to youth, appointed by the attorney general;
28 and
- 29 (~~(x)~~) (y) A survivor of human trafficking, appointed by the
30 attorney general.
- 31 (3) The duties of the committee include, but are not limited to:
- 32 (a) Overseeing and reviewing the implementation of the Washington
33 state model protocol for commercially sexually exploited children at
34 task force sites;
- 35 (b) Receiving reports and data from local and regional entities
36 regarding the incidence of commercially sexually exploited children
37 in their areas as well as data information regarding perpetrators,
38 geographic data and location trends, and any other data deemed
39 relevant;

1 (c) Receiving reports on local coordinated community response
2 practices and results of the community responses;

3 (d) Reviewing recommendations from local and regional entities
4 regarding policy and legislative changes that would improve the
5 efficiency and effectiveness of local response practices;

6 (e) Making recommendations regarding policy and legislative
7 changes that would improve the effectiveness of the state's response
8 to and promote best practices for suppression of the commercial
9 sexual exploitation of children;

10 (f) Making recommendations regarding data collection useful to
11 understanding or addressing the problem of commercially sexually
12 exploited children;

13 (g) Reviewing and making recommendations regarding strategic
14 local investments or opportunities for federal and state funding to
15 address the commercial sexual exploitation of children;

16 (h) Reviewing the extent to which chapter 289, Laws of 2010
17 (Engrossed Substitute Senate Bill No. 6476) is understood and applied
18 by enforcement authorities; (~~and~~)

19 (i) Researching any barriers that exist to full implementation of
20 chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476)
21 throughout the state;

22 (j) Convening a meeting and providing recommendations required
23 under section 10 of this act; and

24 (k) Compiling data on the number of juveniles believed to be
25 victims of sexual exploitation taken into custody under RCW
26 43.185C.260.

27 (4) The committee must meet no less than annually.

28 (5) The committee shall annually report its findings and
29 recommendations to the appropriate committees of the legislature and
30 to any other known statewide committees addressing trafficking or the
31 commercial sex trade.

32 (6) This section expires June 30, 2023.

33 **Sec. 8.** RCW 43.185C.260 and 2019 c 312 s 15 are each amended to
34 read as follows:

35 (1) A law enforcement officer shall take a child into custody:

36 (a) If a law enforcement agency has been contacted by the parent
37 of the child that the child is absent from parental custody without
38 consent; or

1 (b) If a law enforcement officer reasonably believes, considering
2 the child's age, the location, and the time of day, that a child is
3 in circumstances which constitute a danger to the child's safety or
4 that a child is violating a local curfew ordinance; or

5 (c) If an agency legally charged with the supervision of a child
6 has notified a law enforcement agency that the child has run away
7 from placement.

8 (2) Law enforcement custody shall not extend beyond the amount of
9 time reasonably necessary to transport the child to a destination
10 authorized by law and to place the child at that destination. Law
11 enforcement custody continues until the law enforcement officer
12 transfers custody to a person, agency, or other authorized entity
13 under this chapter, or releases the child because no placement is
14 available. Transfer of custody is not complete unless the person,
15 agency, or entity to whom the child is released agrees to accept
16 custody.

17 (3) If a law enforcement officer takes a child into custody
18 pursuant to either subsection (1)(a) or (b) of this section and
19 transports the child to a crisis residential center, the officer
20 shall, within twenty-four hours of delivering the child to the
21 center, provide to the center a written report detailing the reasons
22 the officer took the child into custody. The center shall provide the
23 department of children, youth, and families with a copy of the
24 officer's report if the youth is in the care of or receiving services
25 from the department of children, youth, and families.

26 (4) If the law enforcement officer who initially takes the
27 juvenile into custody or the staff of the crisis residential center
28 have reasonable cause to believe that the child is absent from home
29 because he or she is abused or neglected, a report shall be made
30 immediately to the department of children, youth, and families.

31 (5) Nothing in this section affects the authority of any
32 political subdivision to make regulations concerning the conduct of
33 minors in public places by ordinance or other local law.

34 (6) If a law enforcement officer has a reasonable suspicion that
35 a child is being unlawfully harbored in violation of RCW 13.32A.080,
36 the officer shall remove the child from the custody of the person
37 harboring the child and shall transport the child to one of the
38 locations specified in RCW 43.185C.265.

39 (7) If a law enforcement officer takes a juvenile into custody
40 pursuant to subsection (1)(b) of this section and reasonably believes

1 that the juvenile may be the victim of sexual exploitation, the
2 officer shall transport the child to an evaluation and treatment
3 facility as defined in RCW 71.34.020, including the receiving centers
4 established in section 2 of this act, for purposes of evaluation for
5 behavioral health treatment authorized under chapter 71.34 RCW,
6 including adolescent-initiated treatment, family-initiated treatment,
7 or involuntary treatment.

8 (8) Law enforcement shall have the authority to take into
9 protective custody a child who is or is attempting to engage in
10 sexual conduct with another person for money or anything of value for
11 purposes of investigating the individual or individuals who may be
12 exploiting the child and deliver the child to an evaluation and
13 treatment facility as defined in RCW 71.34.020, including the
14 receiving centers established in section 2 of this act, for purposes
15 of evaluation for behavioral health treatment authorized under
16 chapter 71.34 RCW, including adolescent-initiated treatment, family-
17 initiated treatment, or involuntary treatment.

18 (9) No child may be placed in a secure facility except as
19 provided in this chapter.

20 **Sec. 9.** RCW 74.14B.070 and 2017 3rd sp.s. c 6 s 508 are each
21 amended to read as follows:

22 (1) The department shall, subject to available funds, establish a
23 system of early identification and referral to treatment of child
24 victims of sexual assault or sexual abuse. The system shall include
25 schools, physicians, sexual assault centers, domestic violence
26 centers, child protective services, and foster parents. A mechanism
27 shall be developed to identify communities that have experienced
28 success in this area and share their expertise and methodology with
29 other communities statewide.

30 (2) The department shall provide services to support commercially
31 sexually exploited children.

32 (a) To provide services supporting commercially sexually
33 exploited children, the department must provide:

34 (i) At least one liaison position in each region of the
35 department where receiving center programs are established under
36 section 2 of this act who are dedicated to serving commercially
37 sexually exploited children and who report directly to the statewide
38 program manager under (a)(ii) of this subsection;

39 (ii) One statewide program manager; and

1 (iii) A designated person responsible for supporting commercially
2 sexually exploited children, who may be assigned other duties in
3 addition to this responsibility, in regions of the department where
4 there is not a dedicated liaison position as identified under (a)(i)
5 of this subsection.

6 (b) The department shall collect nonidentifiable data regarding
7 the number of commercially sexually exploited children, including
8 reports of commercially sexually exploited children received from law
9 enforcement under chapter 26.44 RCW.

10 (3) The department shall provide an annual report to the
11 commercially sexually exploited children statewide coordinating
12 committee established under RCW 7.68.801 by December 1st that
13 includes:

14 (a) A description of services provided by the department to
15 commercially sexually exploited children; and

16 (b) Nonidentifiable data regarding the number of commercially
17 sexually exploited children.

18 (4) The department may solicit and accept gifts, grants,
19 conveyances, bequests, and devices for supporting the purposes of
20 this section.

21 NEW SECTION. Sec. 10. A new section is added to chapter 7.68
22 RCW to read as follows:

23 (1) By September 1, 2020, the statewide coordinating committee
24 shall convene a meeting related to the role that child advocacy
25 centers have in responding to and supporting commercially sexually
26 exploited children.

27 (a) The meeting required under this subsection must include
28 representatives from child advocacy centers.

29 (b) By October 1, 2020, the department must provide a report to
30 the statewide coordinating committee that includes:

31 (i) An inventory of the number and location of child advocacy
32 centers in the state; and

33 (ii) A description of the services provided by each of the child
34 advocacy centers in the state.

35 (2) By December 1, 2020, and in compliance with RCW 43.01.036,
36 the statewide coordinating committee must provide a report to the
37 relevant committees of the legislature that includes:

38 (a) An inventory of the number and location of child advocacy
39 centers in the state;

1 (b) A description of the services provided by each of the child
2 advocacy centers in the state;

3 (c) Recommendations for expanded use of child advocacy centers in
4 providing additional services for commercially sexually exploited
5 children; and

6 (d) Recommendations for ensuring that child advocacy centers
7 connect commercially sexually exploited children with available
8 services in the community.

9 (3) For purposes of this section:

10 (a) "Child advocacy center" has the same meaning as the
11 definition provided under RCW 26.44.020.

12 (b) "Department" means the department of commerce.

13 (c) "Statewide coordinating committee" means the commercially
14 sexually exploited children statewide coordinating committee
15 established under RCW 7.68.801.

16 (4) This section expires June 30, 2021.

17 NEW SECTION. **Sec. 11.** Sections 4, 5, and 6 of this act take
18 effect January 1, 2024.

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