
SUBSTITUTE HOUSE BILL 2316

State of Washington

66th Legislature

2020 Regular Session

By House Public Safety (originally sponsored by Representatives Orwall, Lovick, Slatter, Morgan, and Wylie)

READ FIRST TIME 01/27/20.

1 AN ACT Relating to fees charged to persons who commit trafficking
2 and prostitution offenses; amending RCW 9.68A.105, 9A.88.120, and
3 9A.88.140; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.68A.105 and 2015 c 265 s 13 are each amended to
6 read as follows:

7 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
8 9.68A.101, and 9.68A.102, an adult offender who is either convicted
9 or given a deferred sentence or a deferred prosecution or who has
10 entered into a statutory or nonstatutory diversion agreement as a
11 result of an arrest for violating RCW 9.68A.100, 9.68A.101, or
12 9.68A.102, or a comparable county or municipal ordinance shall be
13 assessed a five thousand dollar fee.

14 (b) The court may not reduce, waive, or suspend payment of all or
15 part of the fee assessed unless it finds, on the record, that the
16 adult offender does not have the ability to pay, in which case it may
17 reduce the fee by an amount up to (~~two-thirds~~) one-half of the
18 maximum allowable fee.

19 (2) Fees assessed under this section shall be collected by the
20 clerk of the court and remitted to the treasurer of the county where
21 the offense occurred for deposit in the county general fund, (~~except~~

1 ~~in cases in which~~) unless the offense occurred in a city or town
2 that provides for its own law enforcement, in which case these
3 amounts shall be remitted to the treasurer of the city or town for
4 deposit in the general fund of the city or town. Revenue from the
5 fees must be used for local efforts to reduce the commercial sale of
6 sex including, but not limited to, increasing enforcement of
7 commercial sex laws. When assessing a fee under this section, the
8 court shall make a finding in writing as to the proper jurisdiction
9 to receive the funds in accordance with the requirements of this
10 subsection.

11 (a) At least fifty percent of the revenue from fees imposed under
12 this section must be spent on prevention, including education
13 programs for offenders, such as john school, and rehabilitative
14 services for victims, such as mental health and substance abuse
15 counseling, parenting skills, training, housing relief, education,
16 vocational training, drop-in centers, and employment counseling.

17 (b) (~~Two~~) Five percent of the revenue from fees imposed under
18 this section shall be remitted quarterly to the department of
19 commerce, together with a report detailing the fees assessed, the
20 revenue received, and how that revenue was spent. Of the revenues
21 remitted to the department of commerce, at least sixty percent must
22 be spent on training through the office of crime victims advocacy.

23 (c) Revenues from these fees are not subject to the distribution
24 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
25 35.20.220.

26 (3) For the purposes of this section:

27 (a) "Statutory or nonstatutory diversion agreement" means an
28 agreement under RCW 13.40.080 or any written agreement between a
29 person accused of an offense listed in subsection (1) of this section
30 and a court, county or city prosecutor, or designee thereof, whereby
31 the person agrees to fulfill certain conditions in lieu of
32 prosecution.

33 (b) "Deferred sentence" means a sentence that will not be carried
34 out if the defendant meets certain requirements, such as complying
35 with the conditions of probation.

36 **Sec. 2.** RCW 9A.88.120 and 2015 c 265 s 20 are each amended to
37 read as follows:

38 (1)(a) In addition to penalties set forth in RCW 9A.88.010 (~~and~~
39 ~~9A.88.030~~), an adult offender who is either convicted or given a

1 deferred sentence or a deferred prosecution or who has entered into a
2 statutory or nonstatutory diversion agreement as a result of an
3 arrest for violating RCW 9A.88.010(~~(, 9A.88.030,)~~) or a comparable
4 county or municipal ordinance(~~(s)~~) shall be assessed a fifty dollar
5 fee.

6 (b) In addition to penalties set forth in RCW 9A.88.090, an adult
7 offender who is either convicted or given a deferred sentence or a
8 deferred prosecution or who has entered into a statutory or
9 nonstatutory diversion agreement as a result of an arrest for
10 violating RCW 9A.88.090 or comparable county or municipal ordinances
11 shall be assessed a fee in the amount of(~~(:~~

12 ~~(i) One thousand five hundred dollars if the defendant has no
13 prior convictions, deferred sentences, deferred prosecutions, or
14 statutory or nonstatutory diversion agreements for this offense;~~

15 ~~(ii) Two))~~ two thousand five hundred dollars (~~(if)~~), unless the
16 defendant has (~~(one))~~ two or more prior convictions, deferred
17 sentences, deferred prosecutions, or statutory or nonstatutory
18 diversion agreements for this offense(~~(; and~~

19 ~~(iii) Five))~~, in which case the defendant shall be assessed a fee
20 in the amount of five thousand dollars (~~(if the defendant has two or
21 more prior convictions, deferred sentences, deferred prosecutions, or
22 statutory or nonstatutory diversion agreements for this offense))~~).

23 (c) In addition to penalties set forth in RCW 9A.88.110, a person
24 who is either convicted or given a deferred sentence or a deferred
25 prosecution or who has entered into a statutory or nonstatutory
26 diversion agreement as a result of an arrest for violating RCW
27 9A.88.110 or a comparable county or municipal ordinance shall be
28 assessed a fee in the amount of(~~(:~~

29 ~~(i) One thousand five hundred dollars if the defendant has no
30 prior convictions, deferred sentences, deferred prosecutions, or
31 statutory or nonstatutory diversion agreements for this offense;~~

32 ~~(ii) Two))~~ two thousand five hundred dollars (~~(if)~~), unless the
33 defendant has (~~(one))~~ two or more prior convictions, deferred
34 sentences, deferred prosecutions, or statutory or nonstatutory
35 diversion agreements for this offense(~~(; and~~

36 ~~(iii) Five))~~, in which case the defendant shall be assessed a fee
37 in the amount of five thousand dollars (~~(if the defendant has two or
38 more prior convictions, deferred sentences, deferred prosecutions, or
39 statutory or nonstatutory diversion agreements for this offense))~~).

1 (d) In addition to penalties set forth in RCW 9A.88.070 and
2 9A.88.080, a person who is either convicted or given a deferred
3 sentence or a deferred prosecution or who has entered into a
4 statutory or nonstatutory diversion agreement as a result of an
5 arrest for violating RCW 9A.88.070, 9A.88.080, or comparable county
6 or municipal ordinances shall be assessed a fee in the amount of:

7 (i) Three thousand dollars if the defendant has no prior
8 convictions, deferred sentences, deferred prosecutions, or statutory
9 or nonstatutory diversion agreements for this offense;

10 (ii) Six thousand dollars if the defendant has one prior
11 conviction, deferred sentence, deferred prosecution, or statutory or
12 nonstatutory diversion agreement for this offense; and

13 (iii) Ten thousand dollars if the defendant has two or more prior
14 convictions, deferred sentences, deferred prosecutions, or statutory
15 or nonstatutory diversion agreements for this offense.

16 (2) The court shall not reduce, waive, or suspend payment of all
17 or part of the assessed fee in this section unless it finds, on the
18 record, that the offender does not have the ability to pay the fee in
19 which case it may reduce the fee by an amount up to (~~two-thirds~~)
20 one-half of the maximum allowable fee.

21 (a) A superior court may, as described in RCW 9.94A.760, set a
22 sum that the offender is required to pay on a monthly basis towards
23 satisfying the fee imposed in this section.

24 (b) A district or municipal court may enter into a payment plan
25 with the defendant, in which the fee assessed in this section is paid
26 through scheduled periodic payments. The court may assess the
27 defendant a reasonable fee for administrative services related to the
28 operation of the payment plan.

29 (3) Fees assessed under this section shall be collected by the
30 clerk of the court and remitted to the treasurer of the county where
31 the offense occurred for deposit in the county general fund, (~~except~~
32 ~~in cases in which~~) unless the offense occurred in a city or town
33 that provides for its own law enforcement, in which case these
34 amounts shall be remitted to the treasurer of the city or town for
35 deposit in the general fund of the city or town. Revenue from the
36 fees must be used for local efforts to reduce the commercial sale of
37 sex including, but not limited to, increasing enforcement of
38 commercial sex laws. When assessing a fee under this section, the
39 court shall make a finding in writing as to the proper jurisdiction

1 to receive the funds in accordance with the requirements of this
2 subsection.

3 (a) At least fifty percent of the revenue from fees imposed under
4 this section must be spent on prevention, including education
5 programs for offenders, such as john school, and rehabilitative
6 services for victims, such as mental health and substance abuse
7 counseling, parenting skills, training, housing relief, education,
8 vocational training, drop-in centers, and employment counseling.

9 (b) (~~Two~~) Five percent of the revenue from fees imposed under
10 this section shall be remitted quarterly to the department of
11 commerce, together with a report detailing the fees assessed, the
12 revenue received, and how that revenue was spent. Of the revenues
13 remitted to the department of commerce, at least sixty percent must
14 be spent on training through the office of crime victims advocacy.

15 (c) Revenues from these fees are not subject to the distribution
16 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
17 35.20.220.

18 (4) For the purposes of this section:

19 (a) "Statutory or nonstatutory diversion agreement" means an
20 agreement under RCW 13.40.080 or any written agreement between a
21 person accused of an offense listed in subsection (1) of this section
22 and a court, county, or city prosecutor, or designee thereof, whereby
23 the person agrees to fulfill certain conditions in lieu of
24 prosecution.

25 (b) "Deferred sentence" means a sentence that will not be carried
26 out if the defendant meets certain requirements, such as complying
27 with the conditions of probation.

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

30 (1)(a) Upon an arrest for a suspected violation of patronizing a
31 prostitute, promoting prostitution in the first degree, promoting
32 prostitution in the second degree, promoting travel for prostitution,
33 the arresting law enforcement officer may impound the person's
34 vehicle if (i) the motor vehicle was used in the commission of the
35 crime; (ii) the person arrested is the owner of the vehicle or the
36 vehicle is a rental car as defined in RCW 46.04.465; and (iii) either
37 (A) the person arrested has previously been convicted of one of the
38 offenses listed in this subsection or (B) the offense was committed
39 within an area designated under (b) of this subsection.

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

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

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

12 (2) Upon an arrest for a suspected violation of commercial sexual
13 abuse of a minor, promoting commercial sexual abuse of a minor, or
14 promoting travel for commercial sexual abuse of a minor, the
15 arresting law enforcement officer shall impound the person's vehicle
16 if (a) the motor vehicle was used in the commission of the crime; and
17 (b) the person arrested is the owner of the vehicle or the vehicle is
18 a rental car as defined in RCW 46.04.465.

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

22 (4)(a) Prior to redeeming the impounded vehicle, and in addition
23 to all applicable impoundment, towing, and storage fees paid to the
24 towing company under chapter 46.55 RCW, an adult owner of an
25 impounded vehicle must pay a fine to the impounding agency. The fine
26 shall be five hundred dollars for the offenses specified in
27 subsection (1) of this section, or two thousand five hundred dollars
28 for the offenses specified in subsection (2) of this section.

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

32 (c) Fines assessed under this section shall be collected by the
33 clerk of the court and remitted to the treasurer of the county where
34 the offense occurred for deposit in the county general fund, (~~except~~
35 ~~in cases in which~~) unless the offense occurred in a city or town
36 that provides for its own law enforcement, in which case these
37 amounts shall be remitted to the treasurer of the city or town for
38 deposit in the general fund of the city or town. Revenue from the
39 fines must be used for local efforts to reduce the commercial sale of
40 sex including, but not limited to, increasing enforcement of

1 commercial sex laws. At the time of arraignment or a proceeding under
2 subsection (6)(a) of this section, whichever is earlier, the court
3 shall make a finding in writing as to the proper jurisdiction to
4 receive the funds in accordance with the requirements of this
5 subsection.

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

12 (ii) (~~Two~~) Five percent of the revenue from fines imposed under
13 this section shall be remitted quarterly to the department of
14 commerce, together with a report detailing the fees assessed, the
15 revenue received, and how that revenue was spent. Of the revenues
16 remitted to the department of commerce, at least sixty percent must
17 be spent on training through the office of crime victims advocacy.

18 (iii) Revenues from these fees are not subject to the
19 distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040,
20 10.82.070, or 35.20.220.

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

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

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

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

37 (b) If the person is found not guilty at trial for a crime listed
38 under subsection (1) of this section, the person is entitled to a
39 full refund of the impoundment, towing, and storage fees paid under

1 chapter 46.55 RCW and the fine paid under subsection (4) of this
2 section.

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

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

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