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HOUSE BILL 2316

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Orwall, Lovick, Slatter, Morgan, and Wylie

Prefiled 01/08/20. Read first time 01/13/20. Referred to Committee on Public Safety.

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.

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

14 (b) Two percent of the revenue from fees imposed under this  
15 section shall be remitted quarterly to the department of commerce,  
16 together with a report detailing the fees assessed, the revenue  
17 received, and how that revenue was spent.

18 (c) Three percent of the revenue from fees imposed under this  
19 section shall be remitted quarterly to the administrative office of  
20 the courts, and such revenue must be used for the sole purpose of  
21 supporting judicial training on the requirements in this section and  
22 the subject of victim-centered and trauma-informed practices in  
23 addressing trafficking.

24 (d) Revenues from these fees are not subject to the distribution  
25 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
26 35.20.220.

27 (3) For the purposes of this section:

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

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

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

1 (1) (a) In addition to penalties set forth in RCW 9A.88.010 (~~and~~  
2 ~~9A.88.030~~), an adult offender who is either convicted or given a  
3 deferred 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.88.010 (~~(, 9A.88.030,)~~) or a comparable  
6 county or municipal ordinance(~~s~~) shall be assessed a fifty dollar  
7 fee.

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

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

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

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

25 (c) In addition to penalties set forth in RCW 9A.88.110, a person  
26 who is either convicted or given a deferred sentence or a deferred  
27 prosecution or who has entered into a statutory or nonstatutory  
28 diversion agreement as a result of an arrest for violating RCW  
29 9A.88.110 or a comparable county or municipal ordinance shall be  
30 assessed a fee in the amount of(~~+~~

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

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

38 ~~(iii) Five~~), in which case the defendant shall be assessed a fee  
39 in the amount of five thousand dollars (~~if the defendant has two or~~

1 ~~more prior convictions, deferred sentences, deferred prosecutions, or~~  
2 ~~statutory or nonstatutory diversion agreements for this offense)).~~

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

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

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

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

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

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

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

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

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

7 (b) Two percent of the revenue from fees imposed under this  
8 section shall be remitted quarterly to the department of commerce,  
9 together with a report detailing the fees assessed, the revenue  
10 received, and how that revenue was spent.

11 (c) Three percent of the revenue from fees imposed under this  
12 section shall be remitted quarterly to the administrative office of  
13 the courts, and such revenue must be used for the sole purpose of  
14 supporting judicial training on the requirements in this section and  
15 the subject of victim-centered and trauma-informed practices in  
16 addressing trafficking.

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

20 (4) For the purposes of this section:

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

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

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

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

1 offenses listed in this subsection or (B) the offense was committed  
2 within an area designated under (b) of this subsection.

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

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

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

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

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

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

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

34 (c) Fines assessed under this section shall be collected by the  
35 clerk of the court and remitted to the treasurer of the county where  
36 the offense occurred for deposit in the county general fund, (~~except~~  
37 ~~in cases in which~~) unless the offense occurred in a city or town  
38 that provides for its own law enforcement, in which case these  
39 amounts shall be remitted to the treasurer of the city or town for  
40 deposit in the general fund of the city or town. Revenue from the

1 fines must be used for local efforts to reduce the commercial sale of  
2 sex including, but not limited to, increasing enforcement of  
3 commercial sex laws.

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

10 (ii) Two percent of the revenue from fines imposed under this  
11 section shall be remitted quarterly to the department of commerce,  
12 together with a report detailing the fees assessed, the revenue  
13 received, and how that revenue was spent.

14 (iii) Three percent of the revenue from fees imposed under this  
15 section shall be remitted quarterly to the administrative office of  
16 the courts, and such revenue must be used for the sole purpose of  
17 supporting judicial training on the requirements in this section and  
18 the subject of victim-centered and trauma-informed practices in  
19 addressing trafficking.

20 (iv) Revenues from these fees are not subject to the distribution  
21 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
22 35.20.220.

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

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

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

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

39 (b) If the person is found not guilty at trial for a crime listed  
40 under subsection (1) of this section, the person is entitled to a

1 full refund of the impoundment, towing, and storage fees paid under  
2 chapter 46.55 RCW and the fine paid under subsection (4) of this  
3 section.

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

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

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