

SENATE BILL REPORT

SSB 5572

As Passed Senate, January 28, 2022

Title: An act relating to implementing the recommendations of the Washington state internet crimes against children task force.

Brief Description: Implementing the recommendations of the Washington state internet crimes against children task force.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Wilson, C., Dhingra, Conway, Honeyford, Hunt, Randall and Wagoner).

Brief History:

Committee Activity: Law & Justice: 1/18/22, 1/20/22 [DPS].

Floor Activity: Passed Senate: 1/28/22, 43-0.

Brief Summary of First Substitute Bill

- Adds an element to the crime of sexual exploitation of a minor.
- Adds an element to the crime of minor selling depictions of themselves engaged in sexually explicit conduct.
- Adds an element to the exemption from liability of minors possessing depictions of themselves engaged in an act of sexually explicit conduct.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5572 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford, Kuderer, Pedersen, Salomon and Wagoner.

Staff: Ryan Giannini (786-7285)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The Washington State Internet Crimes Against Children Task Force (Task Force) is one of 61 such task forces in the United States funded by the United States Department of Justice. The Task Force is made up of local, state, and federal law enforcement agencies working to identify, arrest, and convict those individuals who victimize children by way of the Internet. Crimes investigated by the unit include the following: communication with a minor for immoral purposes, sexual exploitation of a minor, possession of depictions of minors engaged in sexually explicit conduct, and dealing in depictions of minors engaged in sexually explicit conduct.

Sexual Exploitation of a Minor. A person is guilty of sexual exploitation of a minor if the person:

- compels a minor by threat or force to engage in sexually explicit conduct, knowing such conduct will be photographed or part of a live performance;
- aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing such conduct will be photographed or part of a live performance; or
- being a parent, legal guardian, or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing the conduct will be photographed or part of a live performance.

Sexual exploitation of a minor is a class B felony.

Minor Selling Depictions of Themselves. A person under the age of 18 commits the crime of a minor selling depictions of themselves engaged in sexually explicit conduct when they sell visual or printed matter that depicts themselves engaged in any act of sexually explicit conduct. Minor selling depictions of themselves engaged in sexually explicit conduct is a misdemeanor.

Minor Possessing Depictions of Themselves. The above prohibitions do not apply to a person under the age of 18 who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself engaged in an act of sexually explicit conduct.

Summary of First Substitute Bill: The crime of sexual exploitation of a minor includes persons who knowingly cause a minor to be photographed or part of a live performance which depicts the minor engaged in sexually explicit conduct where the minor is unconscious or unaware of the photograph or recording.

An element is added to the crime of minor selling depictions of themselves engaged in sexually explicit conduct that visual or printed matter does not include any depiction of another minor engaged in an act of sexually explicit conduct.

An element is added to the exemption from liability of minors possessing depictions of themselves engaged in an act of sexually explicit conduct that visual or printed matter does not include any depiction of another minor engaged in an act of sexually explicit conduct.

Appropriation: None.

Fiscal Note: Available.

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: *The committee recommended a different version of the bill than what was heard.* PRO: This bill closes loopholes in the law that minors must be conscious and aware that they are either being photographed or are part of a live performance in order for a person to be guilty of sexual exploitation of a minor. This bill also enhances law enforcement's ability to investigate and properly charge individuals who are using common and emerging technologies to victimize minors. The bill also puts in guard rails related to minors who take pictures of themselves that include other minors. Finally, the bill attempts to categorize previously unranked felonies on the felony sentencing grid.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Brandon James, Seattle Police Department; Russell Brown, WA Association of Prosecuting Attorneys; Deanna Nollette, Seattle Police Department.

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