
SENATE BILL 5945

State of Washington

67th Legislature

2022 Regular Session

By Senators Sefzik, Brown, Hasegawa, Wagoner, J. Wilson, and L. Wilson

Read first time 01/25/22. Referred to Committee on Law & Justice.

1 AN ACT Relating to amending the criminal penalty and statute of
2 limitations for human trafficking; amending RCW 9A.40.100; reenacting
3 and amending RCW 9A.04.080; and prescribing penalties.

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

5 **Sec. 1.** RCW 9A.04.080 and 2019 c 93 s 2 and 2019 c 87 s 2 are
6 each reenacted and amended to read as follows:

7 (1) Prosecutions for criminal offenses shall not be commenced
8 after the periods prescribed in this section.

9 (a) The following offenses may be prosecuted at any time after
10 their commission:

11 (i) Murder;

12 (ii) Homicide by abuse;

13 (iii) Arson if a death results;

14 (iv) Vehicular homicide;

15 (v) Vehicular assault if a death results;

16 (vi) Hit-and-run injury-accident if a death results (RCW
17 46.52.020(4));

18 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is
19 under the age of (~~sixteen~~) 16;

20 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is
21 under the age of (~~sixteen~~) 16;

- 1 (ix) Rape of a child in the first degree (RCW 9A.44.073);
2 (x) Rape of a child in the second degree (RCW 9A.44.076);
3 (xi) Rape of a child in the third degree (RCW 9A.44.079);
4 (xii) Sexual misconduct with a minor in the first degree (RCW
5 9A.44.093);
6 (xiii) Custodial sexual misconduct in the first degree (RCW
7 9A.44.160);
8 (xiv) Child molestation in the first degree (RCW 9A.44.083);
9 (xv) Child molestation in the second degree (RCW 9A.44.086);
10 (xvi) Child molestation in the third degree (RCW 9A.44.089); and
11 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

12 (b) Except as provided in (a) of this subsection, the following
13 offenses may not be prosecuted more than (~~twenty~~) 20 years after
14 its commission:

- 15 (i) Rape in the first degree (RCW 9A.44.040);
16 (ii) Rape in the second degree (RCW 9A.44.050); (~~or~~)
17 (iii) Indecent liberties (RCW 9A.44.100); or
18 (iv) Trafficking (RCW 9A.40.100).

19 (c) The following offenses may not be prosecuted more than
20 (~~ten~~) 10 years after its commission:

21 (i) Any felony committed by a public officer if the commission is
22 in connection with the duties of his or her office or constitutes a
23 breach of his or her public duty or a violation of the oath of
24 office;

- 25 (ii) Arson if no death results;
26 (iii) Rape in the third degree (RCW 9A.44.060); or
27 (iv) Attempted murder (~~or~~
28 ~~(v) Trafficking under RCW 9A.40.100~~).

29 (d) A violation of any offense listed in this subsection (1)(d)
30 may be prosecuted up to (~~ten~~) 10 years after its commission or, if
31 committed against a victim under the age of (~~eighteen~~) 18, up to
32 the victim's (~~thirtieth~~) 30th birthday, whichever is later:

- 33 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);
34 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a
35 minor);
36 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse
37 of a minor); or
38 (iv) RCW 9A.64.020 (incest).

39 (e) The following offenses may not be prosecuted more than six
40 years after its commission or discovery, whichever occurs later:

1 (i) Violations of RCW 9A.82.060 or 9A.82.080;
2 (ii) Any felony violation of chapter 9A.83 RCW;
3 (iii) Any felony violation of chapter 9.35 RCW;
4 (iv) Theft in the first or second degree under chapter 9A.56 RCW
5 when accomplished by color or aid of deception;
6 (v) Theft from a vulnerable adult under RCW 9A.56.400; or
7 (vi) Trafficking in stolen property in the first or second degree
8 under chapter 9A.82 RCW in which the stolen property is a motor
9 vehicle or major component part of a motor vehicle as defined in RCW
10 46.80.010.

11 (f) The following offenses may not be prosecuted more than five
12 years after its commission: Any class C felony under chapter 74.09,
13 82.36, or 82.38 RCW.

14 (g) Bigamy may not be prosecuted more than three years after the
15 time specified in RCW 9A.64.010.

16 (h) A violation of RCW 9A.56.030 may not be prosecuted more than
17 three years after the discovery of the offense when the victim is a
18 tax exempt corporation under 26 U.S.C. Sec. 501(c) (3).

19 (i) No other felony may be prosecuted more than three years after
20 its commission; except that in a prosecution under RCW 9A.44.115, if
21 the person who was viewed, photographed, or filmed did not realize at
22 the time that he or she was being viewed, photographed, or filmed,
23 the prosecution must be commenced within two years of the time the
24 person who was viewed or in the photograph or film first learns that
25 he or she was viewed, photographed, or filmed.

26 (j) No gross misdemeanor may be prosecuted more than two years
27 after its commission.

28 (k) No misdemeanor may be prosecuted more than one year after its
29 commission.

30 (2) The periods of limitation prescribed in subsection (1) of
31 this section do not run during any time when the person charged is
32 not usually and publicly resident within this state.

33 (3) In any prosecution for a sex offense as defined in RCW
34 9.94A.030, the periods of limitation prescribed in subsection (1) of
35 this section run from the date of commission or two years from the
36 date on which the identity of the suspect is conclusively established
37 by (~~deoxyribonucleic acid~~) DNA testing or by photograph as defined
38 in RCW 9.68A.011, whichever is later.

39 (4) If, before the end of a period of limitation prescribed in
40 subsection (1) of this section, an indictment has been found or a

1 complaint or an information has been filed, and the indictment,
2 complaint, or information is set aside, then the period of limitation
3 is extended by a period equal to the length of time from the finding
4 or filing to the setting aside.

5 **Sec. 2.** RCW 9A.40.100 and 2017 c 126 s 1 are each amended to
6 read as follows:

7 (1) A person is guilty of trafficking in the first degree when:

8 (a) Such person:

9 (i) Recruits, harbors, transports, transfers, provides, obtains,
10 buys, purchases, or receives by any means another person knowing, or
11 in reckless disregard of the fact, (A) that force, fraud, or coercion
12 as defined in RCW 9A.36.070 will be used to cause the person to
13 engage in:

14 (I) Forced labor;

15 (II) Involuntary servitude;

16 (III) A sexually explicit act; or

17 (IV) A commercial sex act, or (B) that the person has not
18 attained the age of (~~eighteen~~) 18 years and is caused to engage in
19 a sexually explicit act or a commercial sex act; or

20 (ii) Benefits financially or by receiving anything of value from
21 participation in a venture that has engaged in acts set forth in

22 (a)(i) of this subsection; and

23 (b) The acts or venture set forth in (a) of this subsection:

24 (i) Involve committing or attempting to commit kidnapping;

25 (ii) Involve a finding of sexual motivation under RCW 9.94A.835;

26 (iii) Involve the illegal harvesting or sale of human organs; or

27 (iv) Result in a death.

28 (2) Trafficking in the first degree is a class A felony.

29 (3)(a) A person is guilty of trafficking in the second degree
30 when such person:

31 (i) Recruits, harbors, transports, transfers, provides, obtains,
32 buys, purchases, or receives by any means another person knowing, or
33 in reckless disregard of the fact, that force, fraud, or coercion as
34 defined in RCW 9A.36.070 will be used to cause the person to engage
35 in forced labor, involuntary servitude, a sexually explicit act, or a
36 commercial sex act, or that the person has not attained the age of
37 (~~eighteen~~) 18 years and is caused to engage in a sexually explicit
38 act or a commercial sex act; or

1 (ii) Benefits financially or by receiving anything of value from
2 participation in a venture that has engaged in acts set forth in
3 (a)(i) of this subsection.

4 (b) Trafficking in the second degree is a class A felony.

5 (4)(a) In any prosecution under this chapter in which the offense
6 or degree of the offense depends on the victim's age, it is not a
7 defense that the perpetrator did not know the victim's age, or that
8 the perpetrator believed the victim to be older, as the case may be.

9 (b) A person who is either convicted or given a deferred sentence
10 or a deferred prosecution or who has entered into a statutory or
11 nonstatutory diversion agreement as a result of an arrest for a
12 violation of a trafficking crime shall be assessed a (~~ten thousand~~
13 ~~dollar~~) \$30,000 fee.

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

19 (d) 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
22 in cases in which the offense occurred in a city or town that
23 provides for its own law enforcement, in which case these amounts
24 shall be remitted to the treasurer of the city or town for deposit in
25 the general fund of the city or town. Revenue from the fees must be
26 used for local efforts to reduce the commercial sale of sex
27 including, but not limited to, increasing enforcement of commercial
28 sex laws.

29 (i) At least (~~fifty~~) 50 percent of the revenue from fees
30 imposed under this section must be spent on prevention, including
31 education programs for offenders, such as john school, and
32 rehabilitative services, such as mental health and substance abuse
33 counseling, parenting skills, training, housing relief, education,
34 vocational training, drop-in centers, and employment counseling.

35 (ii) Revenues from these fees are not subject to the distribution
36 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or
37 35.20.220.

38 (5) If the victim of any offense identified in this section is a
39 minor, force, fraud, or coercion are not necessary elements of an

1 offense and consent to the sexually explicit act or commercial sex
2 act does not constitute a defense.

3 (6) For purposes of this section:

4 (a) "Commercial sex act" means any act of sexual contact or
5 sexual intercourse, both as defined in chapter 9A.44 RCW, for which
6 something of value is given or received by any person; and

7 (b) "Sexually explicit act" means a public, private, or live
8 photographed, recorded, or videotaped act or show intended to arouse
9 or satisfy the sexual desires or appeal to the prurient interests of
10 patrons for which something of value is given or received.

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