
**Community Safety, Justice, & Reentry
Committee**

HB 2076

Brief Description: Addressing crimes involving human trafficking or sexual exploitation.

Sponsors: Representatives Orwall, Mosbrucker, Leavitt, Barnard, Graham, Rule, Cheney, Reeves and Hackney.

Brief Summary of Bill

- Modifies the crimes of Trafficking in the first and second degrees.
- Requires the Washington State Auditor to conduct a study on fees collected for violations of trafficking crimes.
- Reestablishes the Commercially Sexually Exploited Children Statewide Coordinating Committee.

Hearing Date: 1/16/24

Staff: Michelle Rusk (786-7153).

Background:

Trafficking.

A person commits Trafficking in the second degree when he or she:

- Recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person, knowing or with reckless disregard that (1) force, fraud, or coercion will be used to cause the person to engage in (i) forced labor, (ii) involuntary servitude, (iii) a sexually explicit act, or (iv) a commercial sex act; or (2) the person has not reached the age of 18 years and is caused to engage in a sexually explicit act or a commercial sex act; or
- Benefits financially or receives anything of value from participation in a venture that has

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engaged in the above acts.

The offense is Trafficking in the first degree if the foregoing acts involve kidnapping, sexual motivation, or illegal harvesting of human organs or result in a death.

If the victim of any trafficking offense is a minor, it is not necessary to demonstrate force, fraud, or coercion, and consent to any sexual act is not a defense. Trafficking in the first or second degree is a class A felony, except first degree is a level XIV offense and second degree is a level XII offense.

Any person who is convicted, given a deferred sentence or prosecution, or has entered into a diversion agreement as a result of violating a trafficking crime must be assessed a \$10,000 fine. Fees collected must be remitted to the treasurer of the city, town, or county where the offense occurred for deposit in that municipality's general fund. Revenue from fees must be used for local efforts to reduce commercial sale of sex, including that at least 50 percent must be spent on prevention, including education programs for offenders, and rehabilitation services.

Commercially Sexually Exploited Children Statewide Coordinating Committee.

The Commercially Sexually Exploited Children Statewide Coordinating Committee (Committee) was established in 2013 to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices. The Committee expired on June 30, 2023. Prior to expiration, the Committee met annually as convened by the Office of the Attorney General, and reported its findings and recommendations annually to the Legislature.

Summary of Bill:

Crime of Trafficking.

The crimes of Trafficking in the first and second degrees are modified and new definitions are established for coercion, kidnapping, maintain, and sexual motivation.

A person commits the offense of Trafficking in the first degree when the person recruits, entices, harbors, transports, isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person and:

- (1) Knows, or recklessly disregards the fact, that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or (2) Such person knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a venture that has engaged in the foregoing acts, provided that it is not a defense that such person did not know, or recklessly disregarded, that the person was under 18 years of age or believed the other person was older; and
- The foregoing acts or venture involve (i) such person committing or attempting to commit

kidnapping; (ii) a finding of sexual motivation; (iii) the illegal harvesting or sale of human organs; or (iv) result in a death.

A person commits the offense of Trafficking in the second degree when the person recruits, entices, harbors, transports, isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person and:

- Knows, or acts in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or
- Such person knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a venture that has engaged in the acts set forth above, provided that it is not a defense that such person did not know, or recklessly disregarded the fact, that the other person was under 18 years of age or believed the other person was older.

If the victim of these offenses is a minor, then force, fraud, or coercion are not necessary elements of the offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.

Audit Requirement.

The state auditor must conduct an audit of each superior court, county, city, and town with respect to the collection and use of fees assessed for Trafficking violations. The audit must determine whether:

- Superior courts are assessing fees consistent with statutory requirements;
- Counties, cities, and towns are using fee revenue to reduce the commercial sale of sex, including enforcement of commercial sex laws; and
- Counties, cities, and towns are using at least 50 percent of fee revenue on prevention and rehabilitative services.

If fees are not being assessed and used as required, the auditor must make recommendations for corrective action. The state auditor must complete these audits and publish a report with its findings no later than December 31, 2025.

Commercially Sexually Exploited Children Statewide Coordinating Committee.

Subject to the availability of funds appropriated, the Commercially Sexually Exploited Children Statewide Coordinating Committee (Committee) is established. The Committee is charged with: (1) addressing the issue of children who are commercially sexually exploited; (2) examining local and regional practices involved in addressing sexually exploited children; and (3) making recommendations on statewide laws and practices.

The Committee is convened by the Office of the Attorney General (AGO) and must meet at least annually. The Department of Commerce (Commerce) will assist the AGO with the Committee agenda planning and administrative and clerical support.

The Committee membership includes: representatives from the Legislature, the Governor's Office, state agencies, courts, victim advocates, law enforcement, service providers, regional task forces on commercially sexually exploited children, attorneys, and a survivor of human trafficking.

The duties of the Committee include, but are not limited to: overseeing and reviewing the implementation of the Washington State Model Protocol for Commercially Sexually Exploited Children; receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas; reviewing recommendations from local and regional entities regarding policy changes that would improve the effectiveness of local response practices; making recommendations regarding data collection, policy changes, and strategic local investments to address the commercial sexual exploitation of children; reviewing prior legislature to understand enforcement and implementation barriers; and compiling data on the number of juveniles believed to be victims of sexual exploitation and taken into custody as provided by law.

The Committee expires on June 30, 2030, and must annually report its findings to the appropriate committees of the Legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

Appropriation: None.

Fiscal Note: Requested on January 8.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.