

HOUSE BILL REPORT

2SSB 6006

As Passed House - Amended:

February 29, 2024

Title: An act relating to supporting victims of human trafficking and sexual abuse.

Brief Description: Supporting victims of human trafficking and sexual abuse.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Wagoner, Braun, Conway, Frame, Hasegawa, Keiser, Kuderer, Lias, McCune, Nguyen, Nobles, Salomon, Stanford, Torres, Valdez and Wilson, C.).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 2/15/24, 2/20/24 [DPA];
Appropriations: 2/23/24, 2/26/24 [DPA(CSJR)].

Floor Activity:

Passed House: 2/29/24, 92-0.

Brief Summary of Second Substitute Bill (As Amended by House)

- Expands reporting requirements for abuse or neglect of children and requires certain state agencies to use a validated assessment tool to screen for commercial sexual abuse of a minor.
- Allows individuals to seek sexual assault protection orders where commercial sexual exploitation is alleged.
- Removes the statutes of limitations for specified sex crimes involving minors and modifies evidentiary standards and court procedures involving minor victims of specified crimes.
- Permits minor victims of certain sex offenses access to benefits under the Crime Victims Compensation Act.
- Modifies the crimes of Trafficking in the first and second degrees and

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.

requires the State Auditor to conduct an audit on fees collected for violations of Trafficking crimes.

- Reestablishes the Commercially Sexually Exploited Children Statewide Coordinating Committee.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Michelle Rusk (786-7153).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Community Safety, Justice, & Reentry. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Yvonne Walker (786-7841).

Background:

Abuse of Children.

Under Washington's laws concerning abuse of children, certain individuals must report to law enforcement or the Department of Children, Youth, and Families (DCYF) if they have reasonable cause to believe a child has suffered abuse or neglect. Abuse or neglect includes sexual abuse, exploitation, female genital mutilation, or other injury to the child, or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child.

The DCYF must respond in specified ways to reports of child abuse or neglect, which includes parameters for responding to allegations involving a child who is an adjudicated dependent child. Dependent child means any child who: (1) has been abandoned; (2) has been abused or neglected by a person legally responsible for the child's care; (3) has no parent, guardian, or custodian capable of adequately caring for the child; or (4) is receiving extended foster care services.

Civil Protection Orders.

Courts may issue different types of civil protection orders to protect a person from the behavior of another. Separate types of protection orders exist for domestic violence, sexual assault, stalking, anti-harassment, vulnerable adult abuse, and extreme risk. For most types of protection orders, where it appears that the respondent has engaged in conduct against the petitioner that serves as a basis for a protection order, and the petitioner alleges that serious immediate harm or irreparable injury could result if an order is not issued immediately, the court may grant an ex parte temporary protection order, pending a full hearing. After a hearing, the court may issue a full protection order.

Statutes of Limitations.

Criminal and civil statutes of limitations provide time periods within which prosecution of a crime or a civil claim must be brought.

Certain Sex Crimes Involving Minors.

The criminal offense of Trafficking may not be prosecuted more than 10 years after its commission. The following offenses may be prosecuted either up to 10 years after their commission, or, if a victim was under the age of 18, up to the victim's thirtieth birthday, whichever is later: (1) Commercial Sexual Abuse of a Minor; (2) Promoting Commercial Sexual Abuse of a Minor; and (3) Promoting Travel for Commercial Sexual Abuse of a Minor.

Criminal Profiteering Act.

The state Criminal Profiteering Act provides civil penalties and remedies for a variety of criminal activities. Criminal profiteering includes any act for financial gain, of any one of a number of crimes, including Trafficking, Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, Promoting Travel for Commercial Sexual Abuse of a Minor, and Permitting Commercial Sexual Abuse of a Minor. Civil actions under the Criminal Profiteering Act based on violations of Trafficking crimes must be brought within specified time periods.

Court Procedures Involving Children.

Statements Made by Children.

In a dependency proceeding, adult criminal proceeding, or juvenile offense adjudication, statements not otherwise admissible are admissible if made by a child under the age of 16 and describing any of the following acts performed with or on the child: (1) Trafficking; (2) Commercial Sexual Abuse of a Minor; (3) Promoting Commercial Sexual Abuse of a Minor; or (4) Promoting Travel for the Commercial Sexual Abuse of a Minor.

Closed-Circuit Television.

In a criminal proceeding, a court may order that a child under the age of 14 may testify in a room outside the presence of the defendant and the jury while one-way closed-circuit television equipment simultaneously projects the child's testimony so the defendant and the

jury can watch and hear the child testify. The court must consider whether requiring a child witness to testify in the defendant's presence will cause serious emotional or mental distress that will prevent the child from reasonably communicating at the trial.

Crime Victims.

Privacy.

Certain information revealing specific details about an alleged or proven child victim of sexual assault under the age of 18, or the identity or contact information of such a child victim, is confidential and not subject to release to the press or public by an agency without the permission of the child victim and the child's legal guardian.

Crime Victims Compensation Program.

The Crime Victims Compensation Program (CVCP) within the Department of Labor and Industries assists victims with costs associated with violent crimes. To qualify for benefits, a victim must meet several criteria, including applying for benefits within specified time periods. A victim is not eligible for benefits if, for example, the injury was: (1) the result of consent, provocation, or incitement by the victim; (2) sustained while the victim was committing or attempting to commit a felony; or (3) sustained while the victim was incarcerated.

A person identified as the "minor" in the following offenses is considered a victim for purposes of receiving benefits from the CVCP, even if the person is also charged with prostitution: Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor.

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:
 - force, fraud, or coercion will be used to cause the person to engage in: (1) forced labor, (2) involuntary servitude, (3) a sexually explicit act, or (4) a commercial sex act; or
 - 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 engaged in the above acts.

The offense is Trafficking in the first degree if the foregoing acts involve kidnapping, sexual motivation, illegal harvesting or sale of human organs, or results 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 Amended Bill:

Abuse of Children.

Abuse or Neglect Reporting and Assessment.

The definition of abuse or neglect under the state's abuse of children laws is modified to include Trafficking and sex trafficking or severe forms of trafficking under the Trafficking Victims Protection Act, and diversion unit staff are added to the list of individuals required to report suspected child abuse or neglect.

The Department of Children, Youth, and Families (DCYF) must use a validated assessment tool to screen a child for Commercial Sexual Abuse of a Minor if a report of abuse and neglect alleges such abuse. Juvenile justice agencies, which include law enforcement, juvenile courts, diversion units, and detention centers, must also use a validated assessment tool to screen a child for commercial sexual abuse whenever there is reasonable cause to believe a child under the agencies' jurisdiction has suffered commercial sexual abuse, and report such abuse and neglect to the appropriate authorities.

DCYF Services and Dependent Children.

The DCYF must make recommendations to the Legislature about the types of services needed for children identified as victims of sex trafficking or other severe forms of trafficking under the Trafficking Victims Protection Act. For identified children victims, the DCYF must assess and offer services to those who have been found "dependent children," and may assess and offer services to children who are not dependents. The definition of "dependent child" under the Juvenile Court Act is expanded to include any child who is a victim of sex trafficking or severe forms of trafficking in persons under the Trafficking Victims Protection Act when the parent is involved in, facilitates, or should

have known the child is being trafficked.

Civil Protection Orders.

Sexual Assault Protection Order.

A civil sexual assault protection order may be sought where commercial sexual exploitation is alleged to have been committed against a petitioner by the respondent. Commercial sexual exploitation means Commercial Sexual Abuse of a Minor and sex trafficking. Other provisions regarding evidence, renewal, modification, or termination of civil protection orders are extended to these orders.

Minors.

When there is reason to believe that a minor lacks the ability or capacity to consent, the DCYF may file a petition for a sexual assault protection order on behalf of a minor, and a law enforcement agency may file a petition for an ex parte temporary sexual assault protection order on behalf of a minor. Neither the state nor law enforcement are liable for seeking or failing to seek relief on behalf of a minor under this new authority.

Statutes of Limitations.

The statute of limitations is removed for the following crimes: (1) Trafficking if a victim is under the age of 18; (2) Commercial Sexual Abuse of a Minor; (3) Promoting Commercial Sexual Abuse of a Minor; (4) Promoting Travel for Commercial Sexual Abuse of a Minor; and (5) Permitting Commercial Sexual Abuse of a Minor.

The civil statute of limitations to recover damages for injury to a person, the person's business, or the person's property, under the Criminal Profiteering Act, is modified for the following crimes: (1) Trafficking; (2) Commercial Sexual Abuse of a Minor; (3) Promoting Commercial Sexual Abuse of a Minor; (4) Promoting Travel for Commercial Sexual Abuse of a Minor; or (5) Permitting Commercial Sexual Abuse of a Minor.

Court Procedures Involving Children.

Statements Made by Minors.

A statement not otherwise admissible but made by a child under the age of 18 is admissible evidence in a dependency proceeding, adult criminal proceeding, or juvenile offense adjudication if the statement describes one of the following acts performed with or on the child: (1) Trafficking; (2) Commercial Sexual Abuse of a Minor; (3) Promoting Commercial Sexual Abuse of a Minor; or (4) Promoting Travel for Commercial Sexual Abuse of a Minor.

Closed-Circuit Television.

A court may order a person under the age of 18 to testify in a room outside the presence of the defendant and jury. The standards by which a court determines whether and how a qualifying child may participate in specified criminal proceedings are modified to include an evaluation of whether:

- the child involved would be traumatized;

- the source of the trauma is not the courtroom generally, but the presence of the defendant; and
- the emotional or mental distress suffered by the child would be more than de minimis.

Crime Victims.

Privacy.

Identifying or contact information for child victims of commercial sexual exploitation under the age of 18 is deemed confidential and exempt from disclosure under the Public Records Act, and may not be released to the press or public without permission from the child and the child's legal guardian. Such information may be released to law enforcement, prosecutors, judges, defense attorneys, or services providers to child victims of sexual assault, but must be deleted prior to the release of any criminal history record information.

Crime Victims Compensation Program.

A person identified as a minor victim of sex trafficking is considered a victim for purposes of receiving benefits under the Crime Victims Compensation Program (CVCP), even if the person is also charged with prostitution. The following individuals may apply for CVCP benefits at any time, and are not subject to enumerated benefits eligibility factors: (1) minor victims of sex trafficking; and (2) the "minor" in the following charges: Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor.

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 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.

A person commits Trafficking in the first degree if the foregoing acts also involve kidnapping, a finding of sexual motivation, illegal harvesting or sale of human organs, or results in a death.

Fees.

Fees assessed for violating Trafficking crimes must be collected by the clerk of the court and distributed as follows:

- 45 percent to the treasurer of the jurisdiction where the offense occurred, which must be spent on services for victims of Trafficking crimes in that jurisdiction;
- 45 percent to the treasurer of the jurisdiction where the offense occurred, which must be spent on efforts to reduce the commercial sale of sex, and prevention and rehabilitative services; and
- 10 percent must be retained by the clerks of the courts for their official services.

Audit.

The State Auditor must conduct a performance audit of the collection and use of mandatory fees assessed for Trafficking violations and report its findings no later than December 31, 2025. If fees are not being assessed and used as required, the Auditor must make recommendations for corrective action.

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 to facilitate a statewide coordinated response to the commercial sexual exploitation of children, youth, and young adults 24 years old and younger. The Office of the Attorney General must convene the Committee.

The Committee membership includes: members of the Legislature, a representative of the Governor's Office, state agency leaders, subject matter experts in intervention and prevention, a survivor of human trafficking, and representatives from law enforcement, the courts, service providers, the Office of Crime Victims Advocacy, regional task forces on commercially sexually exploited children, and advocacy organizations.

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.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2025.

Staff Summary of Public Testimony (Community Safety, Justice, & Reentry):

(In support) None.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

(Other) There is strong support for the reauthorization of the Commercially Sexually Exploited Children (CSEC) Statewide Coordinating Committee. The CSEC Statewide Coordinating Committee has continued convening since it expired last June as a good faith interim solution without funding provisions until it could be reauthorized. It is critical to fund the committee and the statewide coordination that it provides to ensure antitrafficking and antiexploitation policies are passed effectively and consistently across the state. Without this committee, Washington has no centralized driver for coordinated victim-centered response to handling commercially sexually exploited children.

Persons Testifying (Community Safety, Justice, & Reentry): None.

Persons Testifying (Appropriations): Gina Cumbo, Center for Children and Youth Justice.

Persons Signed In To Testify But Not Testifying (Community Safety, Justice, & Reentry): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.