

SENATE BILL REPORT

SB 6006

As Reported by Senate Committee On:
Law & Justice, January 18, 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: Senators Dhingra, Wagoner, Braun, Conway, Frame, Hasegawa, Keiser, Kuderer, Lias, McCune, Nguyen, Nobles, Salomon, Stanford, Torres, Valdez and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 1/16/24, 1/18/24 [DPS-WM, w/oRec].

Brief Summary of First Substitute Bill

- Expands the definition of abuse or neglect of a child that must be reported by mandatory reporters to include trafficking, sex trafficking, and severe forms of trafficking.
- Modifies agency procedures related to assessing and reporting abuse or neglect.
- Expands sexual assault protection orders to include commercial sexual exploitation.
- Modifies criminal and civil statute of limitations relating to trafficking and commercial sexual abuse of a minor offenses.
- Modifies courtroom and disclosure procedures for certain minor victims.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6006 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon,

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.

Torres, Valdez and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden, Ranking Member.

Staff: Ryan Giannini (786-7285)

Background: Abuse of Children. Certain individuals have a requirement to report child abuse or neglect if there is reasonable cause to believe a child has suffered abuse or neglect. These individuals must report such abuse or neglect to a law enforcement agency or to the Department of Children, Youth, and Families (DCYF).

Abuse or neglect means 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.

Civil Protection Orders. There are different types of civil protection orders that a court may issue to protect a person from the behavior of another. Separate types of protection orders exist for domestic violence, sexual assault, stalking, antiharassment, vulnerable adult abuse, and extreme risk.

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. A victim is not eligible for benefits if:

- the injury was the result of consent, provocation, or incitement by the victim;
- the injury was sustained while the victim was committing or attempting to commit a felony;
- the injury was sustained while the victim was incarcerated;
- the person making the claim refused to give reasonable cooperation to state or local law enforcement agencies to apprehend and convict the perpetrator of the crime giving rise to the claim;
- a victim has been convicted of a felony offense that is a violent offense or crime against a person within five years preceding the criminal act giving rise to the claim, or if a person is convicted of such a felony offense after the criminal act; or
- a victim has not completely satisfied all legal financial obligations owed.

Statute of Limitations. A criminal statute of limitations is a time limit for initiating prosecution after a crime is committed. Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator.

Criminal Profiteering Act. The state Criminal Profiteering Act provides civil penalties and remedies for a variety of criminal activities. Criminal profiteering is defined to include 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.

Hearsay. A hearsay statement made by a child under the age of 16 is admissible evidence in a dependency proceeding, adult criminal proceeding, or juvenile offense adjudication if the statement describes one of the following crimes performed with or on the child:

- trafficking;
- commercial sexual abuse of a minor;
- promoting commercial sexual abuse of a minor; or
- promoting travel for the commercial sexual abuse of a minor.

Closed-Circuit Television. In a criminal proceeding, the court may order 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 in cases involving certain crimes against children, including trafficking and sexual exploitation of children crimes.

Disclosures. 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 victims and the child's legal guardian.

Summary of Bill (First Substitute): Victim Identification, Reporting, and Screening. The definition of dependent child is modified to include any child who is a victim of either sex trafficking or severe forms of trafficking in persons as described under the federal Trafficking Victims Protection Act, when the parent is involved in the trafficking, facilitating the trafficking, or should have known that the child is being trafficked.

The definition of abuse or neglect of a child that must be reported by mandatory reporters is modified to include trafficking, and sex trafficking or severe forms of trafficking in persons as described under the federal Trafficking Victims Protection Act.

Diversion unit staff are included in the list of mandatory reporters required to report abuse or neglect of a child.

DCYF must use a validated assessment tool to screen children for commercial sexual abuse of a minor if a report of abuse and neglect alleges commercial sexual abuse of a minor.

Juvenile justice agencies must use a validated assessment tool to screen children for commercial sexual abuse of a minor whenever there is reasonable cause to believe a child under the juvenile justice agencies' jurisdiction has suffered commercial sexual abuse of a minor. Such agencies must report such abuse and neglect.

DCYF must make recommendations to the Legislature about the types of services that need to be offered to children who have been identified by a state or local agency as being a victim of either sex trafficking or severe forms of trafficking in persons as described under the federal Trafficking Victims Protection Act.

Civil Protection Orders. A petitioner may petition for a sexual assault civil protection order if commercial sexual exploitation is alleged to have been committed against the petitioner by the respondent. Commercial sexual exploitation includes commercial sexual abuse of a minor and sex trafficking.

DCYF and law enforcement agencies may file petitions for an ex parte temporary sexual assault civil protection order on behalf of a minor when the agency believes a minor lacks the ability or capacity to consent.

When a petitioner alleges a respondent engaged in commercial sexual exploitation, denial of a civil protection order may not be based, in whole or in part, on evidence the petitioner consented to sexual conduct or sexual penetration.

Crime Victims' Compensation Program. Minor victims of sex trafficking and commercial sexual abuse of minor offense are exempt from certain crime victims compensation ineligibility factors. Such minor victims may file a claim for crime victim benefits at any time.

Statute of Limitations. The statute of limitations for the following crimes are removed:

- trafficking if a victim was under the age of 18;
- 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.

Criminal Profiteering Act. The civil statute of limitations to recover damages for injury to a person, the person's business, or the person's property by an act of criminal profiteering is modified for the following crimes:

- trafficking;
- commercial sexual abuse of a minor;
- promoting commercial sexual abuse of a minor;
- promoting travel for commercial sexual abuse of a minor; or
- permitting commercial sexual abuse of a minor.

Hearsay. The hearsay exception is expanded in any case involving a child under the age of 18 describing any acts or attempted acts of trafficking, commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting travel for commercial sexual abuse of a minor performed with or on the child.

Closed-Circuit Television. A prosecuting attorney may make a motion to allow a child under the age of 18 to testify in a room outside the presence of the defendant, the jury, or both using one-way closed-circuit television equipment if the child would be traumatized by the presence of the defendant or the jury; the source of the trauma is not the courtroom generally, but the presence of either the defendant or the jury; and the emotional or mental distress suffered by the child would be more than de minimis.

Disclosures. A child victim of commercial sexual exploitation's identifying information and contact information are confidential and not subject to release to the press or public by an agency without the permission of the child victims and the child's legal guardian. Such information is further exempt from public inspection and copying.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Provides that a dependent child includes a child victim of sex trafficking or severe forms of trafficking under the federal trafficking victims protection act, when the parent is involved in the trafficking, facilitating the trafficking, or should have known that the child is being trafficked.
- Clarifies that juvenile justice agencies includes juvenile courts.
- Requires DCYF to make recommendations to the Legislature about the types of services that need to be offered to children identified as victims of sex trafficking or severe forms of trafficking under the federal trafficking victims protection act.
- Replaces the term “sexual abuse” with “commercial sexual exploitation” and defines “commercial sexual exploitation” as commercial sexual abuse of a minor and sex trafficking.
- Clarifies that DCYF and a law enforcement agency may file a petition for an ex parte temporary sexual assault protection order on behalf a minor when the agency believes a minor lacks the ability or capacity to consent.
- Restores requirements for victims to give reasonable cooperation to law enforcement to qualify for crime victim benefits.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill will help get to a better system that protects victims, holds perpetrators accountable, ensures the state does the best job it can in helping survivors of sex trafficking, and ensures that the state's statutes are

consistent with federal law for purposes of federal grant funding. This bill would require DCYF to assess and offer services to children who have been identified as sex trafficking or severe trafficking victims, regardless of whether the abuser is the legal guardian. A survey of child welfare agencies across 25 states showed that 20 of these states accepted trafficking cases facilitated by a non-caregiver third party; Washington is one of the outlier states that does not do this. Traffickers use opportunities and gaps in the law to find ways to perpetrate more crimes. Human trafficking is related to organized retail crime. People who perform criminal acts at the store-level are being coerced by people behind the scene by drugs and quick cash, while the exploiters resell products online and on the black market. This bill will help close these gaps in the law.

OTHER: There is a strong support for both the policies in this bill and efforts to support victims. There are concerns about removing the requirement to reasonably cooperate with law enforcement. It is in the public's interest to apprehend offenders and prevent future victimization. Studies have shown that victim participation leads to the arrest and prosecution of offenders. Victims should be encouraged to participate but such participation should not be a bar for getting compensation, especially when participation may be impossible or dangerous. There are other technical concerns about the bill. The definition of sexual abuse seemingly overlaps with other definitions, and is narrowly specific and then overly broad. DCYF and law enforcement agencies seem to have very broad discretions to file petitions on behalf of a minor, but then the following sentences are more focused; so, it would be helpful to clarify if the intent of these provisions is to be more broad or narrow. Language increasing the age for minors to participate via CCTV raises Confrontation Clause concerns.

Persons Testifying: PRO: Senator Manka Dhingra, Prime Sponsor; Barbara Mack; Rose GUNDERSEN, Washington Retail Association.

OTHER: James McMahan, WA Assoc Sheriffs & Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys.

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