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HOUSE BILL 2857

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State of Washington                      65th Legislature                      2018 Regular Session

By Representatives Orwall, Kraft, Goodman, and Pettigrew

1            AN ACT Relating to therapeutic responses to commercially sexually  
2 exploited youth; amending RCW 9A.88.030, 13.40.070, and 13.40.213;  
3 adding a new section to chapter 7.68 RCW; creating a new section; and  
4 providing an expiration date.

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

6            NEW SECTION.            **Sec. 1.**            The legislature finds that child  
7 prostitution is a form of commercial sexual exploitation of children.  
8 The children who are exploited in this manner should be treated as  
9 the victims that they are and not as criminals. In making this shift  
10 in response to these children, law enforcement shall retain the  
11 authority to detain children who are or are attempting to engage in  
12 sexual conduct with another person for money or anything of value for  
13 purposes of investigating the individual or individuals who may be  
14 exploiting that child and performing other necessary investigative  
15 functions to gather evidence regarding that exploitation.

16            **Sec. 2.**            RCW 9A.88.030 and 1988 c 145 s 16 are each amended to  
17 read as follows:

18            (1) A person is guilty of prostitution if such person engages or  
19 agrees or offers to engage in sexual conduct with another person in  
20 return for a fee.

1 (2) For purposes of this section, "sexual conduct" means "sexual  
2 intercourse" or "sexual contact," both as defined in chapter 9A.44  
3 RCW.

4 (3) Prostitution is a misdemeanor.

5 (4) A person under age eighteen suspected of violating this  
6 section shall not be:

7 (a) Charged or prosecuted for a prostitution offense under this  
8 section; or

9 (b) Booked into detention for a prostitution offense under this  
10 section.

11 (5) Before completing a law enforcement contact with an  
12 individual under eighteen years of age suspected of violating this  
13 section, law enforcement shall make a child abuse or neglect report  
14 pursuant to chapter 26.44 RCW, deliver the youth to an evaluation and  
15 treatment facility for evaluation for immediate mental health or  
16 substance use disorder inpatient treatment pursuant to chapter 71.34  
17 RCW, or refer the individual to any other appropriate services.

18 **Sec. 3.** RCW 13.40.070 and 2017 c 292 s 2 are each amended to  
19 read as follows:

20 (1) Complaints referred to the juvenile court alleging the  
21 commission of an offense shall be referred directly to the  
22 prosecutor. The prosecutor, upon receipt of a complaint, shall screen  
23 the complaint to determine whether:

24 (a) The alleged facts bring the case within the jurisdiction of  
25 the court; and

26 (b) On a basis of available evidence there is probable cause to  
27 believe that the juvenile did commit the offense.

28 (2) If the identical alleged acts constitute an offense under  
29 both the law of this state and an ordinance of any city or county of  
30 this state, state law shall govern the prosecutor's screening and  
31 charging decision for both filed and diverted cases.

32 (3) If the requirements of subsections (1)(a) and (b) of this  
33 section are met, the prosecutor shall either file an information in  
34 juvenile court or divert the case, as set forth in subsections (5),  
35 (6), and (8) of this section. If the prosecutor finds that the  
36 requirements of subsection (1)(a) and (b) of this section are not  
37 met, the prosecutor shall maintain a record, for one year, of such  
38 decision and the reasons therefor. In lieu of filing an information  
39 or diverting an offense a prosecutor may file a motion to modify

1 community supervision where such offense constitutes a violation of  
2 community supervision.

3 (4) An information shall be a plain, concise, and definite  
4 written statement of the essential facts constituting the offense  
5 charged. It shall be signed by the prosecuting attorney and conform  
6 to chapter 10.37 RCW.

7 (5) Except as provided in RCW 13.40.213 and subsection (7) of  
8 this section, where a case is legally sufficient, the prosecutor  
9 shall file an information with the juvenile court if:

10 (a) An alleged offender is accused of a class A felony, a class B  
11 felony, an attempt to commit a class B felony, a class C felony  
12 listed in RCW 9.94A.411(2) as a crime against persons or listed in  
13 RCW 9A.46.060 as a crime of harassment, or a class C felony that is a  
14 violation of RCW 9.41.080 or 9.41.040(2)(a)(iv); or

15 (b) An alleged offender is accused of a felony and has a criminal  
16 history of any felony, or at least two gross misdemeanors, or at  
17 least two misdemeanors; or

18 (c) An alleged offender has previously been committed to the  
19 department; or

20 (d) An alleged offender has been referred by a diversion unit for  
21 prosecution or desires prosecution instead of diversion; or

22 (e) An alleged offender has three or more diversion agreements on  
23 the alleged offender's criminal history; or

24 (f) A special allegation has been filed that the offender or an  
25 accomplice was armed with a firearm when the offense was committed.

26 (6) Where a case is legally sufficient the prosecutor shall  
27 divert the case if the alleged offense is a misdemeanor or gross  
28 misdemeanor or violation and the alleged offense is the offender's  
29 first offense or violation. If the alleged offender is charged with a  
30 related offense that must or may be filed under subsections (5) and  
31 (8) of this section, a case under this subsection may also be filed.

32 (7) Where a case is legally sufficient to charge an alleged  
33 offender with:

34 (a) (~~Either prostitution or~~) Prostitution loitering and the  
35 alleged offense is the offender's first (~~prostitution or~~)  
36 prostitution loitering offense, the prosecutor shall divert the case;  
37 or

38 (b) Voyeurism in the second degree, the offender is under  
39 seventeen years of age, and the alleged offense is the offender's  
40 first voyeurism in the second degree offense, the prosecutor shall

1 divert the case, unless the offender has received two diversions for  
2 any offense in the previous two years.

3 (8) Where a case is legally sufficient and falls into neither  
4 subsection (5) nor (6) of this section, it may be filed or diverted.  
5 In deciding whether to file or divert an offense under this section  
6 the prosecutor shall be guided only by the length, seriousness, and  
7 recency of the alleged offender's criminal history and the  
8 circumstances surrounding the commission of the alleged offense.

9 (9) Whenever a juvenile is placed in custody or, where not placed  
10 in custody, referred to a diversion interview, the parent or legal  
11 guardian of the juvenile shall be notified as soon as possible  
12 concerning the allegation made against the juvenile and the current  
13 status of the juvenile. Where a case involves victims of crimes  
14 against persons or victims whose property has not been recovered at  
15 the time a juvenile is referred to a diversion unit, the victim shall  
16 be notified of the referral and informed how to contact the unit.

17 (10) The responsibilities of the prosecutor under subsections (1)  
18 through (9) of this section may be performed by a juvenile court  
19 probation counselor for any complaint referred to the court alleging  
20 the commission of an offense which would not be a felony if committed  
21 by an adult, if the prosecutor has given sufficient written notice to  
22 the juvenile court that the prosecutor will not review such  
23 complaints.

24 (11) The prosecutor, juvenile court probation counselor, or  
25 diversion unit may, in exercising their authority under this section  
26 or RCW 13.40.080, refer juveniles to mediation or victim offender  
27 reconciliation programs. Such mediation or victim offender  
28 reconciliation programs shall be voluntary for victims.

29 **Sec. 4.** RCW 13.40.213 and 2010 c 289 s 8 are each amended to  
30 read as follows:

31 (1) When a juvenile is alleged to have committed (~~the offenses~~  
32 ~~of prostitution or~~) a prostitution loitering offense, and the  
33 allegation, if proved, would not be the juvenile's first offense, a  
34 prosecutor may divert the offense if the county in which the offense  
35 is alleged to have been committed has a comprehensive program that  
36 provides:

37 (a) Safe and stable housing;

38 (b) Comprehensive on-site case management;

1 (c) Integrated mental health and chemical dependency services,  
2 including specialized trauma recovery services;

3 (d) Education and employment training delivered on-site; and

4 (e) Referrals to off-site specialized services, as appropriate.

5 (2) A prosecutor may divert a case for (~~prostitution or~~)  
6 prostitution loitering into the comprehensive program described in  
7 this section, notwithstanding the filing criteria set forth in RCW  
8 13.40.070(5).

9 (3) A diversion agreement under this section may extend to twelve  
10 months.

11 (4)(a) The administrative office of the courts shall compile data  
12 regarding:

13 (i) The number of juveniles whose cases are diverted into the  
14 comprehensive program described in this section;

15 (ii) Whether the juveniles complete their diversion agreements  
16 under this section; and

17 (iii) Whether juveniles whose cases have been diverted under this  
18 section have been subsequently arrested or committed subsequent  
19 offenses.

20 (b) An annual report of the data compiled shall be provided to  
21 the governor and the appropriate committee of the legislature. (~~The~~  
22 ~~first report is due by November 1, 2010.~~)

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 7.68 RCW  
24 to read as follows:

25 (1) Subject to the availability of amounts appropriated for this  
26 specific purpose, the office of homeless youth prevention and  
27 protection programs shall administer funding for two receiving center  
28 pilot programs for commercially sexually exploited youth. One of  
29 these pilot programs shall be located west of the crest of the  
30 Cascade mountains and one of these pilot programs shall be located  
31 east of the crest of the Cascade mountains. Law enforcement and  
32 service providers may refer youth to these pilot programs or youth  
33 may self-refer into these pilot programs.

34 (2) The receiving center pilot programs established under this  
35 section shall:

36 (a) Begin providing services by January 1, 2019;

37 (b) Develop, in consultation with the office of homeless youth  
38 prevention and protection programs, the eligibility criteria for

1 serving commercially sexually exploited youth that allows referral  
2 from service providers and prioritizes referral from law enforcement;  
3 (c) Provide ongoing case management for all youth who are being  
4 served or were served by the pilot program; and  
5 (d) Provide services until July 1, 2022.

6 (3) The receiving centers established under this section shall:  
7 (a) Include a short-term evaluation function that is accessible  
8 twenty-four hours per day seven days per week that has the capacity  
9 to evaluate the immediate needs of commercially sexually exploited  
10 youth under age eighteen and either meet those immediate needs or  
11 refer those youth to the appropriate services;  
12 (b) Provide licensed residential substance use disorder and  
13 mental health treatment up to one year at the same location as the  
14 site with a short-term evaluation function;  
15 (c) Assess youth for mental health and substance use disorder  
16 needs and provide appropriate referrals as needed; and  
17 (d) Provide individual and group counseling focused on developing  
18 and strengthening coping skills, and improving self-esteem and  
19 dignity.

20 (4) The office of homeless youth prevention and protection  
21 programs shall:  
22 (a) Collect nonidentifiable demographic data of the youth served  
23 by the pilot programs established under this section;  
24 (b) Collect data regarding the locations that youth exit to after  
25 being served by the pilot programs; and  
26 (c) Report the data described in this subsection along with  
27 recommendations for modification or expansion of these pilot programs  
28 to the relevant committees of the legislature by December 1, 2021.

29 (5) For the purposes of this section, the following definitions  
30 apply:  
31 (a) "Receiving center" means a trauma-informed, secure location  
32 that meets the multidisciplinary needs of commercially sexually  
33 exploited youth under age eighteen; and  
34 (b) "Short-term evaluation function" means a short-term emergency  
35 shelter that is accessible twenty-four hours per day seven days per  
36 week that has the capacity to evaluate the immediate needs of  
37 commercially sexually exploited youth under age eighteen and either  
38 meet those immediate needs or refer those youth to the appropriate  
39 services.

1 (6) This section expires December 31, 2022.

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