
SENATE BILL 6166

State of Washington

65th Legislature

2018 Regular Session

By Senator O'Ban

1 AN ACT Relating to child sex trafficking; adding a new chapter to
2 Title 4 RCW; creating a new section; and providing an effective date.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that child sex
5 trafficking frequently occurs over the internet. Minors are commonly
6 bought and sold on web sites that display classified advertisements
7 including unabashedly commercial sex web sites that purport to sell
8 "escorts." Many of these web sites feature commercial sex
9 advertisements of adults. However, many minors are also advertised on
10 these web sites.

11 (2) The legislature also finds that due to the internet, reports
12 of child sex trafficking have increased at an alarming rate. Child
13 sex trafficking through internet advertisements is a serious threat
14 to the safety and health of children in Washington state. Mahatma
15 Gandhi once stated that "[a] nation's greatness is measured by how it
16 treats its weakest members." The legislature intends to provide the
17 greatest degree of protection allowable under the law to one of the
18 most vulnerable populations in the state by doing everything possible
19 to eliminate online child sex trafficking advertisements or any type
20 of online child commercial sex advertisements in Washington state.

1 (3) The legislature finds that many web site operators are
2 diligent in actively controlling content to avoid facilitating sex
3 trafficking of minors as well as assisting law enforcement in
4 investigations. These operators do not assist in developing web site
5 or advertising content to circumvent laws protecting minors and
6 derive little revenue, if any, from such commercial activity.
7 However, it is the intent of the legislature that any web site
8 operator that has a significant business purpose of marketing
9 individuals for commercial sex purposes shall be considered
10 responsible for the content of any advertisements featuring minors on
11 its web site.

12 (4) It is the intent of the legislature to afford the children of
13 this state the maximum protection allowed by the state and federal
14 law from the tremendous harm caused by online child sex trafficking.
15 Victims who have been harmed due to online child sex trafficking must
16 be afforded the fullest extent of all civil laws designed to
17 compensate for such injuries. Individuals, corporations, and
18 businesses that are web site operators that illegally participate in
19 online child sex trafficking web sites must be prosecuted to the full
20 extent of Washington state criminal statutes.

21 (5) The legislature intends and respectfully requests that the
22 courts of the state interpret 47 U.S.C. Sec. 230 in a fashion most
23 conducive to the protection of children from the harms inherent in
24 any form of online commercial child sex advertising. The legislature
25 intends that 47 U.S.C. Sec. 230 should be interpreted in a manner
26 allowing for the widest enforcement of all state and federal
27 statutory and common laws, both civil and criminal, which could be
28 used to penalize web site operators that are involved in the
29 commercialized sex advertising of minors, or provide a civil remedy
30 for victims of commercial sex advertising of children. It is the
31 intent of the legislature to codify the holding in *J.S., S.L. and*
32 *L.C. v. Village Voice Media Holdings d/b/a Backpage.com L.L.C.*

33 (6) The legislature intends that any individual, corporation,
34 partnership, or other entity that is a web site operator involved in
35 online commercial sex advertising of children shall be subject to the
36 full range of penalties and remedies afforded under Washington state
37 criminal and civil law, both statutory law, and common law, whenever
38 such entity is responsible in whole or in part for the creation or
39 development of content which assists in the advertising or marketing
40 of minors for sex.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Actively engaged in developing advertising content" means a
5 web site operator that has responsibility for the creation or
6 development of content in whole or in part which shall include, but
7 not be limited to the following:

8 (a) A significant business purpose of advertising human sex
9 trafficking, child sex trafficking, prostitution, or any other form
10 of commercial sex;

11 (b) Any editing or history of editing by the web site of content
12 containing human sex trafficking, child sex trafficking,
13 prostitution, or any other form of commercial sex advertisements;

14 (c) Any web site operator-created rules or policies that have the
15 effect of allowing traffickers, the web site operators, or others to
16 evade or hinder law enforcement including, but not limited to, rules
17 prohibiting the use of terms, phrases, or images in certain
18 advertisements commonly used in sex trafficking for the purpose of
19 making law enforcement detection difficult;

20 (d) Any policy or rule to delete information containing evidence
21 of human sex trafficking, child sex trafficking, prostitution, or any
22 other form of commercial sex from the web site or its archives; or

23 (e) Any effort by the web site operator to direct users of the
24 web site to obtain information or content of a human sex trafficking,
25 child sex trafficking, prostitution, or any other form of commercial
26 sex advertisement from a different source, such as a different web
27 site or other information source.

28 (2) "Commercial sex" means any act of sexual contact or sexual
29 intercourse with a person under the age of eighteen for which
30 something of value is given or received in violation of RCW
31 9A.40.100.

32 (3) "Human sex trafficking and child sex trafficking" means the
33 recruitment, harboring, transportation, provision, obtaining,
34 patronizing, or soliciting of a person for the purposes of a
35 commercial sex act, in which the commercial sex act is induced by
36 force, fraud, or coercion, or in which the person induced to perform
37 such an act has not attained eighteen years of age in violation of 22
38 U.S.C. Sec. 7102.

1 (4) "Prostitution" means a person under the age of eighteen who
2 engages or agrees or offers to engage in sexual conduct with another
3 person in return for a fee in violation of RCW 9A.88.030.

4 (5) "Web site operator" means a person or company that can act as
5 a web site administrator and can change or reconfigure a web site,
6 set web site access permissions, enable logging, change the default
7 document header or footer, set content expiration, and enable content
8 ratings features.

9 NEW SECTION. **Sec. 3.** Any web site operator that has a
10 significant business purpose for marketing individuals for commercial
11 sex purposes is responsible for the content of any advertisements
12 featuring minors on its web site. A web site operator is not immune
13 from suit in law or equity in which it is alleged that the web site
14 operator actively engaged in developing advertising content that was
15 used for human sex trafficking and child sex trafficking,
16 prostitution, or commercial sex. This section does not apply to a web
17 site operator who simply hosted content. A web site does not need to
18 actually provide or author content to be responsible in part for that
19 content. Courts considering claims made under this section must
20 permit discovery to determine whether a web site is responsible even
21 in part, for the creation or development of any content on its web
22 site.

23 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act constitute a
24 new chapter in Title 4 RCW.

25 NEW SECTION. **Sec. 5.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2019.

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