
SENATE BILL 6476

State of Washington

61st Legislature

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By Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach, and Kohl-Welles

Read first time 01/14/10. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to sex crimes involving minors; amending RCW
2 13.32A.030, 7.68.070, 13.40.070, 13.40.070, 13.40.213, 9A.88.140,
3 9.68A.100, 9.68A.101, and 9.68A.105; reenacting and amending RCW
4 9.94A.515; adding a new section to chapter 13.32A RCW; adding a new
5 section to chapter 13.40 RCW; adding a new section to chapter 74.15
6 RCW; prescribing penalties; providing an effective date; and providing
7 an expiration date.

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

9 **Sec. 1.** RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read
10 as follows:

11 As used in this chapter the following terms have the meanings
12 indicated unless the context clearly requires otherwise:

13 (1) "Abuse or neglect" means the injury, sexual abuse, sexual
14 exploitation, negligent treatment, or maltreatment of a child by any
15 person under circumstances which indicate that the child's health,
16 welfare, and safety is harmed, excluding conduct permitted under RCW
17 9A.16.100. An abused child is a child who has been subjected to child
18 abuse or neglect as defined in this section.

1 (2) "Administrator" means the individual who has the daily
2 administrative responsibility of a crisis residential center, or his or
3 her designee.

4 (3) "At-risk youth" means a juvenile:

5 (a) Who is absent from home for at least seventy-two consecutive
6 hours without consent of his or her parent;

7 (b) Who is beyond the control of his or her parent such that the
8 child's behavior endangers the health, safety, or welfare of the child
9 or any other person; or

10 (c) Who has a substance abuse problem for which there are no
11 pending criminal charges related to the substance abuse.

12 (4) "Child," "juvenile," and "youth" mean any unemancipated
13 individual who is under the chronological age of eighteen years.

14 (5) "Child in need of services" means a juvenile:

15 (a) Who is beyond the control of his or her parent such that the
16 child's behavior endangers the health, safety, or welfare of the child
17 or other person;

18 (b) Who has been reported to law enforcement as absent without
19 consent for at least twenty-four consecutive hours on two or more
20 separate occasions from the home of either parent, a crisis residential
21 center, an out-of-home placement, or a court-ordered placement; and

22 (i) Has exhibited a serious substance abuse problem; or

23 (ii) Has exhibited behaviors that create a serious risk of harm to
24 the health, safety, or welfare of the child or any other person; (~~(or)~~)

25 (c) (i) Who is in need of: (A) Necessary services, including food,
26 shelter, health care, clothing, or education; or (B) services designed
27 to maintain or reunite the family;

28 (ii) Who lacks access to, or has declined to utilize, these
29 services; and

30 (iii) Whose parents have evidenced continuing but unsuccessful
31 efforts to maintain the family structure or are unable or unwilling to
32 continue efforts to maintain the family structure; or

33 (d) Who is a "sexually exploited child".

34 (6) "Child in need of services petition" means a petition filed in
35 juvenile court by a parent, child, or the department seeking
36 adjudication of placement of the child.

37 (7) "Crisis residential center" means a secure or semi-secure
38 facility established pursuant to chapter 74.13 RCW.

1 (8) "Custodian" means the person or entity who has the legal right
2 to the custody of the child.

3 (9) "Department" means the department of social and health
4 services.

5 (10) "Extended family member" means an adult who is a grandparent,
6 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin
7 with whom the child has a relationship and is comfortable, and who is
8 willing and available to care for the child.

9 (11) "Guardian" means that person or agency that (a) has been
10 appointed as the guardian of a child in a legal proceeding other than
11 a proceeding under chapter 13.34 RCW, and (b) has the right to legal
12 custody of the child pursuant to such appointment. The term "guardian"
13 does not include a "dependency guardian" appointed pursuant to a
14 proceeding under chapter 13.34 RCW.

15 (12) "Multidisciplinary team" means a group formed to provide
16 assistance and support to a child who is an at-risk youth or a child in
17 need of services and his or her parent. The team shall include the
18 parent, a department case worker, a local government representative
19 when authorized by the local government, and when appropriate, members
20 from the mental health and substance abuse disciplines. The team may
21 also include, but is not limited to, the following persons: Educators,
22 law enforcement personnel, probation officers, employers, church
23 persons, tribal members, therapists, medical personnel, social service
24 providers, placement providers, and extended family members. The team
25 members shall be volunteers who do not receive compensation while
26 acting in a capacity as a team member, unless the member's employer
27 chooses to provide compensation or the member is a state employee.

28 (13) "Out-of-home placement" means a placement in a foster family
29 home or group care facility licensed pursuant to chapter 74.15 RCW or
30 placement in a home, other than that of the child's parent, guardian,
31 or legal custodian, not required to be licensed pursuant to chapter
32 74.15 RCW.

33 (14) "Parent" means the parent or parents who have the legal right
34 to custody of the child. "Parent" includes custodian or guardian.

35 (15) "Secure facility" means a crisis residential center, or
36 portion thereof, that has locking doors, locking windows, or a secured
37 perimeter, designed and operated to prevent a child from leaving
38 without permission of the facility staff.

1 (16) "Semi-secure facility" means any facility, including but not
2 limited to crisis residential centers or specialized foster family
3 homes, operated in a manner to reasonably assure that youth placed
4 there will not run away. Pursuant to rules established by the
5 department, the facility administrator shall establish reasonable hours
6 for residents to come and go from the facility such that no residents
7 are free to come and go at all hours of the day and night. To prevent
8 residents from taking unreasonable actions, the facility administrator,
9 where appropriate, may condition a resident's leaving the facility upon
10 the resident being accompanied by the administrator or the
11 administrator's designee and the resident may be required to notify the
12 administrator or the administrator's designee of any intent to leave,
13 his or her intended destination, and the probable time of his or her
14 return to the center.

15 (17) "Sexually exploited child" means any person under the age of
16 eighteen who is a victim of the crime of commercial sex abuse of a
17 minor under RCW 9.68A.100.

18 (18) "Staff secure facility" means a structured group care facility
19 licensed under rules adopted by the department with a ratio of at least
20 one adult staff member to every two children.

21 ((~~18~~)) (19) "Temporary out-of-home placement" means an out-of-
22 home placement of not more than fourteen days ordered by the court at
23 a fact-finding hearing on a child in need of services petition.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.32A RCW
25 to read as follows:

26 Within available funding, when a sexually exploited child is
27 referred to the department, the department shall connect that child
28 with the services and treatment specified in RCW 74.14B.060 and
29 74.14B.070.

30 **Sec. 3.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as
31 follows:

32 The right to benefits under this chapter and the amount thereof
33 will be governed insofar as is applicable by the provisions contained
34 in chapter 51.32 RCW except as provided in this section:

35 (1) The provisions contained in RCW 51.32.015, 51.32.030,

1 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
2 applicable to this chapter.

3 (2) Each victim injured as a result of a criminal act, including
4 criminal acts committed between July 1, 1981, and January 1, 1983, or
5 the victim's family or dependents in case of death of the victim, are
6 entitled to benefits in accordance with this chapter, subject to the
7 limitations under RCW 7.68.015. The rights, duties, responsibilities,
8 limitations, and procedures applicable to a worker as contained in RCW
9 51.32.010 are applicable to this chapter.

10 (3) (a) The limitations contained in RCW 51.32.020 are applicable to
11 claims under this chapter. In addition (~~thereto~~), no person or
12 spouse, child, or dependent of such person is entitled to benefits
13 under this chapter when the injury for which benefits are sought, was:

14 (~~(a)~~) (i) The result of consent, provocation, or incitement by
15 the victim, unless an injury resulting from a criminal act caused the
16 death of the victim;

17 (~~(b)~~) (ii) Sustained while the crime victim was engaged in the
18 attempt to commit, or the commission of, a felony; or

19 (~~(c)~~) (iii) Sustained while the victim was confined in any county
20 or city jail, federal jail or prison or in any other federal
21 institution, or any state correctional institution maintained and
22 operated by the department of social and health services or the
23 department of corrections, prior to release from lawful custody; or
24 confined or living in any other institution maintained and operated by
25 the department of social and health services or the department of
26 corrections.

27 (b) A person identified as the "minor" in the charge of commercial
28 sexual abuse of a minor under RCW 9.68A.100 is considered a victim of
29 a criminal act for the purpose of the right to benefits under this
30 chapter even if the person is also charged with prostitution under RCW
31 9A.88.030.

32 (4) The benefits established upon the death of a worker and
33 contained in RCW 51.32.050 shall be the benefits obtainable under this
34 chapter and provisions relating to payment contained in that section
35 shall equally apply under this chapter(~~:- PROVIDED, That~~). Benefits
36 for burial expenses shall not exceed the amount paid by the department
37 in case of the death of a worker as provided in chapter 51.32 RCW in
38 any claim(~~:- PROVIDED FURTHER, That~~). If the criminal act results in

1 the death of a victim who was not gainfully employed at the time of the
2 criminal act, and who was not so employed for at least three
3 consecutive months of the twelve months immediately preceding the
4 criminal act;

5 (a) Benefits payable to an eligible surviving spouse, where there
6 are no children of the victim at the time of the criminal act who have
7 survived the victim or where such spouse has legal custody of all of
8 his or her children, shall be limited to burial expenses and a lump sum
9 payment of seven thousand five hundred dollars without reference to
10 number of children, if any;

11 (b) Where any such spouse has legal custody of one or more but not
12 all of such children, then such burial expenses shall be paid, and such
13 spouse shall receive a lump sum payment of three thousand seven hundred
14 fifty dollars and any such child or children not in the legal custody
15 of such spouse shall receive a lump sum of three thousand seven hundred
16 fifty dollars to be divided equally among such child or children;

17 (c) If any such spouse does not have legal custody of any of the
18 children, the burial expenses shall be paid and the spouse shall
19 receive a lump sum payment of up to three thousand seven hundred fifty
20 dollars and any such child or children not in the legal custody of the
21 spouse shall receive a lump sum payment of up to three thousand seven
22 hundred fifty dollars to be divided equally among the child or
23 children;

24 (d) If no such spouse survives, then such burial expenses shall be
25 paid, and each surviving child of the victim at the time of the
26 criminal act shall receive a lump sum payment of three thousand seven
27 hundred fifty dollars up to a total of two such children and where
28 there are more than two such children the sum of seven thousand five
29 hundred dollars shall be divided equally among such children.

30 No other benefits may be paid or payable under these circumstances.

31 (5) The benefits established in RCW 51.32.060 for permanent total
32 disability proximately caused by the criminal act shall be the benefits
33 obtainable under this chapter, and provisions relating to payment
34 contained in that section apply under this chapter: PROVIDED, That if
35 a victim becomes permanently and totally disabled as a proximate result
36 of the criminal act and was not gainfully employed at the time of the
37 criminal act, the victim shall receive monthly during the period of the

1 disability the following percentages, where applicable, of the average
2 monthly wage determined as of the date of the criminal act pursuant to
3 RCW 51.08.018:

4 (a) If married at the time of the criminal act, twenty-nine percent
5 of the average monthly wage.

6 (b) If married with one child at the time of the criminal act,
7 thirty-four percent of the average monthly wage.

8 (c) If married with two children at the time of the criminal act,
9 thirty-eight percent of the average monthly wage.

10 (d) If married with three children at the time of the criminal act,
11 forty-one percent of the average monthly wage.

12 (e) If married with four children at the time of the criminal act,
13 forty-four percent of the average monthly wage.

14 (f) If married with five or more children at the time of the
15 criminal act, forty-seven percent of the average monthly wage.

16 (g) If unmarried at the time of the criminal act, twenty-five
17 percent of the average monthly wage.

18 (h) If unmarried with one child at the time of the criminal act,
19 thirty percent of the average monthly wage.

20 (i) If unmarried with two children at the time of the criminal act,
21 thirty-four percent of the average monthly wage.

22 (j) If unmarried with three children at the time of the criminal
23 act, thirty-seven percent of the average monthly wage.

24 (k) If unmarried with four children at the time of the criminal
25 act, forty percent of the average monthly wage.

26 (l) If unmarried with five or more children at the time of the
27 criminal act, forty-three percent of the average monthly wage.

28 (6) The benefits established in RCW 51.32.080 for permanent partial
29 disability shall be the benefits obtainable under this chapter, and
30 provisions relating to payment contained in that section equally apply
31 under this chapter.

32 (7) The benefits established in RCW 51.32.090 for temporary total
33 disability shall be the benefits obtainable under this chapter, and
34 provisions relating to payment contained in that section apply under
35 this chapter(~~(:—PROVIDED, That)~~). No person is eligible for temporary
36 total disability benefits under this chapter if such person was not
37 gainfully employed at the time of the criminal act, and was not so

1 employed for at least three consecutive months of the twelve months
2 immediately preceding the criminal act.

3 (8) The benefits established in RCW 51.32.095 for continuation of
4 benefits during vocational rehabilitation shall be benefits obtainable
5 under this chapter, and provisions relating to payment contained in
6 that section apply under this chapter (~~(:—PROVIDED, That)~~). Benefits
7 shall not exceed five thousand dollars for any single injury.

8 (9) The provisions for lump sum payment of benefits upon death or
9 permanent total disability as contained in RCW 51.32.130 apply under
10 this chapter.

11 (10) The provisions relating to payment of benefits to, for or on
12 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
13 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
14 51.32.210 are applicable to payment of benefits to, for or on behalf of
15 victims under this chapter.

16 (11) No person or spouse, child, or dependent of such person is
17 entitled to benefits under this chapter where the person making a claim
18 for such benefits has refused to give reasonable cooperation to state
19 or local law enforcement agencies in their efforts to apprehend and
20 convict the perpetrator(s) of the criminal act which gave rise to the
21 claim.

22 (12) In addition to other benefits provided under this chapter,
23 victims of sexual assault are entitled to receive appropriate
24 counseling. Fees for such counseling shall be determined by the
25 department in accordance with RCW 51.04.030, subject to the limitations
26 of RCW 7.68.080. Counseling services may include, if determined
27 appropriate by the department, counseling of members of the victim's
28 immediate family, other than the perpetrator of the assault.

29 (13) Except for medical benefits authorized under RCW 7.68.080, no
30 more than thirty thousand dollars shall be granted as a result of a
31 single injury or death, except that benefits granted as the result of
32 total permanent disability or death shall not exceed forty thousand
33 dollars.

34 (14) Notwithstanding other provisions of this chapter and Title 51
35 RCW, benefits payable for total temporary disability under subsection
36 (7) of this section, shall be limited to fifteen thousand dollars.

37 (15) Any person who is responsible for the victim's injuries, or

1 who would otherwise be unjustly enriched as a result of the victim's
2 injuries, shall not be a beneficiary under this chapter.

3 (16) Crime victims' compensation is not available to pay for
4 services covered under chapter 74.09 RCW or Title XIX of the federal
5 social security act, except to the extent that the costs for such
6 services exceed service limits established by the department of social
7 and health services or, during the 1993-95 fiscal biennium, to the
8 extent necessary to provide matching funds for federal medicaid
9 reimbursement.

10 (17) In addition to other benefits provided under this chapter,
11 immediate family members of a homicide victim may receive appropriate
12 counseling to assist in dealing with the immediate, near-term
13 consequences of the related effects of the homicide. Fees for
14 counseling shall be determined by the department in accordance with RCW
15 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
16 counseling benefits under this section may not be provided to the
17 perpetrator of the homicide. The benefits under this subsection may be
18 provided only with respect to homicides committed on or after July 1,
19 1992.

20 (18) A dependent mother, father, stepmother, or stepfather, as
21 defined in RCW 51.08.050, who is a survivor of her or his child's
22 homicide, who has been requested by a law enforcement agency or a
23 prosecutor to assist in the judicial proceedings related to the death
24 of the victim, and who is not domiciled in Washington state at the time
25 of the request, may receive a lump-sum payment upon arrival in this
26 state. Total benefits under this subsection may not exceed seven
27 thousand five hundred dollars. If more than one dependent parent is
28 eligible for this benefit, the lump-sum payment of seven thousand five
29 hundred dollars shall be divided equally among the dependent parents.

30 (19) A victim whose crime occurred in another state who qualifies
31 for benefits under RCW 7.68.060(4) may receive appropriate mental
32 health counseling to address distress arising from participation in the
33 civil commitment proceedings. Fees for counseling shall be determined
34 by the department in accordance with RCW 51.04.030, subject to the
35 limitations of RCW 7.68.080.

36 **Sec. 4.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read
37 as follows:

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

5 (a) The alleged facts bring the case within the jurisdiction of the
6 court; and

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

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

13 (3) If the requirements of subsections (1)(a) and (b) of this
14 section are met, the prosecutor shall either file an information in
15 juvenile court or divert the case, as set forth in subsections (~~((5))~~)
16 (6), (~~((6))~~) (7), and (~~((7))~~) (8) of this section. If the prosecutor
17 finds that the requirements of subsection (1)(a) and (b) of this
18 section are not met, the prosecutor shall maintain a record, for one
19 year, of such decision and the reasons therefor. In lieu of filing an
20 information or diverting an offense a prosecutor may file a motion to
21 modify community supervision where such offense constitutes a violation
22 of community supervision.

23 (4) Notwithstanding subsection (3) of this section, if the
24 prosecutor receives a complaint that a minor under the age of eighteen
25 is alleged to have committed the offenses of prostitution or
26 prostitution loitering, and that this allegation is a first offense,
27 the prosecutor shall not file an information in juvenile court or
28 divert the case and shall refer the matter to the department of social
29 and health services for purposes of filing a petition under chapter
30 13.32A RCW. For subsequent allegations that the same minor is alleged
31 to have committed the offense of prostitution or prostitution
32 loitering, the prosecutor shall have the same authority he or she has
33 with any complaint that a juvenile has committed a crime.

34 (5) An information shall be a plain, concise, and definite written
35 statement of the essential facts constituting the offense charged. It
36 shall be signed by the prosecuting attorney and conform to chapter
37 10.37 RCW.

1 ~~((5))~~ (6) Except as provided in RCW 13.40.213 and subsection (4)
2 of this section, where a case is legally sufficient, the prosecutor
3 shall file an information with the juvenile court if:

4 (a) An alleged offender is accused of a class A felony, a class B
5 felony, an attempt to commit a class B felony, a class C felony listed
6 in RCW 9.94A.411(2) as a crime against persons or listed in RCW
7 9A.46.060 as a crime of harassment, or a class C felony that is a
8 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

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

12 (c) An alleged offender has previously been committed to the
13 department; or

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

16 (e) An alleged offender has two or more diversion agreements on the
17 alleged offender's criminal history; or

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

20 ~~((6))~~ (7) Except as provided in subsection (4) of this section,
21 where a case is legally sufficient the prosecutor shall divert the case
22 if the alleged offense is a misdemeanor or gross misdemeanor or
23 violation and the alleged offense is the offender's first offense or
24 violation. If the alleged offender is charged with a related offense
25 that must or may be filed under subsections ~~((5))~~ (6) and ~~((7))~~ (8)
26 of this section, a case under this subsection may also be filed.

27 ~~((7))~~ (8) Where a case is legally sufficient and falls into
28 neither subsection ~~((5))~~ (6) nor ~~((6))~~ (7) of this section, it may
29 be filed or diverted. In deciding whether to file or divert an offense
30 under this section the prosecutor shall be guided only by the length,
31 seriousness, and recency of the alleged offender's criminal history and
32 the circumstances surrounding the commission of the alleged offense.

33 ~~((8))~~ (9) Whenever a juvenile is placed in custody or, where not
34 placed in custody, referred to a diversion interview, the parent or
35 legal guardian of the juvenile shall be notified as soon as possible
36 concerning the allegation made against the juvenile and the current
37 status of the juvenile. Where a case involves victims of crimes

1 against persons or victims whose property has not been recovered at the
2 time a juvenile is referred to a diversion unit, the victim shall be
3 notified of the referral and informed how to contact the unit.

4 ~~((+9))~~ (10) The responsibilities of the prosecutor under
5 subsections (1) through ~~((+8))~~ (9) of this section may be performed by
6 a juvenile court probation counselor for any complaint referred to the
7 court alleging the commission of an offense which would not be a felony
8 if committed by an adult, if the prosecutor has given sufficient
9 written notice to the juvenile court that the prosecutor will not
10 review such complaints.

11 ~~((+10))~~ (11) The prosecutor, juvenile court probation counselor,
12 or diversion unit may, in exercising their authority under this section
13 or RCW 13.40.080, refer juveniles to mediation or victim offender
14 reconciliation programs. Such mediation or victim offender
15 reconciliation programs shall be voluntary for victims.

16 **Sec. 5.** RCW 13.40.070 and 2003 c 53 s 98 are each amended to read
17 as follows:

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

22 (a) The alleged facts bring the case within the jurisdiction of the
23 court; and

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

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

30 (3) If the requirements of subsections (1)(a) and (b) of this
31 section are met, the prosecutor shall either file an information in
32 juvenile court or divert the case, as set forth in subsections ~~((+5))~~
33 (6), ~~((+6))~~ (7), and ~~((+7))~~ (8) of this section. If the prosecutor
34 finds that the requirements of subsection (1)(a) and (b) of this
35 section are not met, the prosecutor shall maintain a record, for one
36 year, of such decision and the reasons therefor. In lieu of filing an

1 information or diverting an offense a prosecutor may file a motion to
2 modify community supervision where such offense constitutes a violation
3 of community supervision.

4 (4) Notwithstanding subsection (3) of this section, if the
5 prosecutor receives a complaint that a minor under the age of eighteen
6 is alleged to have committed the offenses of prostitution or
7 prostitution loitering, and that this allegation is a first offense,
8 the prosecutor shall not file an information in juvenile court or
9 divert the case and shall refer the matter to the department of social
10 and health services for purposes of filing a petition under chapter
11 13.32A RCW. For subsequent allegations that the same minor is alleged
12 to have committed the offense of prostitution or prostitution
13 loitering, the prosecutor shall have the same authority he or she has
14 with any complaint that a juvenile has committed a crime.

15 (5) An information shall be a plain, concise, and definite written
16 statement of the essential facts constituting the offense charged. It
17 shall be signed by the prosecuting attorney and conform to chapter
18 10.37 RCW.

19 ~~((5))~~ (6) Except as provided in subsection (4) of this section,
20 where a case is legally sufficient, the prosecutor shall file an
21 information with the juvenile court if:

22 (a) An alleged offender is accused of a class A felony, a class B
23 felony, an attempt to commit a class B felony, a class C felony listed
24 in RCW 9.94A.411(2) as a crime against persons or listed in RCW
25 9A.46.060 as a crime of harassment, or a class C felony that is a
26 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

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

30 (c) An alleged offender has previously been committed to the
31 department; or

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

34 (e) An alleged offender has two or more diversion agreements on the
35 alleged offender's criminal history; or

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

1 ~~((6))~~ (7) Except as provided in subsection (4) of this section,
2 where a case is legally sufficient the prosecutor shall divert the case
3 if the alleged offense is a misdemeanor or gross misdemeanor or
4 violation and the alleged offense is the offender's first offense or
5 violation. If the alleged offender is charged with a related offense
6 that must or may be filed under subsections ~~((5))~~ (6) and ~~((7))~~ (8)
7 of this section, a case under this subsection may also be filed.

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

14 ~~((8))~~ (9) Whenever a juvenile is placed in custody or, where not
15 placed in custody, referred to a diversion interview, the parent or
16 legal guardian of the juvenile shall be notified as soon as possible
17 concerning the allegation made against the juvenile and the current
18 status of the juvenile. Where a case involves victims of crimes
19 against persons or victims whose property has not been recovered at the
20 time a juvenile is referred to a diversion unit, the victim shall be
21 notified of the referral and informed how to contact the unit.

22 ~~((9))~~ (10) The responsibilities of the prosecutor under
23 subsections (1) through ~~((8))~~ (9) of this section may be performed by
24 a juvenile court probation counselor for any complaint referred to the
25 court alleging the commission of an offense which would not be a felony
26 if committed by an adult, if the prosecutor has given sufficient
27 written notice to the juvenile court that the prosecutor will not
28 review such complaints.

29 ~~((10))~~ (11) The prosecutor, juvenile court probation counselor,
30 or diversion unit may, in exercising their authority under this section
31 or RCW 13.40.080, refer juveniles to mediation or victim offender
32 reconciliation programs. Such mediation or victim offender
33 reconciliation programs shall be voluntary for victims.

34 **Sec. 6.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read
35 as follows:

36 (1) When a juvenile is alleged to have committed the offenses of
37 prostitution or prostitution loitering, and the allegation, if proved,

1 would not be the juvenile's first offense, a prosecutor may divert the
2 offense if the county in which the offense is alleged to have been
3 committed has a comprehensive program that provides:

4 (a) Safe and stable housing;

5 (b) Comprehensive on-site case management;

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

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

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

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

13 (3) A diversion agreement under this section may extend to twelve
14 months.

15 (4)(a) The administrative office of the courts shall compile data
16 regarding:

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

19 (ii) Whether the juveniles complete their diversion agreements
20 under this section; and

21 (iii) Whether juveniles whose cases have been diverted under this
22 section have been subsequently arrested or committed subsequent
23 offenses.

24 (b) A report of the data compiled shall be provided to the governor
25 and the appropriate committee of the legislature by November 1, 2010.

26 NEW SECTION. Sec. 7. A new section is added to chapter 13.40 RCW
27 to read as follows:

28 In any proceeding under this chapter related to an arrest for
29 prostitution or prostitution loitering, there is a presumption that the
30 alleged offender meets the criteria for a certification as a victim of
31 a severe form of trafficking in persons as defined in section 7105 of
32 Title 22 of the United States code, and that the alleged offender is
33 also a victim of commercial sex abuse of a minor.

34 NEW SECTION. Sec. 8. A new section is added to chapter 74.15 RCW
35 to read as follows:

36 The department shall require that to be licensed or continue to be

1 licensed as a secure or semi-secure crisis residential center or HOPE
2 center that the center has on staff, or otherwise has access to, a
3 person who has been trained to work with the needs of sexually
4 exploited children. For purposes of this section, "sexually exploited
5 child" means any person under age eighteen who is the victim of the
6 crime of commercial sex abuse of a minor under RCW 9.68A.100.

7 **Sec. 9.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are
8 each reenacted and amended to read as follows:

9
10 TABLE 2

11 CRIMES INCLUDED WITHIN
12 EACH SERIOUSNESS LEVEL

- 13 XVI Aggravated Murder 1 (RCW
14 10.95.020)
- 15 XV Homicide by abuse (RCW 9A.32.055)
16 Malicious explosion 1 (RCW
17 70.74.280(1))
18 Murder 1 (RCW 9A.32.030)
- 19 XIV Murder 2 (RCW 9A.32.050)
20 Trafficking 1 (RCW 9A.40.100(1))
- 21 XIII Malicious explosion 2 (RCW
22 70.74.280(2))
23 Malicious placement of an explosive 1
24 (RCW 70.74.270(1))
- 25 XII Assault 1 (RCW 9A.36.011)
26 Assault of a Child 1 (RCW 9A.36.120)
27 Malicious placement of an imitation
28 device 1 (RCW 70.74.272(1)(a))
29 Promoting Commercial Sexual Abuse
30 of a Minor (RCW 9.68A.101)
31 Rape 1 (RCW 9A.44.040)
32 Rape of a Child 1 (RCW 9A.44.073)
33 Trafficking 2 (RCW 9A.40.100(2))
- 34 XI Manslaughter 1 (RCW 9A.32.060)
35 Rape 2 (RCW 9A.44.050)
36 Rape of a Child 2 (RCW 9A.44.076)

1 X Child Molestation 1 (RCW 9A.44.083)
2 Criminal Mistreatment 1 (RCW
3 9A.42.020)
4 Indecent Liberties (with forcible
5 compulsion) (RCW
6 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 Malicious explosion 3 (RCW
11 70.74.280(3))
12 Sexually Violent Predator Escape
13 (RCW 9A.76.115)
14 IX Abandonment of Dependent Person 1
15 (RCW 9A.42.060)
16 Assault of a Child 2 (RCW 9A.36.130)
17 Explosive devices prohibited (RCW
18 70.74.180)
19 Hit and Run--Death (RCW
20 46.52.020(4)(a))
21 Homicide by Watercraft, by being
22 under the influence of intoxicating
23 liquor or any drug (RCW
24 79A.60.050)
25 Inciting Criminal Profiteering (RCW
26 9A.82.060(1)(b))
27 Malicious placement of an explosive 2
28 (RCW 70.74.270(2))
29 Robbery 1 (RCW 9A.56.200)
30 Sexual Exploitation (RCW 9.68A.040)
31 Vehicular Homicide, by being under
32 the influence of intoxicating liquor
33 or any drug (RCW 46.61.520)
34 VIII Arson 1 (RCW 9A.48.020)
35 Commercial Sexual Abuse of a Minor
36 (RCW 9.68A.100)

1 Homicide by Watercraft, by the
2 operation of any vessel in a
3 reckless manner (RCW
4 79A.60.050)
5 Manslaughter 2 (RCW 9A.32.070)
6 ~~((Promoting Commercial Sexual Abuse
7 of a Minor (RCW 9.68A.101)))~~
8 Promoting Prostitution 1 (RCW
9 9A.88.070)
10 Theft of Ammonia (RCW 69.55.010)
11 Vehicular Homicide, by the operation
12 of any vehicle in a reckless manner
13 (RCW 46.61.520)
14 VII Burglary 1 (RCW 9A.52.020)
15 Child Molestation 2 (RCW 9A.44.086)
16 Civil Disorder Training (RCW
17 9A.48.120)
18 Dealing in depictions of minor engaged
19 in sexually explicit conduct (RCW
20 9.68A.050)
21 Drive-by Shooting (RCW 9A.36.045)
22 Homicide by Watercraft, by disregard
23 for the safety of others (RCW
24 79A.60.050)
25 Indecent Liberties (without forcible
26 compulsion) (RCW 9A.44.100(1)
27 (b) and (c))
28 Introducing Contraband 1 (RCW
29 9A.76.140)
30 Malicious placement of an explosive 3
31 (RCW 70.74.270(3))
32 Negligently Causing Death By Use of a
33 Signal Preemption Device (RCW
34 46.37.675)
35 Sending, bringing into state depictions
36 of minor engaged in sexually
37 explicit conduct (RCW 9.68A.060)

1 Unlawful Possession of a Firearm in
2 the first degree (RCW 9A.41.040(1))
3 Use of a Machine Gun in Commission
4 of a Felony (RCW 9A.41.225)
5 Vehicular Homicide, by disregard for
6 the safety of others (RCW
7 46.61.520)
8 VI Bail Jumping with Murder 1 (RCW
9 9A.76.170(3)(a))
10 Bribery (RCW 9A.68.010)
11 Incest 1 (RCW 9A.64.020(1))
12 Intimidating a Judge (RCW 9A.72.160)
13 Intimidating a Juror/Witness (RCW
14 9A.72.110, 9A.72.130)
15 Malicious placement of an imitation
16 device 2 (RCW 70.74.272(1)(b))
17 Possession of Depictions of a Minor
18 Engaged in Sexually Explicit
19 Conduct (RCW 9.68A.070)
20 Rape of a Child 3 (RCW 9A.44.079)
21 Theft of a Firearm (RCW 9A.56.300)
22 Unlawful Storage of Ammonia (RCW
23 69.55.020)
24 V Abandonment of Dependent Person 2
25 (RCW 9A.42.070)
26 Advancing money or property for
27 extortionate extension of credit
28 (RCW 9A.82.030)
29 Bail Jumping with class A Felony
30 (RCW 9A.76.170(3)(b))
31 Child Molestation 3 (RCW 9A.44.089)
32 Criminal Mistreatment 2 (RCW
33 9A.42.030)
34 Custodial Sexual Misconduct 1 (RCW
35 9A.44.160)

1 Domestic Violence Court Order
2 Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220,
4 26.26.138, 26.50.110, 26.52.070,
5 or 74.34.145)
6 Driving While Under the Influence
7 (RCW 46.61.502(6))
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1
26 (RCW 9A.76.070)
27 Sexual Misconduct with a Minor 1
28 (RCW 9A.44.093)
29 Sexually Violating Human Remains
30 (RCW 9A.44.105)
31 Stalking (RCW 9A.46.110)
32 Taking Motor Vehicle Without
33 Permission 1 (RCW 9A.56.070)
34 IV Arson 2 (RCW 9A.48.030)
35 Assault 2 (RCW 9A.36.021)

1 Assault 3 (of a Peace Officer with a
2 Projectile Stun Gun) (RCW
3 9A.36.031(1)(h))
4 Assault by Watercraft (RCW
5 79A.60.060)
6 Bribing a Witness/Bribe Received by
7 Witness (RCW 9A.72.090,
8 9A.72.100)
9 Cheating 1 (RCW 9.46.1961)
10 Commercial Bribery (RCW 9A.68.060)
11 Counterfeiting (RCW 9.16.035(4))
12 Endangerment with a Controlled
13 Substance (RCW 9A.42.100)
14 Escape 1 (RCW 9A.76.110)
15 Hit and Run--Injury (RCW
16 46.52.020(4)(b))
17 Hit and Run with Vessel--Injury
18 Accident (RCW 79A.60.200(3))
19 Identity Theft 1 (RCW 9.35.020(2))
20 Indecent Exposure to Person Under
21 Age Fourteen (subsequent sex
22 offense) (RCW 9A.88.010)
23 Influencing Outcome of Sporting Event
24 (RCW 9A.82.070)
25 Malicious Harassment (RCW
26 9A.36.080)
27 Residential Burglary (RCW
28 9A.52.025)
29 Robbery 2 (RCW 9A.56.210)
30 Theft of Livestock 1 (RCW 9A.56.080)
31 Threats to Bomb (RCW 9.61.160)
32 Trafficking in Stolen Property 1 (RCW
33 9A.82.050)
34 Unlawful factoring of a credit card or
35 payment card transaction (RCW
36 9A.56.290(4)(b))

1 Unlawful transaction of health
2 coverage as a health care service
3 contractor (RCW 48.44.016(3))
4 Unlawful transaction of health
5 coverage as a health maintenance
6 organization (RCW 48.46.033(3))
7 Unlawful transaction of insurance
8 business (RCW 48.15.023(3))
9 Unlicensed practice as an insurance
10 professional (RCW
11 48.17.063(~~(3)~~)(2))
12 Use of Proceeds of Criminal
13 Profiteering (RCW 9A.82.080 (1)
14 and (2))
15 Vehicular Assault, by being under the
16 influence of intoxicating liquor or
17 any drug, or by the operation or
18 driving of a vehicle in a reckless
19 manner (RCW 46.61.522)
20 Willful Failure to Return from
21 Furlough (RCW 72.66.060)
22 III Animal Cruelty 1 (Sexual Conduct or
23 Contact) (RCW 16.52.205(3))
24 Assault 3 (Except Assault 3 of a Peace
25 Officer With a Projectile Stun
26 Gun) (RCW 9A.36.031 except
27 subsection (1)(h))
28 Assault of a Child 3 (RCW 9A.36.140)
29 Bail Jumping with class B or C Felony
30 (RCW 9A.76.170(3)(c))
31 Burglary 2 (RCW 9A.52.030)
32 (~~Commercial Sexual Abuse of a Minor~~
33 ~~(RCW 9.68A.100))~~)
34 Communication with a Minor for
35 Immoral Purposes (RCW
36 9.68A.090)

1 Criminal Gang Intimidation (RCW
2 9A.46.120)
3 Custodial Assault (RCW 9A.36.100)
4 Cyberstalking (subsequent conviction
5 or threat of death) (RCW
6 9.61.260(3))
7 Escape 2 (RCW 9A.76.120)
8 Extortion 2 (RCW 9A.56.130)
9 Harassment (RCW 9A.46.020)
10 Intimidating a Public Servant (RCW
11 9A.76.180)
12 Introducing Contraband 2 (RCW
13 9A.76.150)
14 Malicious Injury to Railroad Property
15 (RCW 81.60.070)
16 Mortgage Fraud (RCW 19.144.080)
17 Negligently Causing Substantial Bodily
18 Harm By Use of a Signal
19 Preemption Device (RCW
20 46.37.674)
21 Organized Retail Theft 1 (RCW
22 9A.56.350(2))
23 Perjury 2 (RCW 9A.72.030)
24 Possession of Incendiary Device (RCW
25 9.40.120)
26 Possession of Machine Gun or Short-
27 Barreled Shotgun or Rifle (RCW
28 9.41.190)
29 Promoting Prostitution 2 (RCW
30 9A.88.080)
31 Retail Theft with Extenuating
32 Circumstances 1 (RCW
33 9A.56.360(2))
34 Securities Act violation (RCW
35 21.20.400)
36 Tampering with a Witness (RCW
37 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death)
3 (RCW 9.61.230(2))
4 Theft of Livestock 2 (RCW 9A.56.083)
5 Theft with the Intent to Resell 1 (RCW
6 9A.56.340(2))
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Imprisonment (RCW
10 9A.40.040)
11 Unlawful possession of firearm in the
12 second degree (RCW 9.41.040(2))
13 Vehicular Assault, by the operation or
14 driving of a vehicle with disregard
15 for the safety of others (RCW
16 46.61.522)
17 Willful Failure to Return from Work
18 Release (RCW 72.65.070)
19 II Computer Trespass 1 (RCW
20 9A.52.110)
21 Counterfeiting (RCW 9.16.035(3))
22 Escape from Community Custody
23 (RCW 72.09.310)
24 Failure to Register as a Sex Offender
25 (second or subsequent offense)
26 (RCW 9A.44.130(11)(a))
27 Health Care False Claims (RCW
28 48.80.030)
29 Identity Theft 2 (RCW 9.35.020(3))
30 Improperly Obtaining Financial
31 Information (RCW 9.35.010)
32 Malicious Mischief 1 (RCW
33 9A.48.070)
34 Organized Retail Theft 2 (RCW
35 9A.56.350(3))
36 Possession of Stolen Property 1 (RCW
37 9A.56.150)

1 Possession of a Stolen Vehicle (RCW
2 9A.56.068)
3 Retail Theft with Extenuating
4 Circumstances 2 (RCW
5 9A.56.360(3))
6 Theft 1 (RCW 9A.56.030)
7 Theft of a Motor Vehicle (RCW
8 9A.56.065)
9 Theft of Rental, Leased, or Lease-
10 purchased Property (valued at one
11 thousand five hundred dollars or
12 more) (RCW 9A.56.096(5)(a))
13 Theft with the Intent to Resell 2 (RCW
14 9A.56.340(3))
15 Trafficking in Insurance Claims (RCW
16 48.30A.015)
17 Unlawful factoring of a credit card or
18 payment card transaction (RCW
19 9A.56.290(4)(a))
20 Unlawful Practice of Law (RCW
21 2.48.180)
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Voyeurism (RCW 9A.44.115)
25 I Attempting to Elude a Pursuing Police
26 Vehicle (RCW 46.61.024)
27 False Verification for Welfare (RCW
28 74.08.055)
29 Forgery (RCW 9A.60.020)
30 Fraudulent Creation or Revocation of a
31 Mental Health Advance Directive
32 (RCW 9A.60.060)
33 Malicious Mischief 2 (RCW
34 9A.48.080)
35 Mineral Trespass (RCW 78.44.330)
36 Possession of Stolen Property 2 (RCW
37 9A.56.160)

1 Reckless Burning 1 (RCW 9A.48.040)
2 Taking Motor Vehicle Without
3 Permission 2 (RCW 9A.56.075)
4 Theft 2 (RCW 9A.56.040)
5 Theft of Rental, Leased, or Lease-
6 purchased Property (valued at two
7 hundred fifty dollars or more but
8 less than one thousand five
9 hundred dollars) (RCW
10 9A.56.096(5)(b))
11 Transaction of insurance business
12 beyond the scope of licensure
13 (RCW 48.17.063(((4))))
14 Unlawful Issuance of Checks or Drafts
15 (RCW 9A.56.060)
16 Unlawful Possession of Fictitious
17 Identification (RCW 9A.56.320)
18 Unlawful Possession of Instruments of
19 Financial Fraud (RCW 9A.56.320)
20 Unlawful Possession of Payment
21 Instruments (RCW 9A.56.320)
22 Unlawful Possession of a Personal
23 Identification Device (RCW
24 9A.56.320)
25 Unlawful Production of Payment
26 Instruments (RCW 9A.56.320)
27 Unlawful Trafficking in Food Stamps
28 (RCW 9.91.142)
29 Unlawful Use of Food Stamps (RCW
30 9.91.144)
31 Vehicle Prowl 1 (RCW 9A.52.095)

32 **Sec. 10.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read
33 as follows:

34 (1) (a) Upon an arrest for a suspected violation of patronizing a
35 prostitute, promoting prostitution in the first degree, promoting
36 prostitution in the second degree, promoting travel for prostitution (~~(~~
37 ~~commercial sexual abuse of a minor, promoting commercial sexual abuse~~

1 ~~of a minor, or promoting travel for commercial sexual abuse of a~~
2 ~~minor~~)), the arresting law enforcement officer may impound the person's
3 vehicle if (i) the motor vehicle was used in the commission of the
4 crime; (ii) the person arrested is the owner of the vehicle or the
5 vehicle is a rental car as defined in RCW 46.04.465; and (iii) either
6 (A) the person arrested has previously been convicted of one of the
7 offenses listed in this subsection or (B) the offense was committed
8 within an area designated under (b) of this subsection.

9 (b) A local governing authority may designate areas within which
10 vehicles are subject to impoundment under this section regardless of
11 whether the person arrested has previously been convicted of any of the
12 offenses listed in (a) of this subsection.

13 (i) The designation must be based on evidence indicating that the
14 area has a disproportionately higher number of arrests for the offenses
15 listed in (a) of this subsection as compared to other areas within the
16 same jurisdiction.

17 (ii) The local governing authority shall post signs at the
18 boundaries of the designated area to indicate that the area has been
19 designated under this subsection.

20 (2) Upon an arrest for a suspected violation of commercial sexual
21 abuse of a minor, promoting commercial sexual abuse of a minor, or
22 promoting travel for commercial sexual abuse of a minor, the arresting
23 law enforcement officer shall impound the person's vehicle if (a) the
24 motor vehicle was used in the commission of the crime; and (b) the
25 person arrested is the owner of the vehicle or the vehicle is a rental
26 car as defined in RCW 46.04.465.

27 (3) Impoundments performed under this section shall be in
28 accordance with chapter 46.55 RCW and the impoundment order must
29 clearly state "prostitution hold."

30 ((+3)) (4)(a) Prior to redeeming the impounded vehicle, and in
31 addition to all applicable impoundment, towing, and storage fees paid
32 to the towing company under chapter 46.55 RCW, the owner of the
33 impounded vehicle must pay a fine ((of five hundred dollars)) to the
34 impounding agency. The fine shall be five hundred dollars for the
35 offenses specified in subsection (1) of this section, or two thousand
36 five hundred dollars for the offenses specified in subsection (2) of
37 this section. The fine shall be deposited in the prostitution
38 prevention and intervention account established under RCW 43.63A.740.

1 (b) Upon receipt of the fine paid under (a) of this subsection, the
2 impounding agency shall issue a written receipt to the owner of the
3 impounded vehicle.

4 (~~(4)~~) (5)(a) In order to redeem a vehicle impounded under this
5 section, the owner must provide the towing company with the written
6 receipt issued under subsection (~~(3)~~) (4)(b) of this section.

7 (b) The written receipt issued under subsection (~~(3)~~) (4)(b) of
8 this section authorizes the towing company to release the impounded
9 vehicle upon payment of all impoundment, towing, and storage fees.

10 (c) A towing company that relies on a forged receipt to release a
11 vehicle impounded under this section is not liable to the impounding
12 authority for any unpaid fine under subsection (~~(3)~~) (4)(a) of this
13 section.

14 (~~(5)~~) (6)(a) In any proceeding under chapter 46.55 RCW to contest
15 the validity of an impoundment under this section where the claimant
16 substantially prevails, the claimant is entitled to a full refund of
17 the impoundment, towing, and storage fees paid under chapter 46.55 RCW
18 and the five hundred dollar fine paid under subsection (~~(3)~~) (4) of
19 this section.

20 (b) If the person is found not guilty at trial for a crime listed
21 under subsection (1) of this section, the person is entitled to a full
22 refund of the impoundment, towing, and storage fees paid under chapter
23 46.55 RCW and the (~~five hundred dollar~~) fine paid under subsection
24 (~~(3)~~) (4) of this section.

25 (c) All refunds made under this section shall be paid by the
26 impounding agency.

27 (d) Prior to receiving any refund under this section, the claimant
28 must provide proof of payment.

29 **Sec. 11.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read
30 as follows:

31 (1) A person is guilty of commercial sexual abuse of a minor if:

32 (a) He or she pays a fee to a minor or a third person as
33 compensation for a minor having engaged in sexual conduct with him or
34 her;

35 (b) He or she pays or agrees to pay a fee to a minor or a third
36 person pursuant to an understanding that in return therefore such minor
37 will engage in sexual conduct with him or her; or

1 (c) He or she solicits, offers, or requests to engage in sexual
2 conduct with a minor in return for a fee.

3 (2) Commercial sexual abuse of a minor is a class ((€)) B felony
4 punishable under chapter 9A.20 RCW.

5 (3) In addition to any other penalty provided under chapter 9A.20
6 RCW, a person guilty of commercial sexual abuse of a minor is subject
7 to the provisions under RCW 9A.88.130 and 9A.88.140.

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

10 **Sec. 12.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read
11 as follows:

12 (1) A person is guilty of promoting commercial sexual abuse of a
13 minor if he or she knowingly advances commercial sexual abuse of a
14 minor or profits from a minor engaged in sexual conduct.

15 (2) Promoting commercial sexual abuse of a minor is a class ((B))
16 A felony.

17 (3) For the purposes of this section:

18 (a) A person "advances commercial sexual abuse of a minor" if,
19 acting other than as a minor receiving compensation for personally
20 rendered sexual conduct or as a person engaged in commercial sexual
21 abuse of a minor, he or she causes or aids a person to commit or engage
22 in commercial sexual abuse of a minor, procures or solicits customers
23 for commercial sexual abuse of a minor, provides persons or premises
24 for the purposes of engaging in commercial sexual abuse of a minor,
25 operates or assists in the operation of a house or enterprise for the
26 purposes of engaging in commercial sexual abuse of a minor, or engages
27 in any other conduct designed to institute, aid, cause, assist, or
28 facilitate an act or enterprise of commercial sexual abuse of a minor.

29 (b) A person "profits from commercial sexual abuse of a minor" if,
30 acting other than as a minor receiving compensation for personally
31 rendered sexual conduct, he or she accepts or receives money or other
32 property pursuant to an agreement or understanding with any person
33 whereby he or she participates or will participate in the proceeds of
34 commercial sexual abuse of a minor.

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

1 **Sec. 13.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to
2 read as follows:

3 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
4 9.68A.101, and 9.68A.102, a person who is either convicted or given a
5 deferred sentence or a deferred prosecution or who has entered into a
6 statutory or nonstatutory diversion agreement as a result of an arrest
7 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable
8 county or municipal ordinance shall be assessed a five (~~hundred~~
9 ~~fifty~~) thousand dollar fee.

10 (b) The court may not suspend payment of all or part of the fee
11 unless it finds that the person does not have the ability to pay.

12 (c) When a minor has been adjudicated a juvenile offender or has
13 entered into a statutory or nonstatutory diversion agreement for an
14 offense which, if committed by an adult, would constitute a violation
15 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or
16 municipal ordinance, the court shall assess the fee under (a) of this
17 subsection. The court may not suspend payment of all or part of the
18 fee unless it finds that the minor does not have the ability to pay the
19 fee.

20 (2) The fee assessed under subsection (1) of this section shall be
21 collected by the clerk of the court and distributed each month to the
22 state treasurer for deposit in the prostitution prevention and
23 intervention account under RCW 43.63A.740 for the purpose of funding
24 prostitution prevention and intervention activities.

25 (3) For the purposes of this section:

26 (a) "Statutory or nonstatutory diversion agreement" means an
27 agreement under RCW 13.40.080 or any written agreement between a person
28 accused of an offense listed in subsection (1) of this section and a
29 court, county or city prosecutor, or designee thereof, whereby the
30 person agrees to fulfill certain conditions in lieu of prosecution.

31 (b) "Deferred sentence" means a sentence that will not be carried
32 out if the defendant meets certain requirements, such as complying with
33 the conditions of probation.

34 NEW SECTION. **Sec. 14.** Sections 4 and 6 of this act expire July 1,
35 2011.

1 NEW SECTION. **Sec. 15.** Section 5 of this act takes effect July 1,
2 2011.

--- END ---