

Washington State's Landmark Legislative Accomplishments to Prevent Human Trafficking and Sexual Exploitation of Minors

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Preface

Human trafficking is a global problem that coerces an estimated 21 million persons around the world into forced labor, slavery, and sexual exploitation. Most consumers are unaware that many services and goods are produced by a human trafficked workforce composed of men, women, and children who are exploited for domestic, agriculture, construction, and manufacturing industries while business who exploit them gain huge profits.

Sexual exploitation for commercial purposes is another aspect of human trafficking that has a devastating impact on individuals. Sex trafficking and labor trafficking frequently overlap.¹ The International Labor Organization estimates that there are currently 4.5 million people trapped in forced sexual exploitation around the world.

U.S. citizens, foreign nationals, women, men, children, and LGBTQ individuals can be victims of sex trafficking. Sex trafficking victims are often controlled physically, emotionally, and financially. Sex trafficking exists within diverse venues. Trafficked persons can be found working in massage parlors, online escort services, and residential brothels. Individuals are publicly exploited at truck stops, strip clubs, hotels and motels, and on city streets.² Sex trafficking occurs right here in Washington State.³

Washington State is a leader in enacting state laws to combat human trafficking in all its forms. In 2012, Washington's anti-trafficking legislation was ranked at the top of all 50 states according to the Polaris Project's ratings. ⁴ Each session, from 2002 to present, Washington's legislature builds on its longstanding efforts to enact new laws to effectively combat all forms of human trafficking

Summary

Washington State is a hotspot for labor trafficking due, in part, to its many ports and its diverse business landscape. Washington continues to be identified as a very progressive state and a national leader in its legislation, policies, and interventions to combat human trafficking. Washington's anti-human trafficking policies use a multi-faceted approach often referred to as the "3 P's"—prosecution, prevention, and protection. ⁵

¹ *From International Supply Chains to Local Consumption: Eliminating Labor Trafficking from all Companies in Washington State*, Report of the Jackson School of International Studies University of Washington Task Force (April 2015).

² The Polaris Project. Retrieved from <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us> on June 23, 2015.

³ Public Health—Seattle and King County. Retrieved from <http://www.kingcounty.gov/healthservices/health/injury/humantrafficking>. On June 23, 2015

⁴ In 2013, the Polaris Project awarded our state the perfect score sharing that honor with New Jersey. Washington Engage, retrieved from <http://www.waengage.com/wa-legislation/June-23>, 2015.

⁵ *International Supply Chains* report, University of Washington Jackson School, April 2015.

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Year-by-year, Washington's state and local governments and its community organizations have expanded anti-trafficking activities to build the public's awareness about human trafficking, reach out to trafficking victims, provide trafficking survivors with a wide range of support services, and strengthen law enforcement resources and training for those investigating and prosecuting persons who commit human-trafficking crimes.

In 2002, Washington was the first state to establish a Task Force Against the Trafficking of Persons. In 2015, the task force has been renewed and expanded. The state's anti-trafficking task forces and work groups measure and evaluate the outcomes of anti-trafficking policy initiatives and programs in order to improve their effectiveness.

Also in 2015, Washington's Department of Commerce Office of Crime Victims Assistance is authorized to create a new web portal and information clearinghouse to be a single point of contact in the state for access to the most current information and resources on Washington's anti-trafficking work and similar work at the federal level and in other states.

In 2010, in anticipation that the Winter Olympic Games held in British Columbia might result in an increase of human trafficking activity along the Interstate 5 corridor, the legislature authorized anti-trafficking posters to be placed in each I-5 Department of Transportation rest stop. The posters featured a toll-free number for trafficking victims to contact for help. The posters were produced and placed at no cost to the state by non-profit anti-trafficking organizations. In 2015, the legislature built on the success of the rest stop posters by authorizing the Department of Commerce Office of Crime Victims Assistance to work with the business community and with anti-trafficking stakeholders to develop a new anti-trafficking notice that will be available to any business that has a public restroom. Like the 2010 posters, the public restroom notices will be produced at no cost to the state.

The following is a year-by-year review of Washington's significant anti-trafficking legislation.

2002

- *Addressing the trafficking of Persons*—HB 2381 created the Task Force Against the Trafficking of Persons—the first of its kind in the nation—directed to measure and evaluate the state's progress in trafficking prevention activities, identify available programs providing services to victims of trafficking, and recommend methods to provide a coordinated system of support and assistance to victims of trafficking (Veloria). *Not codified; Report issued in 2004 (see below).*
- *Regulating disclosure of information by international matchmaking organizations*—SB 6412 established protections for prospective foreign spouses of Washington residents who go through online international marriage brokers by requiring the brokers to notify recruits in their

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native language that background check and marital history information is available for prospective spouses who are Washington residents. This bill was also the first of its kind in the nation. (Kohl-Welles). *RCW 19.220.010*.

- First trafficking task force report—The Washington State Task Force Against the Trafficking of Persons issued its first report and recommendations ([First Human Trafficking Task Force Report](#)).

2003

- *Making it a crime to traffic in persons*—SHB 1175 created two human trafficking crimes, both class A felonies, and expanded the definition of criminal profiteering to include the crime of trafficking—making Washington the first state in the nation to criminalize trafficking and specify criminal and civil penalties (Veloria). *RCW 9A.40.100*.
- *Requiring additional personal history information from customers of international matchmaking organizations*—SHB 1826 increased protections for prospective foreign spouses by also making personal history information available to them, including spousal abuse and founded child abuse (Veloria). *RCW 19.220.010*.
- The Federal International Marriage Broker Regulations Act is sponsored by U.S. Sen. Maria Cantwell and U.S. Rep. Rick Larsen, modeled after the 2002 International Matchmaking Organization Act.

2004

- *Second trafficking task force report*—The task force released its second report ([Second Human Trafficking Task Force Report](#)).

2005

- *Improving services to victims of human trafficking*—SB 5127 created requirements for state agencies to develop written protocols for the delivery of services to victims of human trafficking (Kohl-Welles). *RCW 7.68.360*

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- State funding was provided for legal aid to undocumented immigrants who are victims of sexual assault, domestic violence, or human trafficking.
- *Third trafficking task force report*—The task force released its third report ([Third Human Trafficking Task Force Report](#)).

2006

- *Prohibiting sellers of travel from promoting travel for sex tourism*—SB 6731 prohibited sex tourism—making WA the second state in the nation to do so (Fraser). *RCW 9A.88.085*.
- Task Force funding was renewed and the task force was directed to create a Comprehensive Response to Human Trafficking—a coordinated system containing seven components, including prevention, victim identification and victim services.
- The Federal International Marriage Broker Regulation Act was signed into law as part of the Violence Against Women and Department of Justice Reauthorization Act of 2005. *Pub. L. No. 109-162, 119 Stat. 2960 (2006)*.

2007-2008

- *Providing for address confidentiality of victims of trafficking*—SB 6339 added victims of human trafficking to the list of persons eligible for the state’s address confidentiality program (Kohl-Welles). *RCW 40.24.010*.
- *Imposing penalties for engaging in the commercial sexual abuse of minors*—SB 5718 created four new crimes relating to child sexual exploitation: commercial sexual abuse of a minor (CSAM) that replaced the crime of patronizing a juvenile prostitute, promoting CSAM, promoting travel for CSAM, and permitting CSAM. It also added an additional one-year penalty to the sentence for a conviction of the most serious crimes of child sex abuse if the offender paid to engage in the abuse (Kohl-Welles). *RCW 9.68A.100 through .103*.
- *Fourth trafficking task force report*—the task force released its fourth report ([Forth Human Trafficking Task Force Report](#)).

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2009

- *Protecting workers from human trafficking violations*—SB 5850 required international labor recruiters and domestic employers of foreign workers to disclose federal and state labor laws to employees and required health care professionals be provided with information to help identify human trafficking victims. This bill was the first of its kind in the nation. (Kohl-Welles). *RCW 19.320.020*.
- *Authorizing diversion for sexually exploited juveniles*—HB 1505 allowed prosecutors to divert cases in which a minor is alleged to have committed the offense of prostitution, if the juvenile agrees to participate in a program that provides wraparound services, including mental health counseling (Dickerson). *RCW 13.40.213*.

2010

- *Concerning human trafficking*—SB 6330 built on SB 5850 enacted in 2009 by adding nonimmigrant workers to the list of employees who must be provided with federal and state labor laws, and establishing civil penalties for labor recruiters and employers who fail to do so (Kohl-Welles). *RCW 19.320.010*.
- *Revising provisions relating to sex crimes involving minors*—SB 6476 strengthened penalties for the crime of commercial sexual abuse of a minor and required development of training for law enforcement officers (Stevens). *RCW 9.68A.100, .101, and .105, and 9A.88.140*.
- *Permitting the placement of human trafficking informational posters in rest areas*—SB 6330 allowed informational posters on domestic trafficking, including trafficking of minors and a “1-800” number to be placed at rest stops throughout the state which could be very helpful for individuals being taken to international events, such as the Winter Olympics which were held in British Columbia (Kohl-Welles). *RCW 47.38.080*.

2011

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- *Authorizing existing funding to house victims of human trafficking and their families*—SB 5482 authorized local governments to use affordable housing funds to provide housing assistance to victims of human trafficking and their families (Kohl-Welles). *RCW 36.22.178, .179, and .1791.*
- *Addressing police investigations of commercial sexual exploitation of children and human trafficking*—HB 1874 authorized law enforcement officers to conduct surveillance operations on suspected human-trafficking and commercial sexual abuse activities with the consent of the victim. It also authorized prosecutors to request assistance from minors in the undercover surveillance of telephone communications in trafficking investigations without putting youth in danger (Dickerson). *RCW 9.73.210 and .230.*
- *Concerning the crime of human trafficking*—SB 5546 amended the crime of human trafficking to include the illegal harvesting or sale of human organs and broadened the scope of the crimes to hold criminals accountable when caught transporting a person, despite not knowing whether the person would eventually be forced into prostitution or manual labor (Kohl-Welles). *RCW 9A.40.100 and .010, 9.95.062, and 10.64.025.*

2012

- *Regulating advertising of commercial sexual abuse of a minor*—SB 6251 created a new crime, making it illegal to knowingly publish an escort ad online or in print that involves a minor (Kohl-Welles). *Chapter 9.68A RCW.*
- *Addressing commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree*—SSB 6252 added the crimes of commercial sexual abuse of a minor and promoting commercial sexual abuse of a minor to the list of offenses that may constitute a pattern of criminal profiteering activity (Kline). *RCW 9A.82.010 and .100.*
- *Concerning seizure and forfeiture of property in commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree crimes*—SSB 6253 authorized law enforcement agencies to seize any proceeds or

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property that facilitate the crimes of commercial sexual abuse of a minor, promoting sexual abuse of a minor, or promoting prostitution in the first degree (Eide). *Chapter 9A.88 RCW*.

- *Changing promoting prostitution provisions*—SB 6254 criminalized the act of compelling a person with a disability that renders the person incapable of consent to engage in an act of prostitution (Delvin). *RCW 9A.88.070*.
- *Adding commercial sexual abuse of a minor to the list of criminal street gang related offenses*—SB 6256 added to the list of gang-related crimes the promotion of sexual abuse of a minor that provides the gang with an advantage, control, or dominance over a market sector (Conway). *RCW 9.94A.030*.
- *Addressing a sexually explicit act*—ESB 6257 defined sexually explicit acts with regard to sex trafficking and promoting the sexual abuse of a minor and added sexually explicit acts to these offenses (Roach). *RCW 9.68A.101 and 9A.40.100*.
- *Concerning unaccompanied persons*—SB 6258 criminalized ordering, luring, or attempting to lure a minor or a person with a cognitive disability into any transportation terminal or into a motor vehicle (Stevens). *RCW 9A.40.090*.
- *Concerning victims of human trafficking and promoting prostitution*—SB 6255 established an affirmative defense in any prosecution for prostitution if the defendant engaged in the offense as a result of being a victim of trafficking, promoting prostitution in the first degree, or trafficking in persons under the Trafficking Victims Protection Act, and allowed minors who were convicted of prostitution resulting from being trafficked by force, fraud, or coercion to request the court to vacate the conviction (Fraser). *RCW 9.96.060 and Chapter 9A.88 RCW*.
- *Concerning prostitution and trafficking crimes*—SHB 1983 increased the fees imposed against individuals convicted of promoting or patronizing prostitution and required that an offender with a prior conviction for promoting prostitution in the first or second degree register as a sex offender (Parker). *RCW 9A.40.100, 9A.44.128, 9A.88.120, 9.68A.105, 3.50.100, 3.62.020, 3.62.040, 10.82.070, and 35.20.220*.
- *Concerning the reduction of the commercial sale of sex*—HB 2692 increased the additional fine a person must pay when convicted of patronizing a prostitute and requires those fees be used to pay for increased trafficking enforcement and prevention programs (Orwall). *RCW 9A.88.130, 3.50.100, 3.62.020, 3.62.040, 10.82.070, and 35.20.220*.

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- *Protecting children from sexual exploitation*—HB 2177 prohibited the duplication or distribution of child pornography as part of the discovery process in a criminal prosecution, and instead required the material to be made reasonably available to the prosecutor, defense attorney, and expert witnesses who may testify at trial (Ladenburg). *Chapter 9.68A RCW.*

2013

- *Establishing the commercially sexually exploited children statewide coordinating committee*—SB 5308 creates a statewide coordinating committee to recommend ways to combat the commercial sexual exploitation of children. This new Commercially Sexually Exploited Children Statewide Coordinating Committee will examine laws and practices of local and regional entities to address issues relating to commercially and sexually exploited children and make recommendations for statewide protocols, laws, and practices. (Kohl-Welles). *RCW 7.68.*
- *Establishing an enhanced penalty for the use of an internet advertisement to facilitate the commission of a sex-trafficking crime*—SB 5488 imposes a \$5,000 fine on top of existing penalties for using online ads to facilitate the commercial sexual abuse of a minor. The bill defines an internet advertisement as a statement in electronic media that would be understood by a reasonable person to be an implicit offer for sexual contact or sexual intercourse in exchange for something of value (Kohl-Welles). *RCW 9.68, 9.68A.*
- *Regarding training for school employees in the prevention of sexual abuse*—SSB 5563 requires that to receive initial certification as a teacher, an applicant must complete training on how to recognize and prevent commercial sexual abuse and exploitation of minors. Certificated and classified school employees must complete training in their orientation and every three years thereafter. The Washington Coalition of Sexual Assault Programs, in consultation with other organizations, must update existing educational materials informing parents and other interested community members about how to prevent children from being recruited into sex trafficking, among other issues (Kohl-Welles). *RCW 28A.410.035, 28A.300.145, 28A.400.317.*
- *Concerning trafficking*—SB 5669 allows for a victim of trafficking and sexual exploitation up to 14 years of age to testify outside the presence of her or his abuser. This bill also tightens current laws addressing trafficking, clarifies that victim consent cannot be used as a defense in the

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prosecution of a trafficking crime, including when an abuser utilizes an online platform to recruit or sell the victim for sex (Padden). *RCW 9.68A.090, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, 9A.44.020, 9A.44.128, 9A.44.150, 9A.82.010, 13.34.132, 9A.40.100.*

- *Concerning services for victims of the sex trade*—HB 1291 creates a Statewide Coordinating Committee on Sex Crimes composed of community agencies and legislators providing services to victims of sex trafficking. This bill also details how the committee will oversee the distribution of funds collected from trafficking crimes to services for victims of sex trade, including revenue collected from impounding vehicles when the driver is involved in exploiting a sex trafficking victim. Fifty percent of revenue from fees and fines for sex crimes must be spent on preventative and rehabilitative services for victims of sex trafficking (Orwall). *RCW 43.63A.740, 9.68A.105, 9A.88.120, 9A.88.140, 43.280.*

2014

- *Request to Congress e: 1996 Communications Decency Act*—Senate Joint Memorial (SJM) 8003 requests that Congress amend the federal Communication Decency Act enacted in 1996 in order to reflect changes in the scope and role of the internet, and the publisher-like role of companies, such as backpage.com, which facilitate child sex trafficking by allowing their online platforms to run adult escort services ads without age verification of those depicted in the ads (Kohl-Welles).
- *Concerning coercion of involuntary servitude*—SB 6339 addresses involuntary servitude when an individual is being coerced to perform labor by another person who threatens to withhold or destroy documents relating to immigration status or threatens to contact law enforcement to notify that a person is in the United States in violation with immigration laws. A person is committing coercion of involuntary servitude regardless of whether they are providing compensation or benefits for the forced labor performed. Coercion of involuntary servitude is a class C felony (Fraser). (Companion bill HB2644). *RCW 9A.40.010, 9A.140.110.*
- *Concerning trafficking*—HB 1791 expanded the definition of “sex offense” to include trafficking in the first degree when the trafficked person is caused to engage in a sexually explicit act or a commercial sex act. A finding of sexual motivation is not required in order for the offense to qualify

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as a sex crime. The bill was amended with language from SB 6017 (Kohl-Welles) that permits the seizing law enforcement agency to keep 90 percent of proceeds obtained through seizures and forfeitures for cases in which the crime was committed in connection to child pornography, commercial sexual abuse of a minor, or promoting prostitution (Parker). *RCW 9.68A.120, 9A.40.100, 9A.44.128, 9A.88.150.*

- *Vacating prostitution convictions*—HB 1292 addresses the vacating of prostitution convictions when the person committed the offense as a result of being a victim of Trafficking, Federal Trafficking in Persons, Promoting Prostitution in the first degree or Commercial Sexual Abuse of a Minor. An individual can apply and have the record vacated regardless of whether other prior records of prostitution convictions were vacated or if there are pending prostitution charges. The applicant must show by a preponderance of evidence that the elements of the crime she or he is charged with were a result of the applicant having been a victim of Trafficking, Federal Trafficking in Persons, Promoting Prostitution in the first degree, or Commercial Sexual Abuse of a Minor (Orwall). *RCW 9.96, 9.96.060.*
- *The Commercially Sexually Exploited Children Statewide Coordinating Committee initial report*—the committee released its initial report [Initial Report—Committee re: commercially sexually exploited children](#).

2015

- *Establishing the Washington internet crimes against children account*—2SSB 5215 creates the Washington Internet Crimes Against Children (ICAC) account in the state treasury. The account must be used exclusively by the Washington Interstate Crimes Against Children commission and its affiliate agencies for combating internet-facilitated crimes against children, for promoting education on Internet safety to the public and to minors, and for rescuing child victims from abuse and exploitation. The Commission is authorized to enter into agreements with the Washington Association of Sheriffs and Police Chiefs to administer grants and other activities of the account. (Roach). *RCW 43.101.*

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- Concerning the trafficking of persons*—ESSB 5884 directs the Department of Commerce office of Crime Victims Assistance (OCVA) to develop and maintain a web portal and information clearinghouse as a single point of contact regarding Washington State's efforts to combat human trafficking. The OCVA must also review and approve a model anti-trafficking information notice taking input from interested businesses and anti-trafficking advocates. The notices will be voluntarily posted in public restrooms at no cost to the state. The Washington State Task Force on the Trafficking of Persons is restored to active status with expanded membership of state officials and stakeholders. The task force must evaluate the effectiveness of the state's efforts to combat all forms of human trafficking and must make findings and recommendations as needed. The Commercially Sexually Exploited Children Statewide Coordinating Committee is extended through 2017 with 3 additional members—2 representing service providers and 1 trafficking survivor. The committee must evaluate implementation of the 2010 law on sex crimes involving children and issue a report by February 1, 2016. (Kohl-Welles). *RCW 7.68, 7.68.350, 7.68.801, 47.38.*
- Establishing a statewide training program on human trafficking laws for criminal justice personnel*—SSB 5933 requires the Department of Commerce Office of Crime Victims Advocacy (OCVA) to establish a statewide interdisciplinary training program for law enforcement personnel, prosecutors, and court personnel covering state anti-human trafficking laws, sex trafficking investigations, and related court actions. (O'Ban). *RCW 43.280.*
- Concerning the sexual exploitation of minors*—2SHB 1281 assesses an additional fine of \$1000 for each depiction or image of visual or printed matter that constitutes a separate conviction under RCW 9.68A/070, Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct. Creates a Child Rescue Fund for deposit of the new additional fines. The Attorney General is authorized to grant 25 percent of the receipts in the Child Rescue Fund to child advocacy centers as defined in RCW 26.44.020 and to grant 75 percent of the receipts to the Washington State Internet Crimes Against Children Task Force for investigation and prosecution of crimes against children. (Sawyer). *RCW 9.68A.*

2016

- Protecting victims of sex crimes*—2SHB 2530 requires the Washington State Patrol to create and operate the Statewide Sexual Assault Kit Tracking system. Authorizes the Department of

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Commerce to accept private donations to fund the testing of previously unsubmitted sexual assault kits and training for sexual assault nurse examiners. (Orwall). *RCW 36.27.020; 42.56.240; 43.79A.040; 43.43; 35.21. (Hasegawa). RCW 19.320.010.*

- *Concerning definitions related to human trafficking*—SB 5342 adds definitions to the Human Trafficking chapter of RCW for the following terms: any person; menace of any penalty; forced labor; human trafficking or trafficking; and work or service. *Menace* of any penalty is all forms of criminal sanctions and other forms of coercion; *Forced work* is all work exacted under the menace of any penalty and where the person has not voluntarily offered to work; *Human trafficking* is an act conducted to exploit, including forced work, by any means. Examples of means include the threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power, or abuse of position of vulnerability; and *Work or service* includes all types of legal or illegal work, employment or occupation.
- *Recognizing human trafficking awareness day*—SB 6376 recognizes January 11 as Human Trafficking Awareness Day in Washington State. (Fraser). RCW 1.16.050.
- Senate Resolution 8644—SR 8644 supports increased education, stronger laws and law enforcement, and the promotion of justice to reduce the exploitation of all people, including women and children. (Chase).
- *Concerning the crime of luring*—SSB 6463 establishes the unranked class C felony of luring with intent to harm or to facilitate the commission of any crime. A person commits the crime of luring if the person orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle without the consent of parent or guardian and with the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or with intent to facilitate the commission of any crime. (Pearson). RCW 9A.40.090.

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