

Trafficking Law Center

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March 30, 2021

TO: Senate Judiciary and BM 110 Committee
RE: Joel Shapiro, Executive Director, Trafficking Law Center, supplemental testimony on SB 274

Chair Prozanski and Members of the Senate Judiciary and BM 110 Committee:

I am submitting this supplemental testimony in favor of SB 274 to provide additional information on Washington State legislation, HB 1775, which I discussed at today's hearing. For the record, the Trafficking Law Center is a nonprofit organization that works to support human trafficking victims and survivors by providing *pro bono* legal services, training attorneys, and educating the public and policymakers on human trafficking issues.

SB 274 would prohibit minor victims of sex trafficking from being charged with prostitution. Most service providers and law enforcement agencies agree that subjecting minor trafficking victims to criminal arrest is not an optimal approach – particularly because minors cannot consent to sexual contact as a matter of law. Yet both law enforcement and service providers recognize the need to detain trafficking victims in order to assess the situation and to offer to connect them with appropriate services.

As noted in my verbal testimony, those testifying on behalf of law enforcement today (and in past hearings on this subject) have noted that even though they don't wish to see minors arrested for prostitution, by making minors immune from prosecution, SB 274 would take a tool out of their toolkit. It's true that without this criminal liability, probable cause for arrest would not exist, and law enforcement officers would lack the authority to detain minor trafficking victims under our current statutory scheme. However, many other states have granted law enforcement officers the non-criminal authority to take minors into protective custody and transport them to appropriate services.

As I stated in at the hearing, last year the Washington Legislature enacted HB 1775, located here: <http://lawfilesexternal.wa.gov/biennium/2019-20/Htm/Bills/Session%20Laws/House/1775-S3.SL.htm>

HB 1775 passed unanimously in both the Washington House and Senate. Section 8 of the bill added paragraphs (7) and (8) to RCW 43.185C.260, which covers youth services. (*See text of HB 1775, Sec 8, on attached pages.*)

The relevant language of HB 1775 states that: If a **law enforcement officer takes a juvenile into custody** and **reasonably believes** that the juvenile may be the **victim of sexual exploitation**, the officer **shall transport** the child to an **evaluation and treatment facility** or another **appropriate youth-serving entity** (emphasis added).

ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1775 – AN ACT Relating to commercially sexually exploited children; amending RCW 9A.88.030, 13.40.070, 13.40.213, 7.68.801, 43.185C.260, 74.14B.070, and 74.15.020; adding new sections to chapter 7.68 RCW; creating a new section; providing an effective date; and providing an expiration date.

Sec. 8.

RCW 43.185C.260 and 2019 c 312 s 15 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) If a law enforcement officer takes a juvenile into custody pursuant to subsection (1)(b) of this section and reasonably believes that the juvenile may be the victim of sexual exploitation, the officer shall:

(a) Transport the child to:

(i) An evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in section 2 of this act, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment; or

(ii) Another appropriate youth-serving entity or organization including, but not limited to:

(A) A HOPE Center as defined under RCW 43.185C.010;

(B) A foster-family home as defined under RCW 74.15.020;

(C) A crisis residential center as defined under RCW 43.185C.010; or

(D) A community-based program that has expertise working with adolescents in crisis; or

(b) Coordinate transportation to one of the locations identified in (a) of this subsection, with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider.

(8) Law enforcement shall have the authority to take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individual or individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in section 2 of this act, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

(9) No child may be placed in a secure facility except as provided in this chapter.