



Commercially Sexually Exploited Children Statewide Coordinating Committee

PRELIMINARY REPORT TO THE WASHINGTON STATE LEGISLATURE

ON THE UNDERSTANDING, APPLICATION, AND
BARRIERS TO THE FULL IMPLEMENTATION OF
CHAPTER 289, LAWS OF 2010
(SAFE HARBOR LAW)

April 1, 2016

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CSEC COMMITTEE 2016 Initial Report to the Legislature

INTRODUCTION:

In 2013, the Washington State Legislature established the Commercially Sexually Exploited Children Statewide Coordinating Committee (“the Committee”). The Committee mission is to “address the issue of children who are sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices.”

In 2015, the Legislature tasked the Committee with the following duties:

- Reviewing the extent to which chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) is understood and applied by enforcement authorities; and
- Researching any barriers that exist to full implementation of chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) throughout the state.¹

This report contains a preliminary review of the understanding and application of, as well as barriers to, chapter 289, Laws of 2010—which is commonly referred to as Washington’s “Safe Harbor Law.” The Committee plans to update this report after its June 2016 meeting, once all Committee members have had the opportunity to thoroughly review, add to the analysis, and make recommendations.

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1. Chapter 273, Laws of 2015, Sec. 4(3).

1.1 OVERVIEW OF SAFE HARBOR LAW

Enacted in 2010, the Safe Harbor Law includes provisions addressing both 1) commercially sexually exploited children (CSEC) and 2) perpetrators. Below is a summary of provisions within each of these categories.

1.1.1 PROVISIONS ADDRESSING COMMERCIALY SEXUALLY EXPLOITED CHILDREN (CSEC)

Within the provisions addressing CSEC, there are three subcategories: provisions related to services, victim benefits, and the juvenile justice response. The following table provides a synopsis of each, as well as the corresponding section number within chapter 289, Laws of 2010 (“Bill”) and the RCW citation.

	Synopsis	Bill	RCW
Services	Starting July 1, 2011, if a juvenile is a sexually exploited child, a petition may be filed alleging that the juvenile is a child in need of services. A sexually exploited child is defined as any person under the age of 18 who is a victim of the crime of CSAM, and promoting sexual abuse of a minor, or promoting travel for CSAM.	Sec. 1, 2	13.32A.030-(5)(d),(17)
	Within available funding, when a sexually exploited child (or a youth who has been diverted for an alleged offense of prostitution or prostitution loitering) is referred to DSHS, DSHS must connect the child with services and treatment for sexually abused youth.	Sec. 3, 5	13.32A.270
	The Department of Social and Health Services (“DSHS”) must require, to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children.	Sec. 10	74.15.255 (2)
Victim Benefits	A juvenile charged with prostitution who is also the victim in a Commercial Sexual Abuse of a Minor (“CSAM”), promoting sexual abuse of a minor, or promoting travel for CSAM charge is nevertheless considered a victim of a criminal act for purposes of qualifying to receive benefits from the Crime Victim’s Compensation fund.	Sec. 6	7.68.070(6)(b)
Juvenile Justice Response	If a juvenile is alleged to have committed the offense of prostitution or prostitution loitering and this is the juvenile’s first offense, the prosecutor must divert the case.	Sec. 7	13.40.070(7)
	For subsequent allegations that the same minor has committed the above offenses, the prosecutor may either file an information in juvenile court or divert the case (if the county in which the offense is alleged to have been committed has a comprehensive program).	Sec. 8	13.40.213(1)

	Synopsis	Bill	RCW
Juvenile Justice Response cont.	There is a presumption that a youth arrested for prostitution or prostitution loitering meets the criteria for certification as a victim of a severe form of trafficking and is also a victim of CSAM.	Sec. 9	13.40.219

1.1.2 PROVISIONS ADDRESSING PERPETRATORS

Within the provisions addressing perpetrators, there are three subcategories: provisions related to level and seriousness of offense, fees, and vehicle impoundment. The following table provides a synopsis of each, as well as the corresponding section number within chapter 289, Laws of 2010 (“Bill”) and the RCW citation.

	Synopsis	Bill	RCW
Level & Seriousness of Offense	The level of seriousness for promoting CSAM and CSAM are raised.	Sec. 11	9.94A.515
	CSAM is changed from a class C to class B; promoting is changed from B to A.	Sec. 13, 14	9.68A.100, 9.68A.101
Fees	A person convicted of CSAM, promoting CSAM, promoting travel for CSAM, or who has been given a deferred prosecution or entered into a statutory or non-statutory diversion agreement for the aforementioned offenses must be assessed a fee of \$5,000.	Sec. 15	9.68A.105
	Prostitution and Intervention Account: This provision was subsequently modified. It now states that funds may be used for various services, which are listed in order of priority.	Sec. 18	43.63A.740
Vehicle Impoundment	Upon a person’s arrest for suspected violation of CSAM or promoting travel for CSAM, the arresting officer must impound the suspect’s vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car. The suspect must pay a fine of \$2,500 to redeem the impounded vehicle.	Sec. 12	9A.88.140-(2),(4)(a)

1.2 METHODOLOGY

The researchers² conducted a comprehensive review of the understanding and application of, as well as barriers to, the Safe Harbor Law. This review included the following: an electronic survey of stakeholders statewide; requests for information from the Administrative Office of the Courts (“AOC”) and the Department of Social and Health Services (“DSHS”); a review by the Office of the Attorney General of Washington; and a review of the Washington Department of Commerce’s report, “Criminal Penalty Fines Related to Prostitution and Commercial Sexual Abuse of Minors.”³

2. The primary researchers included: Farshad M. Talebi, Assistant Attorney General; Nicholas Oakley, JD, Center for Children & Youth Justice; Katherine McKeon, Center for Children & Youth Justice; and Ruth Ammon, Assistant Attorney General.

3. “Criminal Penalty Fines Related to Prostitution and Commercial Sexual Abuse of Minors,” Washington Department of Commerce, Dec. 2015.

With regard to the electronic survey, the researchers reached 284 stakeholders from 36 counties in Washington.⁴ Stakeholders were asked to identify with one of five professional groups:

1. Youth Serving Provider & Defense Attorneys
2. Juvenile Court Administrator & Juvenile Court Staff
3. Law Enforcement & Prosecutors
4. Judicial Officers
5. Other (asked to specify in a comment section)

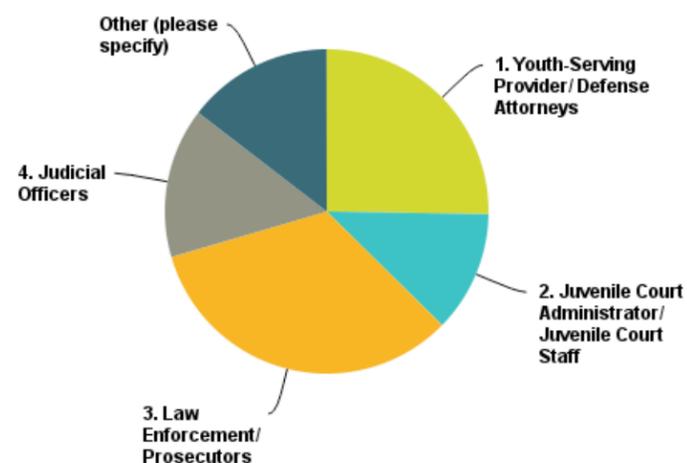
The majority of the respondents were from Law Enforcement & Prosecutors and Youth Serving providers. The survey had 284 responses from 36 counties across the state. The most-represented counties were: King County with 16.97% respondents, Clark for 11.55 % and Benton-Franklin Counties for 9.03%.

The survey was sent to the following:

- CSEC Task Force listserv
- CSEC Trainers listserv
- Becca Task Force listserv
- WDA juvenile listserv
- Becca listserv
- WAPA listserv
- Elected Prosecutors
- Individuals in Law Enforcement

Q1 Please tell us which professional group best fits your work? 1. Youth Serving Provider & Defense Attorneys 2. Juvenile Court Administrator & Juvenile Court Staff 3. Law Enforcement & Prosecutors 4. Judicial Officers

Answered: 281 Skipped: 3



The survey instructions prompted each professional group to complete a set of questions targeted toward that group, except for Judicial Officers and Other. The survey prompted respondents who identified as Judicial Officers or Other to complete all survey sections. All other respondents were permitted, but not prompted, to sets of questions for other professional groups and provide input.

The survey instructions encouraged respondents to provide open-ended feedback in comments sections throughout the survey. Many respondents provided rich commentary. The researchers reviewed these comments to identify common themes. These themes include:

- Youth known/suspected as CSEC but arrested and/or charged with non-trafficking charges;
- Need for non-court affiliated placements or other placement alternatives for youth;
- Inadequate services through CHINS;
- CHINS too difficult to file/lack of department approval of CHINS;
- Arresting youth for prostitution related offense, but no charges, as a means to connect to services; and
- Need for training.

These themes and the comments that illustrate them will appear throughout sections of this report.

County	Percentage of Responses
Adams	.36%
Asotin	1.44%
Benton & Franklin	9.03%
Chelan	.72%
Clallam	1.44%
Clark	11.55%
Columbia	.72%
Cowlitz	2.53%
Douglas	.72%
Ferry	.72%
Garfield	.72%
Grant	.72%
Grays Harbor	1.44%
Island	.72%
Jefferson	1.08%
King County	16.97%
Kitsap	6.14%
Kittitas	2.89%
Klickitat	1.08%
Lewis	2.17%
Mason	1.81%
Okanogan	1.81%
Pacific	1.81%
Pend Oreille	.72%
Pierce	5.42%
San Juan	.36%
Skagit	1.44%
Skamania	1.08%
Snohomish	7.58%
Spokane	2.89%
Thurston	3.97%
Whakiakum	.36%
Walla Walla	2.17%
Whatcom	1.81%
Whitman	.36%
Yakima	2.89%
Uncategorized:	5.77%

4. Appendix X contains a complete copy of the survey.

2: REVIEW

The following review is organized by the two categories to which the Safe Harbor Law relates: (1) Commercially Sexually Exploited Children; and (2) Perpetrators. It is further divided by subcategories within each category. Within each subcategory: an overview, with the provisions of the Safe Harbor Law that apply, key takeaways with regard to the understanding of, application of, and barriers to these provisions; missing data; and survey results and other data provided.

2.1 PROVISIONS RELATED TO COMMERCIALLY SEXUALLY EXPLOITED CHILDREN

There three subcategories are: (1) Services; (2) Victim Benefits; and (3) Juvenile Justice Response.

2.1.1 SERVICES

2.1.1.1 Overview

Applicable Provisions:

The provisions regarding services centered on the Child in Need of Services (“CHINS”), but also included a requirement that crisis residential centers and HOPE centers have staff trained to work with sexually exploited children. The three provisions are:

- Starting July 1, 2011, if a juvenile is a sexually exploited child, a petition may be filed alleging that the juvenile is a child in need of services. A sexually exploited child is defined as any person under the age of 18 who is a victim of the crime of CSAM⁵, and promoting sexual abuse of a minor, or promoting travel for CSAM.
- Within available funding, when a sexually exploited child (or a youth who has been diverted for an alleged offense of prostitution or prostitution loitering) is referred to DSHS, DSHS must connect the child with services and treatment for sexually abused youth.
- DSHS must require, to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children.

Key Takeaways

Understanding: The majority of respondents were aware that a CHINS petition could be filed for CSEC.

Application: The majority respondents would not recommend using CHINS to access services for CSEC.

Barriers: Survey respondents noted inadequate services through CHINS, difficulty obtaining approval of CHINS petitions, and perceived resistance from DSHS.

2.1.1.2 What Data Is NOT Available

The researchers attempted to obtain data on the number of CHINS petitions filed on behalf of or by CSEC from DSHS and AOC, but were not able. There is no data available on the number of CHINS petitions filed on behalf of commercially sexually

exploited children. While the pattern form Child in Need of Services includes language that identifies how the child named in the petition meets the criteria, there is no specific code to further identify the reason for the filing of the petition and the findings are not specific as to which reason the CHINS petition was filed.

2.1.1.3 Survey and Other Data

The following survey questions were provided. Responses from three professional groups: Youth-Serving Providers & Defense Attorneys; Judicial Officers; and Other are provided for each.

Are you aware that either a child, a child’s parents, or DSHS can file a CHINS petition on behalf of a commercially sexually exploited child?

Professional Group	Yes, Aware	No, Not Aware	Number of Respondents
Youth-Serving Providers & Defense Attorneys	82.5%	17.5%	57
Judicial Officers	80.5%	19.5%	41
Other	45.7%	54.3%	35

Have you recommended using a CHINS petition for a commercially sexually exploited child in order to access services for that child?

Professional Group	Yes	No	Number of Respondents
Youth-Serving Providers & Defense Attorneys	15.8%	84.2%	57
Judicial Officers	N/A	N/A	N/A
Other	5.7%	94.3%	35

Are you aware that the law requires that, within available funding, when a commercially sexually exploited child (or a youth who has been diverted for an alleged offense of prostitution or prostitution loitering) is referred to DSHS, DSHS must connect the child with services and treatment for child victims of sexual assault?

Professional Group	Yes, Aware	No, Not Aware	Number of Respondents
Youth-Serving Providers & Defense Attorneys	52.63%	43.86%	35
Judicial Officers	52.5%	35%	40
Other	45.7%	54.3%	35

5. CSAM is an acronym for Commercial Sexual Abuse of a Minor.

Additionally, the following comments were provided with regard to these provisions.

Select comments reflecting the viewpoint that services available through CHINS are inadequate:

“Very harmful, involves punitive state response, have seen negative results.” Youth serving providers & defense attorneys, Page 7. Response to question 5: Have you recommended using a CHINS petition for a commercially sexually exploited child in order to access services for that child?

“Not effective through the CHINS, but did receive services through another resource.” Youth serving providers & defense attorneys, page 8. Response to question 6: If you answered Yes to Question 5, did the child receive services through the CHINS process? If so were they effective? If the child did not receive services, why not?

“Yes...not sure about the effectiveness.” Youth serving providers & defense attorneys, page 8. Response to question 6: If you answered Yes to Question 5, did the child receive services through the CHINS process? If so were they effective? If the child did not receive services, why not?

“No. Child does not want services or the parents don’t take them to the services.” Youth serving providers & defense attorneys, page 8. Response to question 6: If you answered Yes to Question 5, did the child receive services through the CHINS process? If so were they effective? If the child did not receive services, why not?

“For most of the youth I work with, youth do not receive adequate services for their needs through the CHINS process when the parent is filing the CHINS.” Youth serving providers & defense attorneys, page 9. Response to question 7: Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?

“CHINS no matter what is not working on behalf of this youth. Social workers need to widen their perspective an attitude toward this youth, and not be so judgmental toward them.” Other, page 8. Response to question 5: “Have you recommended using a CHINS petition for a commercially sexually exploited child in order to access services for that child?”

“CA [Children’s Administration] staff can refer children/youth to many services without a CHINS. With such a shortage of foster or other placements for this population accessible to DSHS staff, I’m not sure that state custody is always the most effective placement.” Youth Serving Providers & Defense Attorneys, page 9. Response to Question 7: *Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?*

Select comments reflecting the viewpoint that CHINS petitions are too difficult to file or there is a lack of departmental approval of CHINS.

“I was told that the youth did not meet the criteria for CHINS.” Youth serving Providers & Defense attorneys, Page 7. Response to question 5: Have you recommended using a CHINS petition for a commercially sexually exploited child

in order to access services for that child?”

“Our office (public defender office) had to file a dependency petition on behalf of a child after a failed CHINS and the department continues to fight being joined and ordered to provide service, etc. even after the court found the child dependent. The youth was not sexually exploited but a neglected youth. It is not uncommon for the department to refuse to file petitions on kids that desperately need the department’s help.” Youth serving Providers & Defense attorneys, page 9. Response to question 7, Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?

“It has been incredibly difficult to use the CHINS petition process for youth who have been sexually exploited and do not want to return to their family home. It seems that the pressure on parents to take their youth back and for the youth to do so is very high due to lack of options for these youth in the foster care system. Often it seems from our perspective that the youth return to the streets when they see no other option.” Youth serving Providers & Defense attorneys, page 9. Response to question 7, Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?

“Had a mother who had filed CHINS case already for her daughter and it took a long time to prove it as the youth said she was not an the court thought the mother had mental health problems. When the youth got arrested, the CHINS court finally paid attention.” Youth serving providers/ defense attorneys, page 14. Response to question 11: Please list any other important comments you may have regarding these issues.

“DSHS routinely opposes CHINS petitions in order to avoid providing services... they are virtually a worthless tool until and unless DSHS gets on board with their efficacy.” Judicial Officers, page 8. Response to question 7: Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?

“However, most of the time CHINS get automatically denied when it is a chronic runaway youth or a youth contacting DSHS for CHINS petition during their stay in detention. The prejudice level against this youth for being incarcerated is unimaginable. They have no credibility due to simple fact that they are run away or detained.” Other, page 7. Response to question 4: Are you aware that either a child, a child’s parents or DSHS can file a CHINS petition on behalf of a commercially sexually exploited child?

“Not once, and these youth really needed CHINS to be approved. As of why, ask the DSHS, because again, they simply do not believe this population.” Other, page 9. Response to question 6: If you answered Yes to Question 5, did the child receive services through the CHINS process? If so, were they were effective? If the child did not receive series, why not?

“Make it so that it works, and less biased toward the youth. Right now, there is no point of even asking for one if the youth is incarcerated or chronic runaway. State always takes the legal guardian side.”

2.1.2 Victim Benefits

2.1.2.1 Overview

Applicable Provisions:

The provision regarding victim benefits is: a juvenile charged with prostitution who is also the victim in a CSAM, promoting sexual abuse of a minor, or promoting travel for CSAM charge is nevertheless considered a victim of a criminal act for purposes of qualifying to receive benefits from the Crime Victim's Compensation fund.

Key Takeaways

Understanding: The majority of respondents indicated that they were aware of this provision.

Application: Approximately 25% of respondents indicated that they had assisted a commercially sexually exploited child in accessing benefits or otherwise directed them to the Crime Victim's Compensation Fund.

Barriers: There is insufficient data to draw conclusions on barriers.

2.1.2.2 What Data Is NOT Available

The researchers were unable to obtain the number of youth charged with prostitution who also applied for benefits from the Crime Victim's Compensation Fund.

2.1.2.3 Survey and Other Data

The following survey questions were provided. Responses from three professional groups: Youth-Serving Providers & Defense Attorneys; Judicial Officers; and Other are provided for each.

Are you aware that a commercially sexually exploited child who is charged with prostitution is considered a victim of a criminal act for the purposes of qualifying to receive benefits from the Crime Victim's Compensation Fund?

Professional Group	Yes	No, Not Aware	Number of Respondents
Youth-Serving Providers & Defense Attorneys	63.16%	36.84%	35
Judicial Officers	50%	50%	40
Other	71.4%	28.6%	35

Have you assisted commercially sexually exploited children in accessing benefits or otherwise directed them to the Crime Victim's Compensation Fund?

Professional Group	Yes, Aware	No, Not Aware	Other	Number of Respondents
Youth-Serving Providers & Defense Attorneys	26.47%	64.71%	8.82%	35
Judicial Officers	N/A	N/A	N/A	N/A
Other	N/A	N/A	N/A	N/A

No comments were provided with regard to this section.

2.1.3 Juvenile Justice Response

2.1.3.1 Overview

Applicable Provisions:

The provisions regarding services centered on the diversion, but also included a presumption that a youth arrested for prostitution is a victim of a severe form of trafficking. The provisions are:

- If a juvenile is alleged to have committed the offense of prostitution or prostitution loitering and this is the juvenile's first offense, the prosecutor must divert the case.
- For subsequent allegations that the same minor has committed the above offenses, the prosecutor may either file an information in juvenile court or divert the case (if the county in which the offense is alleged to have been committed has a comprehensive program).
- There is a presumption that a youth arrested for prostitution or prostitution loitering meets the criteria for certification as a victim of a severe form of trafficking and is also a victim of CSAM.

Key Takeaways

Understanding: A significant portion of respondents either indicated there were no services or were unaware of the services available to commercially sexually exploited children involved in diversion programs.

Application: As the number of youth who are arrested and charged for prostitution related offenses decreases, so too does the applicability of a mandatory diversion for prostitution related offenses.

Barriers: Even with diversion programs and a presumption that a youth is a victim, there is a lack of resources for commercially sexually exploited children involved in the juvenile justice system.

2.1.3.2 What Data Is NOT Available

The researchers attempted to find data on the number of arrests of youth on prostitution or related charges, but these are not collected in any systematic way and therefore not available.

2.1.3.3 Survey and Other Data

The following survey questions were provided to Juvenile Court Staff and Judicial Officers.

What services are available to juveniles alleged to have committed prostitution or prostitution loitering offenses who are on diversion?

Of the 24 Juvenile Court Staff that responded, four responded “no services,” four responded “unsure of services,” and six responded “an advocate.” Of the twenty judicial officers, half responded that they were unsure of the services that were available.

What services are available to juveniles under the supervision of juvenile court who have been identified as commercially sexually exploited but not alleged to have committed prostitution or prostitution loitering offenses.

Of the 25 Juvenile Court Staff that responded, two responded that they had not dealt with that situation, 11 responded that advocates were an important service, six responded counseling, and one said that there were no services.

Of the 21 judicial officers that responded, seven responded that they were unsure of what services could be offered.

The following survey question was provided to Judicial Officers and Law Enforcement & Prosecutors.

Have you ever encountered a commercially sexually exploited child?

Of the 21 Judicial Officers that responded, 56.5% responded “Yes,” 35% responded “No,” and 8.5% responded “No.” Of the 66 Law Enforcement & Prosecutors that responded, 31.8% responded “Yes,” 43.9% “No,” and 24.2% “Unsure.”

The following survey questions were provided to Law Enforcement & Prosecutors.

Have you ever arrested a juvenile for prostitution?

Of the 64 respondents, 14% responded “Yes” and 86% responded “No.”

Has your county/city charged/prosecuted a juvenile prostitution case?

Of the 69 respondents, 20.3% responded “Yes,” 27.4% responded “No,” and 53.2% responded “No.”

Additionally, the following comments were provided with regard to these provisions.

Comments reflecting the observation that youth who are known or suspected to be a victim of commercial sexual exploitation are charged with offenses unrelated to prostitution.

“Children who have been exploited never come with this label. They come to our attention as runaways, persons who are using unlawful drugs, dependents, theft, robbery, and in the old days as “O & A”. The CSEC issue becomes more apparent over time.” -Youth Serving Provider & Defense Attorneys, Page 7. Response to Question 5: Have you recommended using a CHINS petition for a commercially sexually exploited child in order to access services for that child?

“I have not yet had a youth on my case load charged for prostitution. They usually are charged for dealing drugs that the pimp has force them to do or stealing basic needs from stores” –Other, Page 12. Response to Question 9: Are you aware that a commercially sexually exploited charge who is charged

“I think the charge was changed to something else in plea bargaining.” Other, page 25. Response to Question 22: Has your county/city ever charged/prosecuted a juvenile prostitution case?

“Get exploited children out of the offender system.” Judicial Officers Page 15. Response to Question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

“If they are charged with other crimes, probation services are available, CSEC advocates are always available.” Judicial Officers, page 14. Response to Question 13: What services are available to juvenile under the supervision of juvenile court who have been identified as commercially sexually exploited but not alleged to have committed Prostitution or Prostitution Loitering offenses?

“We have not had a case involving a minor engaged in prostitution. As noted above, we have had cases involving drugs where we think sex is exchanged for drugs, but we have not been able to make those cases.” Law Enforcement & Prosecutors, page 31. Response to Question 22: Has your county/city ever charged/prosecute a juvenile prostitution case?

“We know juveniles are trading sex for drugs, but we attempt to focus on the drug dealing and not the sex unless we can make a crime related to that and drug dealer.” Law Enforcement & Prosecutors, page 26. Response to Question 20: Have you ever arrested a juvenile for prostitution?

“The need to provide resources for the youth that are involved with Juvenile Court that have been identified as CSEC that are sentenced for crimes not related to CSEC still need to be provided at long term JRA facilities. Also, the faith based community is a vital part of the community support family support and victim support that is missing in some of the funding resources and at the table of justice for the CSEC victims.” Youth Serving Providers & Defense Attorneys, page 14. Response to question 11: Please list any other important comments you may have regarding these issues.

“They can also go to JRA [Juvenile Rehabilitation Administration], which I think is a terrible idea, but some judges, prosecutors, and service providers think it can help.” Youth Serving Providers & Defense Attorneys, page 17. Response to question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

Comments reflecting the perspective that there is a need for placement alternatives and non-court affiliated places for youth

“Courts have wanted to incarcerate the girls as a protective measure. Instead of seeking a resolution in Court, I often called YouthCare to work with clients.” Youth Serving Providers & Defense Attorneys, page 9. Response to Question

7: Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?

“It would be beneficial to have an off-site safe location that was not court affiliated that youth could access.” Juvenile Court Staff, page 15. Response to question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

“Many of our high risk youth are on the run and do not want to be sent home. The SPD, Lutheran Services and community treatment agencies are looking for viable placement options. Nothing is secured.” Juvenile Court Staff, page 15. Response to question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

“We need safe and alternative placements.” Juvenile Court Staff, page 15. Response to question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

“We need safe housing available.” Juvenile Court Staff, page 15. Response to question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

“We have not developed a way to keep youth from returning to her trafficker or providing youth with a safe place out of the area if needed for safety. We need to develop a program for education and job skills training.” Juvenile Court Staff, page 15. Response to question 14: Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

“Need more housing and employment services.” Juvenile Court Staff, page 16. Response to question 15: Please list any important comments you may have regarding these issues.

“When these youth are placed they run. Very frustrating to all of us. We have limited CRC beds and a homeless youth facility as our options.” Juvenile Court Staff, page 16. Response to question 15: Please list any important comments you may have regarding these issues.

“Needs continued support and discussions. Need more safe houses and NGO [Non-Governmental Organizations]’s to partner with for LE [Law Enforcement].” Law Enforcement & Prosecutors, page 36. Response to question 25: Please list any other important comments you may have regarding these issues.

“More targeted services are needed for this uniquely situated population. Crisis residential and respite beds.” Judicial Officers, Page 15. Response to question 14, Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court.

Select comments reflecting the observation that youth are arrested for prostitution related offenses but not charged, as a means to connecting them to services.

“On one occasion, we had no safe place for the juvenile, we did make an arrest but no charges were filed.” Law Enforcement & Prosecutors, page 26. Response to question 20: Have you ever arrested a juvenile for prostitution?

“Maybe taken into custody for their safety but not charged.” Law Enforcement & Prosecutors, page 26. Response to question 20: Have you ever arrested a juvenile for prostitution?

“Sometimes it is the only way to facilitate a rescue. My PA [Prosecuting Attorney] does not prosecute these incidents.” Law Enforcement & Prosecutors, page 26. Response to question 20: Have you ever arrested a juvenile for prostitution?

“We know juveniles are trading sex for drugs, but we attempt to focus on the drug dealing and not the sex unless we can make a crime related to that and drug dealer.” Law Enforcement & Prosecutors, page 26. Response to question 20: Have you ever arrested a juvenile for prostitution?

“We booked, released to family, or secure facility.” Law Enforcement & Prosecutors, page 29. Response to question 21: Have you ever encountered a Commercially Sexually Exploited child (CSEC) victim?

“This is a very sensitive area. I completely agree the juvenile is a victim and should not be victimized further. The issue is are we using all the tools we have to assist this juvenile to make the right decisions in assisting them out of exploitation lifestyle. Sometimes the arrest and charging of the juvenile allows family, LE [law enforcement], prosecutors, and others to formulate a game plan. Charges can be dismissed. There are no secure facilities in Snohomish County to hold a juvenile who is in danger or risk.” Law Enforcement & Prosecutors, page 30. Response to question 22: Has your county/city ever charged/prosecuted a juvenile prostitution case?

“Prosecution was initiated in order to allow further investigation, which proved unsuccessful.” Law Enforcement & Prosecutors, page 30. Response to question 22: Has your county/city ever charged/prosecuted a juvenile prostitution case?

9. Revised Washington State Model Protocol for Commercially Sexually Exploited Children (“Project Respect”), Center for Children & Youth Justice, March 2013, at 4.

2.2 PROVISIONS RELATED TO PERPETRATORS

There three subcategories are: (1) level and seriousness of offense; (2) fees; and (3) vehicle impoundment.

2.2.1 Victim Benefits

2.2.1.1 Overview

Applicable Provisions:

The provisions regarding level and seriousness of offense are:

- The level of seriousness for Promoting CSAM and CSAM are raised. CSAM was raised from a Level III seriousness to a Level VIII offense. Promoting CSAM was raised from a Level VIII seriousness to a Level XII offense.
- CSAM is changed from a class C to class B; promoting CSAM is changed from B to A.

Key Takeaways:

Understanding: According to the survey results and data obtained from AOC, very few law enforcement agencies and prosecutors have experience with CSEC crimes. AOC data indicates, only King County and Pierce County have more than 10 convictions for Promoting CSAM since 2011.

Application: While the increased level of seriousness reflects a more accurate understanding of the horrific nature of CSAM and Promoting CSAM crimes, in practice, the categorization and increased penalties are only applicable if cases are investigated and prosecuted.

Barriers: CSAM and promoting CSAM crimes require proactive law enforcement investigations due to the complex nature of these offenses. Many arrests result from multi-agency “sting” operations, which take expertise to coordinate and sufficient resources to execute. Commonly, federal agencies are involved in these operations in order to provide leadership and resources. Few city and county agencies conduct their own independent operations due to a lack of knowledge and dedicated resources to CSEC crimes.

While “lack of resources” is an easy answer to any public safety concern (including CSEC crimes), in this case, unnecessary barriers exist in prosecuting CSEC cases simply due to a lack of priority. Although CSEC crimes are now classified as some of the most serious offenses, law enforcement resources are disproportionately invested in less serious offenses.

For instance, the Department of Commerce allocates funding for 18 Drug-Gang regional task forces, which encompass 26 of Washington’s 39 counties.⁶ According to the 2012 Status Report, 80% of the arrests made by these taskforces were related to only drug trafficking.⁷ Additionally, there are two Financial Fraud and Identity Theft Task Forces as well that receive funding through the Department of Commerce.⁸

In comparison, there is **only one** multijurisdictional State task force dedicated to Commercial Sexual Exploitation of Children: the Washington State Patrol’s Missing and Exploited Children Task Force (MECTF). There are currently **only**

2 detectives appointed to the task force. Since September 2015, MECTF has organized and executed 3 multiagency “sting” operations targeting suspects attempting to buy sex with children (ages 8 to 13) via the internet in Kitsap, Pierce and Snohomish counties. In these 3 operations, 27 suspects were arrested for CSAM related charges and 6 children were removed from these suspects’ homes.

Now this vast disparity in resources could be justified if the market and prevalence of the illicit drug trade were significantly greater than that of commercial sex, however, a study done by the Urban Institute estimates that in 2007, Seattle’s illicit commercial sex market surpassed that of the illicit drug market.⁹ The table below shows that the commercial sex market in Seattle has exploded, from \$50.3 million in 2003 to \$112 million in 2007, while the illicit drug market remained stagnant at approximately \$87 million.

City	Year	Sex	Drugs	Guns	Other
Seattle	2003	\$50.3	\$87.3	\$83.1	\$9,840
Seattle	2007	\$112	\$87.4	\$60.1	\$11,800

A large incentive for law enforcement to investigate drug cases is based on the revenue generated from cash and asset forfeitures resulting from these cases. While drug forfeitures are substantial,¹⁰ the trafficking of children is an equally lucrative business due to the massive demand around the State. The Urban Institute estimates that post-2005, pimps in Seattle make on average \$18,000 per week.¹¹ Recently, Pierce County detectives seized \$210,000 in cash and \$80,000 in vehicles during a takedown of an Illicit Massage Business (IMB) that was sex-trafficking numerous foreign national victims. In addition to the revenue generated from the seizure and forfeiture of assets, the Safe Harbor Law has provided increased fines and impoundment fees for CSAM and Promoting CSAM crimes. Thus, the financial incentive to target CSEC related crimes is equally lucrative, if not more so.

The allocation of law enforcement resources dedicated to these crimes appears incongruous with their relative seriousness. The Safe Harbor Law has classified Promoting CSAM as a level XII offense, while the most serious drug offenses are level III offenses (e.g., Controlled Substance Homicide and Manufacturing Methamphetamine), many drug offenses are unranked, and no drug offenses are Class A offenses.¹² So while the Legislature and the Washington State criminal code appropriately recognize the extremely serious nature of CSEC crimes, law enforcement has not adjusted their priorities accordingly.

Thus, the primary barrier for prosecuting these crimes and utilizing the increased penalties created by the Safe Harbor Law is a lack of will and prioritization of the already existing law enforcement resources, which are disproportionately targeting less serious offenses. Not only are CSAM and Promoting CSAM significantly more serious, data suggests that the prevalence of commercial sex is just as significant as drug related offenses. Additionally, gangs, drugs and firearms are heavily intertwined with domestic commercial

9. Urban Institute, “Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities,” Research Report March, 2014 at <http://www.urban.org/research/publication/estimating-size-and-structure-underground-commercial-sex-economy-eight-major-us-cities>

10. “Bryne JAG 2012 Status Report,” (cited in note 6), reported \$3,626,391 in currency forfeited and \$2,048,807 in real property in 2011, at 7.

11. Urban Institute Report, 2014 (cited in note 9), at 30.

12. 2013 Washington State Adult Sentencing Guidelines Manual, Ver 20140301.

6. Bryne JAG Drug-Gang Task Force, Washington State Department of Commerce, “Bryne JAG 2012 Status Report,” at <http://www.commerce.wa.gov/Programs/PublicSafety/Pages/Drug-Gang-Task-Force.aspx>

7. Id. at 9.

8. Financial Fraud and Identity Theft Task Force Program, Washington State Department of Commerce, at <http://www.commerce.wa.gov/Programs/PublicSafety/Pages/FinancialFraudIdentityTheft.aspx>

sexual exploitation of children so there seems to be no excuse for the majority of law enforcement to ignore CSEC crimes and continue the status quo of focusing on drug offenses.

2.1.1.1 What Data Is NOT Available

AOC data is limited and difficult to interpret in regards to statewide CSAM and Promoting CSAM offenses. The data provided by the Urban Institute report did not separate child victims from sex trafficking victims as a whole, making the specific sex market for children difficult to estimate.

2.1.1.2 Survey and Other Data

The survey was not used to gather information about the increased penalties.

2.2.2 Fees

2.2.2.1 Overview

Applicable Provisions:

The provisions regarding level and seriousness of offense are:

- A person convicted of CSAM, promoting CSAM, promoting travel for CSAM, or who has been given a deferred prosecution or entered into a statutory or non-statutory diversion agreement for the aforementioned offenses must be assessed a fee of \$5,000.
- Prostitution and Intervention Account: This provision was subsequently modified. It now states that funds may be used for various services, which are listed in order of priority.

Key Takeaways:

Understanding: Because very few law enforcement agencies and prosecutors have experience with these crimes, the current imposition of these fees is not being assessed to their maximum potential.

Application: The required fee is identified in the Legal Financial Section on the current standardized Felony Judgment and Sentence form used in Superior Courts around the State.

Barriers: The same barriers identified in the section above, regarding the increased level and seriousness of the crimes, are equally applicable here.

An additional barrier for consideration is that the language in the Felony Judgment and Sentence does not separate the CSAM, Promoting CSAM, and promoting travel for CSAM fee of \$5,000 from the Trafficking and Promoting Prostitution offenses. Currently, it states: "Trafficking/Promoting prostitution/Commercial sexual abuse of minor fee (may be reduced by no more than two thirds upon a finding of inability to pay.) RCW 9A.40.100, 9A.88.120, 9.68A.105." This provision could be updated in the next standardized form by creating a separate section for CSAM, promoting CSAM, and promoting travel for CSAM to make the required fee more clear to prosecutors, defendants and the courts.

2.2.2.2 What Data is NOT Available

There is no way to determine if fees are derived from individuals convicted of CSAM, promoting CSAM, or promoting travel for CSAM or from individuals convicted of other crimes. According to a Department of Commerce report,

The Administrative Office of the Courts (AOC) is responsible for establishing new codes in JIS and informing courts about which codes to use. Data in JIS is coded to the account to which funds are directed, rather than the statute applicable to the crime. As a result, it is not possible to separate the funds collected by the offense committed...Certain courts, including the Seattle Municipal Court, do not utilize JIS. Additionally, some municipal courts contract with their county district court to collect fines on their behalf."¹³

2.2.2.3 Survey and Other Data

No survey questions were asked with regard to these provisions.

2.2.3 Vehicle Impound

2.2.3.1 Overview

Applicable Provisions:

The provision regarding vehicle impound is: upon a person's arrest for suspected violation of CSAM or promoting travel for CSAM, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car. The suspect must pay a fine of \$2,500 to redeem the impounded vehicle.

Key Takeaways:

Understanding: Seventy-five percent of Law Enforcement & Prosecutors were not aware of this provision.

Application: An even greater percentage, 85.5% indicated that they had never impounded a vehicle under this provision.

Barriers: Under RCW 9A.88.140(1)(a), an officer may impound a vehicle when: 1) the driver is arrested for patronizing, promoting prostitution in the first or second degree, or promoting travel for prostitution, 2) the vehicle was used in the commission of the crime; 3) the driver is the owner or the vehicle is a rental, and 4) the driver has previously been arrested for one of these crimes or the crime was committed in a SOPA. The decision to impound is discretionary.

Additionally, RCW 9A.88.140 (2) requires an officer to impound a vehicle if: 1) the driver is arrested for commercial sex abuse of a minor, promoting commercial sex abuse of a minor, or promoting travel for commercial sex abuse of a minor, 2) the vehicle was used in the commission of the crime; and 3) the driver is the owner or the vehicle is a rental.

There are a number of issues with this statute that make it difficult to implement and may be causing law enforcement agencies to avoid these impounds when possible.

13. "Criminal Penalty Fines Related to Prostitution and Commercial Sexual Abuse of Minors," Department of Commerce, Dec. 2015, at 6.

A. Impound Hold

Under subsection (3) of this statute, any vehicle impounded under this statute is subject to a “prostitution hold.” However, unlike the other hold provisions contained in RCW 46.55.360 (DUI 12-hour hold) and RCW 46.55.120 (DWLS 30-60-90-day hold), the hold provision in this statute is not for a prescribed period of time. Rather, the vehicle must be held by the tow operator until the owner pays “a fine to the impounding agency,” in addition to the applicable towing and storage fees charged by the tow operator. The fine is \$500 if the vehicle is impounded under subsection (1) (a), and \$2500 if it is impounded under subsection (2) of this statute. RCW 9A.88.140(4)(a). Following payment of the fine amount, the impounding agency must issue a receipt to the owner, who may then take it to the tow operator to redeem the vehicle.

1. The vehicle release provisions in RCW 9A.88.140 conflict with the release provisions in RCW 46.55.120.

RCW 9A.88.140(3) provides that impoundment under this statute must be made in accordance with the general provisions contained in Chapter 46.55 RCW. However, subsection (3) conflicts with the release provisions contained in RCW 46.55.120. Under RCW 46.55.120(1)(f), an impounded vehicle “shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle” Subsection (f) provides additional preconditions to release if the vehicle was impounded because the driver was DWLS, as does subsection (b) if the driver was arrested for DUI. There are no preconditions to release identified in this statute if the driver was arrested under RCW 9A.88.140, which creates a conflict between the release provisions in these two statutes.

2. The vehicle release provisions in RCW 9A.88.140 are problematic for rental vehicles.

The hold provision in this statute makes the process for release of rental vehicles problematic. The statute expressly provides for impoundment of rental cars. Although under RCW 46.55.120 both the legal/registered owner and the driver/rental contract holder are authorized to redeem the vehicle, RCW 9A.88.140(4)(a) states that the vehicle may not be released until the fine is paid by “an adult owner of the impounded vehicle.” The rental company is the owner of an impounded rental car, not the driver. Requiring the rental company to pay the fine for a rental contract holder would be unfair and contrary to the purpose for imposing the fine. However, under the clear language of this statute, the rental company could not redeem the vehicle until it paid the fine incurred as a result of the actions of the arrested driver. Failure to pay the fine would prevent the vehicle from being redeemed and would render it subject to being auctioned as an abandoned vehicle according to the statutorily-prescribed process.

B. Fines

This statute requires that the monetary fine be paid to the impounding agency, which must issue a receipt to the owner. RCW 9A.88.140(4)(b). Subsection (4)(c) requires that the fines shall be collected by the clerk of the court and then remitted to the treasurer of the jurisdiction in which the offense occurred. Although it is unstated, it is presumed that the impounding agency is responsible for transmitting the fines to the clerk of the court. The fines are then to be transmitted to the treasurer and deposited in the general fund of the county, city or town where the offense occurred to be used for local efforts to reduce the commercial sale of sex.

1. The requirement for the impounding law enforcement agency to collect and transmit fines creates an administrative burden.

This statute requires the impounding law enforcement agency to collect fines from drivers and issue receipts. The law enforcement agency must then remit the fines to the appropriate court. The collection and remittance of fines is an administrative burden on law enforcement agencies that may not otherwise have mechanisms in place for such tasks. In addition, the statute is silent as to where payment must be made, other than to the impounding agency, which may create unnecessary confusion and additional effort for both vehicle owners and agencies, as many agencies have multiple bureau, precinct, or detachment locations in addition to their headquarters.

It would be less of an administrative burden for drivers to go directly to the court with jurisdiction to pay the required fine. Court clerks’ offices already have processes in place for collecting, receipting and remitting fines. At the time a vehicle is impounded, if the driver is present, a copy of the Uniform Tow/Impound and Inventory Record is provided to the driver. Otherwise, the driver could obtain a copy from the impounding agency. The driver could then take the document to the court to pay the fine. This document, which is signed by the impounding officer under penalty of perjury, would provide the necessary information to the clerk to establish what fine is due under the statute.

2. The fine refund provisions may create an undue financial burden on certain impounding agencies.

The statute contains a number of provisions that mandate that the impounding agency refund the fine to the driver. Under subsection (6) (a) and (c), if the claimant substantially prevails at an impound hearing, the impounding agency must refund the \$500 fine paid under subsection (4), as well as the costs of towing and storage. However, if the impounding agency is the Washington State Patrol or a law enforcement agency that is conducting an operation outside its jurisdictional boundaries at the time of the impound, the fine will be remitted to the treasurer of the county or municipality where the offense occurred. This will be a governmental entity separate from the impounding agency. In these instances, should the driver substantially prevail at an impound hearing or be acquitted at trial, both of which may occur many months or even a year after payment of

the fine, there is no mechanism for the impounding agency to claw-back or otherwise recover the fine from the separate governmental entity so that it can be refunded. In such instances, the impounding agency is nonetheless liable for refund of the fine and must absorb the cost.

3. It is unclear whether the fine refund provisions in subsections 6(a) and (b) were intended to allow for refund of only \$500 fines, as written, and not \$2500 fines.

Subsections (6)(a) and (b) mandate a refund of a \$500 fine in the event the driver substantially prevails at an impound hearing or is acquitted at trial. There is no provision for refund of a \$2500 fine under either subsection.

It is unclear whether the limitation of these refund provisions to only the \$500 fines was intentional, or whether it was the result of an oversight during the 2010 amendment of the statute. Prior to the 2010 amendment, a driver could recover the fine no matter the crime that resulted in the impoundment. However, during the 2010 amendment process, changes were made to the statutory structure such that it may have been merely an oversight that the references in the refund sections were limited in the current manner. It is likely that claimants will nonetheless seek return of the \$2500 fines and courts may order their return notwithstanding the statutory language, especially if the claimants are acquitted at trial or prevail at an impound hearing on the basis that the arresting officers did not have probable cause for arrest.

C. Bases for Recovery of Fines, Fees and Costs

This statute allows a driver to recover fines, fees and costs if the driver substantially prevails at an impound hearing contesting the validity of the impoundment or if the driver is acquitted at trial for any of the crimes listed in subsection (1). All refunds must be paid by the impounding agency.

1. The “substantially prevails” standard in subsection (6)(a) is confusing in the context of RCW 46.55.120.

Under RCW 46.55.120(3), at a hearing to contest the validity of the impoundment, the question before the court is whether the impoundment was proper. “If the impoundment is found proper,” the fees and costs must be assessed against the driver/owner. RCW 46.55.120(3)(d). A driver may recover only if the impoundment was held to be not proper. Overlaying a “substantially prevails” standard on top of the clear-cut standard set forth in Chapter 46.55 RCW is confusing and may lead to unnecessary litigation.

2. The provision allowing for recovery of fees, costs and fines if the driver is found not guilty after trial is problematic.

Under RCW 9A.88.140(6)(b), a driver who is charged with a crime listed under subsection (1) and who is found not guilty at trial may recover any towing and storage fees and the fine that the driver paid. Although this subsection does not authorize a similar refund if the criminal charges are declined or dismissed after being filed, it is possible that actions for

recovery would nonetheless be brought under this section and would lead to unnecessary litigation.

Chapter 46.55 does not allow for recovery of impound and storage fees following an acquittal of any other crime, even when arrest for the crime was the sole basis for impoundment. RCW 46.55.113(1) authorizes an officer to impound a vehicle whenever a driver is arrested for DWLS, RCW 46.55.113(2)(d) authorizes impoundment whenever the driver is arrested and taken into custody, and RCW 46.55.360 authorizes impoundment whenever the driver is arrested for DUI.

Finally, RCW 9A.88.140(6)(b) permits the driver to recover fees and costs even if the impoundment was completely proper, and even if the driver previously lost at a hearing to challenge the validity of the impoundment. In order to impound a vehicle, the officer need only have probable cause that the crime was committed. This section creates a situation in which the impoundment was completely proper, but due to factors within the control of the prosecutor and criminal court, and beyond the control of the impounding agency, the agency will be required to pay the costs of impoundment and storage. In impounds in which the vehicle is in storage for extended periods of time, the combined costs of impound and storage are often in excess of \$1000. This gives rise to the potential for significant liability for the impounding agency even if the impoundment was entirely lawful. These costs are in addition to any legal fees that may already have been expended by the agency at an impound hearing.

2.2.3.2 What Data Is NOT Available

There was no way to determine an exact amount of impound fees assessed through AOC.

2.2.3.3 Survey and Other Data

The following survey questions were provided to Law Enforcement & Prosecutors:

Is law enforcement trained on the following provision? Upon a person’s arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or Promoting Travel for CSAM, the arresting officer must impound the suspect’s vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

Of the 56 respondents to this question, 25% responded “Yes” and 75% responded “No.”

Have you ever impounded a vehicle under this provision (referring to the previous question)?

Of the 62 respondents to this question, 14.5% responded “Yes” and 85.5% responded “No.”

The following comment addresses this provision:

“I think the most accurate answer is yes and no. We have 38 police agencies in King County; some follow this law and others do not.” Law Enforcement &

Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person's arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

2.3 Training

In addition to providing input on the provisions related to commercially sexually exploited children and perpetrators, survey respondents across all professional groups expressed a need for greater training. The following select comments represent the sentiments of respondents:

"Need training through WSCADV (Washington State Coalition Against Domestic Violence) or WCSAP (Washington Coalition of Sexual Assault Programs)." Youth Serving Providers & Defense Attorneys, page 6. Response to question 4: Are you aware that either a child, a child's parents, or DSHS can file a CHINS petition on behalf of a commercially sexually exploited child?

"This worker would find it very resourceful to have the most current and updated information along with trainings for providers and any others working in the community collectively with victims of CSE. Consistency and collective approach." Youth Serving Providers & Defense Attorneys, page 9. Response to question 7: Do you have any additional comments regarding CHINS and services for commercially sexually exploited children?

"I realize I could know a lot more about how the legal system works in these cases. I would be happy to attend a training or a webinar about this." Youth Serving Providers & Defense Attorneys, page 14. Response to question 11: Please list any other important comments you may have regarding these issues. "I think we would benefit as a whole from identifying specially trained therapists to help respond to these cases. Having expert therapists who can help develop a treatment plan and support both child and parent though safety planning and the healing process seems to be lacking." Juvenile Court Administrators & Juvenile Court Staff, page 15. Response to question 14, Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

"I would like to see a training offered for court staff, law enforcement, and prosecutors on juvenile prostitution/trafficking. In addition to traditional commercial prostitution, we need to learn strategies to deal with 'informal' prostitution where kids trade sex for drugs or a place to live." Juvenile Court Administrators & Juvenile Court Staff, page 15. Response to question 14, Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

"Though many agencies state that they are trained and provide services, few

are qualified and even fewer actually engage these youth." Juvenile Court Administrators & Juvenile Court Staff, page 15. Response to question 14, Do you have any additional comments regarding services for commercially sexually exploited children under the supervision of juvenile court?

"It seems like there's a need for specially trained advocates and therapists to work with this population. Advocates who have the time to develop trusting relationships with these children and therapists who can help develop safety plans and provide support, as well as can help engage and inform parents on the best path forward for their child given their unique set of circumstances." Juvenile Court Administrators & Juvenile Court Staff, page 16. Response to question 15: Please list any important comments you may have regarding these issues.

"I am aware of this based on participation in human trafficking investigations. However, I am not aware of agency wide training having been offered." Law Enforcement & Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person's arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

"Our line officers get little to no formal training in this area." Law Enforcement & Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person's arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

"The agency assigned to handle this type of case is trained, but I doubt that general law enforcement otherwise knows about this provision." Law Enforcement & Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person's arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

"We do not get much training on the topic in general." Law Enforcement & Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person's arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect's vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

"My understanding is that some of law enforcement is trained, but we are

going to include it in our annual training in February with law enforcement.” Law Enforcement & Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person’s arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect’s vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

“I am not sure that they have had any specialized training. The information regarding the impound of vehicles was included in an article from our office to the law enforcement that included this provision.” Law Enforcement & Prosecutors, page 20. Response to question 16: Is law enforcement trained on the following provision? Upon a person’s arrest for a suspected violation of Commercial Sexual Abuse of a Minor (CSAM) or promoting travel for CSAM, the arresting officer must impound the suspect’s vehicle if the vehicle was used in the commission of the crime and the suspect is the owner of the vehicle or the vehicle is a rental car.

“I think this is a good tool. My sense is our local law enforcement has an attitude that this issue does not happen here, despite info to the contrary.” Law Enforcement & Prosecutors, page 25. Response to question 19: Any additional comments on the provision mentioned in question 16?

“There may have been legal updates on this law but I do not recall [a] specific training.” Law Enforcement & Prosecutors, page 36. Response to question 25: Please list any other important comments you may have regarding these issues.

“LE [law enforcement] leaders must convince other LE agencies/officers that the problem is real and that they are missing the cases. Until this happens, LE will continue not to find credible the statements of social workers, probation officers and others currently involved. Get LE trained by committed and passionate LE and you will make a difference. Should be someone respected and once skeptical. CJTC and leadership are dropping the ball and losing confidence of community LE leaders.” Law Enforcement & Prosecutors, page 36. Response to question 25: Please list any other important comments you may have regarding these issues.

“I appreciate the survey and reminder about these types of cases. I think more training for law enforcement and prosecutors helps. I feel the Spring WAPA conference section on the human trafficking was a good start and brought valuable information to my practice for future cases/investigations.” Law Enforcement & Prosecutors, page 36. Response to question 25: Please list any other important comments you may have regarding these issues.

“I wish this information was readily made to probation working with adults.” Judicial Officers, page 16. Response to question 15: Please list any other important comments you may have regarding these issues.

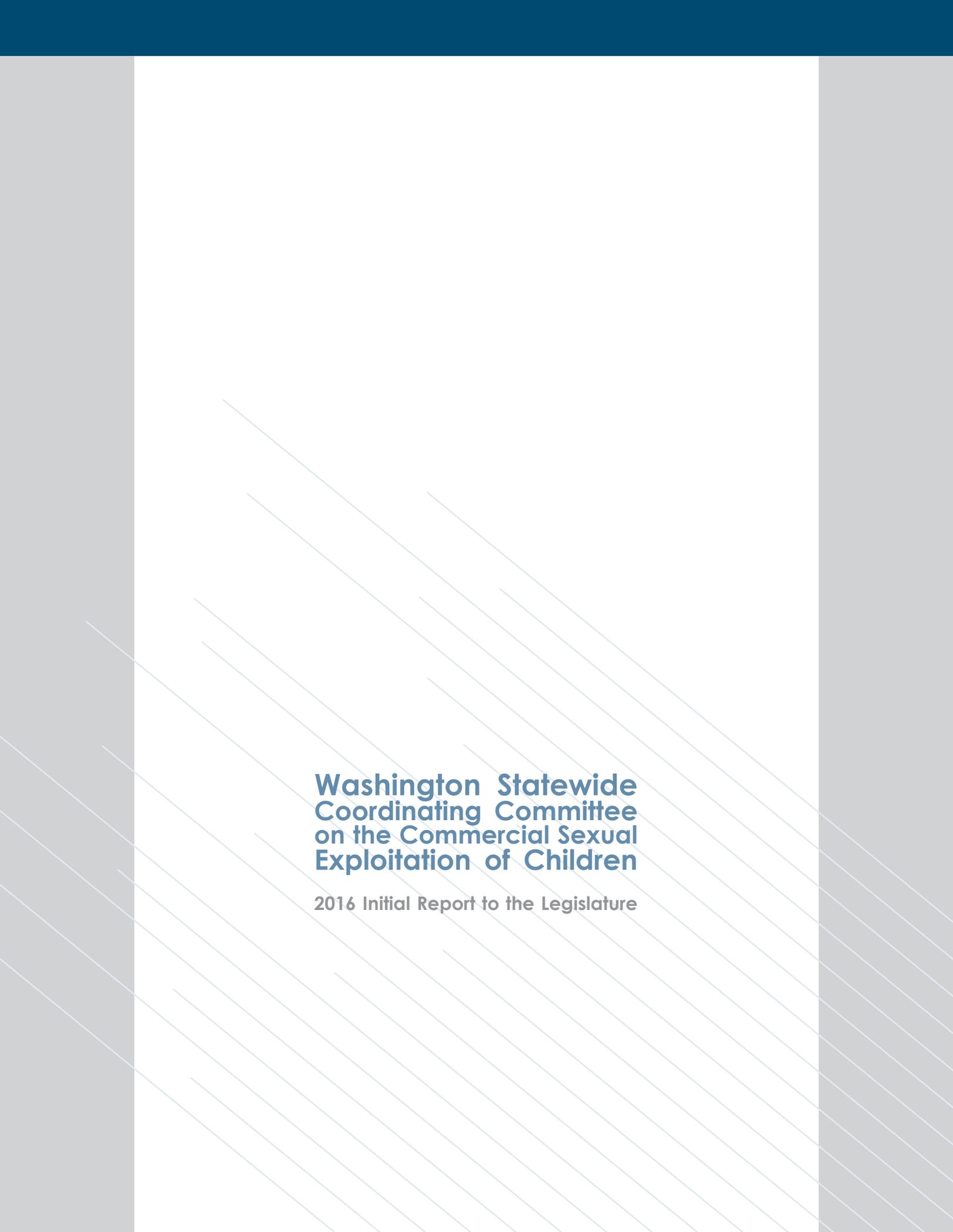
3: CONCLUSION

The survey results and other sources of information, as well as the lack of available data, raise concerns about the effectiveness of the Safe Harbor Law and the ability to evaluate it. The primary concerns among stakeholder appear to be:

- CHINS is not an effective mechanism for obtaining services for CSEC;
- Diversion on prostitution related offenses is not an effective mechanism for obtaining services either—both because so few youth are actually arrested on or charged with prostitution related offenses and because there are not adequate services to which youth can be diverted; and
- Law enforcement and courts are generally not assessing perpetrators with the penalties available under the Safe Harbor Law.
- Current law enforcement resources are disproportionately allocated to less serious crimes, primarily drug crimes, instead of crimes involving CSEC.
- The impound statute is problematic in its practical application for a number of reasons.

In conducting this review, the researchers also found that there is insufficient data to either support or oppose these concerns. No statewide data is collected on the number of youth arrested for prostitution related offenses. There are no codes to reflect when CHINS case involves a CSEC or when a fee is derived from a CSAM case.

To address these concerns and ensure the accuracy, the researchers will submit this preliminary report to the full Committee for its review in advance of the Committee's June 14, 2016 meeting. Based on input and discussion at this meeting, the Committee will revise this report, adding additional analysis and recommendations, and publish a final report in summer 2016.



**Washington Statewide
Coordinating Committee
on the Commercial Sexual
Exploitation of Children**

2016 Initial Report to the Legislature