

Amendment 2 Version 2 to CB 120836 - Prostitution Crimes and Diversion

Sponsor: Councilmember Moore

Sponsor omnibus amendment

Effect: This amendment would make changes to clarify the bill's intended differentiated enforcement approach for promoters and patrons of commercial sexual exploitation (CSE). First, it would define the terms "buyer" and "seller" with respect to the Seattle Municipal Code (SMC) crime of prostitution loitering, which is applicable both to buyers and sellers of sex. It would also prohibit a judge or judge pro tempore of the Seattle Municipal Court (SMC) from imposing a Stay out of Area of Prostitution (SOAP) order on an individual charged with or convicted of prostitution, or of prostitution loitering as a seller of sex. The amendment would additionally express the Council's intent that new Seattle Police Department (SPD) policies addressing arrests for prostitution and prostitution loitering (for sellers) state that diversion and/or referral to services is the preferred disposition and that the policies themselves reflect this approach.

The amendment would also require that SPD training related to the bill (1) align with best practices for working with commercial sexual exploitation (CSE) victims; (2) be developed in consultation with the Adult Survivors Collaborative Task Force; and (3) include, to the extent possible, CSE survivors as trainers. The amendment states that SPD should endeavor to train all officers who respond within SOAP Zone 1 in these best practices by October 2025 and for all officers who respond to crimes that may involve CSE/sex trafficking to be trained by January 2026.

The amendment would rename the Adult Survivors Collaborative to the Adult Survivors Collaborative Task Force and allow for the expansion of its membership to include CSE direct service providers. The amendment would require this group, (1) in collaboration with SPD, to develop the training program described above and, (2) in collaboration with the Human Services Department and the City Innovation and Performance Unit, to develop a proposal and recommendations for a new program to assist CSE survivors in vacating prostitution-related convictions from their records and/or clearing their arrest histories of such charges.

Recitals that this amendment would add emphasize that an emergency receiving center, for sex sellers who are CSE victims, is critical to the diversion-focused approach described in the bill and state the Council's intent to increase this population's access to services and/or diversion. Additional new recitals would describe the bill's intended utility to SPD in its enforcement efforts against sex buyers and sex promoters. Edits to existing recitals clarify the bill's intent.

This amendment would strike bill language instructing SPD to enter SOAP orders into information systems. Established practice and relevant labor agreements dictate that these

kinds of orders are entered directly into information systems by SMC staff rather than SPD. Striking the language supports the intent that SMC staff enter SOAP orders into information systems.

1. Amend the Recitals section of CB 120836 as follows:

WHEREAS, with the Seattle Police Department having over 300 fewer police officers than at the start of 2020, a multilayered approach is needed to address gun violence and sex trafficking/commercial sexual exploitation, including law enforcement tools; diversion; and environmental design such as the installation of traffic barriers, additional lighting, and cameras; and

WHEREAS, because there are currently no prostitution loitering crimes in the Seattle Municipal Code that apply to those who patronize individuals being commercial sexually exploited or those who promote such commercial sexual exploitation, the Seattle Police Department's ability to disrupt commercial sexual exploitation is limited; and

WHEREAS, there is no established system for the Seattle Police Department to provide diversion and referral to services to adults who are commercially sexually exploited; and

WHEREAS, the City Council intends to increase access to services (for adults and minors) and referral to pre-booking and pre-filing diversion for commercially sexually exploited adults and supports law enforcement action against those who patronize individuals being commercially sexually exploited and those who promote such commercial sexual exploitation as a form of gender based violence; and

WHEREAS, the City Council encourages a focus on diversion for trafficked (~~women~~) individuals and supports a law-enforcement approach for sex traffickers and buyers who are fomenting violence and victimizing girls as young as (~~12~~) 11; and

WHEREAS, the provision of services and resources including but not limited to an emergency receiving center is critical to a functioning diversion process; and

WHEREAS, it is the intent of this ordinance to create a tool to disrupt Seattle's sex trade and target sex traffickers, pimps, and buyers while centering the need for diversion, referral to services, safe house placement, substance abuse treatment, and other alternatives to booking for those who are (~~sex trafficking victims~~) being commercially sexually exploited and trafficked; NOW, THEREFORE,

2. Amend Section 1 as follows:

12A.10.010 Prostitution loitering

A. As used in this Section 12A.10.010:

1. “Buyer” means a person who pays a fee or offers to pay a fee.

~~((1-))~~ 2. “Commit prostitution” means to engage, agree, or offer to engage in sexual conduct with another person in return for a fee but does not include sexual conduct engaged in as part of any stage performance, play, or other entertainment open to the public.

~~((2-))~~ 3. “Public place” is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

4. “Seller” means a person who receives a fee or has been offered to receive a fee.

~~((3-))~~ 5. “Sexual conduct” means sexual intercourse, applying its ordinary meaning, or “sexual contact,” defined as any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

B. A person is guilty of prostitution loitering if he or she remains in a public place and intentionally solicits, induces, entices, or procures another to commit ~~((an act of))~~ prostitution.

3. Amend Section 3 as follows:

12A.10.040 Policies governing arrests for prostitution and prostitution loitering

B. Policy. In consultation with the Seattle Adult Survivors Collaborative Task Force, ~~((The))~~ the Seattle Police Department (SPD) will adopt policies governing arrests for the crimes described in subsection 12A.10.040.A. These new policies will seek to: (1) minimize harm caused by the criminal legal system to survivors of commercial sexual exploitation who are

arrested for prostitution loitering or prostitution; (~~while recognizing~~) (2) recognize the individual and societal harms caused by commercial sexual exploitation; and (3) implement best practices for interacting with victims of commercial sexual exploitation/sex trafficking. It is the intent of this Section 12A.10.040 that the policies state that:

1. For the crimes of prostitution loitering (as applicable to a seller) and prostitution, diversion, referral to social services, safe house placement, substance use treatment, and other alternatives to booking is the preferred disposition; and

2. A lack of diversion opportunities shall not be a reason for arrest for prostitution loitering (as applicable to a seller) or prostitution.

C. Training. SPD will train its officers on these new policies and shall conduct mandatory trainings on best practices for interacting with victims of commercial sexual exploitation/sex trafficking. Trainings will be developed in consultation with direct service provider groups among others who work with commercially sexually exploited individuals and, to the extent possible, should be conducted with the participation and involvement of survivors of commercial sexual exploitation. SPD should endeavor to develop such trainings by April 30, 2025 and to have trained by October 1, 2025 all officers who respond within the Stay Out of Area of Prostitution (SOAP) Zone 1. SPD should endeavor to have trained by January 1, 2026 all officers who respond to crimes that may involve commercial sexual exploitation/sex trafficking.

4. Amend Section 4 as follows:

12A.11.020 Issuance of order

A. A judge or judge pro tempore of the Seattle Municipal Court may issue a SOAP order to anyone charged with, or convicted of, any violation of prostitution-related crimes under Sections 12A.10.010 (as applicable to a buyer), (~~12A.10.020,~~) 12A.10.030, or 12A.10.060, or RCW 9A.88.100 (adopted by reference in 12A.90.020) occurring in a designated SOAP zone, either as a condition of pretrial release pursuant to CrRLJ 3.2 or as a condition of sentence.

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12A.11.030 Violation of order

A. If a police officer has probable cause to believe that a person is subject to an order issued under this Chapter 12A.11, and that a willful violation of that order is occurring in the officer's presence, the officer may arrest that person without a warrant or other process.

* * *

C. Nothing in any provision of this Chapter 12A.11 related to SOAP orders shall prohibit a person from transiting through a SOAP zone on public transportation, as long as the person does not enter or exit the public transportation in the SOAP zone except for the purposes set forth in subsection 12A.11.030.D.

D. Nothing in any provision of this Chapter 12A.11 related to SOAP orders shall be construed as prohibiting a person subject to a SOAP order from participating in a scheduled court hearing, attending a scheduled meeting with legal counsel within a prohibited area, or attending a court-ordered services (~~(medical or social service)~~) appointment during standard business hours within the prohibited area.

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12A.11.040 Modification and termination of order

A. Upon request for modification or termination of any order issued under this Chapter 12A.11, the court shall consider the requested modification or termination by allowing for a process by which the person subject to the order can provide relevant testimony or other evidence in support of the request.

B. Unless otherwise ordered by the court, a SOAP order issued under this Chapter 12A.11 as a condition of sentence shall terminate two years from the date of issuance. SOAP orders issued as pretrial conditions of release shall terminate upon dismissal of the criminal charge.

~~((C. Whenever an order is issued, modified, or terminated under this Chapter 12A.11, the clerk of the court shall forward a copy of the order on or before the next judicial day to the Seattle Police Department. Upon receipt of the copy of the order, the Seattle Police Department shall enter the order until the expiration date specified on the order into any computer-based criminal intelligence system(s) available to Seattle police officers. Upon receiving notice that an order has been terminated, the Seattle Police Department shall remove the order from any of its computer-based intelligence information system(s).))~~