

CHAPTER 155

[Substitute House Bill No. 2752]

MINORS—DEPICTIONS IN SEXUALLY EXPLICIT CONDUCT

AN ACT Relating to depictions of minors engaged in sexually explicit conduct; amending RCW 9.68A.070; adding a new section to chapter 9.94A RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 6, chapter 262, Laws of 1984 as amended by section 5, chapter 32, Laws of 1989 and RCW 9.68A.070 are each amended to read as follows:

A person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a (~~gross misdemeanor~~) class C felony.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

The blue ribbon panel on special sexual offender sentencing alternatives, created in 1989 under RCW 9.94A.124, shall consider whether offenders convicted of an offense under RCW 9.68A.070 or another felony related to pornography, should be eligible for sexual offender treatment under RCW 9.94A.120(7)(b) as a method of preventing future acts of sexual violence by some of these individuals. The panel shall include its recommendation on this topic in its September 1, 1991, report to the legislature.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act shall be effective July 1, 1990.

Passed the House March 3, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 23, 1990.

Filed in Office of Secretary of State March 23, 1990.

CHAPTER 156

[House Bill No. 1491]

COMMUNITY ACTION AGENCIES—ANTI-POVERTY PROGRAMS—DUTIES

AN ACT Relating to community action agencies; and adding new sections to chapter 43.63A RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.63A RCW to read as follows:

(1) The community action agency network, established initially under the federal economic opportunity act of 1964 and subsequently under the federal community services block grant program of 1981, as amended, shall

be a delivery system for federal and state anti-poverty programs in this state, including but not limited to the community services block grant program, the low-income energy assistance program, and the federal department of energy weatherization program.

(2) Local community action agencies comprise the community action agency network. The community action agency network shall serve low-income persons in the counties. Each community action agency and its service area shall be designated in the state federal community service block grant plan as prepared by the department of community development.

(3) Funds for anti-poverty programs may be distributed to the community action agencies by the department of community development and other state agencies in consultation with the authorized representatives of community action agency networks.

***NEW SECTION. Sec. 2. A new section is added to chapter 43.63A RCW to read as follows:**

In addition to complying with all applicable requirements of federal law, a community action agency shall:

(1) Be an office, division, or agency of a designated political subdivision of the state, or a designated locally managed not-for-profit organization qualifying under section 501(c)(3) of the federal internal revenue code;

(2) Have a community action board of at least nine but no more than thirty-three members, constituted so that:

(a) One-third of the members of the board are currently serving as elected public officials or their designees. If the number of elected officials reasonably available and willing to serve is less than one-third of the membership, membership of appointed public officials may be counted as meeting the one-third requirement;

(b) At least one-third of the members are persons chosen through democratic selection procedures adequate to assure that they are representatives of the poor in the area served; and

(c) The remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups or interests in the community;

(3) Be governed by the community action board if the agency is a private not-for-profit organization. The board shall have all duties, responsibilities, and powers normally associated with such boards, including, but not limited to:

(a) Selection, appointment, and dismissal of the executive director of the agency;

(b) Approval of all contracts, grant applications, budgets, and operational policies of the agency;

(c) Evaluation of programs; and

(d) Securing an annual audit of the agency;

(4) Be administered by the community action board if the organization is an office, division, or agency of a political subdivision of the state. The community action board shall provide for the operation of the agency and shall be directly responsible to the governing board of the political subdivision. The community action board, at a minimum, shall:

(a) Review and be consulted on the development of program policy;
(b) Be involved in and consulted on the appointment and dismissal of the agency director;

(c) Monitor and evaluate program effectiveness;
(d) Insure the effectiveness of community involvement in the planning process; and

(e) Assume all duties delegated to it by the governing board of the political subdivision;

(5) Have a clearly defined, specified service area;

(6) Have an accounting system that meets generally accepted accounting principles and be so certified by an independent certified accountant;

(7) Provide assurances against the use of governmental funds for political activity by the community action agency;

(8) Provide assurances that no person may, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through the community action program; and

(9) Provide assurances that the community action agency will comply with any prohibition against discrimination on the basis of age under the federal age discrimination act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the federal rehabilitation act of 1973, or its successor.

*Sec. 2 was vetoed, see message at end of chapter.

Passed the House February 2, 1990.

Passed the Senate February 23, 1990.

Approved by the Governor March 23, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 23, 1990.

Note: Governor's explanation of partial veto is as follows:

*I am returning herewith, without my approval as to section 2, Engrossed House Bill No. 1491 entitled:

AN ACT Relating to community action agencies.

Community action agencies provide a valuable service in the State of Washington, by administering a variety of low-income programs. Section 1 establishes a statutory reference for this service delivery system. Section 2 defines the role of community action boards.

I have vetoed section 2 because the language creating the power of the boards is in conflict with the manner in which some agencies in the state operate. Some agencies are funded through political subdivisions and the language in the bill would interfere with the administrative practices of these subdivisions and create a potential for litigation.

With the exception of section 2, Engrossed House Bill No. 1491 is approved.*

CHAPTER 157

[Senate Bill No. 6583]

AIR POLLUTION CONTROL AUTHORITIES

AN ACT Relating to air pollution control authorities; amending RCW 70.94.431; adding a new section to chapter 70.94 RCW; and repealing RCW 70.94.0935.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 53, chapter 168, Laws of 1969 ex. sess. as last amended by section 19, chapter 109, Laws of 1987 and RCW 70.94.431 are each amended to read as follows:

(1) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 RCW or any of the rules and regulations of the department or the board shall incur a civil penalty in an amount not to exceed one thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. For the purposes of this subsection, the maximum daily fine imposed by a local board for violations of standards by a specific emissions unit is one thousand dollars.

(2) Further, the person is subject to a fine of up to five thousand dollars to be levied by the director of the department of ecology if requested by the board of a local authority or if the director determines that the penalty is needed for effective enforcement of this chapter. A local board shall not make such a request until notice of violation and compliance order procedures have been exhausted, if such procedures are applicable. For the purposes of this subsection, the maximum daily fine imposed by the department of ecology for violations of standards by a specific emissions unit is five thousand dollars.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) All penalties recovered under this section by the department shall be paid into the state treasury and credited to the general fund or, if recovered by the authority, ((fifty percent)) shall be paid into the treasury of the authority and credited to its funds ((and fifty percent shall be distributed to the cities, towns and counties within the authority, on a pro rata basis, as each contributes to support the authority pursuant to RCW 70.94.093)). If