

Ordinance No. 122800

Council Bill No. 116324

AN ORDINANCE RELATING TO MANDATORY FEES FOR PROSTITUTION-RELATED OFFENSES; CHANGING THE CRIMES COVERED BY THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; CHANGING THE AMOUNT OF THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; AND AMENDING S.M.C. 12A.10.070.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

TBJ
Councilmember

Committee Action:

9/16/08 MSP Approval 3-0-0 TB, BH NL

9-22-08 Passed 9-0

CF No. _____

Date Introduced:	<u>9.8.08</u>	
Date 1st Referred:	To: (cc) Public Safety, Human Services & Education (PSHSE)	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>9.29.08</u>	
Date Returned to City Clerk:	Date Published: <u>2</u>	T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: _____ (Initial/Date)

Law Department

Law Dept. Review OMP Review City Clerk Review Electronic Copy Loaded Indexed



Seattle City Attorney

Thomas A. Carr

August 29, 2008

By Hand

Honorable Tim Burgess
Seattle City Council
Chair, Public Safety, Human Services &
Education Committee
Seattle City Hall
600 Fourth Avenue, 2nd Floor
Seattle WA 98124

Re: Amendment to the Sex Industry Victim's Fund Ordinance

Dear Council Member Burgess:

I am enclosing a draft ordinance to amend the Seattle Municipal Code 12A.10.070, the Sex Industry Victim's Fund. This amendment would do two things. It would eliminate references to SMC 12a.10.010 (Prostitution Loitering) and SMC 12a.10.020 (Prostitution). The fee was never intended to apply to defendants charged with these crimes and in fact has never been imposed on such defendants. The reference was in error and should be eliminated.

The second change would raise the fee from \$500 to \$1000. This would provide additional funding to assist sex workers.

I appreciate your attention to this important matter. I am happy to provide any assistance that you might need.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom", written over a horizontal line.

Thomas A. Carr
Seattle City Attorney



ORDINANCE 122800

AN ORDINANCE RELATING TO MANDATORY FEES FOR PROSTITUTION-RELATED OFFENSES; CHANGING THE CRIMES COVERED BY THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; CHANGING THE AMOUNT OF THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; AND AMENDING S.M.C. 12A.10.070.

WHEREAS, a large majority of sex industry workers are victims, who believe that they have few or no alternatives; and

WHEREAS, sex industry workers often have complex problems that require comprehensive services; and

WHEREAS, studies show that a majority of sex industry workers have been victims of sexual abuse; and

WHEREAS, in 2002 the City of Seattle passed Ordinance Number 120907, imposing a fee upon those charged with prostitution related offenses who enter a pretrial diversion agreement.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.10.070 of the Seattle Municipal Code (Ordinance 120907 § 2) is amended as follows:

12A.10.070 Mandatory fee for defendant convicted of or entering into a pretrial diversion agreement for a prostitution-related offense; forfeiture of funds used as part of prostitution-related offenses.

A. 1. In addition to penalties set forth in Section 12A.10.020 and Section 12A.10.060, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating Section 12A.10.020 or Section 12A.10.060 shall be assessed a fee of Fifty Dollars (\$50.00).

2. In addition to penalties set forth in Section 12A.10.040, a person who is either convicted or given a deferred sentence or a deferred prosecution as a result of an arrest for violating Section 12A.10.040 shall be assessed a fee of One Hundred Fifty Dollars (\$150.00).



1 B. A person who is charged with a violation of Section ((12A.10.010, 12A.10.020,)) 12A.10.040
2 or 12A.10.060 and who enters into a pretrial diversion agreement shall be assessed, as a part that
3 agreement, a fee of ((Five Hundred)) One Thousand Dollars (\$1,000((500))).

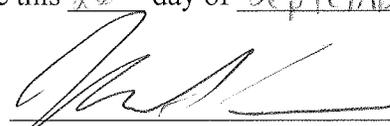
4 C. The court may not suspend payment of all or part of the fees required by subsections A and B
5 of this section unless it finds that the person does not have the ability to pay.

6 D. Any defendant who is convicted of, or enters into a pretrial diversion agreement for, a
7 prostitution-related offense shall forfeit any monies tendered as part of the offense.

8 E. Any fee assessed under subsection A of this section shall be collected by the clerk of the court
9 and distributed each month to the state treasurer for deposit in the prostitution prevention and
10 intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and
11 intervention activities. Any fee assessed under subsection B of this section, and the portion of any fine
12 imposed upon a defendant convicted of a violation of Section 12A.10.020, 12A.10.020, 12A.10.040 or
13 12A.10.060 that is retained by the City shall be collected by the clerk of the court or the Director of
14 Probation Services and shall be deposited in the Sex Industry Victims Fund. Monies forfeited under
15 subsection D of this section shall be deposited in the Vice Enforcement/Money Laundering Forfeiture
16 Account.

17 **Section 2.** This ordinance shall take effect and be in force thirty (30) days from and after its
18 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
19 presentation, it shall take effect as provided by Section 1.04.020.

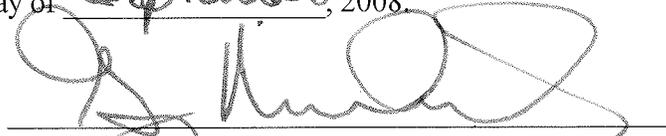
20 Passed by the City Council the 22nd day of September, 2008, and signed by me in open
21 session in authentication of its passage this 22nd day of September, 2008.

22 
23 _____
24 President _____ of the City Council



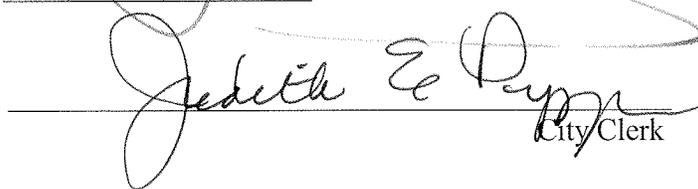
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Approved by me this 29th day of September, 2008.



Mayor

Filed by me this 2nd day of October, 2008.



City Clerk

(Seal)

CB 116327



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Law	Thomas Carr/4-8288	None

Legislation Title:

AN ORDINANCE RELATING TO MANDATORY FEES FOR PROSTITUTION-RELATED OFFENSES; CHANGING THE CRIMES COVERED BY THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; CHANGING THE AMOUNT OF THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; AND AMENDING S. M. C. 12A.10.070

Summary of the Legislation: This legislation corrects a technical defect in the Sex Industries Victim Fund Legislation and raises the fee from \$500 to \$1000. That ordinance set the amount of the fee imposed for pretrial diversion of prostitution-related offenses, the proceeds of which would be used for the care and treatment of the victims of the illegal sex industry. It also provides for forfeiture of any monies paid as part of the alleged violation to be used to support investigation and arrest of those who patronize the illegal sex industry. The intent of the bill was to impose the fee on those charged with patronizing a prostitute. In the original legislation the crimes of prostitution and prostitution loitering were erroneously included. This legislation corrects that mistake by eliminating the reference to those crimes. This part of the legislation has no fiscal impact, because the Court has not imposed the charge upon those charged with prostitution and prostitution loitering.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

See above.

- *Please check one of the following:*

This legislation does not have any financial implications. *(Stop here and delete the remainder of this document prior to saving and printing.)*

This legislation has financial implications. *(Please complete all relevant sections that follow.)*



Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
Sex Industry Victims Fund 379100/16200	Human Services Department	Sex Industry Victim's Fund Assessment	\$58,259*	\$116,498*
TOTAL				

Notes: *This amount was calculated by averaging the amounts collected from 2005 through 2007. The amount collected depends on police enforcement activity which varies depending on police enforcement priorities and staffing.

** This amount represents an estimate of projected revenue calculated by doubling the average amount collected from 2005 through 2007.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: *This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.*

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
TOTAL							

* 2009 positions and FTE are total 2009 position changes resulting from this legislation, not incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.



Notes: None

- **Do positions sunset in the future?** (If yes, identify sunset date): **Not applicable.**

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.) **\$58,259**
- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.) **Direct general fund support for sex industry victims.**
- **Is the legislation subject to public hearing requirements:** (If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.) **No.**
- **Other Issues** (including long-term implications of the legislation):

Please list attachments to the fiscal note below:



STATE OF WASHINGTON – KING COUNTY

--SS.

229960
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

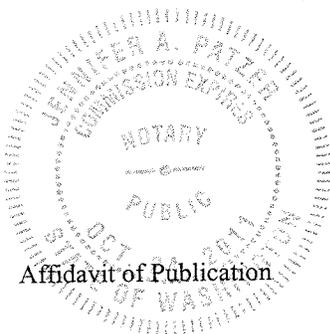
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 122800

was published on

10/07/08

The amount of the fee charged for the foregoing publication is the sum of \$ 161.58, which amount has been paid in full.



Affidavit of Publication

[Signature]

Subscribed and sworn to before me on
10/07/08 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

ORDINANCE 122800

AN ORDINANCE RELATING TO MANDATORY FEES FOR PROSTITUTION-RELATED OFFENSES; CHANGING THE CRIMES COVERED BY THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; CHANGING THE AMOUNT OF THE FEE IMPOSED FOR PRETRIAL DIVERSION OF SUCH OFFENSES; AND AMENDING S.M.C. 12A.10.070.

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WHEREAS, sex industry workers often have complex problems that require comprehensive services; and

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B. A person who is charged with a violation of Section (~~12A.10.010, 12A.10.020,~~) 12A.10.040 or 12A.10.060 and who enters into a pretrial diversion agreement shall be assessed, as a part that agreement, a fee of (~~Five Hundred~~) One Thousand Dollars (~~\$1,000~~(\$1,000)).

C. The court may not suspend payment of all or part of the fees required by subsections A and B of this section unless it finds that the person does not have the ability to pay.

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E. Any fee assessed under subsection A of this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities. Any fee assessed under subsection B of this section, and the portion of any fine imposed upon a defendant convicted of a violation of Section 12A.10.020, 12A.10.020, 12A.10.040 or 12A.10.060 that is retained by the City shall be collected by the clerk of the court or the Director of Probation Services and shall be deposited in the Sex Industry Victims Fund. Monies forfeited under subsection D of this section shall be deposited in the Vice Enforcement/Money Laundering Forfeiture Account.

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Approved by Mayor: September 29, 2008

Filed by City Clerk: October 2, 2008

Passed by the City Council the 22nd day of September, 2008, and signed by me in open session in authentication of its passage this 22nd day of September, 2008.

RICHARD CONLIN,

President of the City Council

Approved by me this 29th day of September, 2008.

GREG NICKELS,

Mayor.

Filed by me this 2nd day of October, 2008.

(Seal) JUDITH PIPPIN,

City Clerk

Publication ordered by Judith Pippin, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, October 7, 2008.

10/7(229960)