

Branding Offense Committee Recommendation to SGC

Subcommittee members: Jon Tunheim, Kimberly Gordon, Judge Amamilo, Representative Mosbrucker

Recommendations:

- The committee recommends this crime be placed within the human trafficking chapter.
- The committee recommends adding a finding section to proposed bill language. The language from the Hate Crime finding was used at the template.
- The committee felt that the offense of Branding was not appropriately dealt with as an Assault 2 offenses (SL 4) but also felt a SL 8 ranking as proposed in HB 1844 was too high. They suggest the SGC consider a seriousness level somewhere between these levels.
 - o Should language be added to the finding section that denotes this behavior is considered more serious in terms of ranking?
- The committee discussed the idea of adding a definition of ‘scar’ but deemed it was not necessary.

AN ACT Relating to creating the offense of unlawful branding of another person

Branding - Trafficking crime offenses – Finding

The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, mental, physical, or sensory disabilities, or vulnerability to trafficking and commercial sexual exploitation are serious and have a lifetime impact on the targeted victims.

The legislature further finds that the causes of commercial sexual exploitation are rooted in the attitudes, beliefs, and behaviors that contribute to the demand for and growth of this criminal industry¹.

The legislature recognizes that traffickers around the world frequently prey on individuals who are poor, vulnerable, living in an unsafe or unstable situation, or are in search of a better life. Trafficking victims are deceived by false promises of love, wealth, or a stable life and are lured or forced into situations where they are made to engage in sexual exploitation or other work under deplorable conditions with little or no pay.²

The legislature finds that the state has a compelling interest in preventing crimes and threats motivated by an intent to exert power and control over others in furtherance of human trafficking and commercial sexual exploitation and such interest includes preventing the forcing of victims to have their body marked for the purpose of identifying and tracking the person for ownership as part of a plan or scheme to engage in human trafficking or sexual exploitation. This practice causes a harm to victims that is most appropriately punished as “branding” instead of assault.

¹ <https://traffickingprevention.org/>

² <https://www.justice.gov/humantrafficking/what-is-human-trafficking>

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NEW SECTION. Sec. 1. A new section is added to chapter 9A.40 RCW to read as follows:

(1) A person is guilty of unlawful branding of another person if he or she knowingly:

(a) Marks another person's body with a subdermal implant, tattoo, body art, burn or other scar with the knowledge that the mark is intended to be used to track the person or mark the person for ownership as part of a plan or scheme to engage in trafficking of the person under RCW 9A.40.100 or promoting prostitution of the person under RCW 9A.88.070 or 9A.88.080; or

(b) Uses force, fraud, or coercion to cause a person to have his or her body marked with a subdermal implant, tattoo, body art, burn or other scar for the purpose of tracking the person or marking the person for ownership as part of a plan or scheme to engage in trafficking of the person under RCW 9A.40.100 or promoting prostitution of the person under RCW 9A.88.070 or 9A.88.080.

(2) Unlawful branding of another person is a class B felony.

(3) For the purposes of this section:

(a) "Body art" has the same meaning as provided in RCW 18.300.010.

(b) "Coercion" has the same meaning as provided in RCW 9A.36.070.

(c) "Tattoo" means an indelible mark made by tattooing, as defined in RCW 18.300.010.