

SENATE BILL REPORT

SB 5815

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 3, 1993

Brief Description: Concerning seizure and forfeiture.

SPONSORS: Senators West and Moyer

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5815 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Roach, and Spanel.

Staff: Jon Carlson (786-7459)

Hearing Dates: March 3, 1993

BACKGROUND:

Under the state's Uniform Controlled Substances Act, illegal drugs, and any real or personal property associated with the production, delivery, importation, or exportation of illegal drugs, are generally subject to seizure and forfeiture by law enforcement authorities.

A person whose personal or real property is seized by a law enforcement agency is afforded the opportunity at a hearing to make a claim of ownership or right to possession. The person must notify the seizing law enforcement agency in writing within 45 days of the seizure in the case of personal property, and 90 days in the case of real property. The hearing is before the chief law enforcement officer of the seizing agency or his or her designee. If the seizing agency is a state agency, the hearing is before the chief law enforcement officer of the seizing agency or an administrative law judge.

Any person asserting a claim or right to the property may remove the case to a court of competent jurisdiction if the total value of the seized items is more than \$500. However, the current procedures for removing the case to court are unclear.

SUMMARY:

A person asserting a claim of ownership or right to possession with regard to seized property may only remove the case to a court of competent jurisdiction according to the rules of civil procedure.

The person who seeks to remove the case is required to serve process, in accordance with existing statutory requirements for service of process, against the state or political subdivision which operates the seizing agency. The service of process must occur within 45 days of the seizure.

EFFECT OF PROPOSED SUBSTITUTE:

It is clarified that the removal proceeding only applies to personal property. The service of process must also include any other party of interest. The timeline for service of process is extended to within 45 days after a person notifies the seizing agency of his or her claim of ownership.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

This measure would eliminate the uncertainty and confusion surrounding the process of removing a claim of ownership from a seizing agency to a court of competent jurisdiction.

TESTIMONY AGAINST: None

TESTIFIED: Rocco N. Treppiedi, Salvatore J. Faggiano, Spokane City Attorney's office (pro); Jack Nevin, Pierce County Prosecutor's office (pro)