
HOUSE BILL 1640

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Johanson, Ballasiotes, Wineberry, Padden, Schmidt, Ludwig, Mastin, Riley, Thibaudeau, Campbell, Long, Forner, H. Myers, Brough, Vance, Jones, Foreman, Fuhrman, Schoesler, Miller, Casada, Jacobsen, Stevens, Rayburn, Kremen, Silver, Quall, Talcott, Tate, Orr, Van Loven and Anderson

Read first time 02/03/93. Referred to Committee on Judiciary.

1 AN ACT Relating to crime victims; and adding new sections to
2 chapter 7.68 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds compelling state
5 interests in compensating the victims of crime and in preventing
6 criminals from profiting from their crimes. Sections 2 through 5 of
7 this act are intended to advance both of these interests.

8 NEW SECTION. **Sec. 2.** The following are subject to seizure and
9 forfeiture and no property right exists in them:

10 (1) All tangible or intangible property, including any right or
11 interest in such property, acquired by a person convicted of a crime
12 for which there is a victim within the meaning of RCW 7.68.020(3) and
13 to the extent the acquisition is the direct or indirect result of the
14 convicted person having committed the crime. Such property includes
15 but is not limited to the convicted person's remuneration for, or
16 contract interest in, any reenactment or depiction or account of the
17 crime in a movie, book, magazine, newspaper or other publication, audio
18 recording, radio or television presentation, live entertainment of any

1 kind, or any expression of the convicted person's thoughts, feelings,
2 opinions, or emotions regarding the crime.

3 (2) Any property acquired through the traceable proceeds of
4 property described in subsection (1) of this section.

5 NEW SECTION. **Sec. 3.** (1) Any property subject to seizure and
6 forfeiture under section 2 of this act may be seized by the prosecuting
7 attorney of the county in which the convicted person was convicted upon
8 process issued by any superior court having jurisdiction over the
9 property.

10 (2) Proceedings for forfeiture are commenced by a seizure. Within
11 fifteen days following the seizure, the prosecuting attorney under
12 whose authority the seizure was made shall cause notice of the seizure
13 and intended forfeiture to be served upon the owner of the property
14 seized and upon any person in charge of the property and upon any
15 person having any known right or interest in the property.

16 (3) If no person notifies the seizing prosecuting attorney in
17 writing of the person's claim of ownership or right to possession of
18 the property within ninety days of the seizure, the item seized shall
19 be deemed forfeited. Any person who does so notify the seizing
20 prosecuting attorney shall be afforded a reasonable opportunity to be
21 heard as to the claim. The hearing shall be conducted under Title 34
22 RCW before the seizing prosecuting attorney or his or her designee
23 unless the person asserting a claim removes the matter to a court of
24 competent jurisdiction. In a court hearing, the burden of producing
25 evidence is on the person claiming to be the lawful owner or the person
26 claiming to have the lawful right to possession of the property. The
27 burden of proving that the seized property is subject to forfeiture is
28 on the prosecuting attorney.

29 (4) A forfeiture action under this section may be brought at any
30 time from the date of conviction until the expiration of the statutory
31 maximum period of incarceration that could have been imposed for the
32 crime involved.

33 NEW SECTION. **Sec. 4.** (1) The proceeds of any forfeiture action
34 brought under section 3 of this act shall be distributed as follows:

- 35 (a) First, to the reasonable legal expenses of bringing the action;
36 (b) Second, to the victim or to the plaintiff in a wrongful death
37 action brought as a result of the victim's death, to satisfy any money

1 judgment against the convicted person, or to satisfy any restitution
2 ordered as part of the convicted person's sentence;

3 (c) Third, to the crime victims' compensation fund under RCW
4 7.68.090.

5 (2) A court may establish such escrow accounts or other
6 arrangements as it deems necessary and appropriate in order to
7 distribute proceeds in accordance with this section.

8 NEW SECTION. **Sec. 5.** (1) Any action taken by or on behalf of a
9 convicted person including but not limited to executing a power of
10 attorney or creating a corporation for the purpose of defeating the
11 provisions of sections 1 through 4 of this act is null and void as
12 against the public policy of this state.

13 (2) Sections 1 through 4 of this act are supplemental and do not
14 limit rights or remedies otherwise available to the victims of crimes
15 and do not limit actions otherwise available against persons convicted
16 of crimes.

17 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act are each
18 added to chapter 7.68 RCW.

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