

SENATE BILL REPORT

SB 6253

As of January 27, 2012

Title: An act relating to seizure and forfeiture.

Brief Description: Concerning seizure and forfeiture of property in commercial sexual abuse of a minor and promoting prostitution in the first degree crimes.

Sponsors: Senators Eide, Kline, Regala, Shin, Kohl-Welles, Litzow, Chase, Stevens, Nelson, Keiser, Roach and Conway.

Brief History:

Committee Activity: Judiciary: 1/27/12.

SENATE COMMITTEE ON JUDICIARY

Staff: Aldo Melchiori (786-7439)

Background: Civil forfeiture is an action brought against assets which are either the alleged proceeds of a crime or the alleged instrumentalities of crime. Instrumentalities of crime are property that was allegedly used to facilitate a crime. The assets, consisting of all tangible and intangible property, are subject to forfeiture and no property right exists in them. Washington has a number of civil forfeiture provisions, most notably in the Uniform Controlled Substances Act and for crime victim compensation. Property, acquired by a person convicted of a crime for which there is a victim may be subject to forfeiture. The proceeds of a forfeiture as crime victim compensation are first used to compensate the victim of the crime, then for reasonable legal expenses, and finally to the crime victim's compensation fund.

Summary of Bill: Civil forfeiture may be sought against the proceeds or property and instrumentalities used to facilitate the crimes of commercial sexual abuse of a minor or promoting prostitution in the first degree. A conviction is required. The property is not subject to forfeiture to the extent of the interest of an owner used or acquired without the owner's knowledge or consent. Seized property is subject to the interest of a secured party without knowledge or who did not consent. A landlord may also assert a claim against the proceeds of the forfeiture.

The property may be seized pursuant to an arrest, or upon probable cause. The hearing regarding the forfeiture is before the chief law enforcement officer of the seizing agency, but

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may be removed to a court upon motion by any person asserting a claim or right to the property. The burden of proof is on the agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture. A claimant who prevails in recovering seized property is entitled to reasonable attorney's fees. When property is forfeited, it must be sold and the proceeds deposited in the prostitution prevention and intervention account.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The state needs to take all the steps necessary to save our children. This Legislature has led the way on this issue and the bipartisan effort is evidence of the state's commitment to eradicating these acts. These bills are building blocks toward the future of those children who are in our state. When a 13-year-old girl can be picked up on the street and sold for sex, something needs to be done right now.

Persons Testifying: PRO: Tim Burgess, Seattle City Council; Gael Tarleton, President, Port of Seattle Commission; Jim Pugel, Asst. Chief, Seattle Police Dept.; Linda Smith, former U.S. Congresswoman; Rev. John Vaughn, Groundswell, Auburn Seminary; Sean O'Donnell, King County Deputy Prosecutor; Andy Conner, SeaTac Police; Brian Taylor, Detective, King County Sheriff; Leslie Briner, Youthcare; Nacole Svengard, mother; Velma Veloria, former State Representative; Emma Catague, Asian-Pacific Islander Woman's Safety Center; Megan McCloskey, University of WA Anti-Trafficking Task Force; Rose Gundersen, WA Engage; Kristine Harper, survivor.