

SENATE BILL REPORT

SSB 6253

As Passed Senate, February 8, 2012

Title: An act relating to seizure and forfeiture.

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

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Eide, Kline, Regala, Shin, Kohl-Welles, Litzow, Chase, Stevens, Nelson, Keiser, Roach and Conway).

Brief History:

Committee Activity: Judiciary: 1/27/12, 1/31/12 [DPS].

Passed Senate: 2/08/12, 49-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6253 be substituted therefor, and the substitute bill do pass.

Signed by Senators Harper, Vice Chair; Carrell, Kohl-Welles, Padden, Regala and Roach.

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 Substitute 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, promoting 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

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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 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 on Original Bill: 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.