

HOUSE BILL REPORT

SSB 6017

As Reported by House Committee On: Public Safety

Title: An act relating to the use of proceeds from seizure and forfeiture activities from sexual exploitation of children and promoting prostitution.

Brief Description: Concerning the use of proceeds from seizure and forfeiture activities from sexual exploitation of children and promoting prostitution.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Kohl-Welles, O'Ban, Darneille, Padden, Kline, Keiser, Dammeier and Fraser).

Brief History:

Committee Activity:

Public Safety: 2/25/14, 2/26/14 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Creating uniform guidelines for the disposition of proceeds of seizure and forfeiture actions, when the property is forfeited because of its associations with Child Pornography, Sexual Exploitation of a Minor, or Promoting Prostitution in the first degree.
- Allows the seizing law enforcement agency to retain 90 percent of the proceeds of asset forfeiture actions stemming from Child Pornography, Commercial Sexual Exploitation of a Minor, or Promoting Prostitution in the first degree.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Sarah Koster (786-7303).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When authorized by law, a law enforcement agency may take possession of property with the intent to forfeit a person's right to own or possess that property.

Generally, civil property forfeiture may be permitted when the property was used to facilitate a crime, the property is actual proceeds of a crime, or the property was purchased from proceeds traceable to criminal activity. Washington law currently permits forfeiture of property in the case of drug crimes, crimes committed with a firearm, human sex trafficking and sexual exploitation crimes, criminal profiteering, and other felony crimes. The seizing law enforcement agency must comply with specific statutory procedural due process requirements in order to successfully forfeit a previous ownership or possessory right in such property.

Forfeiture: Child Pornography.

Pornographic materials and personal property used or intended to be used to facilitate the manufacture or distribution of child pornography are subject to forfeiture. If property is forfeited to a law enforcement agency under these circumstances the agency may retain the property for official use, release the property to another law enforcement agency for the exclusive use of enforcing the chapter on sexual exploitation of children, or sell any property that is not required to be destroyed by law or is harmful to the public. The proceeds from property forfeited in connection with child pornography will be used by the seizing agency for payment of all proper expenses of the investigation and the forfeiture and sale proceedings. Fifty percent of the money remaining after these expenses are paid is to be deposited into the State General Fund and 50 percent is to be deposited into the general fund of the state, county, or city of the seizing law enforcement agency.

Forfeiture: Commercial Sexual Abuse and Promoting Prostitution.

Property acquired by or used to facilitate the crimes of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree is subject to forfeiture. If property is forfeited to a law enforcement agency under these circumstances, the agency must sell any tangible property that is not required to be destroyed by law. By January 31, each seizing agency must pay to the State Treasury an amount equal to the net proceeds of any property forfeited under these circumstances during the preceding year. The net proceeds is the value of the property after deducting any outstanding security interest in the property, cost of sale, and cost of damages owed to a landlord, if applicable. The funds must be deposited into the state Prostitution Prevention and Intervention Account. The seizing law enforcement agency is not permitted to retain any portion of the forfeiture proceeds.

Summary of Amended Bill:

Forfeiture: Child Pornography, Commercial Sexual Abuse, and Promoting Prostitution.

Property forfeited because of its connection to any of the above crimes may be retained for use by the seizing law enforcement agency or another law enforcement agency for enforcement of any of the above offenses, destroyed, if required by law, or sold.

After satisfying any bona fide security interest and paying the cost of the sale, 10 percent of the proceeds from a forfeiture will be remitted to the Prostitution Prevention and Intervention Account through an annual remittance by January 31 of each year. The remaining 90 percent must be used by the seizing law enforcement agency to pay expenses of the investigation leading to seizure and the forfeiture and sale proceedings. Any remaining money may be used by the seizing law enforcement agency for the exclusive use of enforcing chapters 9.68 and 9A.88 RCW, relating to sexual exploitation of children, prostitution, or promoting prostitution.

The value of the forfeited property includes the sale price of sold property and the fair market value of retained property. Destroyed property or retained firearms or illegal property has no value for the purpose of this calculation.

Amended Bill Compared to Substitute Bill:

The amended bill provides that the state portion of any proceeds from forfeiture of property connected to child pornography be deposited in the Prostitution Prevention and Intervention Account, rather than the State General Fund.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Local law enforcement agencies are having a hard time conducting investigations and creating stings because they do not have the funds to do so. Staff from the King County Sheriff's Office, the King County Prosecuting Attorney's Office, the Seattle Police Department (SPD), and the Seattle City Attorney's Office requested legislation which would provide for additional funding for local agencies to bring these horrible crimes, sex trafficking of minors and child pornography, under control. This bill will provide that.

A few years ago, Washington adopted sweeping legislation aimed at targeting those who would sexually exploit our children and the new legislation did allow for asset forfeiture of property used to facilitate or the proceeds of those crimes. However, it differed from the drug forfeiture laws because all the money went to the state.

Many in local law enforcement are hesitant to utilize these forfeiture statutes because of assuming 100 percent of the risk and liability and reaping none of the benefits. For example, for the SPD, the forfeiture hearing alone costs \$500, not including the costs of storing seized property or the SPD's attorney costs or any associated overtime costs. If the police lost the hearing, they would be responsible for the claimant's attorney's fees, which can total \$10,000. Detectives who were previously hesitant to use these statutes will now go after these child

predators and hit them where it hurts the most: in the pocketbooks. Additionally, it will tremendously help law enforcement by funding overtime and undercover costs with "john stings" and "street level prostitution demand stings." Last year, the unit recovered 30 juveniles involved in prostitution and 55 exploiters: purchasers and pimps. These provisions will allow all jurisdictions, not just the SPD, to go after the predators that violate the trust and innocence of our most precious resource.

(Information only) The distinction in where the funding goes is between child pornography and commercial sexual exploitation of children (CSEC). The CSEC funds come to the Prostitution Prevention and Intervention Account.

(Opposed) None.

Persons Testifying: (In support) Senator Kohl-Welles, prime sponsor; and Eric Sano, Seattle Police Department.

(Information only) Rick Torrance, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.