

SENATE BILL REPORT

SB 6017

As Reported by Senate Committee On:
Law & Justice, February 3, 2014

Title: An act relating to the use of proceeds from seizure and forfeiture activities from sex crimes.

Brief Description: Modifying seizure and forfeiture provisions.

Sponsors: Senators Kohl-Welles, O'Ban, Darneille, Padden, Kline, Keiser, Dammeier and Fraser.

Brief History:

Committee Activity: Law & Justice: 1/20/14, 2/03/14 [DPS-WM].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6017 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Kline, Ranking Member; Darneille, Pearson, Pedersen and Roach.

Staff: Kelly Walsh (786-7755)

Background: 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 an ownership or possessory right in such property.

In the case of 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

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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 must be used by the seizing agency for payment of all proper expenses of the investigation and the forfeiture proceeding. 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.

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 Treasurer an amount equal to the net proceeds of any property forfeited under these circumstances during the preceding year. The funds must be deposited into the state Prostitution Prevention and Intervention Account. The seizing law enforcement agency is not permitted to use the forfeiture proceeds to pay any expenses associated with the investigation or forfeiture process. The seizing law enforcement agency is not permitted to retain any portion of the forfeiture proceeds.

Summary of Bill (Recommended Substitute): When property is forfeited to a law enforcement agency as a result of its association with child pornography, commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting prostitution in the first degree, the seizing law enforcement agency must pay 10 percent of the net proceeds forfeited in the preceding year to the State Treasurer by January 31 of each year. The remaining 90 percent of the net proceeds not required to be paid to the State Treasurer must be used by the seizing law enforcement agency to pay the costs of the investigation leading to the seizure and other costs incurred by the forfeiture process. The assets remaining after proper expenses are paid are retained by the seizing law enforcement agency for the exclusive use of enforcing the chapters on prostitution and the sexual exploitation of children. The seizing law enforcement agency is not required to sell tangible property forfeited in connection with commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting prostitution in the first degree.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The title is changed to reference sexual exploitation of children and promoting prostitution. A technical change is made to refer to the proper code section.

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: Local law enforcement agencies incur a lot of costs associated with pursuing efforts against promoting prostitution

and commercial sexual exploitation of children. This bill would help local governments pay for the costs of these investigations. Local law enforcement agencies need to have the resources to investigate perpetrators. All forfeiture proceeds currently go to the state and the seizing law enforcement agency incurs all of the risk. This money would be used by the local agency to further investigations and enforce these criminal laws. Small jurisdictions are reluctant to use this tool because of the costs and risks. Simply holding a contested hearing on these matters is costly and if the local government does not prevail, it incurs costs and attorney's fees. Police are willing to do something about the problem of human trafficking by using these forfeiture provisions, but they do not have the resources to do so. This harmonizes these forfeiture provisions with other forfeiture statutes in Washington law and clearly delineates that proceeds will go to fighting these crimes. This bill gives necessary funds for law enforcement, city attorneys, and prosecutors in order to address the cash flow that motivates these crimes.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Eric Sano, Seattle Police Dept.; Andrea Piper-Wentland, WA Coalition of Sexual Assault Programs; Rose Gundersen, WA Engage; Alice Degen, King County Deputy Prosecuting Attorney.