

# SENATE BILL REPORT

## SB 5041

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As Reported by Senate Committee On:  
Law & Justice, February 18, 2015

**Title:** An act relating to seizure and forfeiture of property for patronizing a prostitute.

**Brief Description:** Concerning seizure and forfeiture of property for patronizing a prostitute.  
[**Revised for 1st Substitute:** Concerning sexual exploitation.]

**Sponsors:** Senators O'Ban, Fain and Dammeier.

**Brief History:**

**Committee Activity:** Law & Justice: 1/22/15, 2/16/15, 2/18/15 [DPS, DNP, w/oRec].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5041 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

**Minority Report:** Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Kohl-Welles.

**Staff:** Melissa Burke-Cain (786-7755)

**Background:** Washington combats the growing problem of commercial sexual exploitation of adults and children by educating the public, by assisting victims, and by coordinating and training community service providers to identify at-risk youth and adult victims. Nineteen states, including Washington, use property seizure and judicial forfeiture as a tool to deter sex trafficking and related crimes.

Beginning in 2014, the current law authorizes law enforcement agencies to seize property used to commit three crimes: sexual abuse of a minor, promoting sexual abuse of a minor, and promoting prostitution in the first degree. The law also authorizes judicial forfeiture and sale of seized property and it directs a portion of sale proceeds to a new prostitution prevention and intervention account in the State Treasurer's custody. The state Department of

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Community, Trade, and Economic Development applies funds in the account to statewide efforts to stop sex trafficking and related crimes.

**Summary of Bill (Recommended Substitute):** The crime of patronizing a prostitute is a criminal misdemeanor. The crime is renamed as sexual exploitation. A person commits sexual exploitation by offering to pay, arranging to pay, or actually paying someone to engage with them in sexual conduct. Law enforcement agencies may seize property used to commit the crime of sexual exploitation. Courts may order forfeiture and sale of the seized property. The agency pays a portion of the net proceeds of the sale into the state's prostitution prevention and intervention account.

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute):** The crime of patronizing a prostitute is renamed as sexual exploitation but otherwise there are no changes.

**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: This bill deals with the demand side, the Johns who are consumers of sex services. Property seizure and potential forfeiture intends to discourage the activity. Prostitution, or sexual exploitation, leaves social, emotional, and physical scars for victims. Prostitution is not a victimless crime and it is not just a job like any other job. Persons in prostitution are not part of a simple business transaction. From experience, prostitutes are often beaten and held against their will. It is a demand-driven behavior with countless victims and few of them are able to turn their lives around.

CON: Not all sex workers are sex-trafficking victims and trafficking is not indicative of the entire sex-worker industry. There can be an increased risk of violence and public health consequences but asset seizure does not reduce those problems. Under the bill, innocent people who have not been convicted could be roped into having their car seized without any process. Addressing the problem with asset seizure in an effort to stop behavior will be as much a failure as similar strategies in the unsuccessful war on drugs. There should not be a law permitting civil asset seizure to the police for profit. Trans people are concerned because according to a National Trans Discrimination survey, 16 percent of trans people have been involved in the sex industry at one point in time. Rampant discrimination and a lack of economic options often leave sex work as one of the few ways of self-support. Police have an antagonistic relationship with sex workers and with the trans community in general. Assault, including sexual assault, by police is common. The trans population will be punished under the penalties for patronizing a prostitute whether they have committed the crime or not. The threshold for seizure is probable cause; that is very little due process for seizure. The seizure probable cause threshold could result in loss of a vehicle, but car seizure for DUI only happens after two prior convictions. Persons caught up in these penalties may

face a long delay in citizenship or be deported. This bill goes after the wrong people, the average citizen, with aggressive search and seizure.

**Persons Testifying:** PRO: Senator O'Ban, prime sponsor; Jeri Moomaw, WA Engage; Tim Heffer, The Justice and Mercy Foundation.

CON: Michelle O'Connor, Mary, Savannah, Sex Worker Outreach Project; Toby Hill-Meyer, Alexis Green, Dorothy Simecek, Petra Wilson, Gender Justice League; Chehahsoon Mill, Richard Schilling, citizens.