
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

SB 41 Engrossed

DIGEST
2017 Regular Session

Johns

Present law provides, in addition to any other penalties, for the forfeiture of certain personal property used in the commission of certain sex offenses, including prostitution involving person under 18. Present law further provides that the personal property made subject to seizure and sale pursuant to present law may include but is not limited to electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

Proposed law changes the offense of "prostitution involving persons under 18" to "prostitution involving persons under 21."

Proposed law further adds that, with regard to the crimes of human trafficking, trafficking of children for sexual purposes, pornography involving juveniles, prostitution involving persons under 21, soliciting for prostitutes, inciting prostitution, promoting prostitution, pandering, letting premises for prostitution, enticing persons into prostitution, keeping a disorderly place, letting a disorderly place, and operation of places of prostitution, the proceeds of such conduct are subject to forfeiture, including currency, instruments, or securities.

Proposed law otherwise retains present law.

Present law provides that the district attorney is to authorize a public sale or a public auction conducted by a licensed auctioneer, without appraisal, of any forfeited personal property that is not required by present law to be destroyed and that is not harmful to the public.

Proposed law retains present law and adds that any currency, instruments, or securities forfeited are to be distributed or disposed of as provided in proposed law.

Present law provides that personal property is exempt from sale if it was stolen or if the possessor of the property was not the owner and the owner did not know that the personal property was being used in the commission of the crime. Present law further provides that if this exemption is applicable, the personal property is not to be released until such time as all applicable fees related to its seizure and storage are paid.

Proposed law retains present law and adds forfeited currency, instruments, and securities to this exemption.

Present law provides that personal property is exempt from sale if it is subject to a lien recorded prior to the date of the offense and if the applicable fees related to the property's seizure and storage are

paid by a valid lien holder.

Proposed law retains present law and adds forfeited currency, instruments, and securities to this exemption.

Present law provides that the proceeds of the public sale or public auction are to be used to pay the costs of the public sale or public auction, court costs, and fees related to the seizure and storage of the personal property, and any proceeds remaining are to be distributed by the district attorney in the following manner:

- (1) 60% to the seizing agency or agencies in an equitable manner.
- (2) 20% to the prosecuting agency.
- (3) 20% to the criminal court fund of the parish in which the offender was prosecuted.

Present law provides that when the property is forfeited pursuant to the penalty provisions for the crimes of human trafficking, trafficking of children for sexual purposes, pornography involving juveniles, computer-aided solicitation of a minor, prostitution involving persons under eighteen, soliciting for prostitutes, inciting prostitution, promoting prostitution, pandering, letting premises for prostitution, enticing persons into prostitution, keeping a disorderly place, letting a disorderly place, and operation of places of prostitution, the proceeds of the public sale or public auction are to be applied first to any restitution granted to the victim, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied. Present law further provides that any remaining proceeds are to be distributed in the following manner:

- (1) 25% to the seizing agency or agencies allocated among the seizing agencies in proportion to their participation in the management of the investigation, seizure, and forfeiture.
- (2) 25% to the prosecuting agency.
- (3) 50% to the Exploited Children's Special Fund.

Proposed law retains present law and adds currency, instruments, or securities to the items that are to be distributed pursuant to present law.

Present law provides relative to the Exploited Children's Special Fund.

Proposed law retains present law and makes the fund subject to public audit.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:46.2(B)(4), 46.3(D)(3), 81.1(E)(5)(c) and (d), 82.1(A), (D)(4), and (E), 83(B)(4), 83.1(B)(4), 83.2(B)(4), 84(B)(4), 85(B)(4), 86(B)(2) and (3), 104(B)(4), 105(B)(4), and 282(B)(4), and R.S. 15:539.1(A), (B)(1), (C), and (E) and 539.2(B)(1))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Change the offense of "prostitution involving persons under 18" to "prostitution involving persons under 21".
2. Delete provisions of proposed law relative to distribution of forfeited currency, instruments, or securities to a Special Asset Forfeiture Fund created by proposed law.
3. Make Exploited Children's Special Fund subject to public audit.