

SENATE BILL NO. 41

BY SENATOR JOHNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 14:46.2(B)(4), 46.3(D)(3), 81.1(E)(5)(c) and (d), 82.1(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), relative to sex offenses; to provide for forfeiture of currency by persons convicted of certain sex offenses; to provide for the disposition and distribution of forfeited currency; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:46.2(B)(4), 46.3(D)(3), 81.1(E)(5)(c) and (d), 82.1(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) are hereby amended and reenacted to read as follows:

§46.2. Human trafficking

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B.

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\* \* \*

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the

1 district attorney, or otherwise distributed or disposed of, in accordance with R.S.  
2 15:539.1.

3 (b) The personal property made subject to seizure and sale pursuant to  
4 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
5 electronic communication devices, computers, computer related equipment, motor  
6 vehicles, photographic equipment used to record or create still or moving visual  
7 images of the victim that are recorded on paper, film, video tape, disc, or any other  
8 type of digital recording media, and currency, instruments, or securities.

9 \* \* \*

10 §46.3. Trafficking of children for sexual purposes

11 \* \* \*

12 D. \* \* \*

13 \* \* \*

14 (3)(a) In addition, the court shall order that the personal property used in the  
15 commission of the offense, or the proceeds of any such conduct, shall be seized  
16 and impounded, and after conviction, sold at public sale or public auction by the  
17 district attorney, or otherwise distributed or disposed of, in accordance with R.S.  
18 15:539.1.

19 (b) The personal property made subject to seizure and sale pursuant to  
20 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
21 electronic communication devices, computers, computer related equipment, motor  
22 vehicles, photographic equipment used to record or create still or moving visual  
23 images of the victim that are recorded on paper, film, video tape, disc, or any other  
24 type of digital recording media, and currency, instruments, or securities.

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26 §81.1. Pornography involving juveniles

27 \* \* \*

28 E. \* \* \*

29 \* \* \*

30 (5) \* \* \*

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(c) In addition, the court shall order that the personal property used in the commission of the offense, **or the proceeds of any such conduct,** shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, **or otherwise distributed or disposed of,** in accordance with R.S. 15:539.1.

(d) The personal property made subject to seizure and sale pursuant to Subparagraph ~~(a)~~(c) of this Paragraph may include, but shall not be 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, **and currency, instruments, or securities.**

\* \* \*

§82.1. Prostitution; persons under eighteen; additional offenses

\* \* \*

D.

\* \* \*

\* \* \*

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, **or the proceeds of any such conduct,** shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, **or otherwise distributed or disposed of,** in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be 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, **and currency, instruments, or securities.**

E. It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution who is believed to be under the age of eighteen is

1 actually a law enforcement officer or peace officer acting within the official scope  
2 of his duties.

3 \* \* \*

4 §83. Soliciting for prostitutes

5 \* \* \*

6 B. \* \* \*

7 \* \* \*

8 (4)(a) In addition, the court shall order that the personal property used in the  
9 commission of the offense, or the proceeds of any such conduct, shall be seized  
10 and impounded, and after conviction, sold at public sale or public auction by the  
11 district attorney, or otherwise distributed or disposed of, in accordance with R.S.  
12 15:539.1.

13 (b) The personal property made subject to seizure and sale pursuant to  
14 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
15 electronic communication devices, computers, computer related equipment, motor  
16 vehicles, photographic equipment used to record or create still or moving visual  
17 images of the victim that are recorded on paper, film, video tape, disc, or any other  
18 type of digital recording media, and currency, instruments, or securities.

19 §83.1. Inciting prostitution

20 \* \* \*

21 B. \* \* \*

22 \* \* \*

23 (4)(a) In addition, the court shall order that the personal property used in the  
24 commission of the offense, or the proceeds of any such conduct, shall be seized  
25 and impounded, and after conviction, sold at public sale or public auction by the  
26 district attorney, or otherwise distributed or disposed of, in accordance with R.S.  
27 15:539.1.

28 (b) The personal property made subject to seizure and sale pursuant to  
29 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
30 electronic communication devices, computers, computer related equipment, motor

1 vehicles, photographic equipment used to record or create still or moving visual  
2 images of the victim that are recorded on paper, film, video tape, disc, or any other  
3 type of digital recording media, **and currency, instruments, or securities.**

4 §83.2. Promoting prostitution

5 \* \* \*

6 B. \* \* \*

7 \* \* \*

8 (4)(a) In addition, the court shall order that the personal property used in the  
9 commission of the offense, **or the proceeds of any such conduct,** shall be seized  
10 and impounded, and after conviction, sold at public sale or public auction by the  
11 district attorney, **or otherwise distributed or disposed of,** in accordance with R.S.  
12 15:539.1.

13 (b) The personal property made subject to seizure and sale pursuant to  
14 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
15 electronic communication devices, computers, computer related equipment, motor  
16 vehicles, photographic equipment used to record or create still or moving visual  
17 images of the victim that are recorded on paper, film, video tape, disc, or any other  
18 type of digital recording media, **and currency, instruments, or securities.**

19 \* \* \*

20 §84. Pandering

21 \* \* \*

22 B. \* \* \*

23 \* \* \*

24 (4)(a) In addition, the court shall order that the personal property used in the  
25 commission of the offense, **or the proceeds of any such conduct,** shall be seized  
26 and impounded, and after conviction, sold at public sale or public auction by the  
27 district attorney, **or otherwise distributed or disposed of,** in accordance with R.S.  
28 15:539.1.

29 (b) The personal property made subject to seizure and sale pursuant to  
30 Subparagraph (a) of this Paragraph may include, but shall not be limited to,

1 electronic communication devices, computers, computer related equipment, motor  
2 vehicles, photographic equipment used to record or create still or moving visual  
3 images of the victim that are recorded on paper, film, video tape, disc, or any other  
4 type of digital recording media, and currency, instruments, or securities.

5 §85. Letting premises for prostitution

6 \* \* \*

7 B. \* \* \*

8 \* \* \*

9 (4)(a) In addition, the court shall order that the personal property used in the  
10 commission of the offense, or the proceeds of any such conduct, shall be seized  
11 and impounded, and after conviction, sold at public sale or public auction by the  
12 district attorney, or otherwise distributed or disposed of, in accordance with R.S.  
13 15:539.1.

14 (b) The personal property made subject to seizure and sale pursuant to  
15 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
16 electronic communication devices, computers, computer related equipment, motor  
17 vehicles, photographic equipment used to record or create still or moving visual  
18 images of the victim that are recorded on paper, film, video tape, disc, or any other  
19 type of digital recording media, and currency, instruments, or securities.

20 §86. Enticing persons into prostitution

21 \* \* \*

22 B. \* \* \*

23 \* \* \*

24 (2) In addition, the court shall order that the personal property used in the  
25 commission of the offense, or the proceeds of any such conduct, shall be seized  
26 and impounded, and after conviction, sold at public sale or public auction by the  
27 district attorney, or otherwise distributed or disposed of, in accordance with R.S.  
28 15:539.1.

29 (3) The personal property made subject to seizure and sale pursuant to  
30 ~~Subparagraph (a) of this Paragraph~~ Paragraph (2) of this Subsection may include,

1 but shall not be limited to, electronic communication devices, computers, computer  
 2 related equipment, motor vehicles, photographic equipment used to record or create  
 3 still or moving visual images of the victim that are recorded on paper, film, video  
 4 tape, disc, or any other type of digital recording media, **and currency, instruments,**  
 5 **or securities.**

6 \* \* \*

7 §104. Keeping a disorderly place

8 \* \* \*

9 B.

\* \* \*

10 \* \* \*

11 (4)(a) In addition, the court shall order that the personal property used in the  
 12 commission of the offense, **or the proceeds of any such conduct,** shall be seized  
 13 and impounded, and after conviction, sold at public sale or public auction by the  
 14 district attorney, **or otherwise distributed or disposed of,** in accordance with R.S.  
 15 15:539.1.

16 (b) The personal property made subject to seizure and sale pursuant to  
 17 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
 18 electronic communication devices, computers, computer related equipment, motor  
 19 vehicles, photographic equipment used to record or create still or moving visual  
 20 images of the victim that are recorded on paper, film, video tape, disc, or any other  
 21 type of digital recording media, **and currency, instruments, or securities.**

22 §105. Letting a disorderly place

23 \* \* \*

24 B.

\* \* \*

25 \* \* \*

26 (4)(a) In addition, the court shall order that the personal property used in the  
 27 commission of the offense, **or the proceeds of any such conduct,** shall be seized  
 28 and impounded, and after conviction, sold at public sale or public auction by the  
 29 district attorney, **or otherwise distributed or disposed of,** in accordance with R.S.  
 30 15:539.1.

1 (b) The personal property made subject to seizure and sale pursuant to  
 2 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
 3 electronic communication devices, computers, computer related equipment, motor  
 4 vehicles, photographic equipment used to record or create still or moving visual  
 5 images of the victim that are recorded on paper, film, video tape, disc, or any other  
 6 type of digital recording media, **and currency, instruments, or securities.**

7 \* \* \*

8 §282. Operation of places of prostitution prohibited; penalty

9 \* \* \*

10 B.

\* \* \*

11 \* \* \*

12 (4)(a) In addition, the court shall order that the personal property used in the  
 13 commission of the offense, **or the proceeds of any such conduct,** shall be seized  
 14 and impounded, and after conviction, sold at public sale or public auction by the  
 15 district attorney, **or otherwise distributed or disposed of,** in accordance with R.S.  
 16 15:539.1.

17 (b) The personal property made subject to seizure and sale pursuant to  
 18 Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
 19 electronic communication devices, computers, computer related equipment, motor  
 20 vehicles, photographic equipment used to record or create still or moving visual  
 21 images of the victim that are recorded on paper, film, video tape, disc, or any other  
 22 type of digital recording media, **and currency, instruments, or securities.**

23 Section 2. R.S. 15:539.1(A), (B)(1), (C), and (E) and 539.2(B)(1) are hereby  
 24 amended and reenacted to read as follows:

25 §539.1. Forfeited property related to certain sex crimes; exempt property; allocation  
 26 of forfeited property

27 A. When personal property is forfeited under the provisions of R.S. 14:40.3  
 28 (cyberstalking), R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of  
 29 children for sexual purposes), R.S. 14:80 (felony carnal knowledge of a juvenile),  
 30 R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving

1 juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or  
 2 mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.  
 3 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83  
 4 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2  
 5 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for  
 6 prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping  
 7 a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282  
 8 (operation of places of prostitution; prohibited; penalty), the district attorney shall  
 9 authorize a public sale or a public auction conducted by a licensed auctioneer,  
 10 without appraisal, of that which is not required by law to be destroyed and which is  
 11 not harmful to the public. **Any currency, instruments, or securities forfeited shall**  
 12 **be distributed or disposed of as provided in this Section.**

13 B.(1) The personal property shall be exempt from sale **and the currency,**  
 14 **instruments, or securities shall be exempt from distribution or disposition** if it  
 15 was stolen or if the possessor of the property was not the owner and the owner did  
 16 not know that the personal property was being used in the commission of the crime.  
 17 If this exemption is applicable, the personal property shall not be released until such  
 18 time as all applicable fees related to its seizure and storage are paid. An Internet  
 19 service provider shall not be required to pay seizure or storage fees to secure the  
 20 release of equipment leased to an offender.

21 \* \* \*

22 C. In addition, the personal property shall be exempt from sale **and the**  
 23 **currency, instruments, or securities shall be exempt from distribution or**  
 24 **disposition** if it is subject to a lien recorded prior to the date of the offense and if the  
 25 applicable fees related to the property's seizure and storage are paid by a valid lien  
 26 holder.

27 \* \* \*

28 E. Notwithstanding Subsection D of this Section, when the **currency,**  
 29 **instruments, securities, or other** property is forfeited pursuant to the provisions of  
 30 R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual

1 purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-  
 2 aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen;  
 3 additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting  
 4 prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S.  
 5 14:85 (letting premises for prostitution), R.S. 14:86 (enticing persons into  
 6 prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a  
 7 disorderly place), and R.S. 14:282 (operation of places of prostitution), the currency,  
 8 instruments, and securities and proceeds of the public sale or public auction shall  
 9 be applied first to any restitution granted to the victim, after the costs of the public  
 10 sale or auction, court costs, and fees related to seizure and storage have been  
 11 satisfied. Any remaining currency, instruments, securities, or proceeds shall be  
 12 distributed in the following manner:

- 13 (1) Twenty-five percent to the seizing agency or agencies allocated among
- 14 the seizing agencies in proportion to their participation in the management of the
- 15 investigation, seizure, and forfeiture.
- 16 (2) Twenty-five percent to the prosecuting agency.
- 17 (3) Fifty percent to the Exploited Children's Special Fund pursuant to R.S.
- 18 15:539.2.

19 §539.2. Exploited Children's Special Fund

20 \* \* \*

21 B.(1) There is established in the state treasury the Exploited Children's  
 22 Special Fund, hereinafter referred to as the "fund". Appropriations by the legislature  
 23 and all monetary assessments paid and interest accrued on funds collected pursuant  
 24 to Subsection A of this Section shall be deposited into the Bond Security and  
 25 Redemption Fund, and after a sufficient amount is allocated from the Bond Security  
 26 and Redemption Fund to pay all the obligations secured by the full faith and credit  
 27 of the state which become due and payable within any fiscal year, the treasurer shall  
 28 pay the remainder of such monies into the fund. The fund shall be subject to public  
 29 audit.

30 \* \* \*

1           Section 3. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_