

RÉSUMÉ DIGEST

ACT 180 (SB 41)

2017 Regular Session

Johns

Prior law provided, in addition to any other penalties, for the forfeiture of certain personal property used in the commission of certain sex offenses, including prostitution involving persons under 18. Prior law further provided that the personal property made subject to seizure and sale pursuant to prior 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.

New law retains prior law provisions regarding the crimes of human trafficking, trafficking of children for sexual purposes, pornography involving juveniles, prostitution involving persons under 18, 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, but includes that the proceeds of such conduct are subject to forfeiture, including currency, instruments, or securities.

Prior law provided 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 prior law to be destroyed and that is not harmful to the public. New law retains these provisions but adds that any currency, instruments, or securities forfeited are to be distributed or disposed of as provided in new law.

Prior law provided 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. Provided 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. New law retains these provisions and adds forfeited currency, instruments, and securities to the exemption.

Prior law provided 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. New law retains these provisions and adds forfeited currency, instruments, and securities to the exemption.

Prior law provided 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.

Prior law provided 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 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 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. Prior law further provided 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.

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

Prior law created the Exploited Children's Special Fund in the state treasury and provides for payment of mandatory monetary assessments of \$2,000 by persons guilty of certain trafficking and prostitution offenses into the Fund. New law requires the Fund to be subject to public audit.

Effective upon signature of the governor (June 12, 2017).

(Amends 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))