

Regular Session, 2010

SENATE BILL NO. 56

BY SENATORS MARTINY, ALARIO, AMEDEE, APPEL, BROOME, CROWE, DONAHUE, DUPLESSIS, HEITMEIER, KOSTELKA, LONG, MICHOT, MOUNT, SHAW AND THOMPSON AND REPRESENTATIVES ANDERS, ARNOLD, BOBBY BADON, BALDONE, BARRAS, BILLIOT, BROSSETT, BURFORD, HENRY BURNS, TIM BURNS, CARTER, CHAMPAGNE, CHANEY, CONNICK, CROMER, DOERGE, DOVE, HARDY, HENDERSON, HENRY, HINES, HOFFMANN, HUTTER, JOHNSON, LABRUZZO, LAMBERT, LEGER, LIGI, LORUSSO, MILLS, MONICA, NOWLIN, PEARSON, PUGH, RICHARD, ROBIDEAUX, SCHRODER, SIMON, SMILEY, JANE SMITH, ST. GERMAIN, TALBOT, TEMPLET, THIBAUT, THIERRY, WHITE, WILLIAMS AND WILLMOTT

SEX OFFENSES. Provides for forfeiture of personal property used in the commission of certain criminal offenses. (8/15/10)

1 AN ACT  
2 To amend and reenact R.S. 14:80(D), 81(E)(3), (4), (5) and (6), and 86 and to enact R.S.  
3 14:40.3(C)(4), 46.2(B)(4), 46.3(D)(3), 81(H)(3), 81.1(E)(7), 81.2(G), and 81.3(B)(4)  
4 and R.S. 15:593.1, relative to criminal offenses; to provide for forfeiture of certain  
5 property used in the commission of certain crimes; to provide for forfeiture  
6 procedure; to provide for exempt property; to provide for allocation of proceeds; and  
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:80(D), 81(E)(3), (4), (5) and (6), and 86 are hereby amended and  
10 reenacted and R.S. 14:40.3(C)(4), 46.2(B)(4), 46.3(D)(3), 81(H)(3), 81.1(E)(7), 81.2(G), and  
11 81.3(B)(4) are hereby enacted to read as follows:

12 §40.3. Cyberstalking

13 \* \* \*

14 C. \* \* \*

15 **(4)(a) In addition, the court shall order that the personal property used**  
16 **in the commission of the offense shall be seized and impounded, and after**  
17 **conviction, sold at public sale or public auction by the district attorney in**

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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 is recorded on paper, film, video tape, disc, or any other type of digital recording media.

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§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 shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney 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 is recorded on paper, film, video tape, disc, or any other type of digital recording media.

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§46.3. Trafficking of children for sexual purposes

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D.

\* \* \*

(3)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 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,**  
 4                   **motor vehicles, photographic equipment used to record or create still or moving**  
 5                   **visual images of the victim that is recorded on paper, film, video tape, disc, or**  
 6                   **any other type of digital recording media.**

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8                   §80. Felony carnal knowledge of a juvenile

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10                   D.**(1)** Whoever commits the crime of felony carnal knowledge of a juvenile  
 11 shall be fined not more than five thousand dollars, or imprisoned, with or without  
 12 hard labor, for not more than ten years, or both, provided that the defendant shall not  
 13 be eligible to have his conviction set aside or his prosecution dismissed in  
 14 accordance with the provisions of Code of Criminal Procedure Article 893.

15                   **(2)(a) In addition, the court shall order that the personal property used**  
 16 **in the commission of the offense shall be seized and impounded, and after**  
 17 **conviction, sold at public sale or public auction by the district attorney in**  
 18 **accordance with R.S. 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,**  
 22 **motor vehicles, photographic equipment used to record or create still or moving**  
 23 **visual images of the victim that is recorded on paper, film, video tape, disc, or**  
 24 **any other type of digital recording media.**

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26                   §81. Indecent behavior with juveniles

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28                   H.

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29                   **(3)(a) In addition, the court shall order that the personal property used**

1 in the commission of the offense shall be seized and impounded, and after  
2 conviction, sold at public sale or public auction by the district attorney in  
3 accordance with R.S. 15:539.1.

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

10 §81.1. Pornography involving juveniles

11 \* \* \*

12 E. \* \* \*

13 (3)(a) In addition, the court shall order that the personal property used  
14 in the commission of the offense shall be seized and impounded, and after  
15 conviction, sold at public sale or public auction by the district attorney in  
16 accordance with R.S. 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,  
20 motor vehicles, photographic equipment used to record or create still or moving  
21 visual images of the victim that is recorded on paper, film, video tape, disc, or  
22 any other type of digital recording media.

23 ~~(3)~~ (4) Upon completion of the term of imprisonment imposed in accordance  
24 with Paragraph (2) of this Subsection, the offender shall be monitored by the  
25 Department of Public Safety and Corrections through the use of electronic  
26 monitoring equipment for the remainder of his natural life.

27 ~~(4)~~ (5) Unless it is determined by the Department of Public Safety and  
28 Corrections, pursuant to rules adopted in accordance with the provisions of this  
29 Subsection, that a sexual offender is unable to pay all or any portion of such costs,

1 each sexual offender to be electronically monitored shall pay the cost of such  
2 monitoring.

3 ~~(5)~~ **(6)** The costs attributable to the electronic monitoring of an offender who  
4 has been determined unable to pay shall be borne by the department if, and only to  
5 the degree that sufficient funds are made available for such purpose whether by  
6 appropriation of state funds or from any other source.

7 ~~(6)~~ **(7)** The Department of Public Safety and Corrections shall develop, adopt,  
8 and promulgate rules in the manner provided in the Administrative Procedure Act,  
9 that provide for the payment of such costs. Such rules shall contain specific  
10 guidelines which shall be used to determine the ability of the offender to pay the  
11 required costs and shall establish the reasonable costs to be charged. Such rules may  
12 provide for a sliding scale of payment so that an offender who is able to pay a  
13 portion, but not all, of such costs may be required to pay such portion.

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15 §81.2. Molestation of a juvenile

16 \* \* \*

17 **G. (1) In addition, the court shall order that the personal property used**  
18 **in the commission of the offense shall be seized and impounded, and after**  
19 **conviction, sold at public sale or public auction by the district attorney in**  
20 **accordance with R.S. 15:539.1.**

21 **(2) The personal property made subject to seizure and sale pursuant to**  
22 **Paragraph (1) of this Subsection may include, but shall not be limited to,**  
23 **electronic communication devices, computers, computer related equipment,**  
24 **motor vehicles, photographic equipment used to record or create still or moving**  
25 **visual images of the victim that is recorded on paper, film, video tape, disc, or**  
26 **any other type of digital recording media.**

27 §81.3. Computer-aided solicitation of a minor

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29 B. \* \* \*





- 1                                   **(3) Twenty percent to the criminal court fund of the parish in which the**  
2                                   **offender was prosecuted.**

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

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DIGEST

Martiny (SB 56)

Present law criminalizes and penalizes cyberstalking, human trafficking, trafficking of children for sexual purposes, felony carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile, computer-aided solicitation of a minor, and enticing persons into prostitution.

Proposed law retains present law and provides for the seizure and impoundment of the personal property used in the commission of any of the following crimes: cyberstalking, human trafficking, trafficking of children for sexual purposes, felony carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile, computer-aided solicitation of a minor, and enticing persons into prostitution. Proposed law further provides that after conviction of these certain sex crimes, the property shall be sold at public sale or public auction by the district attorney.

Proposed law exempts certain personal property from sale.

Proposed law provides that the proceeds of the public sale or public auction shall pay the costs of the sale or auction, court costs, and fees related to the seizure and storage of the personal property and any proceeds remaining shall be distributed 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.

Effective August 15, 2010.

(Amends R.S. 14:80(D), 81(E)(3), (4), (5) and (6), and 86; adds R.S. 14:40.3(C)(4), 46.2(B)(4), 46.3(D)(3), 81(H)(3), 81.1(E)(7), 81.2(G), and 81.3(B)(4) and R.S. 15:593.1)