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 DIGEST
 

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Martiny

SB No. 56

Present law provides for the crimes and penalties of 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 sex crimes, the property shall be sold at public sale or public auction by the district attorney.

Proposed law exempts personal property from sale as follows:

- (1) If the property was stolen or if the owner did not know his property was being used in the commission of the crime.
- (2) If the property is subject to a lien recorded prior to the date of the offense and the applicable fees related to the property's seizure and storage are paid by a valid lien holder.

Proposed law provides that property subject to forfeiture pursuant to proposed law shall be exempt from forfeiture when a spouse, co-owner, or interest holder in the property establishes by sworn affidavit that:

- (1) He had no knowledge of the commission of the criminal conduct and could not have reasonably known of the conduct.
- (2) He did not consent to the use of property in the commission of the criminal conduct.
- (3) He owns an interest in the property otherwise subject to forfeiture.

Proposed law further provides that Internet service providers are not required to pay seizure or storage fees and are exempt from forfeiture.

Proposed law further provides that intentionally falsifying information required to render property exempt from forfeiture shall subject the affiant to prosecution pursuant to existing law that imposes penalties for false swearing.

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.

(Amends R.S. 14:80(D), 81.1(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. 15:539.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Provides for exemption of property from forfeiture through execution of a sworn affidavit containing specified information.
2. Provides for a penalty for falsifying information in order to render property exempt from forfeiture.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the reengrossed bill.

1. Added an exception for Internet service providers relative to seizure and storage fees and forfeiture provisions.