

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, CARMODY, CARTER, CHAMPAGNE, CHANEY, CONNICK, CROMER, DOERGE, DOVE, ELLINGTON, GISCLAIR, GREENE, GUILLORY, HARDY, HAZEL, HENDERSON, HENRY, HINES, HOFFMANN, HUTTER, MICHAEL JACKSON, JOHNSON, SAM JONES, LABRUZZO, LAMBERT, LEGER, LIGI, LITTLE, LOPINTO, LORUSSO, MILLS, MONICA, NOWLIN, PEARSON, PUGH, RICHARD, RICHARDSON, ROBIDEAUX, SCHRODER, SIMON, SMILEY, JANE SMITH, ST. GERMAIN, STIAES, TALBOT, TEMPLET, THIBAUT, THIERRY, WHITE, WILLIAMS, WILLMOTT AND WOOTON

1 AN ACT

2 To amend and reenact R.S. 14:80(D), 81.1(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. 15:539.1, 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), 81.1(E)(3), (4), (5) and (6), and 86 are hereby amended  
10 and 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),  
11 and 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  
18 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 are recorded on paper, film, video tape, disc, or**  
 6           **any other type of digital recording media.**

7   \*       \*       \*

8           §46.2. Human trafficking

9   \*       \*       \*

10           B.

   \*       \*       \*

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

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

21   \*       \*       \*

22           §46.3. Trafficking of children for sexual purposes

23   \*       \*       \*

24           D.

   \*       \*       \*

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

5 \* \* \*

6 §80. Felony carnal knowledge of a juvenile

7 \* \* \*

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

13 (2)(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 are recorded on paper, film, video tape, disc, or  
 22 any other type of digital recording media.

23 \* \* \*

24 §81. Indecent behavior with juveniles

25 \* \* \*

26 H.

\* \* \*

27 (3)(a) In addition, the court shall order that the personal property used  
 28 in the commission of the offense shall be seized and impounded, and after  
 29 conviction, sold at public sale or public auction by the district attorney in  
 30 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 are recorded on paper, film, video tape, disc, or  
 6 any other type of digital recording media.

7 §81.1. Pornography involving juveniles

8 \* \* \*

9 E. \* \* \*

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

20 ~~(3)~~ (4) Upon completion of the term of imprisonment imposed in accordance  
 21 with Paragraph (2) of this Subsection, the offender shall be monitored by the  
 22 Department of Public Safety and Corrections through the use of electronic  
 23 monitoring equipment for the remainder of his natural life.

24 ~~(4)~~ (5) Unless it is determined by the Department of Public Safety and  
 25 Corrections, pursuant to rules adopted in accordance with the provisions of this  
 26 Subsection, that a sexual offender is unable to pay all or any portion of such costs,  
 27 each sexual offender to be electronically monitored shall pay the cost of such  
 28 monitoring.

29 ~~(5)~~ (6) The costs attributable to the electronic monitoring of an offender who  
 30 has been determined unable to pay shall be borne by the department if, and only to

1 the degree that, sufficient funds are made available for such purpose whether by  
2 appropriation of state funds or from any other source.

3 ~~(6)~~ (7) The Department of Public Safety and Corrections shall develop, adopt,  
4 and promulgate rules in the manner provided in the Administrative Procedure Act,  
5 that provide for the payment of such costs. Such rules shall contain specific  
6 guidelines which shall be used to determine the ability of the offender to pay the  
7 required costs and shall establish the reasonable costs to be charged. Such rules may  
8 provide for a sliding scale of payment so that an offender who is able to pay a  
9 portion, but not all, of such costs may be required to pay such portion.

10 \* \* \*

11 §81.2. Molestation of a juvenile

12 \* \* \*

13 **G. (1) 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 **(2) The personal property made subject to seizure and sale pursuant to**  
18 **Paragraph (1) of this Subsection 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 are recorded on paper, film, video tape, disc, or**  
22 **any other type of digital recording media.**

23 §81.3. Computer-aided solicitation of a minor

24 \* \* \*

25 B. \* \* \*

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

30 **(b) The personal property made subject to seizure and sale pursuant to**

1            Subparagraph (a) of this Paragraph may include, but shall not be limited to,  
 2            electronic communication devices, computers, computer related equipment,  
 3            motor vehicles, photographic equipment used to record or create still or moving  
 4            visual images of the victim that are recorded on paper, film, video tape, disc, or  
 5            any other type of digital recording media.

\* \* \*

7            §86. Enticing persons into prostitution

8            A. Enticing persons into prostitution is committed when any person over the  
 9            age of seventeen entices, places, persuades, encourages, or causes the entrance of any  
 10           other person under the age of twenty-one into the practice of prostitution, either by  
 11           force, threats, promises, or by any other device or scheme. Lack of knowledge of the  
 12           other person's age shall not be a defense.

13           B.(1) Whoever commits the crime of enticing persons into prostitution shall  
 14           be imprisoned, with or without hard labor, for not less than two years nor more than  
 15           ten years.

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

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

26           Section 2. R.S. 15:539.1 is hereby enacted to read as follows:

27           §539.1. Forfeited property related to certain sex crimes; exempt property;  
 28           allocation of forfeited property

29           A. When personal property is forfeited under the provisions of R.S.  
 30           14:40.3 (Cyberstalking), R.S. 14:46.2 (Human trafficking), R.S. 14:46.3

1 (Trafficking of children for sexual purposes), R.S. 14:80 (Felony carnal  
2 knowledge of a juvenile), R.S. 14:81 (Indecent behavior with juveniles), R.S.  
3 14:81.1 (Pornography involving juveniles), R.S. 14:81.2 (Molestation of a  
4 juvenile), R.S. 14:81.3 (Computer-aided solicitation of a minor), and R.S. 14:86  
5 (Enticing persons into prostitution), the district attorney shall authorize a  
6 public sale or a public auction conducted by a licensed auctioneer, without  
7 appraisal, of that which is not required by law to be destroyed and which is not  
8 harmful to the public.

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

16 (2) Property subject to forfeiture pursuant to the provisions of this  
17 Section shall be exempt from forfeiture when a spouse, co-owner, or interest  
18 holder in the property establishes by sworn affidavit executed before a notary  
19 public the following:

20 (a) That he had no knowledge of the commission of the criminal conduct  
21 and could not have reasonably known of the conduct.

22 (b) That he did not consent to the use of property in the commission of  
23 the criminal conduct.

24 (c) That he owns an interest in the property otherwise subject to  
25 forfeiture.

26 (3) The property of an Internet service provider shall be exempt from  
27 forfeiture.

28 (4) Intentionally falsifying information required by the provisions of  
29 Paragraph (2) of this Subsection shall subject the affiant to prosecution under  
30 the provisions of R.S. 14:125.

1                    C. In addition, the personal property shall be exempt from sale if it is  
 2                    subject to a lien recorded prior to the date of the offense and if the applicable  
 3                    fees related to the property's seizure and storage are paid by a valid lien holder.

4                    D. The proceeds of the public sale or public auction shall pay the costs  
 5                    of the public sale or public auction, court costs, and fees related to the seizure  
 6                    and storage of the personal property. Any proceeds remaining shall be  
 7                    distributed by the district attorney in the following manner:

8                    (1) Sixty percent to the seizing agency or agencies in an equitable  
 9                    manner.

10                    (2) Twenty percent to the prosecuting agency.

11                    (3) Twenty percent to the criminal court fund of the parish in which the  
 12                    offender was prosecuted.

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

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