

HOUSE BILL REPORT

SB 5025

As Reported By House Committee On:
Law & Justice

Title: An act relating to removing the repealer of the criminal profiteering act.

Brief Description: Removing the repealer of the criminal profiteering act.

Sponsors: Senators Smith, Rasmussen and Schow.

Brief History:

Committee Activity:

Law & Justice: 3/31/95 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 16 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Smith; Thibaudeau and Veloria.

Staff: Bill Perry (786-7123).

Background: In 1984, the Legislature enacted a state "RICO" statute based on the federal "Racketeer Influenced and Corrupt Organizations" law. Before the law was to take effect on July 1, 1985, the Legislature amended the statute in various ways, including changing the name of the law to the "Criminal Profiteering Act" and providing for a July 1, 1995 expiration date.

The Criminal Profiteering Act created a number of new criminal offenses, including the crimes of "leading organized crime" and "extortionate extension of credit." The act also provides civil causes of action and remedies against organized criminal activity. Generally, these new civil provisions apply to persons found to have engaged in a "pattern" of profiteering involving the commission for financial gain of three or more offenses within five years. Profiteering may involve any one of two dozen or so enumerated predicate offenses including the newly created crimes mentioned above, and ranging from murder, to securities fraud, to illegal commercial phone solicitation. The civil remedies are generally available to private parties injured by profiteering as well as to the state. Criminal convictions for the predicate

offenses are generally not necessary for a civil action. However, in the case of a civil suit based on alleged securities fraud, the defendant must have been previously convicted of at least one charge of securities fraud, although not necessarily involving the same events that are the basis for the civil suit.

In addition to the recovery of damages, civil remedies include recovery of costs, reasonable investigative and attorneys' fees, and a civil penalty of up to \$250,000. Injunctive relief and property forfeiture are also available. In addition, the court may order the dissolution of an enterprise, or may order the defendant to divest himself or herself from an enterprise, or may place restrictions on the future activities or investments of the defendant. The court may also order the defendant to pay to the state general fund or the county an amount equal to the gain realized by the defendant through an act of profiteering.

Summary of Amended Bill: The July 1, 1995 expiration date for the Criminal Profiteering Act is extended until July 1, 1997.

Amended Bill Compared to Original Bill: The amended bill extends the expiration date for two years instead of removing it completely.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The law has been used very conscientiously and has recovered millions of dollars from profiteers. Failure to keep the state law will force reliance on the federal law and on federal enforcement agencies.

Testimony Against: None.

Testified: Pat Sainsbury, Washington Association of Prosecuting Attorneys (pro); and Larry Erickson, Washington Association of Sheriffs and Police Chiefs (pro).