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**SUBSTITUTE HOUSE BILL 1826**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, McMahan, O'Brien, Kenney, Boldt, Mielke, Santos, Hudgins, Upthegrove, Simpson and Conway)

READ FIRST TIME 03/04/03.

1 AN ACT Relating to trafficking in persons; amending RCW 9A.82.090,  
2 9A.82.100, and 9A.82.120; and reenacting and amending RCW 9A.82.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.82.010 and 2001 c 222 s 3 and 2001 c 217 s 11 are  
5 each reenacted and amended to read as follows:

6 Unless the context requires the contrary, the definitions in this  
7 section apply throughout this chapter.

8 (1)(a) "Beneficial interest" means:

9 (i) The interest of a person as a beneficiary under a trust  
10 established under Title 11 RCW in which the trustee for the trust holds  
11 legal or record title to real property;

12 (ii) The interest of a person as a beneficiary under any other  
13 trust arrangement under which a trustee holds legal or record title to  
14 real property for the benefit of the beneficiary; or

15 (iii) The interest of a person under any other form of express  
16 fiduciary arrangement under which one person holds legal or record  
17 title to real property for the benefit of the other person.

18 (b) "Beneficial interest" does not include the interest of a

1 stockholder in a corporation or the interest of a partner in a general  
2 partnership or limited partnership.

3 (c) A beneficial interest is considered to be located where the  
4 real property owned by the trustee is located.

5 (2) "Control" means the possession of a sufficient interest to  
6 permit substantial direction over the affairs of an enterprise.

7 (3) "Creditor" means a person making an extension of credit or a  
8 person claiming by, under, or through a person making an extension of  
9 credit.

10 (4) "Criminal profiteering" means any act, including any  
11 anticipatory or completed offense, committed for financial gain, that  
12 is chargeable or indictable under the laws of the state in which the  
13 act occurred and, if the act occurred in a state other than this state,  
14 would be chargeable or indictable under the laws of this state had the  
15 act occurred in this state and punishable as a felony and by  
16 imprisonment for more than one year, regardless of whether the act is  
17 charged or indicted, as any of the following:

- 18 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 19 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 20 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 21 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 22 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
23 9A.56.080;
- 24 (f) Unlawful sale of subscription television services, as defined  
25 in RCW 9A.56.230;
- 26 (g) Theft of telecommunication services or unlawful manufacture of  
27 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 28 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 29 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
30 9A.68.050;
- 31 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 32 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 33 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 34 (m) Advancing money for use in an extortionate extension of credit,  
35 as defined in RCW 9A.82.030;
- 36 (n) Collection of an extortionate extension of credit, as defined  
37 in RCW 9A.82.040;
- 38 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;

- 1 (p) Delivery or manufacture of controlled substances or possession  
2 with intent to deliver or manufacture controlled substances under  
3 chapter 69.50 RCW;
- 4 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 5 (r) Leading organized crime, as defined in RCW 9A.82.060;
- 6 (s) Money laundering, as defined in RCW 9A.83.020;
- 7 (t) Obstructing criminal investigations or prosecutions in  
8 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
9 9A.76.070, or 9A.76.180;
- 10 (u) Fraud in the purchase or sale of securities, as defined in RCW  
11 21.20.010;
- 12 (v) Promoting pornography, as defined in RCW 9.68.140;
- 13 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,  
14 9.68A.050, and 9.68A.060;
- 15 (x) Promoting prostitution, as defined in RCW 9A.88.070 and  
16 9A.88.080;
- 17 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
- 18 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
- 19 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;
- 20 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;
- 21 (cc) Commercial telephone solicitation in violation of RCW  
22 19.158.040(1);
- 23 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;
- 24 (ee) Unlawful practice of law, as defined in RCW 2.48.180;
- 25 (ff) Commercial bribery, as defined in RCW 9A.68.060;
- 26 (gg) Health care false claims, as defined in RCW 48.80.030;
- 27 (hh) Unlicensed practice of a profession or business, as defined in  
28 RCW 18.130.190(7);
- 29 (ii) Improperly obtaining financial information, as defined in RCW  
30 9.35.010; (~~oe~~)
- 31 (jj) Identity theft, as defined in RCW 9.35.020;
- 32 (kk) Trafficking, as defined in section 1, chapter . . . .  
33 (Substitute House Bill No. 1175), Laws of 2003.
- 34 (5) "Dealer in property" means a person who buys and sells property  
35 as a business.
- 36 (6) "Debtor" means a person to whom an extension of credit is made  
37 or a person who guarantees the repayment of an extension of credit or

1 in any manner undertakes to indemnify the creditor against loss  
2 resulting from the failure of a person to whom an extension is made to  
3 repay the same.

4 (7) "Documentary material" means any book, paper, document,  
5 writing, drawing, graph, chart, photograph, phonograph record, magnetic  
6 tape, computer printout, other data compilation from which information  
7 can be obtained or from which information can be translated into usable  
8 form, or other tangible item.

9 (8) "Enterprise" includes any individual, sole proprietorship,  
10 partnership, corporation, business trust, or other profit or nonprofit  
11 legal entity, and includes any union, association, or group of  
12 individuals associated in fact although not a legal entity, and both  
13 illicit and licit enterprises and governmental and nongovernmental  
14 entities.

15 (9) "Extortionate extension of credit" means an extension of credit  
16 with respect to which it is the understanding of the creditor and the  
17 debtor at the time the extension is made that delay in making repayment  
18 or failure to make repayment could result in the use of violence or  
19 other criminal means to cause harm to the person, reputation, or  
20 property of any person.

21 (10) "Extortionate means" means the use, or an express or implicit  
22 threat of use, of violence or other criminal means to cause harm to the  
23 person, reputation, or property of any person.

24 (11) "Financial institution" means any bank, trust company, savings  
25 and loan association, savings bank, mutual savings bank, credit union,  
26 or loan company under the jurisdiction of the state or an agency of the  
27 United States.

28 (12) "Pattern of criminal profiteering activity" means engaging in  
29 at least three acts of criminal profiteering, one of which occurred  
30 after July 1, 1985, and the last of which occurred within five years,  
31 excluding any period of imprisonment, after the commission of the  
32 earliest act of criminal profiteering. In order to constitute a  
33 pattern, the three acts must have the same or similar intent, results,  
34 accomplices, principals, victims, or methods of commission, or be  
35 otherwise interrelated by distinguishing characteristics including a  
36 nexus to the same enterprise, and must not be isolated events.  
37 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by  
38 any person other than the attorney general or county prosecuting

1 attorney in which one or more acts of fraud in the purchase or sale of  
2 securities are asserted as acts of criminal profiteering activity, it  
3 is a condition to civil liability under RCW 9A.82.100 that the  
4 defendant has been convicted in a criminal proceeding of fraud in the  
5 purchase or sale of securities under RCW 21.20.400 or under the laws of  
6 another state or of the United States requiring the same elements of  
7 proof, but such conviction need not relate to any act or acts asserted  
8 as acts of criminal profiteering activity in such civil action under  
9 RCW 9A.82.100.

10 (13) "Real property" means any real property or interest in real  
11 property, including but not limited to a land sale contract, lease, or  
12 mortgage of real property.

13 (14) "Records" means any book, paper, writing, record, computer  
14 program, or other material.

15 (15) "Repayment of an extension of credit" means the repayment,  
16 satisfaction, or discharge in whole or in part of a debt or claim,  
17 acknowledged or disputed, valid or invalid, resulting from or in  
18 connection with that extension of credit.

19 (16) "Stolen property" means property that has been obtained by  
20 theft, robbery, or extortion.

21 (17) "To collect an extension of credit" means to induce in any way  
22 a person to make repayment thereof.

23 (18) "To extend credit" means to make or renew a loan or to enter  
24 into an agreement, tacit or express, whereby the repayment or  
25 satisfaction of a debt or claim, whether acknowledged or disputed,  
26 valid or invalid, and however arising, may or shall be deferred.

27 (19) "Traffic" means to sell, transfer, distribute, dispense, or  
28 otherwise dispose of stolen property to another person, or to buy,  
29 receive, possess, or obtain control of stolen property, with intent to  
30 sell, transfer, distribute, dispense, or otherwise dispose of the  
31 property to another person.

32 (20)(a) "Trustee" means:

33 (i) A person acting as a trustee under a trust established under  
34 Title 11 RCW in which the trustee holds legal or record title to real  
35 property;

36 (ii) A person who holds legal or record title to real property in  
37 which another person has a beneficial interest; or

1 (iii) A successor trustee to a person who is a trustee under (a)(i)  
2 or (ii) of this subsection.

3 (b) "Trustee" does not mean a person appointed or acting as:

4 (i) A personal representative under Title 11 RCW;

5 (ii) A trustee of any testamentary trust;

6 (iii) A trustee of any indenture of trust under which a bond is  
7 issued; or

8 (iv) A trustee under a deed of trust.

9 (21) "Unlawful debt" means any money or other thing of value  
10 constituting principal or interest of a debt that is legally  
11 unenforceable in the state in full or in part because the debt was  
12 incurred or contracted:

13 (a) In violation of any one of the following:

14 (i) Chapter 67.16 RCW relating to horse racing;

15 (ii) Chapter 9.46 RCW relating to gambling;

16 (b) In a gambling activity in violation of federal law; or

17 (c) In connection with the business of lending money or a thing of  
18 value at a rate that is at least twice the permitted rate under the  
19 applicable state or federal law relating to usury.

20 **Sec. 2.** RCW 9A.82.090 and 2001 c 222 s 13 are each amended to read  
21 as follows:

22 During the pendency of any criminal case charging a violation of  
23 RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or an offense  
24 defined in section 1, chapter . . . (Substitute House Bill No. 1175),  
25 Laws of 2003, the superior court may, in addition to its other powers,  
26 issue an order pursuant to RCW 9A.82.100 (2) or (3). Upon conviction  
27 of a person for a violation of RCW 9A.82.060 or (~~a violation of RCW~~)  
28 9A.82.080, or an offense defined in section 1, chapter . . .  
29 (Substitute House Bill No. 1175), Laws of 2003, the superior court may,  
30 in addition to its other powers of disposition, issue an order pursuant  
31 to RCW 9A.82.100.

32 **Sec. 3.** RCW 9A.82.100 and 2001 c 222 s 14 are each amended to read  
33 as follows:

34 (1)(a) A person who sustains injury to his or her person, business,  
35 or property by an act of criminal profiteering that is part of a  
36 pattern of criminal profiteering activity, or by an offense defined in

1 section 1, chapter . . . (Substitute House Bill No. 1175), Laws of  
2 2003, or by a violation of RCW 9A.82.060 or 9A.82.080 may file an  
3 action in superior court for the recovery of damages and the costs of  
4 the suit, including reasonable investigative and attorney's fees.

5 (b) The attorney general or county prosecuting attorney may file an  
6 action: (i) On behalf of those persons injured or, respectively, on  
7 behalf of the state or county if the entity has sustained damages, or  
8 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering  
9 activity, or an offense defined in section 1, chapter . . . (Substitute  
10 House Bill No. 1175), Laws of 2003, or a violation of RCW 9A.82.060 or  
11 9A.82.080.

12 (c) An action for damages filed by or on behalf of an injured  
13 person, the state, or the county shall be for the recovery of damages  
14 and the costs of the suit, including reasonable investigative and  
15 attorney's fees.

16 (d) In an action filed to prevent, restrain, or remedy a pattern of  
17 criminal profiteering activity, or an offense defined in section 1,  
18 chapter . . . (Substitute House Bill No. 1175), Laws of 2003, or a  
19 violation of RCW 9A.82.060 or 9A.82.080, the court, upon proof of the  
20 violation, may impose a civil penalty not exceeding two hundred fifty  
21 thousand dollars, in addition to awarding the cost of the suit,  
22 including reasonable investigative and attorney's fees.

23 (2) The superior court has jurisdiction to prevent, restrain, and  
24 remedy a pattern of criminal profiteering, or an offense defined in  
25 section 1, chapter . . . (Substitute House Bill No. 1175), Laws of  
26 2003, or a violation of RCW 9A.82.060 or 9A.82.080 after making  
27 provision for the rights of all innocent persons affected by the  
28 violation and after hearing or trial, as appropriate, by issuing  
29 appropriate orders.

30 (3) Prior to a determination of liability, orders issued under  
31 subsection (2) of this section may include, but are not limited to,  
32 entering restraining orders or prohibitions or taking such other  
33 actions, including the acceptance of satisfactory performance bonds, in  
34 connection with any property or other interest subject to damages,  
35 forfeiture, or other restraints pursuant to this section as the court  
36 deems proper. The orders may also include attachment, receivership, or  
37 injunctive relief in regard to personal or real property pursuant to  
38 Title 7 RCW. In shaping the reach or scope of receivership,

1 attachment, or injunctive relief, the superior court shall provide for  
2 the protection of bona fide interests in property, including community  
3 property, of persons who were not involved in the violation of this  
4 chapter, except to the extent that such interests or property were  
5 acquired or used in such a way as to be subject to forfeiture under RCW  
6 9A.82.100(4)(f).

7 (4) Following a determination of liability, orders may include, but  
8 are not limited to:

9 (a) Ordering any person to divest himself or herself of any  
10 interest, direct or indirect, in any enterprise.

11 (b) Imposing reasonable restrictions on the future activities or  
12 investments of any person, including prohibiting any person from  
13 engaging in the same type of endeavor as the enterprise engaged in, the  
14 activities of which affect the laws of this state, to the extent the  
15 Constitutions of the United States and this state permit.

16 (c) Ordering dissolution or reorganization of any enterprise.

17 (d) Ordering the payment of actual damages sustained to those  
18 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an  
19 offense defined in section 1, chapter . . . (Substitute House Bill No.  
20 1175), Laws of 2003, or an act of criminal profiteering that is part of  
21 a pattern of criminal profiteering, and in the court's discretion,  
22 increasing the payment to an amount not exceeding three times the  
23 actual damages sustained.

24 (e) Ordering the payment of all costs and expenses of the  
25 prosecution and investigation of a pattern of criminal profiteering, or  
26 an offense defined in section 1, chapter . . . (Substitute House Bill  
27 No. 1175), Laws of 2003, activity or a violation of RCW 9A.82.060 or  
28 9A.82.080, civil and criminal, incurred by the state or county,  
29 including any costs of defense provided at public expense, as  
30 appropriate to the state general fund or the antiprofitteering revolving  
31 fund of the county.

32 (f) Ordering forfeiture first as restitution to any person damaged  
33 by an act of criminal profiteering that is part of a pattern of  
34 criminal profiteering, or by an offense defined in section 1, chapter  
35 . . . (Substitute House Bill No. 1175), Laws of 2003, then to the state  
36 general fund or antiprofitteering revolving fund of the county, as  
37 appropriate, to the extent not already ordered to be paid in other  
38 damages, of the following:

1 (i) Any property or other interest acquired or maintained in  
2 violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment  
3 of funds, and any appreciation or income attributable to the  
4 investment, from a violation of RCW 9A.82.060 or 9A.82.080.

5 (ii) Any property, contractual right, or claim against property  
6 used to influence any enterprise that a person has established,  
7 operated, controlled, conducted, or participated in the conduct of, in  
8 violation of RCW 9A.82.060 or 9A.82.080.

9 (iii) All proceeds traceable to or derived from an offense included  
10 in the pattern of criminal profiteering activity, or an offense defined  
11 in section 1, chapter . . . (Substitute House Bill No. 1175), Laws of  
12 2003, and all moneys, negotiable instruments, securities, and other  
13 things of value significantly used or intended to be used significantly  
14 to facilitate commission of the offense.

15 (g) Ordering payment to the state general fund or antiprofitereering  
16 revolving fund of the county, as appropriate, of an amount equal to the  
17 gain a person has acquired or maintained through an offense included in  
18 the definition of criminal profiteering.

19 (5) In addition to or in lieu of an action under this section, the  
20 attorney general or county prosecuting attorney may file an action for  
21 forfeiture to the state general fund or antiprofitereering revolving fund  
22 of the county, as appropriate, to the extent not already ordered paid  
23 pursuant to this section, of the following:

24 (a) Any interest acquired or maintained by a person in violation of  
25 RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds  
26 obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any  
27 appreciation or income attributable to the investment.

28 (b) Any property, contractual right, or claim against property used  
29 to influence any enterprise that a person has established, operated,  
30 controlled, conducted, or participated in the conduct of, in violation  
31 of RCW 9A.82.060 or 9A.82.080.

32 (c) All proceeds traceable to or derived from an offense included  
33 in the pattern of criminal profiteering activity, or an offense defined  
34 in section 1, chapter . . . (Substitute House Bill No. 1175), Laws of  
35 2003, and all moneys, negotiable instruments, securities, and other  
36 things of value significantly used or intended to be used significantly  
37 to facilitate the commission of the offense.

1 (6) A defendant convicted in any criminal proceeding is precluded  
2 in any civil proceeding from denying the essential allegations of the  
3 criminal offense proven in the criminal trial in which the defendant  
4 was convicted. For the purposes of this subsection, a conviction shall  
5 be deemed to have occurred upon a verdict, finding, or plea of guilty,  
6 notwithstanding the fact that appellate review of the conviction and  
7 sentence has been or may be sought. If a subsequent reversal of the  
8 conviction occurs, any judgment that was based upon that conviction may  
9 be reopened upon motion of the defendant.

10 (7) The initiation of civil proceedings under this section shall be  
11 commenced within three years after discovery of the pattern of criminal  
12 profiteering activity or after the pattern should reasonably have been  
13 discovered or, in the case of an offense that is defined in section 1,  
14 chapter . . . (Substitute House Bill No. 1175), Laws of 2003, within  
15 three years after the final disposition of any criminal charges  
16 relating to the offense, whichever is later.

17 (8) The attorney general or county prosecuting attorney may, in a  
18 civil action brought pursuant to this section, file with the clerk of  
19 the superior court a certificate stating that the case is of special  
20 public importance. A copy of that certificate shall be furnished  
21 immediately by the clerk to the presiding chief judge of the superior  
22 court in which the action is pending and, upon receipt of the copy, the  
23 judge shall immediately designate a judge to hear and determine the  
24 action. The judge so designated shall promptly assign the action for  
25 hearing, participate in the hearings and determination, and cause the  
26 action to be expedited.

27 (9) The standard of proof in actions brought pursuant to this  
28 section is the preponderance of the evidence test.

29 (10) A person other than the attorney general or county prosecuting  
30 attorney who files an action under this section shall serve notice and  
31 one copy of the pleading on the attorney general within thirty days  
32 after the action is filed with the superior court. The notice shall  
33 identify the action, the person, and the person's attorney. Service of  
34 the notice does not limit or otherwise affect the right of the state to  
35 maintain an action under this section or intervene in a pending action  
36 nor does it authorize the person to name the state or the attorney  
37 general as a party to the action.

1 (11) Except in cases filed by a county prosecuting attorney, the  
2 attorney general may, upon timely application, intervene in any civil  
3 action or proceeding brought under this section if the attorney general  
4 certifies that in the attorney general's opinion the action is of  
5 special public importance. Upon intervention, the attorney general may  
6 assert any available claim and is entitled to the same relief as if the  
7 attorney general had instituted a separate action.

8 (12) In addition to the attorney general's right to intervene as a  
9 party in any action under this section, the attorney general may appear  
10 as amicus curiae in any proceeding in which a claim under this section  
11 has been asserted or in which a court is interpreting RCW 9A.82.010,  
12 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

13 (13) A private civil action under this section does not limit any  
14 other civil or criminal action under this chapter or any other  
15 provision. Private civil remedies provided under this section are  
16 supplemental and not mutually exclusive.

17 (14) Upon motion by the defendant, the court may authorize the sale  
18 or transfer of assets subject to an order or lien authorized by this  
19 chapter for the purpose of paying actual attorney's fees and costs of  
20 defense. The motion shall specify the assets for which sale or  
21 transfer is sought and shall be accompanied by the defendant's sworn  
22 statement that the defendant has no other assets available for such  
23 purposes. No order authorizing such sale or transfer may be entered  
24 unless the court finds that the assets involved are not subject to  
25 possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of  
26 the motion, the court shall notify the state of the assets sought to be  
27 sold or transferred and shall hear argument on the issue of whether the  
28 assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a  
29 motion may be made from time to time and shall be heard by the court on  
30 an expedited basis.

31 (15) In an action brought under subsection (1)(a) and (b)(i) of  
32 this section, either party has the right to a jury trial.

33 **Sec. 4.** RCW 9A.82.120 and 2001 c 222 s 16 are each amended to read  
34 as follows:

35 (1) The state, upon filing a criminal action under RCW 9A.82.060 or  
36 9A.82.080 or for an offense defined in section 1, chapter . . .  
37 (Substitute House Bill No. 1175), Laws of 2003, or a civil action under

1 RCW 9A.82.100, may file in accordance with this section a criminal  
2 profiteering lien. A filing fee or other charge is not required for  
3 filing a criminal profiteering lien.

4 (2) A criminal profiteering lien shall be signed by the attorney  
5 general or the county prosecuting attorney representing the state in  
6 the action and shall set forth the following information:

7 (a) The name of the defendant whose property or other interests are  
8 to be subject to the lien;

9 (b) In the discretion of the attorney general or county prosecuting  
10 attorney filing the lien, any aliases or fictitious names of the  
11 defendant named in the lien;

12 (c) If known to the attorney general or county prosecuting attorney  
13 filing the lien, the present residence or principal place of business  
14 of the person named in the lien;

15 (d) A reference to the proceeding pursuant to which the lien is  
16 filed, including the name of the court, the title of the action, and  
17 the court's file number for the proceeding;

18 (e) The name and address of the attorney representing the state in  
19 the proceeding pursuant to which the lien is filed;

20 (f) A statement that the notice is being filed pursuant to this  
21 section;

22 (g) The amount that the state claims in the action or, with respect  
23 to property or other interests that the state has requested forfeiture  
24 to the state or county, a description of the property or interests  
25 sought to be paid or forfeited;

26 (h) If known to the attorney general or county prosecuting attorney  
27 filing the lien, a description of property that is subject to  
28 forfeiture to the state or property in which the defendant has an  
29 interest that is available to satisfy a judgment entered in favor of  
30 the state; and

31 (i) Such other information as the attorney general or county  
32 prosecuting attorney filing the lien deems appropriate.

33 (3) The attorney general or the county prosecuting attorney filing  
34 the lien may amend a lien filed under this section at any time by  
35 filing an amended criminal profiteering lien in accordance with this  
36 section that identifies the prior lien amended.

37 (4) The attorney general or the county prosecuting attorney filing  
38 the lien shall, as soon as practical after filing a criminal

1 profiteering lien, furnish to any person named in the lien a notice of  
2 the filing of the lien. Failure to furnish notice under this  
3 subsection does not invalidate or otherwise affect a criminal  
4 profiteering lien filed in accordance with this section.

5 (5)(a) A criminal profiteering lien is perfected against interests  
6 in personal property in the same manner as a security interest in like  
7 property pursuant to RCW (~~62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,~~  
8 ~~and 62A.9-306~~) 62A.9A-301 through 62A.9A-316 or as otherwise required  
9 to perfect a security interest in like property under applicable law.  
10 In the case of perfection by filing, the state shall file, in lieu of  
11 a financing statement in the form prescribed by RCW (~~62A.9-402~~)  
12 62A.9A-502, a notice of lien in substantially the following form:

13 NOTICE OF LIEN

14 Pursuant to RCW 9A.82.120, the state of Washington  
15 claims a criminal profiteering lien on all real and personal  
16 property of:

17 Name: .....

18 Address: .....

19 .....

20 State of Washington

21 .....

22 By (authorized signature)

23 On receipt of such a notice from the state, a filing officer shall,  
24 without payment of filing fee, file and index the notice as if it were  
25 a financing statement naming the state as secured party and the  
26 defendant as debtor.

27 (b) A criminal profiteering lien is perfected against interests in  
28 real property by filing the lien in the office where a mortgage on the  
29 real estate would be filed or recorded. The filing officer shall file  
30 and index the criminal profiteering lien, without payment of a filing  
31 fee, in the same manner as a mortgage.

32 (6) The filing of a criminal profiteering lien in accordance with  
33 this section creates a lien in favor of the state in:

34 (a) Any interest of the defendant, in real property situated in the  
35 county in which the lien is filed, then maintained, or thereafter  
36 acquired in the name of the defendant identified in the lien;

1 (b) Any interest of the defendant, in personal property situated in  
2 this state, then maintained or thereafter acquired in the name of the  
3 defendant identified in the lien; and

4 (c) Any property identified in the lien to the extent of the  
5 defendant's interest therein.

6 (7) The lien created in favor of the state in accordance with this  
7 section, when filed or otherwise perfected as provided in subsection  
8 (5) of this section, has, with respect to any of the property described  
9 in subsection (6) of this section, the same priority determined  
10 pursuant to the laws of this state as a mortgage or security interest  
11 given for value (but not a purchase money security interest) and  
12 perfected in the same manner with respect to such property; except that  
13 any lien perfected pursuant to Title 60 RCW by any person who, in the  
14 ordinary course of his or her business, furnishes labor, services, or  
15 materials, or rents, leases, or otherwise supplies equipment, without  
16 knowledge of the criminal profiteering lien, is superior to the  
17 criminal profiteering lien.

18 (8) Upon entry of judgment in favor of the state, the state may  
19 proceed to execute thereon as in the case of any other judgment, except  
20 that in order to preserve the state's lien priority as provided in this  
21 section the state shall, in addition to such other notice as is  
22 required by law, give at least thirty days' notice of the execution to  
23 any person possessing at the time the notice is given, an interest  
24 recorded subsequent to the date the state's lien was perfected.

25 (9) Upon the entry of a final judgment in favor of the state  
26 providing for forfeiture of property to the state, the title of the  
27 state to the property:

28 (a) In the case of real property or a beneficial interest in real  
29 property, relates back to the date of filing the criminal profiteering  
30 lien or, if no criminal profiteering lien is filed, then to the date of  
31 recording of the final judgment or the abstract thereof; or

32 (b) In the case of personal property or a beneficial interest in  
33 personal property, relates back to the date the personal property was  
34 seized by the state, or the date of filing of a criminal profiteering  
35 lien in accordance with this section, whichever is earlier, but if the  
36 property was not seized and no criminal profiteering lien was filed  
37 then to the date the final judgment was filed with the department of

1 licensing and, if the personal property is an aircraft, with the  
2 federal aviation administration.

3 (10) This section does not limit the right of the state to obtain  
4 any order or injunction, receivership, writ, attachment, garnishment,  
5 or other remedy authorized under RCW 9A.82.100 or appropriate to  
6 protect the interests of the state or available under other applicable  
7 law.

8 (11) In a civil or criminal action under this chapter, the superior  
9 court shall provide for the protection of bona fide interests in  
10 property, including community property, subject to liens of persons who  
11 were not involved in the violation of this chapter, except to the  
12 extent that such interests or property were acquired or used in such a  
13 way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f).

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