

HOUSE BILL REPORT

HB 1616

*As Reported By House Committee on:
Judiciary*

Title: An act relating to seizure of property.

Brief Description: Providing for seizure of property involved in a felony.

Sponsor(s): Representatives Ludwig, Riley, Paris, Heavey, Prince, R. Johnson, Mielke, Orr, Bray, Ferguson, Vance, Winsley, Van Luven, Haugen, Kremen, Scott, Rayburn, Miller, Roland, Chandler, Moyer and Sheldon.

Brief History:

Reported by House Committee on:
Judiciary, February 15, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 1616 be substituted therefor, and the substitute bill do pass.*
Signed by 18 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; Tate; Vance; and Wineberry.

Staff: Annie Thompson (786-7179).

Background: Within state law, there are several provisions authorizing or requiring forfeiture of property when the property has been used in or procured through the commission of some unlawful act. For instance, the Uniform Controlled Substances Act includes a provision authorizing forfeiture of real and personal property when the property has been employed as an element of some drug law violation.

However, there is no law which generally authorizes the seizure and forfeiture of property when it is used in the commission of a felony.

Summary of Substitute Bill: All personal property used in the commission of, or as compensation for, a felony, is subject to forfeiture. The law enforcement agency with jurisdiction over the property is authorized to seize the

property and, after satisfying due process requirements, retain all proceeds from the sale of the property.

The due process requirements are comparable to those contained in the Uniform Controlled Substances Act. Seizure of property may be made upon process issued by any superior court or without process if necessary to preserve the public health and welfare. Within 15 days after seizure, the law enforcement agency will serve notice of the seizure on all known holders of interest in the property. Any person responding to the notice within 45 days is entitled to an opportunity to be heard either before the chief law enforcement officer or, if the amount in controversy exceeds \$500, a court of competent jurisdiction.

No property will be forfeited if the felony was committed without the consent or knowledge of the owner. A forfeiture of property encumbered by a security interest is subject to the interest of a secured party who neither had knowledge of nor consented to the commission of the felony at the time the security interest was created.

Substitute Bill Compared to Original Bill: The provision safeguarding security interests is amended to require that forfeiture be subject to a secured interest if the secured party had no knowledge of the commission of a felony at the time the security interest was created.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill provides an opportunity for law enforcement agencies to increase financial resources without imposing a heavier burden on taxpayers.

Testimony Against: The original bill provided insufficient protection for parties possessing a secured interest in real property and would require secured parties to police the use of secured property.

Witnesses: Representative Ludwig, Prime Sponsor (in favor); and Trevor Sandison, Washington Bankers Association (opposes original bill, but is neutral towards substitute bill).