

5935-S

Sponsor(s): Senate Committee on Judiciary (originally sponsored by Senators Constantine, Hargrove, Stevens, Oke, Thibaudeau, Kline, Swecker, Prentice, McCaslin, Roach and Kohl-Welles)

Brief Description: Prohibiting civil forfeitures of property for controlled substances violations unless the owner has been convicted of a crime.

**SB 5935-S - DIGEST**

(DIGEST OF PROPOSED 1ST SUBSTITUTE)

Provides that no judgment of forfeiture of property in a civil forfeiture proceeding under this act by the state or any of its political subdivisions shall be allowed or entered until and unless the owner of the property is convicted of a criminal violation of chapter 69.50 RCW or an equivalent crime in another jurisdiction and the state demonstrates by clear and convincing evidence that the property was instrumental in committing or facilitating the crime or the property is proceeds of that crime.

Requires that the value of the property forfeited shall be substantially proportional to the specific conduct for which the owner of the property has been convicted.

Provides that, in a civil forfeiture proceeding if a financial institution claiming an interest in the property demonstrates that it holds an interest, its interest shall not be subject to forfeiture. In a civil forfeiture proceeding if a person claiming an interest in the property, other than a financial institution or a defendant who has been charged with or convicted of a crime involving that property, demonstrates that the person has an interest in the property, that person's interest shall not be subject to forfeiture unless: (1) The forfeiting agency proves by clear and convincing evidence that the person took the property or the interest with the intent to defeat the forfeiture; or

(2) A conviction under this act is later obtained against the person.

Declares that nothing in this act may be construed to affect the temporary seizure of property for evidentiary, forfeiture, or protective purposes, or to alter the power of the governor to remit fines or forfeitures under Article III, section 11 of the Washington Constitution.