
HOUSE BILL 1826

State of Washington

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2003 Regular Session

By Representatives Veloria, McMahan, O'Brien, Kenney, Boldt, Mielke, Santos, Hudgins, Upthegrove, Simpson and Conway

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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, or an
12 offense, including an anticipatory or completed offense, that is
13 defined in section 1, chapter . . . (Substitute House Bill No. 1175),
14 Laws of 2003, whether or not committed for financial gain, that is
15 chargeable or indictable under the laws of the state in which the act
16 occurred and, if the act occurred in a state other than this state,
17 would be chargeable or indictable under the laws of this state had the
18 act occurred in this state and punishable as a felony and by
19 imprisonment for more than one year, regardless of whether the act is
20 charged or indicted, as any of the following:

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

1 (n) Collection of an extortionate extension of credit, as defined
2 in RCW 9A.82.040;

3 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;

4 (p) Delivery or manufacture of controlled substances or possession
5 with intent to deliver or manufacture controlled substances under
6 chapter 69.50 RCW;

7 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;

8 (r) Leading organized crime, as defined in RCW 9A.82.060;

9 (s) Money laundering, as defined in RCW 9A.83.020;

10 (t) Obstructing criminal investigations or prosecutions in
11 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
12 9A.76.070, or 9A.76.180;

13 (u) Fraud in the purchase or sale of securities, as defined in RCW
14 21.20.010;

15 (v) Promoting pornography, as defined in RCW 9.68.140;

16 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,
17 9.68A.050, and 9.68A.060;

18 (x) Promoting prostitution, as defined in RCW 9A.88.070 and
19 9A.88.080;

20 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

21 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

22 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

23 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;

24 (cc) Commercial telephone solicitation in violation of RCW
25 19.158.040(1);

26 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;

27 (ee) Unlawful practice of law, as defined in RCW 2.48.180;

28 (ff) Commercial bribery, as defined in RCW 9A.68.060;

29 (gg) Health care false claims, as defined in RCW 48.80.030;

30 (hh) Unlicensed practice of a profession or business, as defined in
31 RCW 18.130.190(7);

32 (ii) Improperly obtaining financial information, as defined in RCW
33 9.35.010; (~~(e)~~)

34 (jj) Identity theft, as defined in RCW 9.35.020;

35 (kk) Trafficking, as defined in section 1, chapter
36 (Substitute House Bill No. 1175), Laws of 2003.

37 (5) "Dealer in property" means a person who buys and sells property
38 as a business.

1 (6) "Debtor" means a person to whom an extension of credit is made
2 or a person who guarantees the repayment of an extension of credit or
3 in any manner undertakes to indemnify the creditor against loss
4 resulting from the failure of a person to whom an extension is made to
5 repay the same.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (ii) A trustee of any testamentary trust;

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

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

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

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

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

17 (ii) Chapter 9.46 RCW relating to gambling;

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

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

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

24 During the pendency of any criminal case charging a violation of
25 RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or an offense
26 defined in section 1, chapter . . . (Substitute House Bill No. 1175),
27 Laws of 2003, whether or not committed for financial gain, the superior
28 court may, in addition to its other powers, issue an order pursuant to
29 RCW 9A.82.100 (2) or (3). Upon conviction of a person for a violation
30 of RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or an offense
31 defined in section 1, chapter . . . (Substitute House Bill No. 1175),
32 Laws of 2003, whether or not committed for financial gain, the superior
33 court may, in addition to its other powers of disposition, issue an
34 order pursuant to RCW 9A.82.100.

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

1 (1)(a) A person who sustains injury to his or her person, business,
2 or property by an act of criminal profiteering that is part of a
3 pattern of criminal profiteering activity, or by an offense defined in
4 section 1, chapter . . . (Substitute House Bill No. 1175), Laws of
5 2003, whether or not committed for financial gain, or by a violation of
6 RCW 9A.82.060 or 9A.82.080 may file an action in superior court for the
7 recovery of damages and the costs of the suit, including reasonable
8 investigative and attorney's fees.

9 (b) The attorney general or county prosecuting attorney may file an
10 action: (i) On behalf of those persons injured or, respectively, on
11 behalf of the state or county if the entity has sustained damages, or
12 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering
13 activity, or an offense defined in section 1, chapter . . . (Substitute
14 House Bill No. 1175), Laws of 2003, whether or not committed for
15 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080.

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

20 (d) In an action filed to prevent, restrain, or remedy a pattern of
21 criminal profiteering activity, or an offense defined in section 1,
22 chapter . . . (Substitute House Bill No. 1175), Laws of 2003, whether
23 or not committed for financial gain, or a violation of RCW 9A.82.060 or
24 9A.82.080, the court, upon proof of the violation, may impose a civil
25 penalty not exceeding two hundred fifty thousand dollars, in addition
26 to awarding the cost of the suit, including reasonable investigative
27 and attorney's fees.

28 (2) The superior court has jurisdiction to prevent, restrain, and
29 remedy a pattern of criminal profiteering, or an offense defined in
30 section 1, chapter . . . (Substitute House Bill No. 1175), Laws of
31 2003, whether or not committed for financial gain, or a violation of
32 RCW 9A.82.060 or 9A.82.080 after making provision for the rights of all
33 innocent persons affected by the violation and after hearing or trial,
34 as appropriate, by issuing appropriate orders.

35 (3) Prior to a determination of liability, orders issued under
36 subsection (2) of this section may include, but are not limited to,
37 entering restraining orders or prohibitions or taking such other
38 actions, including the acceptance of satisfactory performance bonds, in

1 connection with any property or other interest subject to damages,
2 forfeiture, or other restraints pursuant to this section as the court
3 deems proper. The orders may also include attachment, receivership, or
4 injunctive relief in regard to personal or real property pursuant to
5 Title 7 RCW. In shaping the reach or scope of receivership,
6 attachment, or injunctive relief, the superior court shall provide for
7 the protection of bona fide interests in property, including community
8 property, of persons who were not involved in the violation of this
9 chapter, except to the extent that such interests or property were
10 acquired or used in such a way as to be subject to forfeiture under RCW
11 9A.82.100(4)(f).

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

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

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

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

22 (d) Ordering the payment of actual damages sustained to those
23 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an
24 offense defined in section 1, chapter . . . (Substitute House Bill No.
25 1175), Laws of 2003, whether or not committed for financial gain, or an
26 act of criminal profiteering that is part of a pattern of criminal
27 profiteering, and in the court's discretion, increasing the payment to
28 an amount not exceeding three times the actual damages sustained.

29 (e) Ordering the payment of all costs and expenses of the
30 prosecution and investigation of a pattern of criminal profiteering, or
31 an offense defined in section 1, chapter . . . (Substitute House Bill
32 No. 1175), Laws of 2003, whether or not committed for financial gain,
33 activity or a violation of RCW 9A.82.060 or 9A.82.080, civil and
34 criminal, incurred by the state or county, including any costs of
35 defense provided at public expense, as appropriate to the state general
36 fund or the antiprofitteering revolving fund of the county.

37 (f) Ordering forfeiture first as restitution to any person damaged
38 by an act of criminal profiteering that is part of a pattern of

1 criminal profiteering, or by an offense defined in section 1, chapter
2 . . . (Substitute House Bill No. 1175), Laws of 2003, whether or not
3 committed for financial gain, then to the state general fund or
4 antiprofitteering revolving fund of the county, as appropriate, to the
5 extent not already ordered to be paid in other damages, of the
6 following:

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

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

15 (iii) All proceeds traceable to or derived from an offense included
16 in the pattern of criminal profiteering activity, or an offense defined
17 in section 1, chapter . . . (Substitute House Bill No. 1175), Laws of
18 2003, whether or not committed for financial gain, and all moneys,
19 negotiable instruments, securities, and other things of value
20 significantly used or intended to be used significantly to facilitate
21 commission of the offense.

22 (g) Ordering payment to the state general fund or antiprofitteering
23 revolving fund of the county, as appropriate, of an amount equal to the
24 gain a person has acquired or maintained through an offense included in
25 the definition of criminal profiteering.

26 (5) In addition to or in lieu of an action under this section, the
27 attorney general or county prosecuting attorney may file an action for
28 forfeiture to the state general fund or antiprofitteering revolving fund
29 of the county, as appropriate, to the extent not already ordered paid
30 pursuant to this section, of the following:

31 (a) Any interest acquired or maintained by a person in violation of
32 RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds
33 obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any
34 appreciation or income attributable to the investment.

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

1 (c) All proceeds traceable to or derived from an offense included
2 in the pattern of criminal profiteering activity, or an offense defined
3 in section 1, chapter . . . (Substitute House Bill No. 1175), Laws of
4 2003, whether or not committed for financial gain, and all moneys,
5 negotiable instruments, securities, and other things of value
6 significantly used or intended to be used significantly to facilitate
7 the commission of the offense.

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

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

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

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

36 (10) A person other than the attorney general or county prosecuting
37 attorney who files an action under this section shall serve notice and
38 one copy of the pleading on the attorney general within thirty days

1 after the action is filed with the superior court. The notice shall
2 identify the action, the person, and the person's attorney. Service of
3 the notice does not limit or otherwise affect the right of the state to
4 maintain an action under this section or intervene in a pending action
5 nor does it authorize the person to name the state or the attorney
6 general as a party to the action.

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

14 (12) In addition to the attorney general's right to intervene as a
15 party in any action under this section, the attorney general may appear
16 as amicus curiae in any proceeding in which a claim under this section
17 has been asserted or in which a court is interpreting RCW 9A.82.010,
18 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

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

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

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

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

3 (1) The state, upon filing a criminal action under RCW 9A.82.060 or
4 9A.82.080 or for an offense defined in section 1, chapter . . .
5 (Substitute House Bill No. 1175), Laws of 2003, whether or not
6 committed for financial gain, or a civil action under RCW 9A.82.100,
7 may file in accordance with this section a criminal profiteering lien.
8 A filing fee or other charge is not required for filing a criminal
9 profiteering lien.

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

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

15 (b) In the discretion of the attorney general or county prosecuting
16 attorney filing the lien, any aliases or fictitious names of the
17 defendant named in the lien;

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

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

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

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

28 (g) The amount that the state claims in the action or, with respect
29 to property or other interests that the state has requested forfeiture
30 to the state or county, a description of the property or interests
31 sought to be paid or forfeited;

32 (h) If known to the attorney general or county prosecuting attorney
33 filing the lien, a description of property that is subject to
34 forfeiture to the state or property in which the defendant has an
35 interest that is available to satisfy a judgment entered in favor of
36 the state; and

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

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

5 (4) The attorney general or the county prosecuting attorney filing
6 the lien shall, as soon as practical after filing a criminal
7 profiteering lien, furnish to any person named in the lien a notice of
8 the filing of the lien. Failure to furnish notice under this
9 subsection does not invalidate or otherwise affect a criminal
10 profiteering lien filed in accordance with this section.

11 (5)(a) A criminal profiteering lien is perfected against interests
12 in personal property in the same manner as a security interest in like
13 property pursuant to RCW (~~62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,~~
14 ~~and 62A.9-306~~) 62A.9A-301 through 62A.9A-316 or as otherwise required
15 to perfect a security interest in like property under applicable law.
16 In the case of perfection by filing, the state shall file, in lieu of
17 a financing statement in the form prescribed by RCW (~~62A.9-402~~)
18 62A.9A-502, a notice of lien in substantially the following form:

19 NOTICE OF LIEN

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

23 Name:

24 Address:

25

26 State of Washington

27

28 By (authorized signature)

29 On receipt of such a notice from the state, a filing officer shall,
30 without payment of filing fee, file and index the notice as if it were
31 a financing statement naming the state as secured party and the
32 defendant as debtor.

33 (b) A criminal profiteering lien is perfected against interests in
34 real property by filing the lien in the office where a mortgage on the
35 real estate would be filed or recorded. The filing officer shall file

1 and index the criminal profiteering lien, without payment of a filing
2 fee, in the same manner as a mortgage.

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

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

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

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

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

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

32 (9) Upon the entry of a final judgment in favor of the state
33 providing for forfeiture of property to the state, the title of the
34 state to the property:

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

1 (b) In the case of personal property or a beneficial interest in
2 personal property, relates back to the date the personal property was
3 seized by the state, or the date of filing of a criminal profiteering
4 lien in accordance with this section, whichever is earlier, but if the
5 property was not seized and no criminal profiteering lien was filed
6 then to the date the final judgment was filed with the department of
7 licensing and, if the personal property is an aircraft, with the
8 federal aviation administration.

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

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

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