
SUBSTITUTE SENATE BILL 5728

State of Washington

67th Legislature

2022 Regular Session

By Senate Ways & Means (originally sponsored by Senators Holy, Dhingra, and Nobles; by request of State Treasurer)

READ FIRST TIME 01/26/22.

1 AN ACT Relating to the state's portion of civil asset forfeiture
2 collections; amending RCW 69.50.505, 46.61.5058, 10.105.010,
3 9.68A.120, and 9A.88.150; and reenacting and amending RCW 43.79A.040.

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

5 **Sec. 1.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read
6 as follows:

7 (1) The following are subject to seizure and forfeiture and no
8 property right exists in them:

9 (a) All controlled substances which have been manufactured,
10 distributed, dispensed, acquired, or possessed in violation of this
11 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,
12 as defined in RCW 64.44.010, used or intended to be used in the
13 manufacture of controlled substances;

14 (b) All raw materials, products, and equipment of any kind which
15 are used, or intended for use, in manufacturing, compounding,
16 processing, delivering, importing, or exporting any controlled
17 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

18 (c) All property which is used, or intended for use, as a
19 container for property described in (a) or (b) of this subsection;

20 (d) All conveyances, including aircraft, vehicles, or vessels,
21 which are used, or intended for use, in any manner to facilitate the

1 sale, delivery, or receipt of property described in (a) or (b) of
2 this subsection, except that:

3 (i) No conveyance used by any person as a common carrier in the
4 transaction of business as a common carrier is subject to forfeiture
5 under this section unless it appears that the owner or other person
6 in charge of the conveyance is a consenting party or privy to a
7 violation of this chapter or chapter 69.41 or 69.52 RCW;

8 (ii) No conveyance is subject to forfeiture under this section by
9 reason of any act or omission established by the owner thereof to
10 have been committed or omitted without the owner's knowledge or
11 consent;

12 (iii) No conveyance is subject to forfeiture under this section
13 if used in the receipt of only an amount of marijuana for which
14 possession constitutes a misdemeanor under RCW 69.50.4014;

15 (iv) A forfeiture of a conveyance encumbered by a bona fide
16 security interest is subject to the interest of the secured party if
17 the secured party neither had knowledge of nor consented to the act
18 or omission; and

19 (v) When the owner of a conveyance has been arrested under this
20 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the
21 person is arrested may not be subject to forfeiture unless it is
22 seized or process is issued for its seizure within ten days of the
23 owner's arrest;

24 (e) All books, records, and research products and materials,
25 including formulas, microfilm, tapes, and data which are used, or
26 intended for use, in violation of this chapter or chapter 69.41 or
27 69.52 RCW;

28 (f) All drug (~~paraphernalia~~²¹) paraphernalia other than
29 paraphernalia possessed, sold, or used solely to facilitate
30 marijuana-related activities that are not violations of this chapter;

31 (g) All moneys, negotiable instruments, securities, or other
32 tangible or intangible property of value furnished or intended to be
33 furnished by any person in exchange for a controlled substance in
34 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
35 or intangible personal property, proceeds, or assets acquired in
36 whole or in part with proceeds traceable to an exchange or series of
37 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
38 and all moneys, negotiable instruments, and securities used or
39 intended to be used to facilitate any violation of this chapter or
40 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable

1 instruments, securities, or other tangible or intangible property
2 encumbered by a bona fide security interest is subject to the
3 interest of the secured party if, at the time the security interest
4 was created, the secured party neither had knowledge of nor consented
5 to the act or omission. No personal property may be forfeited under
6 this subsection (1)(g), to the extent of the interest of an owner, by
7 reason of any act or omission which that owner establishes was
8 committed or omitted without the owner's knowledge or consent; and

9 (h) All real property, including any right, title, and interest
10 in the whole of any lot or tract of land, and any appurtenances or
11 improvements which are being used with the knowledge of the owner for
12 the manufacturing, compounding, processing, delivery, importing, or
13 exporting of any controlled substance, or which have been acquired in
14 whole or in part with proceeds traceable to an exchange or series of
15 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
16 if such activity is not less than a class C felony and a substantial
17 nexus exists between the commercial production or sale of the
18 controlled substance and the real property. However:

19 (i) No property may be forfeited pursuant to this subsection
20 (1)(h), to the extent of the interest of an owner, by reason of any
21 act or omission committed or omitted without the owner's knowledge or
22 consent;

23 (ii) The bona fide gift of a controlled substance, legend drug,
24 or imitation controlled substance shall not result in the forfeiture
25 of real property;

26 (iii) The possession of marijuana shall not result in the
27 forfeiture of real property unless the marijuana is possessed for
28 commercial purposes that are unlawful under Washington state law, the
29 amount possessed is five or more plants or one pound or more of
30 marijuana, and a substantial nexus exists between the possession of
31 marijuana and the real property. In such a case, the intent of the
32 offender shall be determined by the preponderance of the evidence,
33 including the offender's prior criminal history, the amount of
34 marijuana possessed by the offender, the sophistication of the
35 activity or equipment used by the offender, whether the offender was
36 licensed to produce, process, or sell marijuana, or was an employee
37 of a licensed producer, processor, or retailer, and other evidence
38 which demonstrates the offender's intent to engage in unlawful
39 commercial activity;

1 (iv) The unlawful sale of marijuana or a legend drug shall not
2 result in the forfeiture of real property unless the sale was forty
3 grams or more in the case of marijuana or one hundred dollars or more
4 in the case of a legend drug, and a substantial nexus exists between
5 the unlawful sale and the real property; and

6 (v) A forfeiture of real property encumbered by a bona fide
7 security interest is subject to the interest of the secured party if
8 the secured party, at the time the security interest was created,
9 neither had knowledge of nor consented to the act or omission.

10 (2) Real or personal property subject to forfeiture under this
11 chapter may be seized by any ((~~board~~)) commission inspector or law
12 enforcement officer of this state upon process issued by any superior
13 court having jurisdiction over the property. Seizure of real property
14 shall include the filing of a lis pendens by the seizing agency. Real
15 property seized under this section shall not be transferred or
16 otherwise conveyed until ninety days after seizure or until a
17 judgment of forfeiture is entered, whichever is later: PROVIDED, That
18 real property seized under this section may be transferred or
19 conveyed to any person or entity who acquires title by foreclosure or
20 deed in lieu of foreclosure of a security interest. Seizure of
21 personal property without process may be made if:

22 (a) The seizure is incident to an arrest or a search under a
23 search warrant or an inspection under an administrative inspection
24 warrant;

25 (b) The property subject to seizure has been the subject of a
26 prior judgment in favor of the state in a criminal injunction or
27 forfeiture proceeding based upon this chapter;

28 (c) A ((~~board~~)) commission inspector or law enforcement officer
29 has probable cause to believe that the property is directly or
30 indirectly dangerous to health or safety; or

31 (d) The ((~~board~~)) commission inspector or law enforcement officer
32 has probable cause to believe that the property was used or is
33 intended to be used in violation of this chapter.

34 (3) In the event of seizure pursuant to subsection (2) of this
35 section, proceedings for forfeiture shall be deemed commenced by the
36 seizure. The law enforcement agency under whose authority the seizure
37 was made shall cause notice to be served within fifteen days
38 following the seizure on the owner of the property seized and the
39 person in charge thereof and any person having any known right or
40 interest therein, including any community property interest, of the

1 seizure and intended forfeiture of the seized property. Service of
2 notice of seizure of real property shall be made according to the
3 rules of civil procedure. However, the state may not obtain a default
4 judgment with respect to real property against a party who is served
5 by substituted service absent an affidavit stating that a good faith
6 effort has been made to ascertain if the defaulted party is
7 incarcerated within the state, and that there is no present basis to
8 believe that the party is incarcerated within the state. Notice of
9 seizure in the case of property subject to a security interest that
10 has been perfected by filing a financing statement in accordance with
11 chapter 62A.9A RCW, or a certificate of title, shall be made by
12 service upon the secured party or the secured party's assignee at the
13 address shown on the financing statement or the certificate of title.
14 The notice of seizure in other cases may be served by any method
15 authorized by law or court rule including but not limited to service
16 by certified mail with return receipt requested. Service by mail
17 shall be deemed complete upon mailing within the fifteen day period
18 following the seizure.

19 (4) If no person notifies the seizing law enforcement agency in
20 writing of the person's claim of ownership or right to possession of
21 items specified in subsection (1)(d), (g), or (h) of this section
22 within forty-five days of the service of notice from the seizing
23 agency in the case of personal property and ninety days in the case
24 of real property, the item seized shall be deemed forfeited. The
25 community property interest in real property of a person whose spouse
26 or domestic partner committed a violation giving rise to seizure of
27 the real property may not be forfeited if the person did not
28 participate in the violation.

29 (5) If any person notifies the seizing law enforcement agency in
30 writing of the person's claim of ownership or right to possession of
31 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)
32 of this section within forty-five days of the service of notice from
33 the seizing agency in the case of personal property and ninety days
34 in the case of real property, the person or persons shall be afforded
35 a reasonable opportunity to be heard as to the claim or right. The
36 notice of claim may be served by any method authorized by law or
37 court rule including, but not limited to, service by first-class
38 mail. Service by mail shall be deemed complete upon mailing within
39 the forty-five day period following service of the notice of seizure
40 in the case of personal property and within the ninety-day period

1 following service of the notice of seizure in the case of real
2 property. The hearing shall be before the chief law enforcement
3 officer of the seizing agency or the chief law enforcement officer's
4 designee, except where the seizing agency is a state agency as
5 defined in RCW 34.12.020(4), the hearing shall be before the chief
6 law enforcement officer of the seizing agency or an administrative
7 law judge appointed under chapter 34.12 RCW, except that any person
8 asserting a claim or right may remove the matter to a court of
9 competent jurisdiction. Removal of any matter involving personal
10 property may only be accomplished according to the rules of civil
11 procedure. The person seeking removal of the matter must serve
12 process against the state, county, political subdivision, or
13 municipality that operates the seizing agency, and any other party of
14 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-
15 five days after the person seeking removal has notified the seizing
16 law enforcement agency of the person's claim of ownership or right to
17 possession. The court to which the matter is to be removed shall be
18 the district court when the aggregate value of personal property is
19 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
20 before the seizing agency and any appeal therefrom shall be under
21 Title 34 RCW. In all cases, the burden of proof is upon the law
22 enforcement agency to establish, by a preponderance of the evidence,
23 that the property is subject to forfeiture.

24 The seizing law enforcement agency shall promptly return the
25 article or articles to the claimant upon a determination by the
26 administrative law judge or court that the claimant is the present
27 lawful owner or is lawfully entitled to possession thereof of items
28 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of
29 this section.

30 (6) In any proceeding to forfeit property under this title, where
31 the claimant substantially prevails, the claimant is entitled to
32 reasonable attorneys' fees reasonably incurred by the claimant. In
33 addition, in a court hearing between two or more claimants to the
34 article or articles involved, the prevailing party is entitled to a
35 judgment for costs and reasonable attorneys' fees.

36 (7) When property is forfeited under this chapter the (~~board~~)
37 commission or seizing law enforcement agency may:

38 (a) Retain it for official use or upon application by any law
39 enforcement agency of this state release such property to such agency
40 for the exclusive use of enforcing the provisions of this chapter;

1 (b) Sell that which is not required to be destroyed by law and
2 which is not harmful to the public;

3 (c) Request the appropriate sheriff or director of public safety
4 to take custody of the property and remove it for disposition in
5 accordance with law; or

6 (d) Forward it to the drug enforcement administration for
7 disposition.

8 (8) (a) When property is forfeited, the seizing agency shall keep
9 a record indicating the identity of the prior owner, if known, a
10 description of the property, the disposition of the property, the
11 value of the property at the time of seizure, and the amount of
12 proceeds realized from disposition of the property.

13 (b) Each seizing agency shall retain records of forfeited
14 property for at least seven years.

15 (c) Each seizing agency shall file a report including a copy of
16 the records of forfeited property with the state treasurer each
17 calendar quarter.

18 (d) The quarterly report need not include a record of forfeited
19 property that is still being held for use as evidence during the
20 investigation or prosecution of a case or during the appeal from a
21 conviction.

22 (9) (a) By January 31st of each year, each seizing agency shall
23 remit to the state (~~(treasurer)~~) an amount equal to ten percent of
24 the net proceeds of any property forfeited during the preceding
25 calendar year for deposit into the behavioral health loan repayment
26 program account created in RCW 28B.115.135. (~~(Money remitted shall be~~
27 ~~deposited in the state general fund.)~~)

28 (b) The net proceeds of forfeited property is the value of the
29 forfeitable interest in the property after deducting the cost of
30 satisfying any bona fide security interest to which the property is
31 subject at the time of seizure; and in the case of sold property,
32 after deducting the cost of sale, including reasonable fees or
33 commissions paid to independent selling agents, and the cost of any
34 valid landlord's claim for damages under subsection (15) of this
35 section.

36 (c) The value of sold forfeited property is the sale price. The
37 value of retained forfeited property is the fair market value of the
38 property at the time of seizure, determined when possible by
39 reference to an applicable commonly used index, such as the index
40 used by the department of licensing for valuation of motor vehicles.

1 A seizing agency may use, but need not use, an independent qualified
2 appraiser to determine the value of retained property. If an
3 appraiser is used, the value of the property appraised is net of the
4 cost of the appraisal. The value of destroyed property and retained
5 firearms or illegal property is zero.

6 (10) Forfeited property and net proceeds not required to be
7 (~~paid~~) remitted to the state (~~treasurer~~) shall be retained by the
8 seizing law enforcement agency exclusively for the expansion and
9 improvement of controlled substances related law enforcement
10 activity. Money retained under this section may not be used to
11 supplant preexisting funding sources.

12 (11) Controlled substances listed in Schedule I, II, III, IV, and
13 V that are possessed, transferred, sold, or offered for sale in
14 violation of this chapter are contraband and shall be seized and
15 summarily forfeited to the state. Controlled substances listed in
16 Schedule I, II, III, IV, and V, which are seized or come into the
17 possession of the (~~board~~) commission, the owners of which are
18 unknown, are contraband and shall be summarily forfeited to the
19 (~~board~~) commission.

20 (12) Species of plants from which controlled substances in
21 Schedules I and II may be derived which have been planted or
22 cultivated in violation of this chapter, or of which the owners or
23 cultivators are unknown, or which are wild growths, may be seized and
24 summarily forfeited to the (~~board~~) commission.

25 (13) The failure, upon demand by a (~~board~~) commission inspector
26 or law enforcement officer, of the person in occupancy or in control
27 of land or premises upon which the species of plants are growing or
28 being stored to produce an appropriate registration or proof that he
29 or she is the holder thereof constitutes authority for the seizure
30 and forfeiture of the plants.

31 (14) Upon the entry of an order of forfeiture of real property,
32 the court shall forward a copy of the order to the assessor of the
33 county in which the property is located. Orders for the forfeiture of
34 real property shall be entered by the superior court, subject to
35 court rules. Such an order shall be filed by the seizing agency in
36 the county auditor's records in the county in which the real property
37 is located.

38 (15)(a) A landlord may assert a claim against proceeds from the
39 sale of assets seized and forfeited under subsection (7)(b) of this
40 section, only if:

1 (i) A law enforcement officer, while acting in his or her
2 official capacity, directly caused damage to the complaining
3 landlord's property while executing a search of a tenant's residence;
4 and

5 (ii) The landlord has applied any funds remaining in the tenant's
6 deposit, to which the landlord has a right under chapter 59.18 RCW,
7 to cover the damage directly caused by a law enforcement officer
8 prior to asserting a claim under the provisions of this section;

9 (A) Only if the funds applied under (a)(ii) of this subsection
10 are insufficient to satisfy the damage directly caused by a law
11 enforcement officer, may the landlord seek compensation for the
12 damage by filing a claim against the governmental entity under whose
13 authority the law enforcement agency operates within thirty days
14 after the search;

15 (B) Only if the governmental entity denies or fails to respond to
16 the landlord's claim within sixty days of the date of filing, may the
17 landlord collect damages under this subsection by filing within
18 thirty days of denial or the expiration of the sixty-day period,
19 whichever occurs first, a claim with the seizing law enforcement
20 agency. The seizing law enforcement agency must notify the landlord
21 of the status of the claim by the end of the thirty-day period.
22 Nothing in this section requires the claim to be paid by the end of
23 the sixty-day or thirty-day period.

24 (b) For any claim filed under (a)(ii) of this subsection, the law
25 enforcement agency shall pay the claim unless the agency provides
26 substantial proof that the landlord either:

27 (i) Knew or consented to actions of the tenant in violation of
28 this chapter or chapter 69.41 or 69.52 RCW; or

29 (ii) Failed to respond to a notification of the illegal activity,
30 provided by a law enforcement agency under RCW 59.18.075, within
31 seven days of receipt of notification of the illegal activity.

32 (16) The landlord's claim for damages under subsection (15) of
33 this section may not include a claim for loss of business and is
34 limited to:

35 (a) Damage to tangible property and clean-up costs;

36 (b) The lesser of the cost of repair or fair market value of the
37 damage directly caused by a law enforcement officer;

38 (c) The proceeds from the sale of the specific tenant's property
39 seized and forfeited under subsection (7)(b) of this section; and

1 (d) The proceeds available after the seizing law enforcement
2 agency satisfies any bona fide security interest in the tenant's
3 property and costs related to sale of the tenant's property as
4 provided by subsection (9)(b) of this section.

5 (17) Subsections (15) and (16) of this section do not limit any
6 other rights a landlord may have against a tenant to collect for
7 damages. However, if a law enforcement agency satisfies a landlord's
8 claim under subsection (15) of this section, the rights the landlord
9 has against the tenant for damages directly caused by a law
10 enforcement officer under the terms of the landlord and tenant's
11 contract are subrogated to the law enforcement agency.

12 **Sec. 2.** RCW 46.61.5058 and 2013 2nd sp.s. c 35 s 18 are each
13 amended to read as follows:

14 (1) Upon the arrest of a person or upon the filing of a
15 complaint, citation, or information in a court of competent
16 jurisdiction, based upon probable cause to believe that a person has
17 violated RCW 46.20.740, 46.61.502, or 46.61.504 or any similar
18 municipal ordinance, if such person has a prior offense within seven
19 years as defined in RCW 46.61.5055, and where the person has been
20 provided written notice that any transfer, sale, or encumbrance of
21 such person's interest in the vehicle over which that person was
22 actually driving or had physical control when the violation occurred,
23 is unlawful pending either acquittal, dismissal, sixty days after
24 conviction, or other termination of the charge, such person shall be
25 prohibited from encumbering, selling, or transferring his or her
26 interest in such vehicle, except as otherwise provided in (a), (b),
27 and (c) of this subsection, until either acquittal, dismissal, sixty
28 days after conviction, or other termination of the charge. The
29 prohibition against transfer of title shall not be stayed pending the
30 determination of an appeal from the conviction.

31 (a) A vehicle encumbered by a bona fide security interest may be
32 transferred to the secured party or to a person designated by the
33 secured party;

34 (b) A leased or rented vehicle may be transferred to the lessor,
35 rental agency, or to a person designated by the lessor or rental
36 agency; and

37 (c) A vehicle may be transferred to a third party or a vehicle
38 dealer who is a bona fide purchaser or may be subject to a bona fide
39 security interest in the vehicle unless it is established that (i) in

1 the case of a purchase by a third party or vehicle dealer, such party
2 or dealer had actual notice that the vehicle was subject to the
3 prohibition prior to the purchase, or (ii) in the case of a security
4 interest, the holder of the security interest had actual notice that
5 the vehicle was subject to the prohibition prior to the encumbrance
6 of title.

7 (2) On conviction for a violation of either RCW 46.20.740,
8 46.61.502, or 46.61.504 or any similar municipal ordinance where the
9 person convicted has a prior offense within seven years as defined in
10 RCW 46.61.5055, the motor vehicle the person was driving or over
11 which the person had actual physical control at the time of the
12 offense, if the person has a financial interest in the vehicle, the
13 court shall consider at sentencing whether the vehicle shall be
14 seized and forfeited pursuant to this section if a seizure or
15 forfeiture has not yet occurred.

16 (3) A vehicle subject to forfeiture under this chapter may be
17 seized by a law enforcement officer of this state upon process issued
18 by a court of competent jurisdiction. Seizure of a vehicle may be
19 made without process if the vehicle subject to seizure has been the
20 subject of a prior judgment in favor of the state in a forfeiture
21 proceeding based upon this section.

22 (4) Seizure under subsection (3) of this section automatically
23 commences proceedings for forfeiture. The law enforcement agency
24 under whose authority the seizure was made shall cause notice of the
25 seizure and intended forfeiture of the seized vehicle to be served
26 within fifteen days after the seizure on the owner of the vehicle
27 seized, on the person in charge of the vehicle, and on any person
28 having a known right or interest in the vehicle, including a
29 community property interest. The notice of seizure may be served by
30 any method authorized by law or court rule, including but not limited
31 to service by certified mail with return receipt requested. Service
32 by mail is complete upon mailing within the fifteen-day period after
33 the seizure. Notice of seizure in the case of property subject to a
34 security interest that has been perfected on a certificate of title
35 shall be made by service upon the secured party or the secured
36 party's assignee at the address shown on the financing statement or
37 the certificate of title.

38 (5) If no person notifies the seizing law enforcement agency in
39 writing of the person's claim of ownership or right to possession of

1 the seized vehicle within forty-five days of the seizure, the vehicle
2 is deemed forfeited.

3 (6) If a person notifies the seizing law enforcement agency in
4 writing of the person's claim of ownership or right to possession of
5 the seized vehicle within forty-five days of the seizure, the law
6 enforcement agency shall give the person or persons a reasonable
7 opportunity to be heard as to the claim or right. The hearing shall
8 be before the chief law enforcement officer of the seizing agency or
9 the chief law enforcement officer's designee, except where the
10 seizing agency is a state agency as defined in RCW 34.12.020, the
11 hearing shall be before the chief law enforcement officer of the
12 seizing agency or an administrative law judge appointed under chapter
13 34.12 RCW, except that any person asserting a claim or right may
14 remove the matter to a court of competent jurisdiction. Removal may
15 only be accomplished according to the rules of civil procedure. The
16 person seeking removal of the matter must serve process against the
17 state, county, political subdivision, or municipality that operates
18 the seizing agency, and any other party of interest, in accordance
19 with RCW 4.28.080 or 4.92.020, within forty-five days after the
20 person seeking removal has notified the seizing law enforcement
21 agency of the person's claim of ownership or right to possession. The
22 court to which the matter is to be removed shall be the district
23 court when the aggregate value of the vehicle is within the
24 jurisdictional limit set forth in RCW 3.66.020. A hearing before the
25 seizing agency and any appeal therefrom shall be under Title 34 RCW.
26 In a court hearing between two or more claimants to the vehicle
27 involved, the prevailing party shall be entitled to a judgment for
28 costs and reasonable attorneys' fees. The burden of producing
29 evidence shall be upon the person claiming to be the legal owner or
30 the person claiming to have the lawful right to possession of the
31 vehicle. The seizing law enforcement agency shall promptly return the
32 vehicle to the claimant upon a determination by the administrative
33 law judge or court that the claimant is the present legal owner under
34 this title or is lawfully entitled to possession of the vehicle.

35 (7) When a vehicle is forfeited under this chapter the seizing
36 law enforcement agency may sell the vehicle, retain it for official
37 use, or upon application by a law enforcement agency of this state
38 release the vehicle to that agency for the exclusive use of enforcing
39 this title; provided, however, that the agency shall first satisfy

1 any bona fide security interest to which the vehicle is subject under
2 subsection (1)(a) or (c) of this section.

3 (8) When a vehicle is forfeited, the seizing agency shall keep a
4 record indicating the identity of the prior owner, if known, a
5 description of the vehicle, the disposition of the vehicle, the value
6 of the vehicle at the time of seizure, and the amount of proceeds
7 realized from disposition of the vehicle.

8 (9) Each seizing agency shall retain records of forfeited
9 vehicles for at least seven years.

10 (10) Each seizing agency shall file a report including a copy of
11 the records of forfeited vehicles with the state treasurer each
12 calendar quarter.

13 (11) The quarterly report need not include a record of a
14 forfeited vehicle that is still being held for use as evidence during
15 the investigation or prosecution of a case or during the appeal from
16 a conviction.

17 (12) By January 31st of each year, each seizing agency shall
18 remit to the state (~~(treasurer)~~) an amount equal to ten percent of
19 the net proceeds of vehicles forfeited during the preceding calendar
20 year (~~(. Money remitted shall be deposited in the state general fund)~~)
21 for deposit into the behavioral health loan repayment program account
22 created in RCW 28B.115.135.

23 (13) The net proceeds of a forfeited vehicle is the value of the
24 forfeitable interest in the vehicle after deducting the cost of
25 satisfying a bona fide security interest to which the vehicle is
26 subject at the time of seizure; and in the case of a sold vehicle,
27 after deducting the cost of sale, including reasonable fees or
28 commissions paid to independent selling agents.

29 (14) The value of a sold forfeited vehicle is the sale price. The
30 value of a retained forfeited vehicle is the fair market value of the
31 vehicle at the time of seizure, determined when possible by reference
32 to an applicable commonly used index, such as the index used by the
33 department of licensing. A seizing agency may, but need not, use an
34 independent qualified appraiser to determine the value of retained
35 vehicles. If an appraiser is used, the value of the vehicle appraised
36 is net of the cost of the appraisal.

37 **Sec. 3.** RCW 10.105.010 and 2009 c 479 s 15 are each amended to
38 read as follows:

1 (1) The following are subject to seizure and forfeiture and no
2 property right exists in them: All personal property, including, but
3 not limited to, any item, object, tool, substance, device, weapon,
4 machine, vehicle of any kind, money, security, or negotiable
5 instrument, which has been or was actually employed as an
6 instrumentality in the commission of, or in aiding or abetting in the
7 commission of any felony, or which was furnished or was intended to
8 be furnished by any person in the commission of, as a result of, or
9 as compensation for the commission of, any felony, or which was
10 acquired in whole or in part with proceeds traceable to the
11 commission of a felony. No property may be forfeited under this
12 section until after there has been a superior court conviction of the
13 owner of the property for the felony in connection with which the
14 property was employed, furnished, or acquired.

15 A forfeiture of property encumbered by a bona fide security
16 interest is subject to the interest of the secured party if at the
17 time the security interest was created, the secured party neither had
18 knowledge of nor consented to the commission of the felony.

19 (2) Personal property subject to forfeiture under this chapter
20 may be seized by any law enforcement officer of this state upon
21 process issued by any superior court having jurisdiction over the
22 property. Seizure of personal property without process may be made
23 if:

24 (a) The seizure is incident to an arrest or a search under a
25 search warrant;

26 (b) The property subject to seizure has been the subject of a
27 prior judgment in favor of the state in a criminal injunction or
28 forfeiture proceeding;

29 (c) A law enforcement officer has probable cause to believe that
30 the property is directly dangerous to health or safety; or

31 (d) The law enforcement officer has probable cause to believe
32 that the property was used or is intended to be used in the
33 commission of a felony.

34 (3) In the event of seizure pursuant to this section, proceedings
35 for forfeiture shall be deemed commenced by the seizure. The law
36 enforcement agency under whose authority the seizure was made shall
37 cause notice to be served within fifteen days following the seizure
38 on the owner of the property seized and the person in charge thereof
39 and any person having any known right or interest therein, including
40 any community property interest, of the seizure and intended

1 forfeiture of the seized property. The notice of seizure may be
2 served by any method authorized by law or court rule including but
3 not limited to service by certified mail with return receipt
4 requested. Service by mail shall be deemed complete upon mailing
5 within the fifteen day period following the seizure. Notice of
6 seizure in the case of property subject to a security interest that
7 has been perfected by filing a financing statement in accordance with
8 chapter 62A.9A RCW, or a certificate of title shall be made by
9 service upon the secured party or the secured party's assignee at the
10 address shown on the financing statement or the certificate of title.

11 (4) If no person notifies the seizing law enforcement agency in
12 writing of the person's claim of ownership or right to possession of
13 items specified in subsection (1) of this section within forty-five
14 days of the seizure, the item seized shall be deemed forfeited.

15 (5) If a person notifies the seizing law enforcement agency in
16 writing of the person's claim of ownership or right to possession of
17 the seized property within forty-five days of the seizure, the law
18 enforcement agency shall give the person or persons a reasonable
19 opportunity to be heard as to the claim or right. The hearing shall
20 be before the chief law enforcement officer of the seizing agency or
21 the chief law enforcement officer's designee, except where the
22 seizing agency is a state agency as defined in RCW 34.12.020(4), the
23 hearing shall be before the chief law enforcement officer of the
24 seizing agency or an administrative law judge appointed under chapter
25 34.12 RCW, except that any person asserting a claim or right may
26 remove the matter to a court of competent jurisdiction. Removal may
27 only be accomplished according to the rules of civil procedure. The
28 person seeking removal of the matter must serve process against the
29 state, county, political subdivision, or municipality that operates
30 the seizing agency, and any other party of interest, in accordance
31 with RCW 4.28.080 or 4.92.020, within forty-five days after the
32 person seeking removal has notified the seizing law enforcement
33 agency of the person's claim of ownership or right to possession. The
34 court to which the matter is to be removed shall be the district
35 court when the aggregate value of the property is within the
36 jurisdictional limit set forth in RCW 3.66.020. A hearing before the
37 seizing agency and any appeal therefrom shall be under Title 34 RCW.
38 In a court hearing between two or more claimants to the property
39 involved, the prevailing party shall be entitled to a judgment for
40 costs and reasonable attorney's fees. The burden of producing

1 evidence shall be upon the person claiming to be the lawful owner or
2 the person claiming to have the lawful right to possession of the
3 property. The seizing law enforcement agency shall promptly return
4 the property to the claimant upon a determination by the
5 administrative law judge or court that the claimant is the present
6 lawful owner or is lawfully entitled to possession of the property.

7 (6) When property is forfeited under this chapter, after
8 satisfying any court-ordered victim restitution, the seizing law
9 enforcement agency may:

10 (a) Retain it for official use or upon application by any law
11 enforcement agency of this state release such property to such agency
12 for the exclusive use of enforcing the criminal law;

13 (b) Sell that which is not required to be destroyed by law and
14 which is not harmful to the public.

15 (7) By January 31st of each year, each seizing agency shall remit
16 to the state (~~(treasurer)~~) an amount equal to ten percent of the net
17 proceeds of any property forfeited during the preceding calendar
18 year (~~(. Money remitted shall be deposited in the state general fund)~~)
19 for deposit into the behavioral health loan repayment program account
20 created in RCW 28B.115.135.

21 (a) The net proceeds of forfeited property is the value of the
22 forfeitable interest in the property after deducting the cost of
23 satisfying any bona fide security interest to which the property is
24 subject at the time of seizure; and in the case of sold property,
25 after deducting the cost of sale, including reasonable fees or
26 commissions paid to independent selling agents.

27 (b) The value of sold forfeited property is the sale price. The
28 value of retained forfeited property is the fair market value of the
29 property at the time of seizure, determined when possible by
30 reference to an applicable commonly used index, such as the index
31 used by the department of licensing for valuation of motor vehicles.
32 A seizing agency may use, but need not use, an independent qualified
33 appraiser to determine the value of retained property. If an
34 appraiser is used, the value of the property appraised is net of the
35 cost of the appraisal. The value of destroyed property and retained
36 firearms or illegal property is zero.

37 (c) Retained property and net proceeds not required to be
38 (~~(paid)~~) remitted to the state (~~(treasurer)~~), or otherwise required
39 to be spent under this section, shall be retained by the seizing law
40 enforcement agency exclusively for the expansion and improvement of

1 law enforcement activity. Money retained under this section may not
2 be used to supplant preexisting funding sources.

3 **Sec. 4.** RCW 9.68A.120 and 2014 c 188 s 3 are each amended to
4 read as follows:

5 The following are subject to seizure and forfeiture:

6 (1) All visual or printed matter that depicts a minor engaged in
7 sexually explicit conduct.

8 (2) All raw materials, equipment, and other tangible personal
9 property of any kind used or intended to be used to manufacture or
10 process any visual or printed matter that depicts a minor engaged in
11 sexually explicit conduct, and all conveyances, including aircraft,
12 vehicles, or vessels that are used or intended for use to transport,
13 or in any manner to facilitate the transportation of, visual or
14 printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

15 (a) No conveyance used by any person as a common carrier in the
16 transaction of business as a common carrier is subject to forfeiture
17 under this section unless it appears that the owner or other person
18 in charge of the conveyance is a consenting party or privy to a
19 violation of this chapter;

20 (b) No property is subject to forfeiture under this section by
21 reason of any act or omission established by the owner of the
22 property to have been committed or omitted without the owner's
23 knowledge or consent;

24 (c) A forfeiture of property encumbered by a bona fide security
25 interest is subject to the interest of the secured party if the
26 secured party neither had knowledge of nor consented to the act or
27 omission; and

28 (d) When the owner of a conveyance has been arrested under this
29 chapter the conveyance may not be subject to forfeiture unless it is
30 seized or process is issued for its seizure within ten days of the
31 owner's arrest.

32 (3) All personal property, moneys, negotiable instruments,
33 securities, or other tangible or intangible property furnished or
34 intended to be furnished by any person in exchange for visual or
35 printed matter depicting a minor engaged in sexually explicit
36 conduct, or constituting proceeds traceable to any violation of this
37 chapter.

38 (4) Property subject to forfeiture under this chapter may be
39 seized by any law enforcement officer of this state upon process

1 issued by any superior court having jurisdiction over the property.

2 Seizure without process may be made if:

3 (a) The seizure is incident to an arrest or a search under a
4 search warrant or an inspection under an administrative inspection
5 warrant;

6 (b) The property subject to seizure has been the subject of a
7 prior judgment in favor of the state in a criminal injunction or
8 forfeiture proceeding based upon this chapter;

9 (c) A law enforcement officer has probable cause to believe that
10 the property is directly or indirectly dangerous to health or safety;
11 or

12 (d) The law enforcement officer has probable cause to believe
13 that the property was used or is intended to be used in violation of
14 this chapter.

15 (5) In the event of seizure under subsection (4) of this section,
16 proceedings for forfeiture shall be deemed commenced by the seizure.
17 The law enforcement agency under whose authority the seizure was made
18 shall cause notice to be served within fifteen days following the
19 seizure on the owner of the property seized and the person in charge
20 thereof and any person having any known right or interest therein, of
21 the seizure and intended forfeiture of the seized property. The
22 notice may be served by any method authorized by law or court rule
23 including but not limited to service by certified mail with return
24 receipt requested. Service by mail shall be deemed complete upon
25 mailing within the fifteen day period following the seizure.

26 (6) If no person notifies the seizing law enforcement agency in
27 writing of the person's claim of ownership or right to possession of
28 seized items within forty-five days of the seizure, the item seized
29 shall be deemed forfeited.

30 (7) If any person notifies the seizing law enforcement agency in
31 writing of the person's claim of ownership or right to possession of
32 seized items within forty-five days of the seizure, the person or
33 persons shall be afforded a reasonable opportunity to be heard as to
34 the claim or right. The hearing shall be before an administrative law
35 judge appointed under chapter 34.12 RCW, except that any person
36 asserting a claim or right may remove the matter to a court of
37 competent jurisdiction if the aggregate value of the article or
38 articles involved is more than five hundred dollars. The hearing
39 before an administrative law judge and any appeal therefrom shall be
40 under Title 34 RCW. In a court hearing between two or more claimants

1 to the article or articles involved, the prevailing party shall be
2 entitled to a judgment for costs and reasonable attorney's fees. The
3 burden of producing evidence shall be upon the person claiming to be
4 the lawful owner or the person claiming to have the lawful right to
5 possession of the seized items. The seizing law enforcement agency
6 shall promptly return the article or articles to the claimant upon a
7 determination by the administrative law judge or court that the
8 claimant is lawfully entitled to possession thereof of the seized
9 items.

10 (8) If property is sought to be forfeited on the ground that it
11 constitutes proceeds traceable to a violation of this chapter, the
12 seizing law enforcement agency must prove by a preponderance of the
13 evidence that the property constitutes proceeds traceable to a
14 violation of this chapter.

15 (9) When property is forfeited under this chapter the seizing law
16 enforcement agency may:

17 (a) Retain it for official use or upon application by any law
18 enforcement agency of this state release the property to that agency
19 for the exclusive use of enforcing this chapter or chapter 9A.88 RCW;

20 (b) Sell that which is not required to be destroyed by law and
21 which is not harmful to the public; or

22 (c) Request the appropriate sheriff or director of public safety
23 to take custody of the property and remove it for disposition in
24 accordance with law.

25 (10)(a) By January 31st of each year, each seizing agency shall
26 remit to the state (~~(treasurer)~~) an amount equal to ten percent of
27 the net proceeds of any property forfeited during the preceding
28 calendar year. Money remitted shall be deposited in the prostitution
29 prevention and intervention account under RCW 43.63A.740.

30 (b) The net proceeds of forfeited property is the value of the
31 forfeitable interest in the property after deducting the cost of
32 satisfying any bona fide security interest to which the property is
33 subject at the time of seizure; and in the case of sold property,
34 after deducting the cost of sale, including reasonable fees or
35 commissions paid to an independent selling agency.

36 (c) The value of sold forfeited property is the sale price. The
37 value of retained forfeited property is the fair market value of the
38 property at the time of seizure determined when possible by reference
39 to an applicable commonly used index. A seizing agency may use, but
40 need not use, an independent qualified appraiser to determine the

1 value of retained property. If an appraiser is used, the value of the
2 property appraised is net of the cost of the appraisal. The value of
3 destroyed property and retained firearms or illegal property is zero.

4 (11) Forfeited property and net proceeds not required to be
5 (~~paid~~) remitted to the state (~~(treasurer)~~) under this chapter shall
6 be used for payment of all proper expenses of the investigation
7 leading to the seizure, including any money delivered to the subject
8 of the investigation by the law enforcement agency, and of the
9 proceedings for forfeiture and sale, including expenses of seizure,
10 maintenance of custody, advertising, actual costs of the prosecuting
11 or city attorney, and court costs. Money remaining after payment of
12 these expenses shall be retained by the seizing law enforcement
13 agency for the exclusive use of enforcing the provisions of this
14 chapter or chapter 9A.88 RCW.

15 **Sec. 5.** RCW 9A.88.150 and 2014 c 188 s 4 are each amended to
16 read as follows:

17 (1) The following are subject to seizure and forfeiture and no
18 property right exists in them:

19 (a) Any property or other interest acquired or maintained in
20 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of
21 the investment of funds, and any appreciation or income attributable
22 to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or
23 9A.88.070;

24 (b) All conveyances, including aircraft, vehicles, or vessels,
25 which are used, or intended for use, in any manner to facilitate a
26 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, except that:

27 (i) No conveyance used by any person as a common carrier in the
28 transaction of business as a common carrier is subject to forfeiture
29 under this section unless it appears that the owner or other person
30 in charge of the conveyance is a consenting party or privy to a
31 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

32 (ii) No conveyance is subject to forfeiture under this section by
33 reason of any act or omission established by the owner thereof to
34 have been committed or omitted without the owner's knowledge or
35 consent;

36 (iii) A forfeiture of a conveyance encumbered by a bona fide
37 security interest is subject to the interest of the secured party if
38 the secured party neither had knowledge of nor consented to the act
39 or omission; and

1 (iv) When the owner of a conveyance has been arrested for a
2 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance
3 in which the person is arrested may not be subject to forfeiture
4 unless it is seized or process is issued for its seizure within ten
5 days of the owner's arrest;

6 (c) Any property, contractual right, or claim against property
7 used to influence any enterprise that a person has established,
8 operated, controlled, conducted, or participated in the conduct of,
9 in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

10 (d) All proceeds traceable to or derived from an offense defined
11 in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable
12 instruments, securities, and other things of value significantly used
13 or intended to be used significantly to facilitate commission of the
14 offense;

15 (e) All books, records, and research products and materials,
16 including formulas, microfilm, tapes, and data which are used, or
17 intended for use, in violation of RCW 9.68A.100, 9.68A.101, or
18 9A.88.070;

19 (f) All moneys, negotiable instruments, securities, or other
20 tangible or intangible property of value furnished or intended to be
21 furnished by any person in exchange for a violation of RCW 9.68A.100,
22 9.68A.101, or 9A.88.070, all tangible or intangible personal
23 property, proceeds, or assets acquired in whole or in part with
24 proceeds traceable to an exchange or series of exchanges in violation
25 of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable
26 instruments, and securities used or intended to be used to facilitate
27 any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture
28 of money, negotiable instruments, securities, or other tangible or
29 intangible property encumbered by a bona fide security interest is
30 subject to the interest of the secured party if, at the time the
31 security interest was created, the secured party neither had
32 knowledge of nor consented to the act or omission. No personal
33 property may be forfeited under this subsection (1)(f), to the extent
34 of the interest of an owner, by reason of any act or omission, which
35 that owner establishes was committed or omitted without the owner's
36 knowledge or consent; and

37 (g) All real property, including any right, title, and interest
38 in the whole of any lot or tract of land, and any appurtenances or
39 improvements which are being used with the knowledge of the owner for
40 a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have

1 been acquired in whole or in part with proceeds traceable to an
2 exchange or series of exchanges in violation of RCW 9.68A.100,
3 9.68A.101, or 9A.88.070, if a substantial nexus exists between the
4 violation and the real property. However:

5 (i) No property may be forfeited pursuant to this subsection
6 (1)(g), to the extent of the interest of an owner, by reason of any
7 act or omission committed or omitted without the owner's knowledge or
8 consent;

9 (ii) A forfeiture of real property encumbered by a bona fide
10 security interest is subject to the interest of the secured party if
11 the secured party, at the time the security interest was created,
12 neither had knowledge of nor consented to the act or omission.

13 (2) Real or personal property subject to forfeiture under this
14 section may be seized by any law enforcement officer of this state
15 upon process issued by any superior court having jurisdiction over
16 the property. Seizure of real property shall include the filing of a
17 lis pendens by the seizing agency. Real property seized under this
18 section shall not be transferred or otherwise conveyed until ninety
19 days after seizure or until a judgment of forfeiture is entered,
20 whichever is later: PROVIDED, That real property seized under this
21 section may be transferred or conveyed to any person or entity who
22 acquires title by foreclosure or deed in lieu of foreclosure of a
23 security interest. Seizure of personal property without process may
24 be made if:

25 (a) The seizure is incident to an arrest or a search under a
26 search warrant;

27 (b) The property subject to seizure has been the subject of a
28 prior judgment in favor of the state in a criminal injunction or
29 forfeiture proceeding; or

30 (c) The law enforcement officer has probable cause to believe
31 that the property was used or is intended to be used in violation of
32 RCW 9.68A.100, 9.68A.101, or 9A.88.070.

33 (3) In the event of seizure pursuant to subsection (2) of this
34 section, proceedings for forfeiture shall be deemed commenced by the
35 seizure. The law enforcement agency under whose authority the seizure
36 was made shall cause notice to be served within fifteen days
37 following the seizure on the owner of the property seized and the
38 person in charge thereof and any person having any known right or
39 interest therein, including any community property interest, of the
40 seizure and intended forfeiture of the seized property. Service of

1 notice of seizure of real property shall be made according to the
2 rules of civil procedure. However, the state may not obtain a default
3 judgment with respect to real property against a party who is served
4 by substituted service absent an affidavit stating that a good faith
5 effort has been made to ascertain if the defaulted party is
6 incarcerated within the state, and that there is no present basis to
7 believe that the party is incarcerated within the state. Notice of
8 seizure in the case of property subject to a security interest that
9 has been perfected by filing a financing statement, or a certificate
10 of title, shall be made by service upon the secured party or the
11 secured party's assignee at the address shown on the financing
12 statement or the certificate of title. The notice of seizure in other
13 cases may be served by any method authorized by law or court rule
14 including, but not limited to, service by certified mail with return
15 receipt requested. Service by mail shall be deemed complete upon
16 mailing within the fifteen day period following the seizure.

17 (4) If no person notifies the seizing law enforcement agency in
18 writing of the person's claim of ownership or right to possession of
19 items specified in subsection (1) of this section within forty-five
20 days of the service of notice from the seizing agency in the case of
21 personal property and ninety days in the case of real property, the
22 item seized shall be deemed forfeited. The community property
23 interest in real property of a person whose spouse or domestic
24 partner committed a violation giving rise to seizure of the real
25 property may not be forfeited if the person did not participate in
26 the violation.

27 (5) If any person notifies the seizing law enforcement agency in
28 writing of the person's claim of ownership or right to possession of
29 items specified in subsection (1) of this section within forty-five
30 days of the service of notice from the seizing agency in the case of
31 personal property and ninety days in the case of real property, the
32 person or persons shall be afforded a reasonable opportunity to be
33 heard as to the claim or right. The notice of claim may be served by
34 any method authorized by law or court rule including, but not limited
35 to, service by first-class mail. Service by mail shall be deemed
36 complete upon mailing within the forty-five day period following
37 service of the notice of seizure in the case of personal property and
38 within the ninety day period following service of the notice of
39 seizure in the case of real property. The hearing shall be before the
40 chief law enforcement officer of the seizing agency or the chief law

1 enforcement officer's designee, except where the seizing agency is a
2 state agency as defined in RCW 34.12.020(4), the hearing shall be
3 before the chief law enforcement officer of the seizing agency or an
4 administrative law judge appointed under chapter 34.12 RCW, except
5 that any person asserting a claim or right may remove the matter to a
6 court of competent jurisdiction. Removal of any matter involving
7 personal property may only be accomplished according to the rules of
8 civil procedure. The person seeking removal of the matter must serve
9 process against the state, county, political subdivision, or
10 municipality that operates the seizing agency, and any other party of
11 interest, in accordance with RCW 4.28.080 or 4.92.020, within
12 forty-five days after the person seeking removal has notified the
13 seizing law enforcement agency of the person's claim of ownership or
14 right to possession. The court to which the matter is to be removed
15 shall be the district court when the aggregate value of personal
16 property is within the jurisdictional limit set forth in RCW
17 3.66.020. A hearing before the seizing agency and any appeal
18 therefrom shall be under Title 34 RCW. In all cases, the burden of
19 proof is upon the law enforcement agency to establish, by a
20 preponderance of the evidence, that the property is subject to
21 forfeiture.

22 The seizing law enforcement agency shall promptly return the
23 article or articles to the claimant upon a determination by the
24 administrative law judge or court that the claimant is the present
25 lawful owner or is lawfully entitled to possession thereof of items
26 specified in subsection (1) of this section.

27 (6) In any proceeding to forfeit property under this title, where
28 the claimant substantially prevails, the claimant is entitled to
29 reasonable attorneys' fees reasonably incurred by the claimant. In
30 addition, in a court hearing between two or more claimants to the
31 article or articles involved, the prevailing party is entitled to a
32 judgment for costs and reasonable attorneys' fees.

33 (7) When property is forfeited under this chapter, the seizing
34 law enforcement agency may:

35 (a) Retain it for official use or upon application by any law
36 enforcement agency of this state release the property to that agency
37 for the exclusive use of enforcing this chapter or chapter 9.68A RCW;

38 (b) Sell that which is not required to be destroyed by law and
39 which is not harmful to the public; or

1 (c) Request the appropriate sheriff or director of public safety
2 to take custody of the property and remove it for disposition in
3 accordance with law.

4 (8) (a) When property is forfeited, the seizing agency shall keep
5 a record indicating the identity of the prior owner, if known, a
6 description of the property, the disposition of the property, the
7 value of the property at the time of seizure, and the amount of
8 proceeds realized from disposition of the property.

9 (b) Each seizing agency shall retain records of forfeited
10 property for at least seven years.

11 (c) Each seizing agency shall file a report including a copy of
12 the records of forfeited property with the state treasurer each
13 calendar quarter.

14 (d) The quarterly report need not include a record of forfeited
15 property that is still being held for use as evidence during the
16 investigation or prosecution of a case or during the appeal from a
17 conviction.

18 (9) (a) By January 31st of each year, each seizing agency shall
19 remit to the state (~~(treasurer)~~) an amount equal to ten percent of
20 the net proceeds of any property forfeited during the preceding
21 calendar year. Money remitted shall be deposited in the prostitution
22 prevention and intervention account under RCW 43.63A.740.

23 (b) The net proceeds of forfeited property is the value of the
24 forfeitable interest in the property after deducting the cost of
25 satisfying any bona fide security interest to which the property is
26 subject at the time of seizure; and in the case of sold property,
27 after deducting the cost of sale, including reasonable fees or
28 commissions paid to independent selling agents, and the cost of any
29 valid landlord's claim for damages under subsection (12) of this
30 section.

31 (c) The value of sold forfeited property is the sale price. The
32 value of destroyed property and retained firearms or illegal property
33 is zero.

34 (10) Net proceeds not required to be (~~(paid)~~) remitted to the
35 state (~~(treasurer)~~) shall be used for payment of all proper expenses
36 of the investigation leading to the seizure, including any money
37 delivered to the subject of the investigation by the law enforcement
38 agency, and of the proceedings for forfeiture and sale, including
39 expenses of seizure, maintenance of custody, advertising, actual
40 costs of the prosecuting or city attorney, and court costs. Money

1 remaining after payment of these expenses shall be retained by the
2 seizing law enforcement agency for the exclusive use of enforcing the
3 provisions of this chapter or chapter 9.68A RCW.

4 (11) Upon the entry of an order of forfeiture of real property,
5 the court shall forward a copy of the order to the assessor of the
6 county in which the property is located. Orders for the forfeiture of
7 real property shall be entered by the superior court, subject to
8 court rules. Such an order shall be filed by the seizing agency in
9 the county auditor's records in the county in which the real property
10 is located.

11 (12) A landlord may assert a claim against proceeds from the sale
12 of assets seized and forfeited under subsection (9) of this section,
13 only if:

14 (a) A law enforcement officer, while acting in his or her
15 official capacity, directly caused damage to the complaining
16 landlord's property while executing a search of a tenant's residence;

17 (b) The landlord has applied any funds remaining in the tenant's
18 deposit, to which the landlord has a right under chapter 59.18 RCW,
19 to cover the damage directly caused by a law enforcement officer
20 prior to asserting a claim under the provisions of this section:

21 (i) Only if the funds applied under (b) of this subsection are
22 insufficient to satisfy the damage directly caused by a law
23 enforcement officer, may the landlord seek compensation for the
24 damage by filing a claim against the governmental entity under whose
25 authority the law enforcement agency operates within thirty days
26 after the search;

27 (ii) Only if the governmental entity denies or fails to respond
28 to the landlord's claim within sixty days of the date of filing, may
29 the landlord collect damages under this subsection by filing within
30 thirty days of denial or the expiration of the sixty day period,
31 whichever occurs first, a claim with the seizing law enforcement
32 agency. The seizing law enforcement agency must notify the landlord
33 of the status of the claim by the end of the thirty day period.
34 Nothing in this section requires the claim to be paid by the end of
35 the sixty day or thirty day period; and

36 (c) For any claim filed under (b) of this subsection, the law
37 enforcement agency shall pay the claim unless the agency provides
38 substantial proof that the landlord either:

39 (i) Knew or consented to actions of the tenant in violation of
40 RCW 9.68A.100, 9.68A.101, or 9A.88.070; or

1 (ii) Failed to respond to a notification of the illegal activity,
2 provided by a law enforcement agency under RCW 59.18.075, within
3 seven days of receipt of notification of the illegal activity.

4 (13) The landlord's claim for damages under subsection (12) of
5 this section may not include a claim for loss of business and is
6 limited to:

7 (a) Damage to tangible property and clean-up costs;

8 (b) The lesser of the cost of repair or fair market value of the
9 damage directly caused by a law enforcement officer;

10 (c) The proceeds from the sale of the specific tenant's property
11 seized and forfeited under subsection (9) of this section; and

12 (d) The proceeds available after the seizing law enforcement
13 agency satisfies any bona fide security interest in the tenant's
14 property and costs related to sale of the tenant's property as
15 provided by subsection (12) of this section.

16 (14) Subsections (12) and (13) of this section do not limit any
17 other rights a landlord may have against a tenant to collect for
18 damages. However, if a law enforcement agency satisfies a landlord's
19 claim under subsection (12) of this section, the rights the landlord
20 has against the tenant for damages directly caused by a law
21 enforcement officer under the terms of the landlord and tenant's
22 contract are subrogated to the law enforcement agency.

23 **Sec. 6.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5
24 are each reenacted and amended to read as follows:

25 (1) Money in the treasurer's trust fund may be deposited,
26 invested, and reinvested by the state treasurer in accordance with
27 RCW 43.84.080 in the same manner and to the same extent as if the
28 money were in the state treasury, and may be commingled with moneys
29 in the state treasury for cash management and cash balance purposes.

30 (2) All income received from investment of the treasurer's trust
31 fund must be set aside in an account in the treasury trust fund to be
32 known as the investment income account.

33 (3) The investment income account may be utilized for the payment
34 of purchased banking services on behalf of treasurer's trust funds
35 including, but not limited to, depository, safekeeping, and
36 disbursement functions for the state treasurer or affected state
37 agencies. The investment income account is subject in all respects to
38 chapter 43.88 RCW, but no appropriation is required for payments to

1 financial institutions. Payments must occur prior to distribution of
2 earnings set forth in subsection (4) of this section.

3 (4)(a) Monthly, the state treasurer must distribute the earnings
4 credited to the investment income account to the state general fund
5 except under (b), (c), and (d) of this subsection.

6 (b) The following accounts and funds must receive their
7 proportionate share of earnings based upon each account's or fund's
8 average daily balance for the period: The 24/7 sobriety account, the
9 Washington promise scholarship account, the Gina Grant Bull memorial
10 legislative page scholarship account, the Rosa Franklin legislative
11 internship program scholarship (~~(account)~~) account, the Washington
12 advanced college tuition payment program account, the Washington
13 college savings program account, the accessible communities account,
14 the Washington achieving a better life experience program account,
15 the community and technical college innovation account, the
16 agricultural local fund, the American Indian scholarship endowment
17 fund, the behavioral health loan repayment program account, the
18 foster care scholarship endowment fund, the foster care endowed
19 scholarship trust fund, the contract harvesting revolving account,
20 the Washington state combined fund drive account, the commemorative
21 works account, the county enhanced 911 excise tax account, the county
22 road administration board emergency loan account, the toll collection
23 account, the developmental disabilities endowment trust fund, the
24 energy account, the fair fund, the family and medical leave insurance
25 account, the fish and wildlife federal lands revolving account, the
26 natural resources federal lands revolving account, the food animal
27 veterinarian conditional scholarship account, the forest health
28 revolving account, the fruit and vegetable inspection account, the
29 educator conditional scholarship account, the game farm alternative
30 account, the GET ready for math and science scholarship account, the
31 Washington global health technologies and product development
32 account, the grain inspection revolving fund, the Washington history
33 day account, the industrial insurance rainy day fund, the juvenile
34 accountability incentive account, the law enforcement officers' and
35 firefighters' plan 2 expense fund, the local tourism promotion
36 account, the low-income home rehabilitation revolving loan program
37 account, the multiagency permitting team account, the northeast
38 Washington wolf-livestock management account, the produce railcar
39 pool account, the public use general aviation airport loan revolving
40 account, the regional transportation investment district account, the

1 rural rehabilitation account, the Washington sexual assault kit
2 account, the stadium and exhibition center account, the youth
3 athletic facility account, the self-insurance revolving fund, the
4 children's trust fund, the Washington horse racing commission
5 Washington bred owners' bonus fund and breeder awards account, the
6 Washington horse racing commission class C purse fund account, the
7 individual development account program account, the Washington horse
8 racing commission operating account, the life sciences discovery
9 fund, the Washington state library-archives building account, the
10 reduced cigarette ignition propensity account, the center for deaf
11 and hard of hearing youth account, the school for the blind account,
12 the Millersylvania park trust fund, the public employees' and
13 retirees' insurance reserve fund, the school employees' benefits
14 board insurance reserve fund, the public employees' and retirees'
15 insurance account, the school employees' insurance account, the long-
16 term services and supports trust account, the radiation perpetual
17 maintenance fund, the Indian health improvement reinvestment account,
18 the department of licensing tuition recovery trust fund, the student
19 achievement council tuition recovery trust fund, the tuition recovery
20 trust fund, the industrial insurance premium refund account, the
21 mobile home park relocation fund, the natural resources deposit fund,
22 the Washington state health insurance pool account, the federal
23 forest revolving account, and the library operations account.

24 (c) The following accounts and funds must receive eighty percent
25 of their proportionate share of earnings based upon each account's or
26 fund's average daily balance for the period: The advance right-of-way
27 revolving fund, the advanced environmental mitigation revolving
28 account, the federal narcotics asset forfeitures account, the high
29 occupancy vehicle account, the local rail service assistance account,
30 and the miscellaneous transportation programs account.

31 (d) Any state agency that has independent authority over accounts
32 or funds not statutorily required to be held in the custody of the
33 state treasurer that deposits funds into a fund or account in the
34 custody of the state treasurer pursuant to an agreement with the
35 office of the state treasurer shall receive its proportionate share
36 of earnings based upon each account's or fund's average daily balance
37 for the period.

1 (5) In conformance with Article II, section 37 of the state
2 Constitution, no trust accounts or funds shall be allocated earnings
3 without the specific affirmative directive of this section.

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