



# Senate

General Assembly

**File No. 717**

January Session, 2013

Substitute Senate Bill No. 1158

*Senate, May 6, 2013*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING VICTIMS OF SEXUAL EXPLOITATION AND HUMAN TRAFFICKING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-36p of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) The following property shall be subject to forfeiture to the state  
4 pursuant to subsection (b) of this section:

5 (1) All moneys used, or intended for use, in a violation of  
6 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-  
7 87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, [or] 53a-  
8 196c or 53a-196i;

9 (2) All property constituting the proceeds obtained, directly or  
10 indirectly, from a violation of subdivision (3) of subsection (a) of  
11 section 53-21 or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b,  
12 53a-192a, 53a-196a, 53a-196b, [or] 53a-196c or 53a-196i;

13 (3) All property derived from the proceeds obtained, directly or  
14 indirectly, from any sale or exchange for pecuniary gain from a  
15 violation of subdivision (3) of subsection (a) of section 53-21 or section  
16 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-  
17 196b<sub>2</sub> [or] 53a-196c or 53a-196j;

18 (4) All property used or intended for use, in any manner or part, to  
19 commit or facilitate the commission of a violation for pecuniary gain of  
20 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-  
21 87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b<sub>2</sub> [or] 53a-  
22 196c or 53a-196i.

23 (b) Not later than ninety days after the seizure of moneys or  
24 property subject to forfeiture pursuant to subsection (a) of this section,  
25 in connection with a lawful criminal arrest or a lawful search, the Chief  
26 State's Attorney or a deputy chief state's attorney, state's attorney or  
27 assistant or deputy assistant state's attorney may petition the court in  
28 the nature of a proceeding in rem to order forfeiture of such moneys or  
29 property. Such proceeding shall be deemed a civil suit in equity in  
30 which the state shall have the burden of proving all material facts by  
31 clear and convincing evidence. The court shall identify the owner of  
32 such moneys or property and any other person as appears to have an  
33 interest therein, and order the state to give notice to such owner and  
34 any interested person, including any victim of the crime with respect  
35 to which such moneys or property were seized, by certified or  
36 registered mail. The court shall promptly, but not less than two weeks  
37 after such notice, hold a hearing on the petition. No testimony offered  
38 or evidence produced by such owner or interested person at such  
39 hearing and no evidence discovered as a result of or otherwise derived  
40 from such testimony or evidence may be used against such owner or  
41 interested person in any proceeding, except that no such owner or  
42 interested person shall be immune from prosecution for perjury or  
43 contempt committed while giving such testimony or producing such  
44 evidence. At such hearing, the court shall hear evidence and make  
45 findings of fact and enter conclusions of law and shall issue a final  
46 order from which the parties shall have such right of appeal as from a

47 decree in equity.

48 (c) No moneys or property shall be forfeited under this section to  
49 the extent of the interest of an owner or lienholder by reason of any act  
50 or omission committed by another person if such owner or lienholder  
51 did not know and could not have reasonably known that such moneys  
52 or property was being used or was intended to be used in, or was  
53 derived from, criminal activity.

54 (d) Notwithstanding the provisions of subsection (a) of this section,  
55 no moneys or property used or intended to be used by the owner  
56 thereof to pay legitimate attorney's fees in connection with his or her  
57 defense in a criminal prosecution shall be subject to forfeiture under  
58 this section.

59 (e) Any property ordered forfeited pursuant to subsection (b) of this  
60 section shall be sold at public auction conducted by the Commissioner  
61 of Administrative Services or the commissioner's designee.

62 (f) The proceeds from any sale of property under subsection (e) of  
63 this section and any moneys forfeited under this section shall be  
64 applied: (1) To payment of the balance due on any lien preserved by  
65 the court in the forfeiture proceedings; (2) to payment of any costs  
66 incurred for the storage, maintenance, security and forfeiture of any  
67 such property; and (3) to payment of court costs. The balance, if any,  
68 shall be deposited in the [General Fund] Criminal Injuries  
69 Compensation Fund established in section 54-215.

70 Sec. 2. Section 54-222 of the general statutes is repealed and the  
71 following is substituted in lieu thereof (*Effective October 1, 2013*):

72 (a) The Office of the Chief Court Administrator shall develop a  
73 concise, bilingual card or brochure concerning information to victims  
74 of crime concerning their rights as victims and any services available to  
75 them. The Office of Victim Services shall distribute such cards or  
76 brochures to municipalities and the state police who shall distribute  
77 such cards or brochures to crime victims.

78        (b) The Office of the Chief Court Administrator shall develop a  
79 concise, bilingual notice concerning services available to victims of  
80 human trafficking. Such notice shall indicate that any person who is  
81 forced to engage in any activity and who cannot leave may contact a  
82 state or federal anti-trafficking hotline, and shall indicate the toll-free  
83 telephone numbers for such hotlines. The office shall make copies of  
84 such notice available to persons who are required to post such notice  
85 pursuant to section 3 of this act.

86        Sec. 3. (NEW) (*Effective October 1, 2013*) (a) On and after the date a  
87 notice is developed and made available pursuant to subsection (b) of  
88 section 54-222 of the general statutes, as amended by this act, each  
89 truck stop and each person who holds an on-premises consumption  
90 permit for the retail sale of alcoholic liquor pursuant to title 30 of the  
91 general statutes shall post the notice in plain view in a conspicuous  
92 location where sales are to be carried on. For the purposes of this  
93 section, "truck stop" means a privately-owned and operated facility  
94 where food, fuel, lawful overnight truck parking and shower and  
95 laundry facilities are offered.

96        (b) The provisions of subsection (a) of this section shall not apply to  
97 any person who holds an on-premises consumption permit for the  
98 retail sale of alcoholic liquor pursuant to title 30 of the general statutes  
99 that consists of only one or more of the following: (1) A caterer,  
100 railroad, boat, airline, military, charitable organization, special club,  
101 temporary liquor or temporary beer permit, (2) a restaurant permit,  
102 restaurant permit for beer, restaurant permit for wine and beer or cafe  
103 permit, or (3) a manufacturer permit for a farm winery, a manufacturer  
104 permit for beer, manufacturer permits for beer and brew pubs, or any  
105 other manufacturer permit issued under title 30 of the general statutes.

106        Sec. 4. (*Effective from passage*) The Office of Victim Services shall  
107 conduct an analysis of the compensation and restitution services  
108 provided to victims of sexual exploitation and human trafficking  
109 under sections 54-201 to 54-235, inclusive, of the general statutes, and  
110 shall determine whether amendments to said sections may be enacted

111 to enhance such compensation and services in order to address the  
112 needs of such victims. Not later than January 15, 2014, the office shall  
113 submit a report, in accordance with section 11-4a of the general  
114 statutes, on its analysis and recommended amendments to the general  
115 statutes to the joint standing committee of the General Assembly  
116 having cognizance of matters relating to the judiciary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	54-36p
Sec. 2	<i>October 1, 2013</i>	54-222
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>from passage</i>	New section

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Judicial Dept.	GF - Cost	Less than \$5,000	Less than \$5,000
Criminal Justice Agencies	CICF - Potential Revenue Gain	\$100- \$400/case	\$100- \$400/case

**Municipal Impact:** None

### **Explanation**

The bill adds funds and property seized for specific prostitution related crimes to the types of property subject to forfeiture. The value of the property and funds seized vary greatly by each case but it is anticipated that each case would result in a total seizure of \$100-\$400 per case. In FY 12, there were a total of 317 offenses of these crimes and 148 cases received a plea bargain. This bill would allow some (or all) of the funds and property seized in conjunction with these violations, and other specified violations, to be subject to forfeiture and deposited into the Criminal Injuries Compensation Fund instead of the General Fund.

The bill requires the Judicial Department to develop and provide copies of a bilingual notice about services for human trafficking victims. This is estimated to result in a cost to the Judicial Department of less than \$5,000 associated with the printing of this notice.

The bill also requires the Office of Victim Service (OVS) to conduct an analysis of the compensation and restitution services provided to victims of sexual exploitation and human trafficking and to report on the findings by January 15, 2014. It is anticipated that OVS will be able

to do so without additional resources.

***The Out Years***

The fiscal impact identified above would continue into the future subject to the value of the funds and property seized for specific prostitution related crimes and the costs to periodically updating and printing copies of the bilingual notice.

*Sources: Judicial Department Offenses and Revenue Database*

**OLR Bill Analysis****sSB 1158*****AN ACT CONCERNING VICTIMS OF SEXUAL EXPLOITATION AND HUMAN TRAFFICKING.*****SUMMARY:**

This bill:

1. adds funds and property related to the crime of commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and property related to sexual exploitation and human trafficking;
2. requires proceeds from an auction of forfeited property that remain after paying liens and costs be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund;
3. requires the Office of the Chief Court Administrator to develop a concise, bilingual (the bill does not specify which languages) notice about services for human trafficking victims and requires truck stops and certain establishments serving alcohol to post it in a conspicuous location where sales occur; and
4. requires the Office of Victim Services (OVS) to (a) analyze the compensation and restitution services (such as medical, psychiatric, psychological, social, and social rehabilitation services) provided to victims of sexual exploitation and human trafficking and recommend statutory changes to enhance these compensation and services and (b) report its findings to the Judiciary Committee by January 15, 2014.

EFFECTIVE DATE: October 1, 2013 except the OVS study requirement is effective upon passage.

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**FORFEITURE OF PROPERTY RELATED TO SEXUAL EXPLOITATION AND HUMAN TRAFFICKING**

The law provides a forfeiture procedure for property seized as a result of a lawful arrest or search related to several sexual exploitation and human trafficking crimes.

The bill adds funds and property related to the crime of commercial sexual exploitation of a minor to the types of property subject to forfeiture under this procedure. Under existing law, funds and property related to the following crimes are subject to forfeiture: (1) the portion of the risk of injury to a minor statute involving sale of a child under age 16; (2) 1<sup>st</sup> or 2<sup>nd</sup> degree promoting prostitution; (3) enticing a minor using an interactive computer; (4) voyeurism, disseminating voyeuristic material, and employing or promoting a minor in an obscene performance; (5) human trafficking; and (6) importing child pornography.

With some exceptions, the law subjects funds and property related to these crimes to forfeiture if they are (1) money used or intended for use in one of these crimes; (2) property constituting the proceeds obtained, directly or indirectly, from one of these crimes; (3) property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from those criminal violations; and (4) property used or intended for use to commit or facilitate commission of one of these crimes for pecuniary gain.

***Proceeds from Auction***

If the court orders forfeiture of property related to sexual exploitation and human trafficking, the law requires the Department of Administrative Services to sell it at a public auction. Sale proceeds pay (1) the balance due on any lien the court determines should be paid; (2) property storage, maintenance, security, and forfeiture costs; and (3) court costs. The bill requires depositing any remaining proceeds in the Criminal Injuries Compensation Fund, rather than the General Fund. By law, this fund provides compensation and restitution services to crime victims.

**NOTICE OF SERVICES**

The bill requires the Office of the Chief Court Administrator to develop a concise, bilingual notice about services for human trafficking victims. The notice must state the toll-free state or federal anti-trafficking hotline that someone can use if he or she is forced to engage in an activity and cannot leave.

The bill requires the office to make the notice available to truck stops and certain establishments serving alcohol, which must, when the notice is available to them, post it in plain view in a conspicuous location where sales occur. The bill applies to truck stops defined as privately owned and operated facilities where food, fuel, lawful overnight truck parking, and shower and laundry facilities are offered. It also applies to anyone who holds an on-premises consumption permit for the retail sale of alcohol except holders of a:

1. caterer, railroad, boat, airline, military, charitable organization, or special club permit;
2. temporary liquor or temporary beer permit;
3. restaurant permit, restaurant permit for beer, restaurant permit for wine and beer, or café permit;
4. farm winery or beer manufacturer permit, beer and brew pub manufacturer permit, or other manufacturer permit.

**BACKGROUND*****Related Bills***

sSB 871, reported favorably by the Judiciary Committee, expands the types of property that can be seized and forfeited related to sexual exploitation and human trafficking crimes by eliminating a requirement that certain conduct be committed for pecuniary gain.

HB 5666, reported favorably by the Judiciary Committee, adds funds and property related to the crimes of prostitution and 3<sup>rd</sup> degree promoting prostitution to the sources of property subject to forfeiture

as tainted funds and property related to sexual exploitation and human trafficking.

SB 834, reported favorably by the Public Safety and Security Committee, eliminates the mandate for the Trafficking in Persons Council to meet at least three times per year, thereby allowing the council to meet at will, including once or twice per year.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)