

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number: S.102 Name of Bill: Forfeiture of property associated with an animal fighting exhibition

Agency/Dept: State Police Author of Bill Review Captain Rick Hopkins

Date of Bill Review: 03/06/2015 Related Bills and Key Players: Sponsors Sears, Ash. Related - H.153

Status of Bill: (check one)

XXX Upon Introduction                      As passed by 1<sup>st</sup> body                      As passed by both bodies

Recommended Position:

XX Support                      Oppose                      Remain Neutral                      Support with modifications identified in # 8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.** Bill has 2 basic goals. First is to add ability for State to seize assets associated with animal fighting under state seizure law to include proceeds and derivative proceeds. The second is to expand and improve the existing asset forfeiture process under T18. The bill also allows process for administrative seizures of less than \$50,000.00 value with option of owner requesting judicial review.

This review will concentrate on asset forfeiture aspect of the bill with an emphasis on drug enforcement as 1) the VSP has a very limited exposure to animal fighting cases and 2) drug related seizures statewide would far outnumber animal fighting related seizures.

**2. Is there a need for this bill?** Yes, for two primary reasons. First, the state seizure law is ineffectual and as a result is highly underutilized (Most law enforcement officers and prosecutors asked couldn't remember it ever being used). Second a change in the federal asset forfeiture policy has greatly reduced the ability of local, county and state law enforcement to have their seizures adopted federally. A bill pending in Congress may eliminate federal adoptions altogether.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**  
Programmatically there will be limited impact to VSP. There would be a need to change some internal procedures and create new workflows for a small number of people. No new positions or infrastructure would be required. Fiscally the bill could have a positive effect on the VSP. The VSP currently uses adopted federal seizure income to fund drug enforcement efforts. As this degrades or disappears there is no money to backfill the void left, which will result in a curtailed drug enforcement effort, specifically a smaller Vermont Drug Task Force (VDTF). VDTF uses the proceeds from forfeiture to fund vehicles and equipment for state and local drug detectives on the task force. This bill would allow the state forfeiture system to fill part of that void.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** SA's and AGO will see programmatic impact as they will need to build process to receive, screen, litigate and defend seizures. Fiscally they will see a direct benefit of 20% of the proceeds which should more than offset any additional costs. Under the current federal system, prosecutors typically see smaller portions of the seizure. They will also

benefit both programmatically and fiscally with the additional 20% funding going to alternative justice programs, as will associated departments. **Other State law enforcement entities** (DMV etc) will have impacts similar to VSP but on a much smaller scale due to their limited activity in drug enforcement. **Public Defenders** will likely see some increased work load and little fiscal impact. **Judiciary and Corrections** could see some positive programmatic and fiscal impacts if increased funding to alternative justice programs has desired results of treating and not prosecuting and incarcerating addicts. **AHS and Health** could see some short term increases in costs and efforts if alternative justice program funding is effective in getting addicts into recovery, however the long term outlook should be reduced costs and effort.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (for example, public, municipalities, organizations, business, regulated entities, etc) Local Law Enforcement will be a big winner here with limited programmatic impact and a big positive fiscal gain. Under current system local LE is eligible for none of the proceeds of a state seizure, so 60% of seizures will be of great value. With regard to the public, they will benefit from a statewide drug enforcement effort that can retain its efficacy and the addition of alternative justice efforts. The very small percentage of those profiting from the illicit drug trade will certainly see a negative fiscal impact.

6. **Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?** Chiefs, Sheriffs, prosecutors, other LE will support as it will enhance their abilities to enforce drug law's and address related crime. Health, Human Services and those in addiction treatment should support the 20% going to alternative justice but may want to see percentage of money got to prevention or treatment.

**6.2 Who else is likely to oppose the proposal and why?** Public defenders will likely oppose due to it's giving state another tool against defendants. ACLU will likely oppose on grounds it reduces due process (administrative seizures) and on general principle of government impacting rights of private citizen and property ownership. They may also object (as might other activist groups) on grounds bill would encourage LE entities to supplement their budgets by targeting the poor or minorities.

7. **Rationale for recommendation:** This bill would allow for asset forfeiture similar to that which takes place in the federal area. It would allow the state to address the social ills brought to our state by criminals and criminal organizations by using the very profits those criminals make from preying on Vermonters to fund the pursuit of them. With proper controls and oversight a program like this can take some financial burden of addressing these social ills off the taxpayer and put them on those that profit from the trade, not unlike vice taxes which support health and treatment initiatives. Secondly, without it not only do LE agencies rely more heavily on tax dollars, it also allows criminals and criminal organizations to retain their profits, even if convicted. They use those profits to fight our prosecutors, outgun our police, invest in technologies to thwart our efforts and further their criminal enterprises. Being one of a very few states that doesn't seize assets only makes us more attractive for these criminals and criminal organizations.

8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

- a) To allay fears of LE targeting minorities for revenue, add requirement that in order to receive monies a LE entity must be in good standing with the requirements of the bias free policing statute.
- b) Consider guidelines on what money can be used for to offset concerns that police are just creating a slush fund, supplementing OT or other concerns. I'd recommend a simple requirement that the money must be used directly on drug enforcement efforts. This would necessitate some sort of auditing process.
- c) Some sort of clause that indicates a department's budget can't be adjusted downward in response to forfeiture income. This is needed to avoid the indirect diverting of the funds to a general fund and non-law enforcement purposes.
- d) Increase LE share of uncontested administrative seizures to 80% as prosecutors will have no additional work load.

**9. Gubernatorial appointments to board or commission? N/A**

**Secretary/Commissioner has reviewed this document**

A handwritten signature in blue ink, appearing to be "K. Gray", is written over a faint rectangular stamp.

**Date: 4/7/15**