

HOUSE BILL 171

By Coley

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 11, Part 7 and Title 39, Chapter 13, Part 3, relative to the forfeiture of property relating to the commission of certain offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-703, is amended by adding the following new subsection (c) and redesignating accordingly:

(c) The following items are subject to judicial forfeiture as provided in this part:

(1) Conveyances, including aircraft, motor vehicles, and other vessels when used or intended to be used in connection with a violation of §§ 39-13-307, 39-13-308 and 39-13-309 committed on or after July 1, 2011;

(2) Books, records, telecommunication equipment, or computers when used or intended to be used in connection with a violation of §§ 39-13-307, 39-13-308 and 39-13-309 committed on or after July 1, 2011;

(3) Money or weapons when used or intended to be used in connection with a violation of §§ 39-13-307, 39-13-308 and 39-13-309 committed on or after July 1, 2011;

(4) Real property when used or intended to be used in connection with a violation of §§ 39-13-307, 39-13-308 and 39-13-309 committed on or after July 1, 2011;

(5) Everything of value furnished, or intended to be furnished, in exchange for an act in violation of §§ 39-13-307, 39-13-308 and 39-13-309 committed on or after July 1, 2011, all proceeds traceable to the exchange, and

all negotiable instruments and securities used, or intended to be used, to facilitate the violation;

(6) Any property, real or personal, directly or indirectly acquired by or received in violation of such violation or as an inducement to violate such statutes, or any property traceable to the proceeds from the violation; and

(7) Any real property, including any right, title and interest in the whole of or any part of any lot or tract of land and any property used as an instrumentality in or used in furtherance of a violation of §§ 39-13-307, 39-13-308 and 39-13-309 committed on or after July 1, 2011.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 3, is amended by adding the following as a new section:

39-13-312.

(a) Chapter 11, part 7 of this title shall govern the procedure by which property subject to forfeiture pursuant to § 39-11-703(c) is forfeited, and this section shall govern the manner in which proceeds from forfeitures are distributed and used.

(b) Notwithstanding § 39-11-713, the proceeds from all forfeitures made pursuant to § 39-11-703(c) shall first be applied to the reasonable expenses of the forfeiture proceeding, including the expenses of the district attorney general, and the costs of seizing and maintaining custody of the forfeited property. Parties seeking repayment for forfeiture-related expenses shall file a request detailing the expenses incurred in the forfeiture procedure with the judge of the court in which the forfeiture occurred. The judge shall, if such judge is satisfied that the expenses claimed were both incurred and reasonable, direct the clerk to

pay such expenses from the proceeds prior to transmitting them to the state general fund.

(c) The clerk of the court where the forfeiture occurs shall transmit twenty percent (20%) of the proceeds from all forfeitures made pursuant to § 39-11-703(c) as follows:

(1) Ten percent (10%) to the law enforcement agency conducting the investigation that resulted in the forfeiture for use in training and equipment for the enforcement of the human trafficking laws; and

(2) Ten percent (10%) to the district attorneys general conference for education, expenses, expert services, training or the enhancement of resources for the prosecution of and asset forfeiture in human trafficking cases.

(d) The clerk of the court where the forfeiture occurs shall retain five percent (5%) of the proceeds from all forfeitures made pursuant to § 39-11-703(c).

(e) The clerk shall transmit the remainder of the proceeds to the state general fund, where there is established a general fund reserve to be allocated through the general appropriations act, which shall be known as the anti-human trafficking fund. The fund shall be managed by the treasurer and monies from the fund shall be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund at the end of the fiscal year. Any excess revenues or interest earned by the revenues shall not revert at the end of the fiscal year, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from the reserve

shall not revert to the general fund at the end of the fiscal year, but shall remain available for expenditure in subsequent fiscal years.

(f)

(1) The general assembly shall appropriate, through the general appropriations act, monies from the anti-human trafficking fund to the department of finance and administration for the department to provide grants to agencies or groups that are incorporated as a not-for-profit organization, are tax-exempt under § 501 of the Internal Revenue Code and that have provided services to victims of human trafficking for at least six (6) months prior to the application for funds under this subsection (f). The commissioner of finance and administration shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the distribution and use of the grant funds provided by it.

(2) The grants shall be for the purpose of:

(A) Providing direct services to victims of human trafficking;

(B) Conducting programs for the prevention of human trafficking; or

(C) Conducting education, training, or public outreach programs about human trafficking.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it and shall apply to all applicable offenses committed on or after such date.