

1 S.26

2 Introduced by Senator Mullin

3 Referred to Committee on

4 Date:

5 Subject: Crimes; crime victims; profits from crime

6 Statement of purpose: This bill proposes to give a crime victim the right to sue
7 a criminal to recover profits the criminal receives as a result of having
8 committed the crime.

9 An act relating to recovery of profits from crime

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 13 V.S.A. § 5351(8) is added to read:

12 (8) "Profits from crimes" means:

13 (A) any property obtained through or income generated from the
14 commission of a crime in which the defendant was convicted;

15 (B) any property obtained by or income generated from the sale,
16 conversion, or exchange of proceeds of a crime, including any gain realized by
17 such sale, conversion, or exchange; and

18 (C) any property that the defendant obtained or any income generated
19 as a result of having committed the crime, including any assets obtained
20 through the use of unique knowledge acquired during the commission of or in

1 preparation for the commission of the crime, as well as any property obtained
2 or income generated from the sale, conversion, or exchange of such property
3 and any gain realized by such sale, conversion, or exchange.

4 Sec. 2. 13 V.S.A. chapter 167, subchapter 4 is added to read:

5 Subchapter 4. Profits from Crime

6 § 5421. NOTICE OF PROFITS FROM A CRIME

7 (a) Every person, firm, corporation, partnership, association, or other legal
8 entity which knowingly contracts for, pays, or agrees to pay any profits from a
9 crime, as defined in subdivision 5351(8) of this title, to a person charged with
10 or convicted of that crime shall give written notice to the victim's
11 compensation board of the payment or obligation to pay as soon as is
12 practicable after discovering that the payment is or will be a profit from a
13 crime.

14 (b) The board, upon receipt of notice of a contract, agreement to pay, or
15 payment of profits of the crime shall send written notice of the existence of
16 such profits to all known victims of the crime at their last known addresses.

17 § 5422. ACTIONS TO RECOVER PROFITS FROM A CRIME

18 (a) Notwithstanding any other provision of law, including any statute of
19 limitations, any crime victim shall have the right to bring a civil action in a
20 court of competent jurisdiction to recover money damages from a person
21 convicted of that crime, or the legal representative of that convicted person.

1 within three years of the discovery of any profits from the crime. Any
2 damages awarded in such action shall be recoverable only up to the value of
3 the profits of the crime.

4 (b) The board may, within three years of the discovery of any profits from
5 the crime, bring a civil action on behalf of the state to enforce the subrogation
6 rights described in section 5357 of this title.

7 (c) If the full value of any profits from the crime has not yet been claimed
8 by either the victim of the crime or the victim's representative, the board, or
9 both, within three years of the discovery of such profits, then the state may
10 bring a civil action in a court of competent jurisdiction to recover the costs
11 incurred by providing the defendant with counsel, if any, and other costs
12 reasonably incurred in the incarceration of the defendant.

13 (d) Upon the filing of an action pursuant to subsection (a) of this section,
14 the victim shall deliver a copy of the summons and complaint to the board.
15 Upon receipt of a copy of the summons and complaint, the board shall send
16 written notice of the alleged existence of profits from the crime to all other
17 known victims at their last known addresses.

18 (e) To avoid the wasting of assets identified in the complaint as newly
19 discovered profits of the crime, the board, acting on behalf of the plaintiff and
20 all other victims, shall have the right to apply for all remedies that are also
21 otherwise available to the victim.