

HOUSE BILL No. 5925

June 9, 1992, Introduced by Reps. Fitzgerald, Bartnik, Nye, Willis Bullard, Jamian, Trim, Bodem, Shugars, Dresch, Dalman, O'Connor, Horton, Bobier, Dolan, Martin, Porreca, Walberg and Munsell and referred to the Committee on Judiciary.

A bill to amend Act No. 328 of the Public Acts of 1931,
entitled

"The Michigan penal code,"

as amended, being sections 750.1 to 750.568 of the Michigan
Compiled Laws, by adding sections 570, 571, 572, 573, 574, 575,
576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, and
588.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 328 of the Public Acts of 1931, as
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled
3 Laws, is amended by adding sections 570, 571, 572, 573, 574, 575,
4 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, and
5 588 to read as follows:

6 SEC. 570. SECTIONS 570 TO 588 SHALL BE KNOWN AND MAY BE
7 CITED AS THE "MICHIGAN CONTINUING CRIMINAL ENTERPRISE ACT".

1 SEC. 571. FOR THE PURPOSES OF SECTIONS 572 TO 588, THE
2 WORDS AND PHRASES DEFINED IN SECTIONS 572 AND 573 HAVE THE MEAN-
3 INGS ASCRIBED TO THEM IN THOSE SECTIONS.

4 SEC. 572. (1) "ENTERPRISE" MEANS AN INDIVIDUAL, SOLE PRO-
5 PRIETORSHIP, PARTNERSHIP, CORPORATION, TRUST, UNION, ASSOCIATION,
6 GOVERNMENTAL UNIT, OR OTHER LEGAL ENTITY OR A GROUP OF PERSONS
7 ASSOCIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY. ENTERPRISE
8 INCLUDES ILLICIT AS WELL AS LICIT ENTERPRISES.

9 (2) "INSTRUMENTALITY" MEANS AN INTEREST, PROPERTY, REAL OR
10 PERSONAL, OR OTHER THING OF VALUE, THE USE OF WHICH CONTRIBUTES
11 DIRECTLY AND MATERIALLY TO THE COMMISSION OF AN OFFENSE INCLUDED
12 IN THE DEFINITION OF RACKETEERING UNDER SECTION 573.

13 (3) "PATTERN OF RACKETEERING ACTIVITY" MEANS NOT LESS THAN 2
14 INCIDENTS OF RACKETEERING TO WHICH ALL OF THE FOLLOWING CHARAC-
15 TERISTICS APPLY:

16 (A) THE INCIDENTS HAVE THE SAME OR A SIMILAR PURPOSE,
17 RESULT, PARTICIPANT, VICTIM, OR METHOD OF COMMISSION, OR ARE OTH-
18 ERWISE INTERRELATED BY DISTINGUISHING CHARACTERISTICS AND ARE NOT
19 ISOLATED ACTS.

20 (B) THE INCIDENTS AMOUNT TO OR POSE A THREAT OF CONTINUED
21 CRIMINAL ACTIVITY.

22 (C) AT LEAST 1 OF THE INCIDENTS OCCURRED ON OR AFTER THE
23 EFFECTIVE DATE OF THIS SECTION, AND THE LAST OF THE INCIDENTS
24 OCCURRED WITHIN 10 YEARS AFTER THE COMMISSION OF ANY PRIOR INCI-
25 DENT, EXCLUDING ANY PERIOD OF IMPRISONMENT SERVED BY A PERSON
26 ENGAGING IN THE RACKETEERING ACTIVITY.

1 (4) "PERSON" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP,
2 PARTNERSHIP, COOPERATIVE, ASSOCIATION, CORPORATION, PERSONAL
3 REPRESENTATIVE, RECEIVER, TRUSTEE, ASSIGNEE, OR OTHER LEGAL OR
4 ILLEGAL ENTITY.

5 (5) "PROCEEDS" MEANS ANY PROPERTY, REAL, PERSONAL, OR INTAN-
6 GIBLE, OBTAINED THROUGH THE COMMISSION OF AN OFFENSE INCLUDED IN
7 THE DEFINITION OF RACKETEERING UNDER SECTION 573, INCLUDING ANY
8 APPRECIATION IN THE VALUE OF THE PROPERTY.

9 (6) "PROSECUTING AGENCY" MEANS THE ATTORNEY GENERAL OF THIS
10 STATE, OR HIS OR HER DESIGNEE, OR THE PROSECUTING ATTORNEY OF A
11 COUNTY, OR HIS OR HER DESIGNEE.

12 (7) "RECORDS" OR "DOCUMENTARY MATERIALS" MEANS A BOOK,
13 PAPER, DOCUMENT, WRITING, DRAWING, GRAPH, CHART, PHOTOGRAPH, PHO-
14 NORECORD, MAGNETIC TAPE, COMPUTER PROGRAM OR PRINTOUT, OR ANY
15 OTHER DATA COMPILATION FROM WHICH INFORMATION CAN BE OBTAINED OR
16 TRANSLATED INTO USABLE FORM, OR OTHER FUNCTIONALLY SIMILAR TANGI-
17 BLE ITEM.

18 (8) "SUBSTITUTED PROCEEDS" MEANS ANY PROPERTY, REAL, PERSON-
19 AL, OR INTANGIBLE, OBTAINED OR ANY GAIN REALIZED BY THE SALE OR
20 EXCHANGE OF PROCEEDS.

21 (9) "THIS CHAPTER" MEANS SECTIONS 570 TO 588.

22 SEC. 573. "RACKETEERING" MEANS COMMITTING, ATTEMPTING TO
23 COMMIT, CONSPIRING TO COMMIT, OR AIDING OR ABETTING, SOLICITING,
24 COERCING, OR INTIMIDATING A PERSON TO COMMIT AN OFFENSE FOR
25 FINANCIAL GAIN THAT IS CHARGEABLE OR INDICTABLE UNDER THE LAWS OF
26 THIS STATE OR UNDER A SUBSTANTIALLY SIMILAR LAW OF THE UNITED
27 STATES OR, IF THE OFFENSE OCCURRED IN ANOTHER STATE, THAT WOULD

1 BE CHARGEABLE UNDER A SUBSTANTIALLY SIMILAR STATUTE OF THE STATE
2 IN WHICH THE OFFENSE OCCURRED, INVOLVING ANY OF THE FOLLOWING:

3 (A) A FELONY VIOLATION OF SECTION 9 OF ACT NO. 265 OF THE
4 PUBLIC ACTS OF 1947, BEING SECTION 205.509 OF THE MICHIGAN
5 COMPILED LAWS, RELATING TO CIGARETTE TAXES.

6 (B) A FELONY VIOLATION OF PART 74 OF THE PUBLIC HEALTH CODE,
7 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.7401
8 TO 333.7461 OF THE MICHIGAN COMPILED LAWS, RELATING TO CONTROLLED
9 SUBSTANCES.

10 (C) A FELONY VIOLATION OF SECTION 60 OF THE SOCIAL WELFARE
11 ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTION 400.60
12 OF THE MICHIGAN COMPILED LAWS, RELATING TO WELFARE FRAUD.

13 (D) A FELONY VIOLATION OF SECTION 4, 5, OR 7 OF THE MEDICAID
14 FALSE CLAIM ACT, ACT NO. 72 OF THE PUBLIC ACTS OF 1977, BEING
15 SECTIONS 400.604, 400.605, AND 400.607 OF THE MICHIGAN COMPILED
16 LAWS, RELATING TO MEDICAID FRAUD.

17 (E) A FELONY VIOLATION OF SECTION 409 OF THE UNIFORM SECURI-
18 TIES ACT, ACT NO. 265 OF THE PUBLIC ACTS OF 1964, BEING SECTION
19 451.809 OF THE MICHIGAN COMPILED LAWS, RELATING TO SECURITIES
20 FRAUD.

21 (F) A VIOLATION OF SECTION 5 OR 7 OF ACT NO. 33 OF THE
22 PUBLIC ACTS OF 1978, BEING SECTIONS 722.675 AND 722.677 OF THE
23 MICHIGAN COMPILED LAWS, RELATING TO THE DISPLAY OR DISSEMINATION
24 OF OBSCENE MATTER TO MINORS.

25 (G) A FELONY VIOLATION OF SECTION 72, 73, 74, OR 75 OF THE
26 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,

1 BEING SECTIONS 750.72, 750.73, 750.74, AND 750.75 OF THE MICHIGAN
2 COMPILED LAWS, RELATING TO ARSON.

3 (H) A FELONY VIOLATION OF SECTION 93, 94, 95, OR 96 OF ACT
4 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.93,
5 750.94, 750.95, AND 750.96 OF THE MICHIGAN COMPILED LAWS, RELAT-
6 ING TO BANK BONDS, BILLS, NOTES, AND PROPERTY.

7 (I) A FELONY VIOLATION OF SECTION 117, 118, 119, 120, 121,
8 OR 124 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
9 750.117, 750.118, 750.119, 750.120, 750.121, AND 750.124 OF THE
10 MICHIGAN COMPILED LAWS, RELATING TO BRIBERY.

11 (J) A VIOLATION OF SECTION 120A OF ACT NO. 328 OF THE PUBLIC
12 ACTS OF 1931, BEING SECTION 750.120A OF THE MICHIGAN COMPILED
13 LAWS, RELATING TO JURY TAMPERING.

14 (K) A FELONY VIOLATION OF SECTION 145C OF ACT NO. 328 OF THE
15 PUBLIC ACTS OF 1931, BEING SECTION 750.145C OF THE MICHIGAN
16 COMPILED LAWS, RELATING TO CHILD SEXUALLY ABUSIVE ACTIVITY OR
17 MATERIAL.

18 (L) A FELONY VIOLATION OF SECTION 157N, 157P, 157Q, 157R,
19 157S, 157T, OR 157U OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
20 BEING SECTIONS 750.157N, 750.157P, 750.157Q, 750.157R, 750.157S,
21 750.157T, AND 750.157U OF THE MICHIGAN COMPILED LAWS, RELATING TO
22 CREDIT CARDS OR FINANCIAL TRANSACTION DEVICES.

23 (M) A FELONY VIOLATION OF SECTION 174, 175, 176, 180, 181,
24 OR 182 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
25 750.174, 750.175, 750.176, 750.180, 750.181, AND 750.182 OF THE
26 MICHIGAN COMPILED LAWS, RELATING TO EMBEZZLEMENT.

1 (N) A FELONY VIOLATION OF CHAPTER XXXIII OF ACT NO. 328 OF
2 THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.200 TO 750.212 OF THE
3 MICHIGAN COMPILED LAWS, RELATING TO EXPLOSIVES AND BOMBS.

4 (O) A FELONY VIOLATION OF SECTION 213 OF ACT NO. 328 OF THE
5 PUBLIC ACTS OF 1931, BEING SECTION 750.213 OF THE MICHIGAN
6 COMPILED LAWS, RELATING TO EXTORTION.

7 (P) A FELONY VIOLATION OF SECTION 218 OF ACT NO. 328 OF THE
8 PUBLIC ACTS OF 1931, BEING SECTION 750.218 OF THE MICHIGAN
9 COMPILED LAWS, RELATING TO FALSE PRETENSES.

10 (Q) A FELONY VIOLATION OF CHAPTER XLI OF ACT NO. 328 OF THE
11 PUBLIC ACTS OF 1931, BEING SECTIONS 750.248 TO 750.266 OF THE
12 MICHIGAN COMPILED LAWS, RELATING TO FORGERY AND COUNTERFEITING.

13 (R) A FELONY VIOLATION OF SECTION 271, 272, 273, OR 274 OF
14 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.271,
15 750.272, 750.273, AND 750.274 OF THE MICHIGAN COMPILED LAWS,
16 RELATING TO SECURITIES FRAUD.

17 (S) A VIOLATION OF SECTION 301, 302, 303, 304, 305, 305A, OR
18 313 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
19 750.301, 750.302, 750.303, 750.304, 750.305, 750.305A, AND
20 750.313 OF THE MICHIGAN COMPILED LAWS, RELATING TO GAMBLING.

21 (T) A FELONY VIOLATION OF SECTION 316 OR 317 OF ACT NO. 328
22 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.316 AND 750.317 OF
23 THE MICHIGAN COMPILED LAWS, RELATING TO MURDER.

24 (U) A VIOLATION OF SECTION 330, 331, OR 332 OF ACT NO. 328
25 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.330, 750.331, AND
26 750.332 OF THE MICHIGAN COMPILED LAWS, RELATING TO HORSE RACING.

1 (V) A FELONY VIOLATION OF SECTION 349, 349A, OR 350 OF ACT
2 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.349,
3 750.349A, AND 750.350 OF THE MICHIGAN COMPILED LAWS, RELATING TO
4 KIDNAPPING.

5 (W) A FELONY VIOLATION OF CHAPTER LII OF ACT NO. 328 OF THE
6 PUBLIC ACTS OF 1931, BEING SECTIONS 750.356 TO 750.367C OF THE
7 MICHIGAN COMPILED LAWS, RELATING TO LARCENY.

8 (X) A FELONY VIOLATION OF SECTION 422, 423, 424, OR 425 OF
9 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.422,
10 750.423, 750.424, AND 750.425 OF THE MICHIGAN COMPILED LAWS,
11 RELATING TO PERJURY AND SUBORNATION OF PERJURY.

12 (Y) A FELONY VIOLATION OF SECTION 452, 455, 457, 458, OR 459
13 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
14 750.452, 750.455, 750.457, 750.458, AND 750.459 OF THE MICHIGAN
15 COMPILED LAWS, RELATING TO PROSTITUTION.

16 (Z) A FELONY VIOLATION OF SECTION 529, 530, OR 531 OF ACT
17 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.529,
18 750.530, AND 750.531 OF THE MICHIGAN COMPILED LAWS, RELATING TO
19 ROBBERY.

20 (AA) A VIOLATION OF SECTION 535, 535A, OR 536A OF ACT
21 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.535,
22 750.535A, AND 750.536A OF THE MICHIGAN COMPILED LAWS, RELATING TO
23 STOLEN, EMBEZZLED, OR CONVERTED PROPERTY.

24 (BB) A VIOLATION OF SECTION 5 OR 6 OF ACT NO. 343 OF THE
25 PUBLIC ACTS OF 1984, BEING SECTIONS 752.365 AND 752.366 OF THE
26 MICHIGAN COMPILED LAWS, RELATING TO OBSCENITY.

1 (CC) A VIOLATION OF SECTION 2 OR 3 OF THE MICHIGAN ANTITRUST
2 REFORM ACT, ACT NO. 274 OF THE PUBLIC ACTS OF 1984, BEING
3 SECTIONS 445.772 AND 445.773 OF THE MICHIGAN COMPILED LAWS,
4 RELATING TO RESTRAINT OF TRADE AND MONOPOLIES.

5 SEC. 574. (1) A PERSON EMPLOYED BY, OR ASSOCIATED WITH, AN
6 ENTERPRISE SHALL NOT KNOWINGLY CONDUCT OR PARTICIPATE IN,
7 DIRECTLY OR INDIRECTLY, THE AFFAIRS OF THE ENTERPRISE THROUGH A
8 PATTERN OF RACKETEERING ACTIVITY.

9 (2) A PERSON SHALL NOT KNOWINGLY, THROUGH A PATTERN OF RACK-
10 ETEERING ACTIVITY, ACQUIRE OR MAINTAIN, DIRECTLY OR INDIRECTLY,
11 AN INTEREST IN OR CONTROL OF AN ENTERPRISE OR REAL OR PERSONAL
12 PROPERTY.

13 (3) A PERSON WHO HAS KNOWINGLY RECEIVED ANY PROCEEDS DERIVED
14 DIRECTLY OR INDIRECTLY FROM A PATTERN OF RACKETEERING ACTIVITY
15 SHALL NOT DIRECTLY OR INDIRECTLY USE OR INVEST ANY PART OF THOSE
16 PROCEEDS, OR ANY PROCEEDS DERIVED FROM THE USE OR INVESTMENT OF
17 ANY OF THOSE PROCEEDS, IN THE ACQUISITION OF ANY TITLE TO, OR A
18 RIGHT, INTEREST, OR EQUITY IN, REAL OR PERSONAL PROPERTY, OR IN
19 THE ESTABLISHMENT OR OPERATION OF AN ENTERPRISE.

20 (4) A PERSON SHALL NOT CONSPIRE OR ATTEMPT TO VIOLATE
21 SUBSECTION (1), (2), OR (3).

22 SEC. 575. (1) A PERSON WHO VIOLATES SECTION 574 IS GUILTY
23 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS
24 OR A FINE OF NOT MORE THAN \$100,000.00, OR BOTH.

25 (2) IN ADDITION TO ANY PENALTY IMPOSED UNDER SUBSECTION (1),
26 THE COURT MAY DO 1 OR MORE OF THE FOLLOWING WITH RESPECT TO A
27 PERSON CONVICTED UNDER SECTION 574:

1 (A) ORDER THE PERSON TO PAY COURT COSTS.

2 (B) ORDER THE PERSON TO PAY TO THE STATE OR LOCAL LAW
3 ENFORCEMENT AGENCY THAT HANDLED THE INVESTIGATION AND PROSECUTION
4 THE COSTS OF THE INVESTIGATION AND PROSECUTION THAT ARE REASON-
5 ABLY INCURRED.

6 (3) THE COURT SHALL HOLD A HEARING TO DETERMINE THE AMOUNT
7 OF COURT COSTS AND OTHER COSTS TO BE IMPOSED UNDER
8 SUBSECTION (2).

9 (4) THE COURT SHALL ORDER A PERSON CONVICTED OF A VIOLATION
10 OF SECTION 574 TO CRIMINALLY FORFEIT TO THE STATE ANY PERSONAL OR
11 REAL PROPERTY IN WHICH HE OR SHE HAS AN INTEREST AND THAT WAS
12 USED IN THE COURSE OF, INTENDED FOR USE IN THE COURSE OF, DERIVED
13 FROM, OR REALIZED THROUGH, CONDUCT IN VIOLATION OF SECTION 574,
14 INCLUDING ANY PROPERTY CONSTITUTING AN INTEREST IN, MEANS OF CON-
15 TROL OVER, OR INFLUENCE OVER THE ENTERPRISE INVOLVED IN THE VIO-
16 LATION AND ANY PROPERTY CONSTITUTING PROCEEDS DERIVED FROM THE
17 VIOLATION. IF 1 OF THE PREDICATE ACTS OF RACKETEERING INVOLVED
18 IN THE CONVICTION IS AN OFFENSE LISTED IN SECTION 573(CC), THE
19 COURT'S AUTHORITY UNDER THIS SUBSECTION ALSO INCLUDES, BUT IS NOT
20 LIMITED TO, THE AUTHORITY TO DO ANY OF THE FOLLOWING:

21 (A) ORDER THE CONVICTED PERSON TO DIVEST HIMSELF OR HERSELF
22 OF ANY INTEREST, DIRECT OR INDIRECT, IN AN ENTERPRISE.

23 (B) IMPOSE REASONABLE RESTRICTIONS ON THE FUTURE ACTIVITIES
24 OR INVESTMENTS OF THE CONVICTED PERSON, INCLUDING PROHIBITING THE
25 CONVICTED PERSON FROM ENGAGING IN THE SAME TYPE OF ENDEAVOR AS
26 THE ENTERPRISE ENGAGED IN.

1 (C) ORDER THE DISSOLUTION OR REORGANIZATION OF AN
2 ENTERPRISE.

3 (D) ORDER THE SUSPENSION OR REVOCATION OF A LICENSE, PERMIT,
4 OR PRIOR APPROVAL GRANTED TO AN ENTERPRISE BY ANY AGENCY OF THE
5 STATE, COUNTY, OR OTHER POLITICAL SUBDIVISION.

6 (E) ORDER THE SURRENDER OF THE CHARTER OF A CORPORATION
7 ORGANIZED UNDER THE LAWS OF THIS STATE OR THE REVOCATION OF A
8 CERTIFICATE AUTHORIZING A FOREIGN CORPORATION TO CONDUCT BUSINESS
9 WITHIN THIS STATE UPON FINDING THAT THE BOARD OF DIRECTORS OR A
10 MANAGERIAL AGENT ACTING ON BEHALF OF THE CORPORATION, IN CONDUCT-
11 ING THE AFFAIRS OF THE CORPORATION, AUTHORIZED OR ENGAGED IN AN
12 OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING AND, FOR THE
13 PREVENTION OF FUTURE CRIMINAL ACTIVITY, THAT THE PUBLIC INTEREST
14 REQUIRES THAT THE CHARTER OR CERTIFICATE OF THE CORPORATION BE
15 SURRENDERED OR REVOKED.

16 (F) MAKE ANY OTHER ORDER THE COURT CONSIDERS APPROPRIATE.

17 (5) A SENTENCE OF CRIMINAL FORFEITURE PURSUANT TO THIS SEC-
18 TION SHALL NOT BE ENTERED UNLESS THE INDICTMENT OR INFORMATION
19 ALLEGES THE EXTENT OF THE PROPERTY SUBJECT TO FORFEITURE, OR
20 UNLESS THE SENTENCE REQUIRES THE FORFEITURE OF PROPERTY THAT WAS
21 NOT REASONABLY FORESEEN TO BE SUBJECT TO FORFEITURE AT THE TIME
22 OF THE INDICTMENT OR INFORMATION, IF THE PROSECUTING AGENCY GAVE
23 PROMPT NOTICE TO THE DEFENDANT OF THE PROPERTY NOT REASONABLY
24 FORESEEN TO BE SUBJECT TO FORFEITURE WHEN IT WAS DISCOVERED TO BE
25 FORFEITABLE.

1 (6) A SPECIAL VERDICT SHALL BE RETURNED AS TO THE EXTENT OF
2 THE PROPERTY SUBJECT TO FORFEITURE, IF ANY. WHEN THE SPECIAL
3 VERDICT IS RETURNED, A JUDGMENT OF FORFEITURE SHALL BE ENTERED.

4 (7) IF ANY PROPERTY INCLUDED IN A SPECIAL VERDICT OF FORFEI-
5 TURE PURSUANT TO THIS SECTION CANNOT BE LOCATED OR HAS BEEN SOLD
6 TO A BONA FIDE PURCHASER FOR VALUE, PLACED BEYOND THE JURISDIC-
7 TION OF THE COURT, SUBSTANTIALLY DIMINISHED IN VALUE BY THE CON-
8 DUCT OF THE DEFENDANT, OR COMMINGLED WITH OTHER PROPERTY THAT
9 CANNOT BE DIVIDED WITHOUT DIFFICULTY OR UNDUE INJURY TO INNOCENT
10 PERSONS, THE COURT SHALL ORDER FORFEITURE OF ANY OTHER REACHABLE
11 PROPERTY OF THE DEFENDANT UP TO THE VALUE OF THE PROPERTY THAT IS
12 UNREACHABLE.

13 (8) ALL PROPERTY ORDERED FORFEITED PURSUANT TO THIS SECTION
14 SHALL BE HELD BY THE LAW ENFORCEMENT AGENCY THAT SEIZED IT FOR
15 DISPOSAL PURSUANT TO SECTION 583.

16 (9) AN ORDER OF CRIMINAL FORFEITURE ENTERED UNDER THIS SEC-
17 TION SHALL AUTHORIZE AN APPROPRIATE LAW ENFORCEMENT AGENCY TO
18 SEIZE THE PROPERTY DECLARED CRIMINALLY FORFEITED UNDER THIS SEC-
19 TION UPON THE TERMS AND CONDITIONS RELATING TO THE TIME AND
20 MANNER OF SEIZURE THAT THE COURT DETERMINES PROPER.

21 (10) CRIMINAL PENALTIES UNDER THIS SECTION ARE NOT MUTUALLY
22 EXCLUSIVE AND DO NOT PRECLUDE THE APPLICATION OF ANY OTHER CRIMI-
23 NAL OR CIVIL REMEDY UNDER THIS SECTION OR ANY OTHER PROVISION OF
24 LAW.

25 SEC. 576. (1) UPON THE ENTRY OF A JUDGMENT OF CRIMINAL FOR-
26 FEITURE PURSUANT TO SECTION 575, THE COURT SHALL CAUSE NOTICE OF
27 THE JUDGMENT TO BE SENT BY CERTIFIED MAIL TO ALL PERSONS KNOWN TO

1 HAVE, OR APPEARING TO HAVE, AN INTEREST IN THE PROPERTY TO BE
2 FORFEITED. TO ASSIST THE COURT IN DETERMINING WHOM TO NOTIFY,
3 THE PROSECUTING AGENCY SHALL CONDUCT A SEARCH OF COUNTY, STATE,
4 AND FEDERAL PUBLIC RECORDS WHERE NOTICE OF LIENS AND SECURITY
5 INTERESTS ARE NORMALLY RECORDED. IF THE NAME AND ADDRESS OF THE
6 PERSON ARE NOT REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE
7 CANNOT REASONABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED
8 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE
9 PROSECUTION OCCURRED FOR 10 SUCCESSIVE PUBLISHING DAYS. PROOF OF
10 WRITTEN NOTICE OR PUBLICATION SHALL BE FILED WITH THE COURT
11 ENTERING THE SENTENCE OF CRIMINAL FORFEITURE.

12 (2) WITHIN 21 DAYS AFTER RECEIPT OF THE NOTICE OR AFTER THE
13 DATE OF PUBLICATION UNDER SUBSECTION (1), A PERSON, OTHER THAN
14 THE DEFENDANT, WHO CLAIMS AN INTEREST IN THE PROPERTY SUBJECT TO
15 CRIMINAL FORFEITURE MAY PETITION THE COURT FOR A HEARING TO
16 DETERMINE THE VALIDITY OF THE CLAIM. THE PETITION SHALL BE
17 SIGNED AND SWORN TO BY THE PETITIONER AND SHALL SET FORTH THE
18 NATURE AND EXTENT OF THE PETITIONER'S INTEREST IN THE PROPERTY,
19 THE DATE AND CIRCUMSTANCES OF THE PETITIONER'S ACQUISITION OF THE
20 INTEREST, ANY ADDITIONAL ALLEGATIONS SUPPORTING THE CLAIM, AND
21 THE RELIEF SOUGHT. THE PETITIONER SHALL FURNISH THE PROSECUTING
22 AGENCY WITH A COPY OF THE PETITION.

23 (3) THE COURT, TO THE EXTENT PRACTICABLE AND CONSISTENT WITH
24 THE INTERESTS OF JUSTICE, SHALL HOLD THE HEARING WITHIN 28 DAYS
25 AFTER THE FILING OF THE PETITION. THE COURT MAY CONSOLIDATE THE
26 HEARINGS ON ALL PETITIONS FILED BY THIRD PARTY CLAIMANTS UNDER
27 THIS SECTION. AT THE HEARING, THE PETITIONER MAY TESTIFY AND

1 PRESENT EVIDENCE ON HIS OR HER OWN BEHALF AND MAY CROSS-EXAMINE
2 WITNESSES. THE PROSECUTING AGENCY MAY PRESENT EVIDENCE AND WIT-
3 NESSES IN REBUTTAL AND IN DEFENSE OF THE CLAIM OF THE STATE TO
4 THE PROPERTY AND MAY CROSS-EXAMINE WITNESSES. THE COURT, IN
5 MAKING ITS DETERMINATION, SHALL CONSIDER THE TESTIMONY AND EVI-
6 DENCE PRESENTED AT THE HEARING AND THE RELEVANT PORTIONS OF THE
7 RECORD OF THE CRIMINAL PROCEEDING THAT RESULTED IN THE JUDGMENT
8 OF CRIMINAL FORFEITURE.

9 (4) IF THE COURT, BY A PREPONDERANCE OF THE EVIDENCE, DETER-
10 MINES EITHER THAT THE PETITIONER HAS A LEGAL RIGHT, TITLE, OR
11 INTEREST IN THE PROPERTY THAT, AT THE TIME OF THE COMMISSION OF
12 THE ACTS GIVING RISE TO THE FORFEITURE OF THE PROPERTY, WAS
13 VESTED IN THE PETITIONER AND NOT IN THE DEFENDANT OR WAS SUPERIOR
14 TO THE RIGHT, TITLE, OR INTEREST OF THE DEFENDANT, OR THAT THE
15 PETITIONER IS A BONA FIDE PURCHASER FOR VALUE OF THE RIGHT,
16 TITLE, OR INTEREST IN THE PROPERTY AND WAS AT THE TIME OF THE
17 PURCHASE REASONABLY WITHOUT CAUSE TO BELIEVE THAT THE PROPERTY
18 WAS SUBJECT TO FORFEITURE UNDER SECTION 575, THE COURT SHALL
19 AMEND, IN ACCORDANCE WITH ITS DETERMINATION, THE JUDGMENT OF
20 CRIMINAL FORFEITURE TO PROTECT THE RIGHTS OF INNOCENT PERSONS.

21 SEC. 577. (1) IN A PROSECUTION BROUGHT BY THE PROSECUTING
22 AGENCY UNDER SECTION 574, THE COURT SHALL HAVE JURISDICTION TO
23 ENTER SUCH RESTRAINING ORDERS, INJUNCTIONS, OR PROHIBITIONS OR TO
24 TAKE SUCH OTHER ACTIONS, INCLUDING, BUT NOT LIMITED TO, THE
25 ACCEPTANCE OF SATISFACTORY PERFORMANCE BONDS, IN CONNECTION WITH
26 ANY PROPERTY SUBJECT TO CRIMINAL FORFEITURE UNDER SECTION 575, AS
27 THE COURT CONSIDERS PROPER.

1 (2) WITHIN 14 DAYS AFTER THE ENTRY OF AN ORDER DESCRIBED IN
2 SUBSECTION (1), THE PROSECUTING AGENCY SHALL CAUSE NOTICE OF THE
3 ORDER TO BE SENT BY CERTIFIED MAIL TO ALL PERSONS KNOWN TO HAVE
4 OR APPEARING TO HAVE AN INTEREST IN THE PROPERTY. IN DETERMINING
5 WHOM TO NOTIFY UNDER THIS SUBSECTION, THE PROSECUTING AGENCY
6 SHALL CONDUCT A SEARCH OF COUNTY, STATE, AND FEDERAL PUBLIC
7 RECORDS WHERE NOTICES OF LIENS AND SECURITY INTERESTS ARE NOR-
8 MALLY RECORDED.

9 (3) NOTWITHSTANDING ANY PROVISION IN SECTIONS 575 TO 577,
10 THE PROSECUTING AGENCY SHALL NOT SEIZE MATERIALS PRESUMPTIVELY
11 PROTECTED BY THE FIRST AMENDMENT TO THE CONSTITUTION OF THE
12 UNITED STATES IN A MANNER THAT VIOLATES THAT CONSTITUTIONAL
13 PROVISION.

14 SEC. 578. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
15 ALL PROPERTY, REAL OR PERSONAL, THAT IS THE PROCEEDS OF RACKE-
16 TEERING, THE SUBSTITUTED PROCEEDS OF RACKETEERING, OR AN INSTRU-
17 MENTALITY OF RACKETEERING, IS SUBJECT TO CIVIL IN REM FORFEITURE
18 TO A LOCAL UNIT OF GOVERNMENT OR THE STATE UNDER SECTIONS 578 TO
19 582.

20 (2) REAL PROPERTY THAT IS THE PRIMARY RESIDENCE OF THE
21 SPOUSE OR A DEPENDENT CHILD OF THE OWNER IS NOT SUBJECT TO CIVIL
22 IN REM FORFEITURE UNDER SECTIONS 578 TO 582, UNLESS THAT SPOUSE
23 OR DEPENDENT CHILD HAD PRIOR ACTUAL KNOWLEDGE OF, AND CONSENTED
24 TO THE COMMISSION OF, THE CRIME.

25 (3) PROPERTY IS NOT SUBJECT TO CIVIL IN REM FORFEITURE IF
26 EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

1 (A) THE OWNER OF THE PROPERTY DID NOT HAVE PRIOR ACTUAL
2 KNOWLEDGE OF THE COMMISSION OF THE RACKETEERING ACTIVITY.

3 (B) THE OWNER OF THE PROPERTY SERVED NOTICE OF THE COMMIS-
4 SION OF THE CRIME UPON AN APPROPRIATE LAW ENFORCEMENT AGENCY..

5 (4) THE FORFEITURE OF PROPERTY ENCUMBERED BY A SECURITY
6 INTEREST IS SUBJECT TO THE INTEREST OF THE HOLDER OF THE SECURITY
7 INTEREST WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF THE RACK-
8 TEERING ACTIVITY.

9 (5) THE FORFEITURE OF PROPERTY ENCUMBERED BY AN UNPAID BAL-
10 ANCE ON A LAND CONTRACT IS SUBJECT TO THE INTEREST OF THE LAND
11 CONTRACT VENDOR WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF THE
12 RACKETEERING ACTIVITY.

13 SEC. 579. (1) A CIVIL IN REM FORFEITURE PROCEEDING UNDER
14 THIS CHAPTER IS A PROCEEDING AGAINST PROPERTY SUBJECT TO FORFEI-
15 TURE UNDER SECTION 578 INSTITUTED BY THE FILING OF A PETITION BY
16 THE PLAINTIFF PROSECUTING AGENCY.

17 (2) PERSONAL PROPERTY SUBJECT TO CIVIL IN REM FORFEITURE
18 UNDER SECTION 578 MAY BE SEIZED PURSUANT TO AN ORDER OF SEIZURE
19 ISSUED BY THE COURT HAVING JURISDICTION OVER THE PROPERTY.

20 (3) UPON AN EX PARTE APPLICATION BY THE PLAINTIFF PROSECUT-
21 ING AGENCY, BEFORE OR AFTER THE INITIATION OF A CIVIL IN REM FOR-
22 FEITURE PROCEEDING, THE COURT MAY DETERMINE EX PARTE WHETHER
23 THERE IS PROBABLE CAUSE TO BELIEVE THAT PROPERTY IS SUBJECT TO
24 CIVIL IN REM FORFEITURE UNDER SECTION 578 AND THAT NOTICE TO
25 THOSE PERSONS HAVING OR CLAIMING AN INTEREST IN THE PROPERTY
26 BEFORE SEIZURE WOULD CAUSE THE LOSS OR DESTRUCTION OF THE
27 PROPERTY. IN MAKING THIS DETERMINATION, THE COURT SHALL, AS A

1 MATTER OF LAW, MAKE A DETERMINATION THAT THE PROPERTY CONSTITUTED
2 AN INTEREST IN, MEANS OF CONTROL OVER, OR INFLUENCE OVER AN
3 ENTERPRISE INVOLVED IN A VIOLATION OF SECTION 574. IF THE COURT
4 FINDS THAT PROBABLE CAUSE DOES NOT EXIST TO BELIEVE THE PROPERTY
5 IS SUBJECT TO FORFEITURE UNDER THIS ACT, THE COURT SHALL DISMISS
6 THE PLAINTIFF PROSECUTING AGENCY'S APPLICATION AND, IF A CIVIL IN
7 REM FORFEITURE PROCEEDING HAS BEEN INITIATED, SHALL DISMISS THE
8 PETITION. IF THE COURT FINDS THAT PROBABLE CAUSE DOES EXIST TO
9 BELIEVE THE PROPERTY IS SUBJECT TO FORFEITURE BUT THERE IS NOT
10 PROBABLE CAUSE TO BELIEVE THAT PRIOR NOTICE WOULD RESULT IN LOSS
11 OR DESTRUCTION OF THE PROPERTY, THE COURT SHALL ORDER SERVICE ON
12 ALL PERSONS KNOWN TO HAVE OR CLAIM AN INTEREST IN THE PROPERTY
13 BEFORE A FURTHER HEARING ON WHETHER AN ORDER OF SEIZURE SHOULD
14 ISSUE. IF THE COURT FINDS THAT THERE IS PROBABLE CAUSE TO
15 BELIEVE THAT THE PROPERTY IS SUBJECT TO FORFEITURE AND TO BELIEVE
16 THAT PRIOR NOTICE WOULD CAUSE LOSS OR DESTRUCTION OF THE PROPER-
17 TY, THE COURT SHALL ISSUE AN ORDER OF SEIZURE DIRECTING THE SHER-
18 IFF OR OTHER LAW ENFORCEMENT OFFICER IN THE COUNTY WHERE THE
19 PROPERTY IS FOUND TO SEIZE IT.

20 (4) PERSONAL PROPERTY SUBJECT TO CIVIL IN REM FORFEITURE
21 UNDER THIS CHAPTER MAY BE SEIZED WITHOUT PROCESS UNDER ANY OF THE
22 FOLLOWING CIRCUMSTANCES:

23 (A) THE SEIZURE IS INCIDENT TO A LAWFUL ARREST.

24 (B) THE SEIZURE IS PURSUANT TO A VALID SEARCH WARRANT.

25 (C) THE SEIZURE IS PURSUANT TO AN INSPECTION UNDER A VALID
26 ADMINISTRATIVE INSPECTION WARRANT.

1 (D) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS
2 DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY.

3 (E) EXIGENT CIRCUMSTANCES EXIST THAT PRECLUDE THE OBTAINING
4 OF A COURT ORDER, AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
5 PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
6 SECTION 578.

7 (F) THE PROPERTY IS THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR
8 OF THIS STATE IN A FORFEITURE PROCEEDING.

9 (5) THE PROSECUTING AGENCY MAY APPLY EX PARTE FOR AN ORDER
10 AUTHORIZING THE FILING OF A LIEN NOTICE AGAINST REAL PROPERTY
11 SUBJECT TO CIVIL IN REM FORFEITURE UNDER SECTION 578. THE APPLI-
12 CATION SHALL BE SUPPORTED BY A SWORN AFFIDAVIT SETTING FORTH
13 PROBABLE CAUSE FOR A CIVIL IN REM FORFEITURE ACTION PURSUANT TO
14 SECTIONS 578 TO 582. AN ORDER AUTHORIZING THE FILING OF A LIEN
15 NOTICE MAY BE ISSUED UPON A SHOWING OF PROBABLE CAUSE TO BELIEVE
16 THAT THE PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
17 SECTION 578.

18 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
19 PROSECUTING AGENCY SHALL NOT SEIZE MATERIALS PRESUMPTIVELY PRO-
20 TECTED BY THE FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED
21 STATES IN A MANNER THAT VIOLATES THAT CONSTITUTIONAL PROVISION.

22 (7) PROPERTY THAT BELONGS TO THE VICTIM OF A CRIME SHALL
23 PROMPTLY BE RETURNED TO THE VICTIM, EXCEPT IN THE FOLLOWING
24 CIRCUMSTANCES:

25 (A) IF THE PROPERTY IS CONTRABAND.

26 (B) IF THE OWNERSHIP OF THE PROPERTY IS DISPUTED UNTIL THE
27 DISPUTE IS RESOLVED.

1 (C) IF THE PROPERTY IS REQUIRED TO BE RETAINED AS EVIDENCE
2 PURSUANT TO SECTION 4(4) OF THE CRIME VICTIM'S RIGHTS ACT, ACT
3 NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTION 780.754 OF THE
4 MICHIGAN COMPILED LAWS.

5 (8) PERSONAL PROPERTY SEIZED UNDER THIS SECTION IS NOT
6 SUBJECT TO ANY OTHER ACTION TO RECOVER PERSONAL PROPERTY, BUT IS
7 CONSIDERED TO BE IN THE CUSTODY OF THE SEIZING AGENCY SUBJECT
8 ONLY TO THIS CHAPTER, OR TO AN ORDER AND JUDGMENT OF THE COURT
9 HAVING JURISDICTION OVER THE CIVIL IN REM FORFEITURE
10 PROCEEDINGS. WHEN PROPERTY IS SEIZED UNDER THIS SECTION, THE
11 SEIZING AGENCY MAY DO EITHER OR BOTH OF THE FOLLOWING:

12 (A) PLACE THE PROPERTY UNDER SEAL.

13 (B) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

14 SEC. 580. (1) WITHIN 14 DAYS AFTER PERSONAL PROPERTY IS
15 SEIZED OR A LIEN NOTICE IS FILED AGAINST REAL PROPERTY UNDER SEC-
16 TION 579, THE PROSECUTING AGENCY SHALL GIVE NOTICE OF THE SEIZURE
17 OF THE PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF THE
18 PROPERTY ACCORDING TO THIS CHAPTER TO EACH OF THE FOLLOWING
19 PERSONS:

20 (A) IF CHARGES HAVE BEEN FILED AGAINST A PERSON FOR A CRIME,
21 THE PERSON CHARGED.

22 (B) EACH PERSON WITH A KNOWN OWNERSHIP INTEREST IN THE
23 PROPERTY.

24 (C) EACH MORTGAGEE, PERSON HOLDING A SECURITY INTEREST, OR
25 PERSON HAVING A LIEN THAT APPEARS ON THE CERTIFICATE OF TITLE OR
26 IS ON FILE WITH THE SECRETARY OF STATE OR APPROPRIATE REGISTER OF

1 DEEDS, IF THE PROPERTY IS REAL PROPERTY, A MOBILE HOME, MOTOR
2 VEHICLE, WATERCRAFT, OR OTHER PERSONAL PROPERTY.

3 (D) EACH HOLDER OF A PREFERRED SHIP MORTGAGE OF RECORD IN
4 THE APPROPRIATE PUBLIC OFFICE PURSUANT TO CHAPTER 313 OF SUBTITLE
5 III OF TITLE 46 OF THE UNITED STATES CODE, IF THE PROPERTY IS A
6 WATERCRAFT MORE THAN 28 FEET LONG OR A WATERCRAFT THAT HAS A
7 CAPACITY OF 5 NET TONS OR MORE.

8 (E) EACH PERSON WHOSE SECURITY INTEREST IS RECORDED WITH THE
9 APPROPRIATE PUBLIC OFFICE PURSUANT TO THE FEDERAL AVIATION ACT OF
10 1958, PUBLIC LAW 85-726, 72 STAT. 731, IF THE PROPERTY IS AN AIR-
11 CRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER, OR A PART OF AN
12 AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER.

13 (F) EACH PERSON WITH A KNOWN SECURITY INTEREST IN THE
14 PROPERTY.

15 (G) EACH VICTIM OF THE CRIME.

16 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL BE A
17 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
18 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
19 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
20 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
21 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
22 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
23 CESSIVE PUBLISHING DAYS. PROOF OF WRITTEN NOTICE OR PUBLICATION
24 SHALL BE FILED WITH THE COURT HAVING JURISDICTION OVER THE SEI-
25 ZURE OR FORFEITURE.

26 (3) IF PERSONAL PROPERTY IS SEIZED, THE SEIZING AGENCY SHALL
27 IMMEDIATELY NOTIFY THE PROSECUTING AGENCY OF THE SEIZURE OF THE

1 PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF THE PROPERTY
2 ACCORDING TO THIS CHAPTER.

3 SEC. 581. (1) A PERSON CLAIMING AN INTEREST IN PROPERTY OR
4 PROCEEDS SUBJECT TO FORFEITURE MAY, AT ANY TIME WITHIN 28 DAYS
5 AFTER THE DATE OF THE COMPLETION OF THE PUBLICATION PURSUANT TO
6 SECTION 580 OR WITHIN 21 DAYS AFTER RECEIPT OF ACTUAL NOTICE PUR-
7 SUANT TO SECTION 580, FILE WITH THE PROSECUTING AGENCY A VERIFIED
8 CLAIM STATING HIS OR HER INTEREST IN THE PROPERTY OR PROCEEDS.

9 (2) IF NO CLAIM IS FILED WITHIN THE PERIOD SPECIFIED IN SUB-
10 SECTION (1), THE PROSECUTING AGENCY SHALL DECLARE THE PROPERTY
11 FORFEITED AND SHALL DISPOSE OF THE PROPERTY ACCORDING TO SECTION
12 583.

13 (3) IF A CLAIM IS FILED WITHIN THE PERIOD SPECIFIED IN SUB-
14 SECTION (1), THE PROSECUTING AGENCY SHALL INSTITUTE A CIVIL IN
15 REM FORFEITURE ACTION WITHIN 7 DAYS AFTER THE EXPIRATION OF THE
16 PERIOD SPECIFIED IN SUBSECTION (1).

17 SEC. 582. (1) AT THE CIVIL IN REM FORFEITURE PROCEEDING, IN
18 WHICH EITHER PARTY MAY REQUEST A JURY TRIAL, THE PLAINTIFF PROSE-
19 CUTING AGENCY SHALL PROVE BOTH OF THE FOLLOWING BY A PREPONDER-
20 ANCE OF THE EVIDENCE:

21 (A) THE PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
22 SECTION 578.

23 (B) THE PERSON CLAIMING AN OWNERSHIP OR SECURITY INTEREST IN
24 THE PROPERTY HAD ACTUAL PRIOR OR CONTEMPORANEOUS KNOWLEDGE OF THE
25 COMMISSION OF A CRIME LISTED IN THE DEFINITION OF RACKETEERING
26 UNDER SECTION 573.

1 (2) IF THE PLAINTIFF PROSECUTING AGENCY FAILS TO MEET THE
2 BURDEN OF PROOF UNDER SUBSECTION (1), THE PROPERTY SHALL BE
3 RETURNED TO THE OWNER WITHIN 7 DAYS AND THE PLAINTIFF PROSECUTING
4 AGENCY SHALL REIMBURSE THE OWNER FOR ACTUAL DAMAGES, INCLUDING,
5 BUT NOT LIMITED TO, REASONABLE ATTORNEY FEES, TOWING COSTS, STOR-
6 AGE FEES AND EXPENSES, FORECLOSURE COSTS, AND OTHER SIMILAR
7 EXPENSES.

8 (3) IF THE PLAINTIFF PROSECUTING AGENCY MEETS THE BURDEN OF
9 PROOF UNDER SUBSECTION (1), THE PROPERTY SHALL BE DISPOSED OF
10 PURSUANT TO SECTION 583.

11 (4) WITHIN 7 DAYS AFTER PERSONAL PROPERTY IS RETURNED TO THE
12 OWNER, OR A LIEN FILED AGAINST REAL PROPERTY OR A MOTOR VEHICLE
13 IS DISCHARGED, THE PROSECUTING AGENCY THAT GAVE NOTICE OF THE
14 SEIZURE OF THE PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF
15 THE PROPERTY PURSUANT TO SECTION 580 SHALL GIVE NOTICE TO THE
16 PERSONS WHO RECEIVED NOTICE PURSUANT TO SECTION 580 THAT THE
17 PROPERTY HAS BEEN RETURNED TO THE OWNER OR THAT THE LIEN HAS BEEN
18 DISCHARGED.

19 (5) THE NOTICE REQUIRED UNDER SUBSECTION (4) SHALL BE A
20 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
21 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
22 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
23 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
24 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
25 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
26 CESSIVE PUBLISHING DAYS.

1 (6) A DEFENDANT CONVICTED IN A CRIMINAL PROCEEDING IS
2 ESTOPPED FROM SUBSEQUENTLY DENYING IN A CIVIL ACTION THE
3 ESSENTIAL ALLEGATIONS OF THE CRIMINAL OFFENSE OF WHICH HE OR SHE
4 WAS CONVICTED.

5 (7) IF A CIVIL IN REM FORFEITURE ACTION HAS BEEN COMMENCED
6 PURSUANT TO THIS CHAPTER, THE DISMISSAL OF A CRIMINAL CASE OR AN
7 ACQUITTAL ON A CRIMINAL CHARGE BROUGHT AGAINST A PARTY WHO HAS OR
8 MAY HAVE AN INTEREST IN PROPERTY OR AN ITEM AT ISSUE IN THE CIVIL
9 IN REM FORFEITURE ACTION DOES NOT PRECLUDE OR ADVERSELY AFFECT
10 THE CONTINUED LITIGATION AGAINST THE PROPERTY OR ITEM IN THE
11 CIVIL IN REM FORFEITURE ACTION.

12 (8) THE TESTIMONY OF A PERSON AT A CIVIL IN REM FORFEITURE
13 PROCEEDING HELD UNDER THIS CHAPTER IS NOT ADMISSIBLE AGAINST HIM
14 OR HER, EXCEPT FOR THE PURPOSE OF IMPEACHMENT, IN A CRIMINAL PRO-
15 CEEDING OTHER THAN A CRIMINAL PROSECUTION FOR PERJURY. THE TES-
16 TIMONY OF A PERSON AT A CIVIL IN REM FORFEITURE PROCEEDING HELD
17 UNDER THIS CHAPTER DOES NOT WAIVE THE PERSON'S CONSTITUTIONAL
18 RIGHT AGAINST SELF-INCRIMINATION.

19 SEC. 583. (1) IF PROPERTY IS CRIMINALLY OR CIVILLY FOR-
20 FEITED UNDER THIS CHAPTER, THE UNIT OF GOVERNMENT THAT SEIZED OR
21 FILED A LIEN AGAINST THE PROPERTY MAY SELL THE PROPERTY THAT IS
22 NOT REQUIRED TO BE DESTROYED BY LAW AND THAT IS NOT HARMFUL TO
23 THE PUBLIC AND MAY DISPOSE OF THE MONEY RECEIVED FROM THE SALE OF
24 THE PROPERTY AND ANY MONEY, NEGOTIABLE INSTRUMENT, SECURITY, OR
25 OTHER THING OF VALUE THAT IS FORFEITED PURSUANT TO THIS CHAPTER
26 IN THE FOLLOWING ORDER OF PRIORITY:

1 (A) PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED PARTY
2 WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF, OR CONSENT TO THE
3 COMMISSION OF, THE CRIME.

4 (B) SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION FOR
5 THE CRIME.

6 (C) PAY THE CLAIM OF EACH PERSON WHO SHOWS THAT HE OR SHE IS
7 A VICTIM OF THE CRIME TO THE EXTENT THAT THE CLAIM IS NOT COVERED
8 BY AN ORDER OF RESTITUTION.

9 (D) PAY ANY OUTSTANDING LIEN AGAINST THE PROPERTY THAT HAS
10 BEEN IMPOSED BY A GOVERNMENTAL UNIT.

11 (E) PAY THE PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEI-
12 TURE AND SALE, INCLUDING, BUT NOT LIMITED TO, EXPENSES INCURRED
13 DURING THE SEIZURE PROCESS AND EXPENSES FOR MAINTAINING CUSTODY
14 OF THE PROPERTY, ADVERTISING, AND COURT COSTS.

15 (F) THE BALANCE REMAINING AFTER THE PAYMENT OF RESTITUTION,
16 THE CLAIMS OF VICTIMS, OUTSTANDING LIENS, AND EXPENSES SHALL BE
17 DISTRIBUTED BY THE COURT HAVING JURISDICTION OVER THE FORFEITURE
18 PROCEEDINGS TO THE UNIT OR UNITS OF GOVERNMENT SUBSTANTIALLY
19 INVOLVED IN EFFECTING THE FORFEITURE. THE MONEY RECEIVED BY A
20 UNIT OF GOVERNMENT UNDER THIS SUBDIVISION SHALL BE USED TO
21 ENHANCE ENFORCEMENT OF THE CRIMINAL LAWS.

22 (2) IN THE COURSE OF SELLING REAL PROPERTY PURSUANT TO SUB-
23 SECTION (1), THE COURT THAT ENTERS AN ORDER OR SENTENCE OF FOR-
24 FEITURE, ON MOTION OF THE UNIT OF GOVERNMENT TO WHOM THE PROPERTY
25 IS FORFEITED, MAY APPOINT A RECEIVER TO DISPOSE OF THE REAL PROP-
26 ERTY FORFEITED. THE RECEIVER IS ENTITLED TO REASONABLE

1 COMPENSATION. THE RECEIVER HAS AUTHORITY TO DO ALL OF THE
2 FOLLOWING:

3 (A) LIST THE FORFEITED REAL PROPERTY FOR SALE.

4 (B) MAKE WHATEVER ARRANGEMENTS ARE NECESSARY FOR THE MAINTENANCE AND PRESERVATION OF THE FORFEITED REAL PROPERTY.

6 (C) ACCEPT OFFERS TO PURCHASE THE FORFEITED REAL PROPERTY.

7 (D) EXECUTE INSTRUMENTS TRANSFERRING TITLE TO THE FORFEITED
8 REAL PROPERTY.

9 SEC. 584. A CIVIL IN REM FORFEITURE ACTION UNDER THIS CHAPTER RELATED TO AN OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING UNDER SECTION 573 OR A VIOLATION OF SECTION 574 SHALL BE
11 COMMENCED WITHIN 6 YEARS AFTER THE ACTIVITY TERMINATES OR THE
12 CAUSE OF ACTION ACCRUES.

14 SEC. 585. THIS CHAPTER DOES NOT CREATE A CAUSE OF ACTION
15 BETWEEN 2 OR MORE PERSONS.

16 SEC. 586. THIS CHAPTER DOES NOT PRECLUDE A PROSECUTING
17 AGENCY FROM PURSUING A FORFEITURE PROCEEDING UNDER ANY OTHER LAW
18 OF THIS STATE.

19 SEC. 587. (1) IF THE PROSECUTING AGENCY HAS PROBABLE CAUSE
20 TO BELIEVE THAT A PERSON HAS INFORMATION, OR IS IN POSSESSION,
21 CUSTODY, OR CONTROL OF ANY RECORDS, DOCUMENTARY MATERIALS, OR
22 OTHER OBJECT, RELEVANT TO AN INVESTIGATION FOR AN OFFENSE
23 INCLUDED IN THE DEFINITION OF RACKETEERING UNDER SECTION 573 OR A
24 VIOLATION OF SECTION 574, THE PROSECUTING AGENCY MAY SERVE UPON
25 THE PERSON, BEFORE BRINGING ANY ACTION, A WRITTEN DEMAND TO
26 APPEAR AND BE EXAMINED UNDER OATH, AND TO PRODUCE THE RECORDS,

1 DOCUMENTARY MATERIALS, OR OBJECT FOR INSPECTION AND COPYING. THE
2 DEMAND SHALL DO ALL OF THE FOLLOWING:

3 (A) DESCRIBE THE NATURE OF THE CONDUCT CONSTITUTING THE VIO-
4 LATION UNDER INVESTIGATION.

5 (B) DESCRIBE THE RECORDS, DOCUMENTARY MATERIALS, OR OBJECT
6 REQUESTED WITH SUFFICIENT DEFINITENESS TO PERMIT THEM TO BE
7 FAIRLY IDENTIFIED.

8 (C) CONTAIN A COPY OF ANY WRITTEN INTERROGATORIES.

9 (D) PRESCRIBE A REASONABLE TIME AT WHICH THE PERSON MUST
10 APPEAR TO TESTIFY, WITHIN WHICH TO ANSWER THE WRITTEN INTERROGA-
11 TORIES, AND WITHIN WHICH THE RECORDS, DOCUMENTARY MATERIALS, OR
12 OBJECT MUST BE PRODUCED.

13 (E) ADVISE THE PERSON THAT OBJECTIONS TO OR REASONS FOR NOT
14 COMPLYING WITH THE DEMAND MAY BE FILED WITH THE PROSECUTING
15 AGENCY ON OR BEFORE THE TIME PRESCRIBED PURSUANT TO SUBDIVISION
16 (D).

17 (F) SPECIFY A PLACE FOR THE TAKING OF TESTIMONY OR FOR PRO-
18 Duction, AND DESIGNATE THE PERSON WHO SHALL BE CUSTODIAN OF THE
19 RECORDS, DOCUMENTARY MATERIALS, OR OBJECT.

20 (G) SPECIFY THAT THE PERSON MAY HAVE AN ATTORNEY PRESENT
21 WHERE TESTIMONY IS TO BE PROVIDED UNDER THIS SECTION AND THAT AN
22 ATTORNEY MAY ADVISE THE PERSON AS TO INTERROGATORIES, RECORDS,
23 AND DOCUMENTS REQUESTED BY THE PROSECUTING AGENCY UNDER THIS
24 SECTION.

25 (2) IF A PERSON OBJECTS TO OR OTHERWISE FAILS TO COMPLY WITH
26 THE WRITTEN DEMAND SERVED UPON HIM OR HER UNDER SUBSECTION (1),
27 THE PROSECUTING AGENCY MAY FILE IN THE CIRCUIT COURT OF THE

1 COUNTY IN WHICH THE PERSON RESIDES OR IN WHICH THE PERSON
2 MAINTAINS A PRINCIPAL PLACE OF BUSINESS WITHIN THIS STATE AN
3 ACTION TO ENFORCE THE DEMAND. NOTICE OF HEARING THE ACTION AND A
4 COPY OF ALL PLEADINGS SHALL BE SERVED UPON THE PERSON, WHO MAY
5 APPEAR IN OPPOSITION. IF THE COURT FINDS THAT THE DEMAND IS
6 PROPER, THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THERE MAY
7 HAVE BEEN OR IS PRESENTLY OCCURRING A VIOLATION DESCRIBED IN
8 SUBSECTION (1), AND THAT THE INFORMATION SOUGHT OR RECORDS, DOCU-
9 MENTARY MATERIALS, OR OBJECT DEMANDED IS RELEVANT TO THE INVESTI-
10 GATION, THE COURT SHALL ORDER THE PERSON TO COMPLY WITH THE
11 DEMAND, SUBJECT TO ANY MODIFICATION THE COURT MAY PRESCRIBE.
12 UPON MOTION BY THE PERSON AND FOR GOOD CAUSE SHOWN, THE COURT MAY
13 MAKE ANY FURTHER ORDER IN THE PROCEEDINGS THAT JUSTICE REQUIRES
14 TO PROTECT THE PERSON FROM UNREASONABLE ANNOYANCE, EMBARRASSMENT,
15 OPPRESSION, BURDEN, OR EXPENSE.

16 (3) ANY PROCEDURE, TESTIMONY TAKEN, OR MATERIAL PRODUCED
17 SHALL BE KEPT CONFIDENTIAL BY THE PROSECUTING AGENCY BEFORE
18 BRINGING AN ACTION AGAINST A PERSON UNDER THIS CHAPTER OR FOR A
19 VIOLATION DESCRIBED IN SUBSECTION (1) UNLESS CONFIDENTIALITY IS
20 WAIVED BY THE PERSON BEING INVESTIGATED AND THE PERSON WHO HAS
21 TESTIFIED, ANSWERED INTERROGATORIES, OR PRODUCED MATERIAL, OR
22 DISCLOSURE IS AUTHORIZED BY THE COURT. MATERIALS AND INFORMATION
23 OBTAINED UNDER THIS SECTION ARE CONSIDERED CONFIDENTIAL AND
24 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, ACT
25 NO. 442 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO
26 15.246 OF THE MICHIGAN COMPILED LAWS.

1 (4) THIS SECTION DOES NOT DIMINISH A PERSON'S CONSTITUTIONAL
2 RIGHT AGAINST SELF-INCRIMINATION.

3 SEC. 588. (1) SERVICE OF THE DEMAND FOR DOCUMENTS OR ANY
4 PETITION FILED UNDER SECTION 587 MAY BE MADE UPON A PERSON BY 1
5 OF THE FOLLOWING METHODS:

6 (A) DELIVERING A DULY EXECUTED COPY OF THE DEMAND OR PETI-
7 TION TO ANY PARTNER, EXECUTIVE OFFICER, MANAGING AGENT, GENERAL
8 AGENT, OR RESIDENT AGENT OF THE PERSON, AUTHORIZED BY APPOINTMENT
9 OR BY LAW TO RECEIVE SERVICE OF PROCESS ON BEHALF OF THE PERSON,
10 OR UPON AN INDIVIDUAL PERSON.

11 (B) DELIVERING A DULY EXECUTED COPY OF THE DEMAND OR PETI-
12 TION TO THE RESIDENCE, PRINCIPAL OFFICE, OR PLACE OF BUSINESS OF
13 THE PERSON.

14 (C) DEPOSITING THE COPY IN THE UNITED STATES MAIL, BY REGIS-
15 TERED MAIL, ADDRESSED TO THE PERSON AT HIS OR HER RESIDENCE,
16 PRINCIPAL OFFICE, OR PLACE OF BUSINESS.

17 (2) A VERIFIED RETURN BY THE INDIVIDUAL SERVING THE DEMAND
18 OR PETITION SETTING FORTH THE MANNER OF THE SERVICE IS PRIMA
19 FACIE PROOF OF THE SERVICE. IN THE CASE OF SERVICE BY REGISTERED
20 MAIL, THE RETURN SHALL BE ACCOMPANIED BY THE RETURN POST OFFICE
21 RECEIPT OF DELIVERY OF THE DEMAND.