

**SUBSTITUTE FOR
HOUSE BILL NO. 5233**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 4701, 4702, 4703, 4704, 4705, 4706, 4707, and
4708 (MCL 600.4701, 600.4702, 600.4703, 600.4704, 600.4705,
600.4706, 600.4707, and 600.4708), section 4701 as amended by 2010
PA 363, section 4702 as amended by 2012 PA 350, sections 4703,
4704, 4705, and 4708 as amended by 2006 PA 128, and sections 4706
and 4707 as added by 1988 PA 104.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4701. As used in this chapter:

2 (a) "Crime" means committing, attempting to commit, conspiring
3 to commit, or soliciting another person to commit any of the
4 following offenses in connection with which the forfeiture of
5 property is sought:

6 (i) A violation of part 111 of the natural resources and

1 environmental protection act, 1994 PA 451, MCL 324.11101 to
2 324.11153.

3 (ii) A violation of part 121 of the natural resources and
4 environmental protection act, 1994 PA 451, MCL 324.12101 to
5 324.12117.

6 (iii) A violation of section 4, 5, or 7 of the medicaid false
7 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.

8 (iv) A violation of section 2 or 3 of the Michigan antitrust
9 reform act, 1984 PA 274, MCL 445.772 and 445.773.

10 (v) A violation described in ~~section 409 of the uniform~~
11 ~~securities act, 1964 PA 265, MCL 451.809, or~~ section 508 of the
12 uniform securities act (2002), 2008 PA 551, MCL 451.2508.

13 (vi) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675
14 and 722.677.

15 (vii) A violation of any of the following:

16 (A) Section 49, 75, 94, 95, 96, 100, 104, 105, 106, 110, **110A**,
17 112, 117, 118, 119, 120, 121, 124, 145c, 145d, 157q, 157r, 174,
18 175, 176, 180, 181, 182, 213, 214, 218, 219a, 224, 248, 249, 250,
19 251, 252, 253, 254, 255, 263, 264, 271, 272, 273, 274, 300, 356,
20 357, 357a, 359, 360, **459**, **520B**, **520C**, **520D**, **520G**, 529, 530, 531,
21 535, 540c, or 540g of the Michigan penal code, 1931 PA 328, MCL
22 750.49, 750.75, 750.94, 750.95, 750.96, 750.100, 750.104, 750.105,
23 750.106, 750.110, **750.110A**, 750.112, 750.117, 750.118, 750.119,
24 750.120, 750.121, 750.124, 750.145c, 750.145d, 750.157q, 750.157r,
25 750.174, 750.175, 750.176, 750.180, 750.181, 750.182, 750.213,
26 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249, 750.250,
27 750.251, 750.252, 750.253, 750.254, 750.255, 750.263, 750.264,

1 750.271, 750.272, 750.273, 750.274, 750.300, 750.356, 750.357,
2 750.357a, 750.359, 750.360, **750.459, 750.520B, 750.520C, 750.520D,**
3 **750.520G,** 750.529, 750.530, 750.531, 750.535, 750.540c, and
4 750.540g.

5 (B) Chapter LXVIIA of the Michigan penal code, 1931 PA 328,
6 MCL 750.462a to ~~750.462j~~. **750.462H.**

7 (C) Chapter LXXXIII-A of the Michigan penal code, 1931 PA 328,
8 MCL 750.543a to 750.543z.

9 (viii) A violation of 1979 PA 53, MCL 752.791 to 752.797.

10 (ix) A violation of section 601 of the occupational code, 1980
11 PA 299, MCL 339.601.

12 (b) "Instrumentality of a crime" means any property, other
13 than real property, the use of which contributes directly and
14 materially to the commission of a crime.

15 (c) "Person" means an individual, corporation, limited
16 liability company, partnership, or other business entity, or an
17 unincorporated or voluntary association.

18 (d) "Proceeds of a crime" means any property obtained through
19 the commission of a crime, including any appreciation in the value
20 of the property.

21 (e) "Security interest" means any interest in real or personal
22 property that secures payment or performance of an obligation.

23 (f) "Substituted proceeds of a crime" means any property
24 obtained or any gain realized by the sale or exchange of proceeds
25 of a crime.

26 (G) **"WILLFUL BLINDNESS" MEANS THE INTENTIONAL DISREGARD OF**
27 **OBJECTIVE FACT THAT WOULD LEAD A REASONABLE PERSON TO CONCLUDE THAT**

1 THE PROPERTY WAS DERIVED FROM UNLAWFUL ACTIVITY OR WOULD BE USED
2 FOR AN UNLAWFUL PURPOSE.

3 Sec. 4702. (1) Except as otherwise provided in this section,
4 the following property is subject to seizure by, and forfeiture to,
5 a local unit of government or this state under this chapter:

6 (a) All personal property that is the proceeds of a crime, the
7 substituted proceeds of a crime, or an instrumentality of a crime.

8 (b) All real property that is the proceeds of a crime, ~~or~~ the
9 substituted proceeds of a crime, **OR AN INSTRUMENTALITY OF A CRIME**,
10 except real property that is the primary residence of the spouse or
11 a dependent child of the owner, unless that spouse or dependent
12 child had prior knowledge of, and consented to the commission of,
13 the crime.

14 (c) In the case of a crime that is a violation of section 49,
15 **CHAPTER LXVIIA**, or chapter LXXXIIII-A of the Michigan penal code,
16 1931 PA 328, MCL 750.49, **750.462A TO 750.462H**, and 750.543a to
17 750.543z, all property described in subdivisions (a) and (b), and
18 all real property or personal property that performed 1 of the
19 following functions:

20 (i) Contributed directly and materially to the commission of
21 the crime.

22 (ii) Was used to conceal the crime.

23 (iii) Was used to escape from the scene of the crime.

24 (iv) Was used to conceal the identity of 1 or more of the
25 individuals who committed the crime.

26 (2) Property is not subject to seizure or forfeiture if either
27 of the following circumstances exists:

1 (a) The owner of the property did not have prior knowledge of,
2 or consent to the commission of, the crime, **IF THE LACK OF PRIOR**
3 **KNOWLEDGE IS NOT THE RESULT OF THE OWNER'S WILLFUL BLINDNESS.**

4 (b) ~~The~~ **UPON LEARNING OF THE COMMISSION OF THE CRIME, THE**
5 owner **OF THE PROPERTY** served written **AND TIMELY** notice of the
6 commission of the crime upon an appropriate law enforcement agency,
7 and served a written **AND TIMELY** notice to quit upon the person who
8 committed the crime.

9 (3) The forfeiture of property encumbered by a security
10 interest is subject to the interest of the holder of the security
11 interest who did not have prior knowledge of, or consent to the
12 commission of, the crime.

13 (4) The forfeiture of property encumbered by an unpaid balance
14 on a land contract is subject to the interest of the land contract
15 vendor, if the vendor did not have prior knowledge of, or consent
16 to the commission of, the crime.

17 (5) The forfeiture of the substituted proceeds of a crime is
18 limited to the value of the proceeds of the crime ~~plus the~~ **IN**
19 **ADDITION TO BOTH OF THE FOLLOWING:**

20 (A) **THE** amount by which any restitution or damages owed to the
21 victim of the crime exceeds the value of the proceeds of the crime.

22 (B) **THE AMOUNT BY WHICH ANY REASONABLE EXPENSES OF THE**
23 **FORFEITURE PROCEEDINGS AND SALE, INCLUDING, BUT NOT LIMITED TO,**
24 **EXPENSES FOR MAINTAINING CUSTODY OF THE PROPERTY, AS WELL AS**
25 **ADVERTISING AND PROSECUTION COSTS, EXCEEDS THE VALUE OF THE**
26 **PROCEEDS OF THE CRIME.**

27 Sec. 4703. (1) Personal property subject to forfeiture under

1 this chapter may be seized pursuant to an order of seizure issued
2 by the court having jurisdiction over the property upon a showing
3 of probable cause that the property is subject to forfeiture.

4 (2) Personal property subject to forfeiture under this chapter
5 may be seized without process under any of the following
6 circumstances:

7 (a) The property is the proceeds of a crime, **THE SUBSTITUTED**
8 **PROCEEDS OF A CRIME**, or an instrumentality of a crime and the
9 seizure is incident to a lawful arrest.

10 (b) The seizure is pursuant to a valid search warrant.

11 (c) The seizure is pursuant to an inspection under a valid
12 administrative inspection warrant.

13 (d) There is probable cause to believe that the property is
14 directly or indirectly dangerous to health or safety.

15 (e) Exigent circumstances exist that preclude the obtaining of
16 a court order, and there is probable cause to believe that the
17 property is ~~the proceeds of a crime or an instrumentality of a~~
18 ~~crime.~~ **SUBJECT TO FORFEITURE UNDER THIS CHAPTER.**

19 (f) The property is the subject of a prior judgment in favor
20 of this state in a forfeiture proceeding.

21 (3) The attorney general, or the prosecuting attorney or the
22 city or township attorney for the local unit of government in which
23 the property is located, may apply ex parte for an order
24 authorizing the filing of a lien notice against real property
25 subject to forfeiture under this chapter. The application shall be
26 supported by a sworn affidavit setting forth probable cause for a
27 forfeiture action pursuant to this chapter. An order authorizing

1 the filing of a lien notice may be issued upon a showing of
2 probable cause to believe that the property is ~~the proceeds of a~~
3 ~~crime or the substituted proceeds of a crime.~~ **SUBJECT TO FORFEITURE**
4 **UNDER THIS CHAPTER.**

5 (4) Property that belongs to the victim of a crime shall
6 promptly be returned to the victim, except in the following
7 circumstances:

8 (a) If the property is contraband.

9 (b) If the ownership of the property is disputed until the
10 dispute is resolved.

11 (c) If the property is required to be retained as evidence
12 ~~pursuant to~~ **UNDER** section 4(4) of the crime victim's rights act,
13 1985 PA 87, MCL 780.754.

14 (5) Personal property seized under this chapter is not subject
15 to any other action to recover personal property, but is considered
16 to be in the custody of the seizing agency subject only to
17 subsection (4) and sections 4705 to 4707, or to an order and
18 judgment of the court having jurisdiction over the forfeiture
19 proceedings. Except as provided in subsection (6), when property is
20 seized under this chapter, the seizing agency may do either or both
21 of the following:

22 (a) Place the property under seal.

23 (b) Remove the property to a place designated by the court.

24 (6) The seizing agency may deposit money seized under this
25 chapter into an interest-bearing account in a financial
26 institution. As used in this subsection, "financial institution"
27 means a state or nationally chartered bank or a state or federally

House Bill No. 5233 (H-1) as amended September 16, 2014

1 chartered savings and loan association, savings bank, or credit
2 union whose deposits are insured by an agency of the United States
3 government and that maintains a principal office or branch office
4 located in this state under the laws of this state or the United
5 States.

6 (7) TITLE TO ALL PROPERTY SUBJECT TO FORFEITURE UNDER THIS
7 CHAPTER VESTS IN THE PLAINTIFF UPON THE COMMISSION OF THE CONDUCT
8 GIVING RISE TO FORFEITURE, TOGETHER WITH THE PROCEEDS OF THE
9 PROPERTY AFTER THE PROPERTY VESTS UNDER THIS SUBSECTION. ANY
10 SUBSEQUENT PROPERTY TRANSFER THAT OCCURS BEFORE THE FINAL
11 DISPOSITION OF THE FORFEITURE PROCEEDING IS VOID AGAINST THE
12 PLAINTIFF UNLESS THE TRANSFEREE CLAIMS AND ESTABLISHES ALL OF THE
13 FOLLOWING:

14 (A) THE TRANSFEREE HAS AN INTEREST OF RECORD IN THE PROPERTY.

15 (B) THE TRANSFEREE PURCHASED THE PROPERTY IN GOOD FAITH AND
16 FOR FAIR VALUE.

17 (C) THE PROPERTY INTEREST WAS ACQUIRED WITHOUT NOTICE OF THE
18 FORFEITURE PROCEEDING OR THE FACTS THAT GAVE RISE TO THE
19 PROCEEDING.

20 Sec. 4704. (1) Within ~~7~~ [28] days after personal property is
21 seized or a lien notice is filed against real property under
22 section 4703, the seizing agency or, if the property is real
23 property, the attorney general, the prosecuting attorney, or the
24 city or township attorney shall give notice of the seizure of the
25 property and the intent to forfeit and dispose of the property
26 according to this chapter to each of the following persons:

27 (a) If charges have been filed against a person for a crime,

1 the person charged.

2 (b) Each person with a known ownership interest in the
3 property.

4 (c) Each mortgagee, person holding a security interest, or
5 person having a lien that appears on the certificate of title or is
6 on file with the secretary of state or appropriate register of
7 deeds, if the property is real property, a mobile home, motor
8 vehicle, watercraft, or other personal property.

9 (d) Each holder of a preferred ship mortgage of record in the
10 appropriate public office pursuant to 46 USC 30101, 31301-31343, if
11 the property is a watercraft more than 28 feet long or a watercraft
12 that has a capacity of 5 net tons or more.

13 (e) Each person whose security interest is recorded with the
14 appropriate public office pursuant to the federal aviation act of
15 1958, Public Law 85-726, if the property is an aircraft, aircraft
16 engine, or aircraft propeller, or a part of an aircraft, aircraft
17 engine, or aircraft propeller.

18 (f) Each person with a known security interest in the
19 property.

20 (g) Each victim of the crime.

21 (2) The notice required under subsection (1) shall be a
22 written notice delivered to the person or sent to the person by
23 certified mail. If the name and address of the person are not
24 reasonably ascertainable or delivery of the notice cannot
25 reasonably be accomplished, the notice shall be published in a
26 newspaper of general circulation in the county in which the
27 personal property was seized or the real property is located for 10

1 successive publishing days. Proof of written notice or publication
2 shall be filed with the court having jurisdiction over the seizure
3 or forfeiture.

4 (3) If personal property was seized, the seizing agency shall
5 immediately notify the prosecuting attorney for the county in which
6 the property was seized or, if the attorney general is actively
7 handling a case involving or relating to the property, the attorney
8 general of the seizure of the property and the intent to forfeit
9 and dispose of the property according to this chapter.

10 (4) An attorney for a person described in subsection (1)(a)
11 shall be afforded a period of ~~60~~56 days within which to examine
12 money seized under section 4703. This ~~60-day~~56-DAY period shall
13 begin to run after notice is given under subsection (1) but before
14 the money is deposited into a financial institution.

15 Sec. 4705. (1) A person who did not have prior knowledge of,
16 or consent to the commission of, the crime, **OR A TRANSFEREE UNDER**
17 **SECTION 4703(7)**, may move the court having jurisdiction to return
18 the property or discharge the lien on the grounds that the property
19 was illegally seized, that the property is not subject to
20 forfeiture under this chapter, or that the person has an ownership
21 or security interest in the property and did not have prior
22 knowledge of, or consent to the commission of, the crime, **OR**
23 **ACQUIRED AN OWNERSHIP OR SECURITY INTEREST BY A TRANSFER THAT IS**
24 **NOT VOID UNDER SECTION 4703(7)**. The court shall hear the motion
25 within ~~30~~28 days after the motion is filed.

26 (2) At the hearing on the motion filed under subsection (1),
27 the attorney general, or the prosecuting attorney or the city or

1 township attorney for the local unit of government in which the
2 property was seized or the lien was filed, shall establish the
3 following:

4 (a) Probable cause to believe that the property is subject to
5 forfeiture under this chapter and that the person filing the motion
6 had prior knowledge of, or consented to the commission of, the
7 crime, **OR ACQUIRED HIS OR HER INTEREST BY A TRANSFER THAT IS VOID**
8 **UNDER SECTION 4703(7) . PRIOR WRITTEN NOTICE OF ILLEGAL USE OF THE**
9 **PROPERTY TO THE INTEREST HOLDER CONSTITUTES PRIMA FACIE EVIDENCE OF**
10 **KNOWLEDGE OF THE CRIME.**

11 (b) If the person filing the motion claims the property was
12 illegally seized, that the property was properly seized.

13 (3) If the attorney general, prosecuting attorney, or city or
14 township attorney fails to sustain his or her burden of proof under
15 subsection (2), the court shall order the return of the property,
16 including any interest earned on money deposited in a financial
17 institution as described in section 4703(6), or the discharge of
18 the lien.

19 (4) If a motor vehicle is seized under section 4703, the owner
20 of the vehicle may move the court having jurisdiction over the
21 forfeiture proceedings to require the seizing agency to file a lien
22 against the vehicle and to return the vehicle to the owner. The
23 court shall hear the motion within 7 days after the motion is
24 filed. If the owner of the vehicle establishes at the hearing that
25 he or she holds the legal title of the vehicle and that it is
26 necessary for him or her or his or her family to use the vehicle
27 pending the outcome of the forfeiture action, the court may order

House Bill No. 5233 (H-1) as amended September 16, 2014

1 the seizing agency to return the vehicle to the owner. If the court
2 orders the return of the vehicle to the owner, the court shall
3 order the seizing agency to file a lien against the vehicle **AND THE**
4 **OWNER TO POST A BOND IN AN AMOUNT EQUAL TO THE VALUE OF THE**
5 **VEHICLE.**

6 (5) The testimony of a person at a hearing held under this
7 section is not admissible against him or her in any criminal
8 proceeding except in a criminal prosecution for perjury. The
9 testimony of a person at a hearing held under this section does not
10 waive the person's constitutional right against self-incrimination.

11 Sec. 4706. **(1)** Except as otherwise provided by law, personal
12 property seized ~~pursuant to~~**UNDER** section 4703 shall be returned to
13 the owner, or a lien filed against real property under section 4703
14 or against a motor vehicle under section 4705 shall be discharged,
15 within 7 days after the occurrence of any of following:

16 (a) A warrant is not issued against a person for the
17 commission of a crime within ~~7~~**[28]** days after the property is seized
18 or, if the property is real property, within ~~7~~**[28]** days after the
19 lien is filed.

20 (b) All charges against the consenting legal owner relating to
21 the commission of a crime are dismissed.

22 (c) The consenting legal owner charged with committing a crime
23 is acquitted of the crime.

24 (d) In the case of multiple defendants, all persons charged
25 with committing a crime are acquitted of the crime.

26 (e) Entry of a court order ~~pursuant to~~**UNDER** this chapter for
27 the return of the property or the discharge of the lien.

House Bill No. 5233 (H-1) as amended September 16, 2014

1 (2) BEFORE THE EXPIRATION OF PERIOD OF TIME PRESCRIBED UNDER
2 SECTION (1) (A), THE PROSECUTING ATTORNEY, ATTORNEY GENERAL, OR THE
3 CITY OR TOWNSHIP ATTORNEY OF THE LOCAL UNIT OF GOVERNMENT WHERE THE
4 PROPERTY IS SEIZED OR LOCATED MAY PETITION THE COURT EX PARTE FOR
5 NOT MORE THAN AN ADDITIONAL [28] DAYS TO COMPLETE ITS INVESTIGATION
6 AND ISSUE CHARGES OR RETURN THE PROPERTY. THE COURT SHALL GRANT AN
7 EXTENSION UNDER THIS SUBSECTION TO THE EXTENT NECESSARY UPON
8 DETERMINING THAT THERE IS GOOD CAUSE SHOWN FOR THE EXTENSION.

9 Sec. 4707. (1) If property subject to forfeiture under this
10 chapter has a total value of less than \$100,000.00, within ~~7~~—28
11 days after the conviction of a person of a crime, the state or
12 local unit of government seeking forfeiture of the property shall
13 give notice of the seizure of the property or, if a lien has been
14 filed, the filing of the lien, and the intent to begin proceedings
15 to forfeit and dispose of the property according to this chapter to
16 each of the persons to whom notice is required to be given under
17 section 4704. Notice shall be given in the same manner as required
18 under section 4704.

19 (2) Within ~~21~~—28 days after receipt of the notice or of the
20 date of the first publication of the notice under subsection (1), a
21 person claiming an interest in property subject to the notice may
22 file a claim with the local unit of government or the state
23 expressing his or her interest in the property **AND ANY OBJECTION TO**
24 **FORFEITURE. THE OBJECTION SHALL BE WRITTEN, VERIFIED, AND SIGNED BY**
25 **THE CLAIMANT, AND INCLUDE A DESCRIPTION OF THE PROPERTY INTEREST**
26 **ASSERTED. THE VERIFICATION SHALL BE NOTARIZED AND INCLUDE A**
27 **CERTIFICATION STATING THAT THE UNDERSIGNED HAS EXAMINED THE CLAIM**

1 AND ANSWER AND BELIEVES IT TO BE, TO THE BEST OF HIS OR HER
2 KNOWLEDGE, TRUE AND COMPLETE.

3 (3) ~~If~~**EXCEPT IN THE CASE OF REAL PROPERTY, IF** no claim is
4 filed within the ~~21-day~~**28-DAY** period as described in subsection
5 (2), the local unit of government or the state shall declare the
6 property forfeited and shall dispose of the property according to
7 section 4708.

8 (4) If a claim is filed within the ~~21-day~~**28-DAY** period as
9 described in subsection (2), the local unit of government or the
10 state shall transmit the claim with a list and description of the
11 property to the attorney general or to the prosecuting attorney or
12 the city or township attorney for the local unit of government in
13 which the personal property was seized or the real property is
14 located. The attorney general, the prosecuting attorney, or the
15 city or township attorney shall institute a civil action for
16 forfeiture within ~~7-28~~ days after the expiration of the ~~21-day~~**28-**
17 **DAY** period.

18 (5) If property subject to forfeiture under this chapter has a
19 total value of more than \$100,000.00 **OR IS REAL PROPERTY**, the
20 attorney general, or the prosecuting attorney or the city or
21 township attorney for the local unit of government in which the
22 personal property was seized or the real property is located, shall
23 institute a civil action for forfeiture within ~~7-28~~ days after the
24 conviction of a person of a crime.

25 (6) At the forfeiture proceeding, the plaintiff shall prove
26 **ALL** the following by a preponderance of the evidence:

27 (a) ~~If the property is personal property, that~~**THAT** the

1 property is the proceeds of a crime, the substituted proceeds of a
2 crime, or an instrumentality of a crime.

3 ~~—— (b) If the property is real property, that the property is the~~
4 ~~proceeds of a crime or the substituted proceeds of a crime.~~

5 (B) ~~(e)~~ If a person, other than the person convicted of the
6 crime, claims an ownership or security interest in the property,
7 that the person claiming the interest in the property had prior
8 knowledge of, or consented to the commission of, the crime.

9 (C) IF A PERSON, OTHER THAN THE PERSON CONVICTED OF THE CRIME,
10 CLAIMS AN OWNERSHIP OR SECURITY INTEREST IN THE PROPERTY UNDER
11 SECTION 4703(7), THAT THE TRANSFER OCCURRED SUBSEQUENT TO THE
12 CRIMINAL CONDUCT THAT GAVE RISE TO FORFEITURE.

13 (7) IF THE PLAINTIFF CARRIES THE BURDEN OF PROOF DESCRIBED IN
14 SUBSECTION (6)(C), THE BURDEN OF PROOF SHIFTS TO THE CLAIMANT TO
15 PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT THE TRANSFER WAS NOT
16 VOID UNDER SECTION 4703(7).

17 (8) ~~(7)~~ If the plaintiff fails to meet the burden of proof
18 under subsection (6), the property shall be returned to the owner
19 within 7 days **AFTER THE COURT ISSUES A DISPOSITIVE ORDER.**

20 Sec. 4708. (1) When property is forfeited under this chapter,
21 the unit of government that seized or filed a lien against the
22 property may sell the property that is not required to be destroyed
23 by law and that is not harmful to the public and may dispose of the
24 proceeds and any money, including any interest earned on money
25 deposited in a financial institution as described in section
26 4703(6), negotiable instrument, security, or other thing of value
27 that is forfeited ~~pursuant to~~ **UNDER** this chapter in the following

1 order of priority:

2 (a) Pay any outstanding security interest of a secured party
3 who did not have prior knowledge of, or consent to the commission
4 of, the crime, **OR DID NOT ACQUIRE HIS OR HER INTEREST AS THE RESULT**
5 **OF A TRANSFER THAT IS VOID UNDER SECTION 4703(7) .**

6 (b) Satisfy any order of restitution in the prosecution for
7 the crime.

8 (c) Pay the claim of each person who shows that he or she is a
9 victim of the crime to the extent that the claim is not covered by
10 an order of restitution.

11 (d) Pay any outstanding lien against the property that has
12 been imposed by a governmental unit.

13 (e) Pay the proper expenses of the proceedings for forfeiture
14 and sale, including, but not limited to, expenses incurred during
15 the seizure process and expenses for maintaining custody of the
16 property, advertising, **AS WELL AS REASONABLE PROSECUTION** and court
17 costs.

18 (f) The balance remaining after the payment of restitution,
19 the claims of victims, outstanding liens, and expenses shall be
20 distributed by the court having jurisdiction over the forfeiture
21 proceedings to the unit or units of government substantially
22 involved in effecting the forfeiture. Seventy-five percent of the
23 money received by a unit of government under this subdivision shall
24 be used to enhance enforcement of the criminal laws and 25% of the
25 money shall be used to implement the **WILLIAM VAN REGENMORTER** crime
26 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of
27 government receiving money under this subdivision shall report

1 annually to the department of management and budget the amount of
2 money received under this subdivision that was used to enhance
3 enforcement of the criminal laws and the amount that was used to
4 implement the **WILLIAM VAN REGENMORTER** crime victim's rights act,
5 **1985 PA 87, MCL 780.751 TO 780.834.**

6 (2) In the course of selling real property ~~pursuant to~~ **UNDER**
7 subsection (1), the court that enters an order of forfeiture, on
8 motion of the unit of government to whom the property is forfeited,
9 may appoint a receiver to dispose of the real property forfeited.
10 The receiver is entitled to reasonable compensation. The receiver
11 has authority to do all of the following:

12 (a) List the forfeited real property for sale.

13 (b) Make whatever arrangements are necessary for the
14 maintenance and preservation of the forfeited real property.

15 (c) Accept offers to purchase the forfeited real property.

16 (d) Execute instruments transferring title to the forfeited
17 real property.

18 (3) **IF ANY PROPERTY INCLUDED IN THE ORDER OF FORFEITURE UNDER**
19 **THIS CHAPTER CANNOT BE LOCATED OR HAS BEEN SOLD TO A BONA FIDE**
20 **PURCHASER FOR VALUE, PLACED BEYOND THE JURISDICTION OF THE COURT,**
21 **SUBSTANTIALLY DIMINISHED IN VALUE BY THE CONDUCT OF THE DEFENDANT,**
22 **OR COMMINGLED WITH OTHER PROPERTY THAT CANNOT BE DIVIDED WITHOUT**
23 **DIFFICULTY OR UNDUE INJURY TO INNOCENT PERSONS, THE COURT MAY ORDER**
24 **FORFEITURE OF ANY OTHER REACHABLE PROPERTY OF THE OWNER UP TO THE**
25 **VALUE OF THE PROPERTY THAT IS UNREACHABLE AS DESCRIBED IN THIS**
26 **SUBSECTION. THIS SUBSECTION ONLY APPLIES AGAINST AN OWNER THAT IS**
27 **ALSO THE PERSON CONVICTED OF THE CRIME UNDERLYING THE FORFEITURE**

1 **ACTION.**

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 2. This amendatory act does not take effect
5 unless House Bill No. 5234 of the 97th Legislature is enacted into
6 law.