

HOUSE BILL No. 4504

April 22, 2015, Introduced by Reps. Kesto, Iden, Glenn, Johnson, Price, Sheppard, Cole, Brett Roberts and McBroom and referred to the Committee on Judiciary.

A bill to create the uniform forfeiture reporting act; to require certain reports by reporting agencies regarding seized and forfeited property; to prescribe the powers and duties of certain local and state officials; to provide for certain fees and the expenditure of those fees; to require certain audits; to require certain reports by the department of state police; to provide for the withholding of law enforcement funds under certain circumstances; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform forfeiture reporting act".

3 Sec. 2. (1) Subject to subsections (2) and (3), before
4 February 1 of each year, each reporting agency shall submit a
5 report to the department of state police summarizing the reporting

1 agency's activities for the preceding calendar year regarding the
2 forfeiture of property under sections 7521 to 7533 of the public
3 health code, 1978 PA 368, MCL 333.7521 to 333.7533, chapter 38 of
4 the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to
5 600.3840, and chapter 47 of the revised judicature act of 1961,
6 1961 PA 236, MCL 600.4701 to 600.4709. The annual report shall
7 contain the following information, as applicable:

8 (a) The number of forfeiture proceedings that were instituted
9 in the circuit court by the reporting agency.

10 (b) The number of forfeiture proceedings instituted by the
11 reporting agency that were concluded in the circuit court.

12 (c) The number of all forfeiture proceedings instituted by the
13 reporting agency that were pending in the circuit court at the end
14 of the year.

15 (d) The number of forfeitures effectuated by the reporting
16 agency without a forfeiture proceeding in the circuit court.

17 (e) The number of forfeiture proceedings subject to a plea or
18 any other similar agreement involving the property owner and
19 reporting agency.

20 (f) An inventory of property received by the reporting agency.
21 Property shall be reported in accordance with each of the following
22 categories:

23 (i) Residential real property.

24 (ii) Industrial or commercial real property.

25 (iii) Agricultural real property.

26 (iv) Money, negotiable instruments, and securities.

27 (v) Weapons.

1 (vi) Motor vehicles and other conveyances.

2 (vii) Other personal property of value.

3 (g) Each property inventoried under subdivision (f) shall
4 include a description that contains the following information, as
5 applicable:

6 (i) The date the property was seized.

7 (ii) The final disposition of the property, including the date
8 the property was ordered forfeited or disposed of.

9 (iii) The estimated value of the property.

10 (iv) The violation or nuisance alleged to have been committed
11 for which forfeiture is authorized.

12 (v) Whether any person was charged with the violation for
13 which forfeiture is authorized and whether that person was
14 ultimately convicted of that violation.

15 (vi) The number of claimants to the property.

16 (vii) Whether the forfeiture resulted from an adoptive
17 seizure. As used in this subdivision, "adoptive seizure" means that
18 all of the following apply:

19 (A) The seizure resulted from a violation of state law and
20 there is a federal basis for the forfeiture action.

21 (B) All of the preseizure activity and related investigations
22 were performed by this state or the local reporting agency before a
23 request was made to the federal government for adoption.

24 (C) The seizure did not result from a joint investigation or
25 task force case.

26 (h) The net total proceeds of all property forfeited through
27 actions instituted by the reporting agency that the reporting

1 agency is required to account for and report to the state treasurer
2 under either of the following, as applicable:

3 (i) 1919 PA 71, MCL 21.41 to 21.55.

4 (ii) The uniform budgeting and accounting act, 1968 PA 2, MCL
5 141.421 to 141.440a.

6 (i) For forfeiture proceedings instituted under the public
7 health code, 1978 PA 368, MCL 333.1101 to 333.25211:

8 (i) A statement explaining how any money received by the
9 reporting agency under section 7524(1)(b)(ii) of the public health
10 code, 1978 PA 368, MCL 333.7524, has been used or is being used for
11 law enforcement purposes.

12 (ii) A statement of the number of lights for plant growth or
13 scales donated under section 7524(2) of the public health code,
14 1978 PA 368, MCL 333.7524, the total value of those lights or
15 scales, and the elementary or secondary schools or institutions of
16 higher education to which they were donated.

17 (j) For nuisance proceedings instituted under chapter 38 of
18 the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to
19 600.3840, a statement explaining how net proceeds were directed
20 under section 3835 of the revised judicature act of 1961, 1961 PA
21 236, MCL 600.3835.

22 (k) For forfeiture proceedings instituted under chapter 47 of
23 the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to
24 600.4709, the amount of money received under section 4708(1)(f) of
25 the revised judicature act of 1961, 1961 PA 235, MCL 600.4708, that
26 was used to enhance enforcement of criminal laws and the amount of
27 money that was used to implement the William Van Regenmorter crime

1 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

2 (2) Subsection (1) applies only to proceedings commenced on or
3 after the effective date of this act.

4 (3) Subsection (1)(g) through (k) applies only to proceedings
5 that have been finalized for purposes of appeal.

6 Sec. 3. A null report shall be filed under this act by a
7 reporting agency that did not engage in any forfeitures during the
8 reporting period.

9 Sec. 4. A reporting agency may use forfeiture proceeds to pay
10 the reasonable costs associated with compiling, analyzing, and
11 reporting data under this act.

12 Sec. 5. (1) The records of a reporting agency regarding the
13 forfeiture of any property that is required to be reported under
14 this act shall be audited in accordance with 1 of the following, as
15 applicable:

16 (a) 1919 PA 71, MCL 21.41 to 21.55.

17 (b) The uniform budgeting and accounting act, 1968 PA 2, MCL
18 141.421 to 141.440a.

19 (2) The records of a reporting agency regarding the forfeiture
20 of any property required to be reported under this act may be
21 audited by an auditor of the local unit of government.

22 Sec. 6. The department of state police shall compile the
23 information reported to the department under sections 2 and 3.
24 Beginning January 1, 2016, the department shall file an annual
25 report of its findings under this section with the secretary of the
26 senate and with the clerk of the house of representatives and shall
27 place a copy of the report on its departmental website. The report

1 shall be filed not later than July 1 of each year. The report shall
2 identify any state departments or agencies or local units of
3 government that have failed to properly report the information
4 required under sections 2 and 3 with the department of state
5 police.

6 Sec. 7. As used in this act:

7 (a) "Local unit of government" means a village, city,
8 township, or county.

9 (b) "Reporting agency" means 1 of the following:

10 (i) If property is seized by or forfeited to a local unit of
11 government, that local unit of government.

12 (ii) If property is seized by or forfeited to this state, the
13 state department or agency effectuating the seizure or forfeiture.

14 Enacting section 1. Section 7524a of the public health code,
15 1978 PA 368, MCL 333.7524a, is repealed.

16 Enacting section 2. This act takes effect February 1, 2016.

17 Enacting section 3. This act does not take effect unless all
18 of the following bills of the 98th Legislature are enacted into
19 law:

20 (a) Senate Bill No.____ or House Bill No. 4503 (request no.
21 02300'15).

22 (b) Senate Bill No.____ or House Bill No. 4507 (request no.
23 02300'15 a).

24 (c) Senate Bill No.____ or House Bill No. 4506 (request no.
25 02302'15).