

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator VanderWall

ENROLLED SENATE BILL No. 761

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 7521a and 7523a (MCL 333.7521a and 333.7523a), section 7521a as added by 2019 PA 7 and section 7523a as added by 2019 PA 8.

The People of the State of Michigan enact:

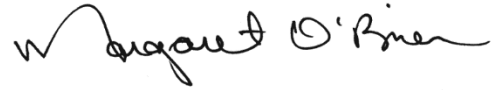
Sec. 7521a. (1) Except as otherwise provided in this section, property may be seized as provided in section 7522 for a violation of this article, but is not subject to forfeiture under section 7521 or disposition under section 7524 unless a criminal proceeding involving or relating to the property has been completed and the defendant pleads guilty to or is convicted of a violation of this article.

- (2) A criminal conviction or guilty plea under subsection (1) is not required if 1 or more of the following apply:
- (a) No person claims any interest in the property as provided under section 7523 or the owner of the property withdraws his or her claim in the property.
 - (b) The owner of the property waives the criminal conviction or plea requirement under subsection (1) and elects to proceed with the civil forfeiture proceeding.
 - (c) A criminal charge has been filed and 1 or both of the following apply:
 - (i) The defendant is outside this state and cannot reasonably be extradited or brought back to the state for prosecution.
 - (ii) Reasonable efforts have been made by law enforcement authorities to locate and arrest the defendant, but the defendant has not been located.
 - (3) If a person withdraws his or her claim under subsection (2)(a), the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or related to the property, the attorney general, must review the seizure of the property and approve the forfeiture of the property before the property may be forfeited.
 - (4) Subsection (1) does not prohibit the immediate destruction of property that may not be lawfully possessed by any person or that is dangerous to the health or safety of the public regardless of whether the person is convicted of a violation of this article.
 - (5) This section applies to forfeiture proceedings that are initiated on or after August 7, 2019.
 - (6) Except as provided in subsection (7), this section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds \$50,000.00, excluding the value of contraband.
 - (7) This section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds \$20,000.00, excluding the value of contraband, initiated in connection with the seizure of property by law enforcement officers appointed by a public airport authority created under section 110 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.110, or by a regional airport authority created under section 139 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.139.

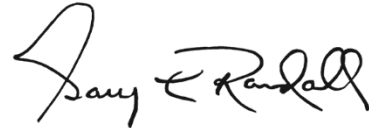
Sec. 7523a. (1) If section 7521a applies to a forfeiture case under this article, the seized property is subject to forfeiture under section 7521, and a person has filed a claim as provided under section 7523, a civil forfeiture action under this act must be stayed during the pendency of the applicable criminal proceedings. The civil forfeiture action must proceed after the defendant is convicted of, or enters a guilty plea to, the offense involved, or 1 or more of the events described in section 7521a(2) applies.

- (2) At the forfeiture hearing, the plaintiff must prove 1 or both of the following, as applicable:
- (a) The property is subject to forfeiture as provided in section 7521(1).
 - (b) If a person, other than the person who has been convicted of a violation of this article or entered into a plea agreement in connection with a violation of this article as provided under section 7521a(1), claims an ownership or security interest in the property, that the person claiming the interest in the property had prior knowledge of or consented to the commission of the crime.
 - (3) If the plaintiff fails to meet the burden of proof under subsection (2), property seized under section 7522 must be returned to the owner not more than 14 days from the date the court issues a dispositive order.
 - (4) Except as otherwise provided in section 7521a, property must be returned to the owner not more than 14 days after the occurrence of any of the following:
 - (a) A warrant is not issued against a person for the commission of a crime within 90 days after the property was seized.
 - (b) All charges against the person relating to the commission of a crime are dismissed.
 - (c) The person charged with committing a crime is acquitted of the crime.
 - (d) In the case of multiple defendants, all persons charged with committing a crime are acquitted of the crime.
 - (e) Entry of a court order under this article for the return of the property.
 - (5) A party to a forfeiture proceeding may seek an extension of the time periods described in this section for good cause. The court may grant a motion for an extension under this subsection for good cause shown.
 - (6) This section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds \$20,000.00, excluding the value of contraband, initiated in connection with the seizure of property by law enforcement officers appointed by a public airport authority created under

section 110 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.110, or by a regional airport authority created under section 139 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.139.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor