

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4703 Order of seizure; seizure without process; order authorizing filing of lien notice; return of property to victim; property in custody of seizing agency; powers of seizing agency; disposition of seized money; title to property subject to forfeiture.

Sec. 4703. (1) Personal property subject to forfeiture under this chapter may be seized pursuant to an order of seizure issued by the court having jurisdiction over the property upon a showing of probable cause that the property is subject to forfeiture.

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

(a) The property is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime and the seizure is incident to a lawful arrest.

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

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

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

(e) Exigent circumstances exist that preclude the obtaining of a court order, and there is probable cause to believe that the property is subject to forfeiture under this chapter.

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

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

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

(a) The property is contraband.

(b) The ownership of the property is disputed until the dispute is resolved.

(c) The property is required to be retained as evidence under section 4(4) of the crime victim's rights act, 1985 PA 87, MCL 780.754.

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

(a) Place the property under seal.

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

(6) The seizing agency may deposit money seized under this chapter into an interest-bearing account in a financial institution. As used in this subsection, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(7) Title to all property subject to forfeiture under this chapter vests in the plaintiff upon the commission of the conduct giving rise to forfeiture, together with the proceeds of the property after the property vests under this subsection. Any subsequent property transfer that occurs before the final disposition of the forfeiture proceeding is void against the plaintiff unless the transferee claims and establishes all of the following:

(a) The transferee has an interest of record in the property.

(b) The transferee purchased the property in good faith and for fair value.

(c) The property interest was acquired without notice of the forfeiture proceeding or the facts that gave rise to the proceeding.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2006, Act 128, Imd. Eff. May 5, 2006;—Am. 2014, Act 333, Eff. Jan. 14, 2015.