

152 forfeiture; and

153 (ii) limited to only that portion of property that is obtained directly as a result of the
 154 commission of the offense giving rise to the forfeiture; and

155 (b) cash received from the direct sale of, and property received from the direct transfer
 156 of, property described in Subsection (16)(a).

157 (17) "Program" means the State Asset Forfeiture Grant Program established in Section
 158 24-4-117.

159 (18) "Property" means all property, whether real or personal, tangible or intangible, but
 160 does not include contraband.

161 (19) "Prosecuting attorney" means:

162 (a) the attorney general and any assistant attorney general;

163 (b) any district attorney or deputy district attorney;

164 (c) any county attorney or assistant county attorney; and

165 (d) any other attorney authorized to commence an action on behalf of the state under
 166 this title.

167 (20) "Public interest use" means a:

168 (a) use by a government agency as determined by the legislative body of the agency's
 169 jurisdiction; or

170 (b) donation of the property to a nonprofit charity registered with the state.

171 (21) "Real property" means land and includes any building, fixture, improvement,
 172 appurtenance, structure, or other development that is affixed permanently to land.

173 Section 2. Section **24-4-102** is amended to read:

174 **24-4-102. Property subject to forfeiture.**

175 (1) Except as provided in Subsection (3), all property that has been used to directly
 176 facilitate the commission of a federal or state ~~Ĥ~~→ **criminal** ←~~Ĥ~~ offense and any direct
 176a proceeds of criminal

177 activity may be forfeited under this chapter, including:

178 (a) real property, including things growing on, affixed to, and found in land; and

179 (b) tangible and intangible personal property, including money, rights, privileges,
 180 interests, claims, and securities of any kind.

181 (2) If the property is used to facilitate a violation of Section 76-10-1204, 76-10-1205,
 182 76-10-1206, or 76-10-1222, the property subject to forfeiture under this section is limited to

214 Section 3. Section **24-4-103** is amended to read:

215 **24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.**

216 (1) (a) Within 30 days from the date that property is seized, an agency seeking to forfeit
217 property shall serve a notice of intent to seek forfeiture upon any claimants known to the
218 agency.

219 (b) The notice of intent to seek forfeiture shall describe ~~H~~→ with particularity ←~~H~~ the:

220 (i) date of the seizure;

221 (ii) property seized;

222 (iii) alleged relationship of the seized property to the conduct giving rise to forfeiture;

223 ~~[(iii)]~~ (iv) claimant's rights and obligations under this chapter, including the availability
224 of hardship relief in appropriate circumstances; and

225 ~~[(iv)]~~ (v) statutory basis for the forfeiture, including the judicial proceedings by which
226 property may be forfeited under this chapter.

227 (c) The notice of intent to seek forfeiture shall be served by:

228 (i) certified mail, return receipt requested, to the claimant's known address; or

229 (ii) personal service.

230 (d) The court may void any forfeiture made without notice under Subsection (1)(a),
231 unless the agency demonstrates:

232 (i) good cause for the failure to give notice to the claimant; or

233 (ii) that the claimant had actual notice of the seizure.

234 (2) (a) Once the agency has served each claimant with a notice of intent to seek
235 forfeiture, but no later than 60 days from the date that property is seized, the agency shall
236 present a written request for forfeiture to the prosecuting attorney.

237 (b) The written request shall:

238 (i) describe the property to be forfeited; and

239 (ii) include a copy of all reports, supporting documents, and other evidence necessary
240 for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture action.

241 Section 4. Section **24-4-104** is amended to read:

242 **24-4-104. Civil forfeiture procedure.**

243 (1) (a) ~~[The]~~ A law enforcement agency shall promptly return seized property, and the
244 prosecuting attorney may take no further action to effect the forfeiture of the property, unless

245 within ~~[75]~~ 60 days after the property is seized the prosecuting attorney:

246 (i) files a criminal forfeiture indictment or information under Subsection 24-4-105(2);

247 (ii) obtains a restraining order under Subsection 24-4-105(3);

248 (iii) files a petition under Subsection 24-4-114(1); or

249 (iv) files a civil forfeiture complaint.

250 (b) The prosecutor shall take all reasonable steps to ensure a forfeiture proceeding

251 initiated under this section is concluded in a timely manner.

252 ~~H→ [(b) A] (2) The complaint for civil forfeiture under Subsection (1)(a)(iv) shall describe~~
 253 ~~with reasonable particularity [the]:~~

254 ~~—— [(i)] (a) the property that is the subject of the forfeiture proceeding;~~

255 ~~—— [(b)] (a) a direct nexus between the seized property and the conduct giving rise to the~~
 256 ~~forfeiture under Subsection 24-4-102(2);~~

257 ~~—— [(ii)] (c) the date and place of seizure; and~~

258 ~~—— [(iii)] (d) the factual allegations that constitute a basis for forfeiture.~~

259 ~~—— [(2)] (3) (a) After a complaint for civil forfeiture is filed in compliance with the~~
 260 ~~requirements of Subsections (1) and (2), the prosecuting attorney shall serve a copy of the~~
 261 ~~complaint and summons upon each claimant known to the prosecuting attorney within 30 days.~~

262 ~~—— (b) The prosecuting attorney is not required to serve a copy of the complaint or the~~
 263 ~~summons upon any claimant who has disclaimed, in writing, an ownership interest in the~~
 264 ~~seized property.~~

265 ~~—— (c) Service of the complaint and summons shall be by:~~

266 ~~—— (i) personal service;~~

267 ~~—— (ii) certified mail, return receipt requested, to the claimant's known address; or~~

268 ~~—— (iii) service by publication, if the prosecuting attorney demonstrates to the court that~~
 269 ~~service cannot reasonably be made by personal service or certified mail.~~

270 ~~—— (d) Service by publication shall be by publication of two notices, in two successive~~
 271 ~~weeks, of the forfeiture proceeding:~~

272 ~~—— (i) in a newspaper of general circulation in the county in which the seizure occurred;~~

273 ~~and~~

274 ~~—— (ii) on [Utah's Public Legal Notice Website] the public legal notice website established~~
 275 ~~in Subsection 45-1-101(2)(b).~~

276 ~~—— (e) Service is effective upon the earlier of:~~

277 ~~—— (i) personal service;~~

278 ~~—— (ii) mailing of a written notice; or~~

279 ~~—— (iii) publication.~~

280 ~~—— (f) Upon motion of the prosecuting attorney and a showing of good cause, the court~~
 281 ~~may extend the period to complete service under this section for an additional 60 days.~~

282 ~~—— (g) An answer made by a claimant under this Subsection (3) shall be filed within 30~~
 283 ~~days after the complaint is served upon the claimant under this Subsection (3).~~ ←H

284 [(3)-(a)] H→ [(4)] (2) ←H In any case where the prosecuting attorney files a
 284a complaint for civil
 285 forfeiture, [a claimant may file an answer to the complaint] any person may assert an interest in
 286 seized property or file an answer to a complaint for civil forfeiture without posting bond with
 287 respect to the property that is the subject of the seizure or forfeiture action.

288 [(b) The answer shall be filed within 30 days after the complaint is served upon the
 289 claimant as provided in Subsection (2)(b).]

290 [(4)] H→ [(5)] (3) ←H Except as otherwise provided in this chapter, forfeiture
 290a proceedings are
 291 governed by the Utah Rules of Civil Procedure.

292 [(5)] H→ [(6)] (4) ←H The court shall take all reasonable steps to expedite civil forfeiture
 293 proceedings and shall give these proceedings the same priority as is given to criminal cases.

294 [(6)] H→ [(7)] (5) ←H In all suits or actions brought under this section for the civil
 294a forfeiture of any
 295 property, the burden of proof is on the prosecuting attorney to establish by clear and convincing
 296 evidence the extent to which, if any, the property is subject to forfeiture.

297 [(7)] H→ [(8)] (6) ←H A claimant may file an answer to a complaint for civil
 297a forfeiture without
 298 posting bond with respect to the property subject to forfeiture.

299 Section 5. Section **24-4-104.5** is enacted to read:

300 **24-4-104.5. Acquittal of criminal charge after civil proceeding.**

301 If in a subsequent criminal prosecution the defendant is acquitted of the criminal
 302 conduct that provides the nexus for the civil forfeiture proceeding under Section 24-4-104, the
 303 court shall:

304 (1) rescind the civil forfeiture order; and

305 (2) order full restitution to the defendant, including as applicable:

306 (a) the return of any forfeited property or proceeds in possession of the seizing agency;

493 litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in
494 attorney fees.

495 (4) If the forfeiture arises from any violation relating to wildlife resources, the
496 remaining currency and the proceeds or revenue from the sale of the property shall be deposited
497 in the Wildlife Resources Account created in Section 23-14-13.

498 (5) The remaining currency and the proceeds or revenue from the sale of the property
499 shall then be transferred:

500 (a) to the Uniform School Fund if the proceeds are from a civil forfeiture proceeding
501 under this chapter; and

502 (b) to the commission and deposited into the [account] Criminal Forfeiture Restricted
503 Account, if the proceeds are from a criminal forfeiture proceeding under this chapter.

504 Section 11. Section **24-4-116** is amended to read:

505 **24-4-116. Criminal Forfeiture Restricted Account.**

506 (1) There is created within the General Fund a restricted account known as the
507 "Criminal Forfeiture Restricted Account."

508 (2) Proceeds from [~~forfeited~~] property and [~~forfeited~~] money forfeited through state
509 criminal ~~H→~~ [~~forfeitures~~] forfeiture ~~←H~~ actions under Section 24-4-105 shall be deposited
509a into the account.

510 (3) Money in the account shall be appropriated to the commission for implementing the
511 program under Section 24-4-117.

512 Section 12. Section **24-4-117** is amended to read:

513 **24-4-117. State Asset Forfeiture Grant Program.**

514 (1) There is created the State Asset Forfeiture Grant Program.

515 (2) The program shall fund crime prevention, crime victim reparations, and law
516 enforcement activities that have the purpose of:

517 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
518 activities;

519 (b) weakening criminal enterprises by removing the instrumentalities of crime;

520 (c) reducing crimes involving substance abuse by supporting the creation,
521 administration, or operation of drug court programs throughout the state;

522 (d) encouraging cooperation between local, state, and multijurisdictional law
523 enforcement agencies;