

1 **ASSET FORFEITURE TRANSPARENCY AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Howard A. Stephenson**

5 House Sponsor: John Knotwell

6 

---

---

**LONG TITLE**

7 **General Description:**

8 This bill modifies the Forfeiture and Disposition of Property Act regarding reporting  
9 requirements.  
10

11 **Highlighted Provisions:**

12 This bill:

13 ▶ in addition to current reporting requirements, requires that law enforcement  
14 agencies reporting on a forfeiture action shall include:

- 15 • information on related criminal charges;
- 16 • the value of seized property;
- 17 • the agency's share of property received from a federal forfeiture case;

17a **↔** • the agency's costs incurred in making the required reports; ↔

- 18 • the agency's costs incurred for storage of storing seized property; and
- 19 • the legal costs incurred by the prosecuting attorney; and

20 ▶ amends the list of information to be provided regarding a forfeiture, and requires  
21 that the information be reported by a law enforcement agency, when:

22 • transferring disposition of property resulting from a forfeiture matter to the  
23 Commission on Criminal and Juvenile Justice; and

24 • the law enforcement agency has been awarded any share of property forfeited by  
25 the federal government.

26 **Money Appropriated in this Bill:**

27 None

S.B. 70



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

31a **§→** 24-4-115, as last amended by Laws of Utah 2014, Chapter 112 **←§**32 24-4-118, as enacted by Laws of Utah 2015, Chapter 134

33

34 *Be it enacted by the Legislature of the state of Utah:*34a **§→** Section 1. Section 24-4-115 is amended to read:34b **24-4-115. Disposition and allocation of forfeiture property.**34c **(1) Upon finding that property is subject to forfeiture under this chapter, the court shall order**  
34d **the property forfeited to the state.**34e **(2) (a) If the property is not currency, the seizing agency shall authorize a public or otherwise**  
34f **commercially reasonable sale of that property that is not required by law to be destroyed and that is**  
34g **not harmful to the public.**34h **(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, it shall be**  
34i **disposed of as follows:**34j **(i) an alcoholic product shall be sold if the alcoholic product is:**34k **(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic**  
34l **alcohol, or any other deleterious substance or liquid; and**34m **(B) otherwise in saleable condition; or**34n **(ii) an alcoholic product and its package shall be destroyed if the alcoholic product is impure,**  
34o **adulterated, or otherwise unfit for sale.**34p **(c) If the property forfeited is a cigarette or other tobacco product as defined in Section**  
34q **59-14-102, it shall be destroyed, except that prior to the destruction of any cigarette or other tobacco**  
34r **product seized pursuant to this part, the lawful holder of the trademark rights in the cigarette or**  
34s **tobacco product brand shall be permitted to inspect the cigarette.**34t **(d) The proceeds of the sale of forfeited property shall remain segregated from other property,**  
34u **equipment, or assets of the seizing agency until transferred to the state in accordance with this**  
34v **chapter.**34w **(3) From the forfeited property, both currency and the proceeds or revenue from the sale of**  
34x **the property, the seizing agency shall:**34y **(a) deduct the seizing agency's direct costs, expense of reporting under Section 24-4-118, and**  
34z **expenses of obtaining and maintaining the property pending forfeiture; and**34aa **(b) pay the office of the prosecuting attorney the legal costs associated with the litigation of the**  
34ab **forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.☺**

34ac           ⊕(4) If the forfeiture arises from any violation relating to wildlife resources, the remaining  
 34ad           currency and the proceeds or revenue from the sale of the property shall be deposited in the Wildlife  
 34ae           Resources Account created in Section 23-14-13.

34af           (5) The remaining currency and the proceeds or revenue from the sale of the property shall  
 34ag           then be transferred to the commission and deposited into the account. ←§

35           Section §→ [†] 2 ←§ . Section 24-4-118 is amended to read:

36           **24-4-118. Forfeiture reporting requirements.**

37           (1) On and after January 1, 2016, every state, county, municipal, or other law  
 38           enforcement agency shall[, when transferring the final disposition of any civil or criminal  
 39           forfeiture matter to the Commission on Criminal and Juvenile Justice as required under this  
 40           chapter,] provide all §→ reasonably ←§ available data described in Subsection (5), along with the  
 40a           transfer of any  
 41           applicable forfeited property[-]:

42           (a) when transferring the forfeited property resulting from the final disposition of any  
 43           civil or criminal forfeiture matter to the Commission on Criminal and Juvenile Justice as  
 44           required under Subsection 24-4-115(5); or

45           (b) when the agency has been awarded any equitable share of property forfeited by the  
 46           federal government.

47           (2) The Commission on Criminal and Juvenile Justice shall develop a standardized  
 48           report format that each agency shall use in reporting the data required under this section.

49           (3) The Commission on Criminal and Juvenile Justice shall annually, on or before  
 50           April 30, prepare a summary report of the case data submitted by each agency under Subsection  
 51           (1) during the prior calendar year.

52           (4) (a) If an agency does not comply with the reporting requirements under this section,  
 53           the Commission on Criminal and Juvenile Justice shall contact the agency and request that the  
 54           agency comply with the required reporting provisions.

55           (b) If an agency fails to comply with the reporting requirements under this section  
 56           within 30 days after receiving the request to comply, the Commission on Criminal and Juvenile  
 57           Justice shall report the noncompliance to the Utah attorney general, the speaker of the House of  
 58           Representatives, and the president of the Senate.

59 (5) The data for any civil or criminal forfeiture matter for which final disposition has  
60 been made under Subsection (1) shall include:

61 (a) the agency that conducted the seizure;

62 (b) the case number or other identification;

63 (c) the date or dates on which the seizure was conducted;

64 (d) the number of individuals having a known property interest in each seizure of  
65 property;

66 (e) the type of property seized;

67 (f) the alleged offense that was the cause for seizure of the property;

68 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the  
69 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether  
70 action on a charge is pending;

71 [~~g~~] (h) the type of enforcement action that resulted in the seizure, including an  
72 enforcement stop, a search warrant, or an arrest warrant;

73 [~~h~~] (i) whether the forfeiture procedure was civil or criminal;

74 (j) the value of the property seized, including currency and the estimated market value  
75 of any tangible property;

76 [~~i~~] (k) the final disposition of the matter, including whether final disposition was  
77 entered by stipulation of the parties, including the amount of property returned to any claimant,  
78 by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal  
79 forfeiture; [~~and~~]

80 (l) if the property was forfeited by the federal government, the amount of forfeited  
81 money awarded to the agency;

82 (m) the agency's direct costs ~~§~~→ , expense of reporting under this section, ←~~§~~ and  
82a expenses for obtaining and maintaining the seized  
83 property, as described in Subsection 24-4-115(3)(a);

84 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in  
85 Subsection 24-4-115(3)(b); and

86 [~~j~~] (o) if the property was transferred to a federal agency or any governmental entity  
87 not created under and subject to state law:

88 (i) the date of the transfer;

89 (ii) the name of the federal agency or entity to which the property was transferred;