

1                   **ASSET FORFEITURE TRANSPARENCY AMENDMENTS**

2                                   2017 GENERAL SESSION

3                                   STATE OF UTAH

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

5                           House Sponsor: John Knotwell

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7   **LONG TITLE**

8   **General Description:**

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

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

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

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

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

27 **Money Appropriated in this Bill:**

28           None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **24-4-115**, as last amended by Laws of Utah 2014, Chapter 112

34 **24-4-118**, as enacted by Laws of Utah 2015, Chapter 134

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36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **24-4-115** is amended to read:

38 **24-4-115. Disposition and allocation of forfeiture property.**

39 (1) Upon finding that property is subject to forfeiture under this chapter, the court shall  
40 order the property forfeited to the state.

41 (2) (a) If the property is not currency, the seizing agency shall authorize a public or  
42 otherwise commercially reasonable sale of that property that is not required by law to be  
43 destroyed and that is not harmful to the public.

44 (b) If the property forfeited is an alcoholic product as defined in Section **32B-1-102**, it  
45 shall be disposed of as follows:

46 (i) an alcoholic product shall be sold if the alcoholic product is:

47 (A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic  
48 alcohol, or any other deleterious substance or liquid; and

49 (B) otherwise in saleable condition; or

50 (ii) an alcoholic product and its package shall be destroyed if the alcoholic product is  
51 impure, adulterated, or otherwise unfit for sale.

52 (c) If the property forfeited is a cigarette or other tobacco product as defined in Section  
53 **59-14-102**, it shall be destroyed, except that prior to the destruction of any cigarette or other  
54 tobacco product seized pursuant to this part, the lawful holder of the trademark rights in the  
55 cigarette or tobacco product brand shall be permitted to inspect the cigarette.

56 (d) The proceeds of the sale of forfeited property shall remain segregated from other  
57 property, equipment, or assets of the seizing agency until transferred to the state in accordance

58 with this chapter.

59 (3) From the forfeited property, both currency and the proceeds or revenue from the  
60 sale of the property, the seizing agency shall:

61 (a) deduct the seizing agency's direct costs, expense of reporting under Section  
62 24-4-118, and expenses of obtaining and maintaining the property pending forfeiture; and

63 (b) pay the office of the prosecuting attorney the legal costs associated with the  
64 litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in  
65 attorney fees.

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

69 (5) The remaining currency and the proceeds or revenue from the sale of the property  
70 shall then be transferred to the commission and deposited into the account.

71 Section 2. Section **24-4-118** is amended to read:

72 **24-4-118. Forfeiture reporting requirements.**

73 (1) On and after January 1, 2016, every state, county, municipal, or other law  
74 enforcement agency shall~~[, when transferring the final disposition of any civil or criminal~~  
75 ~~forfeiture matter to the Commission on Criminal and Juvenile Justice as required under this~~  
76 ~~chapter,]~~ provide all reasonably available data described in Subsection (5), along with the  
77 transfer of any applicable forfeited property[-];

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

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

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

85 (3) The Commission on Criminal and Juvenile Justice shall annually, on or before

86 April 30, prepare a summary report of the case data submitted by each agency under Subsection  
87 (1) during the prior calendar year.

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

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

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

97 (a) the agency that conducted the seizure;

98 (b) the case number or other identification;

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

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

102 (e) the type of property seized;

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

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

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

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

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

112 [~~i~~] (k) the final disposition of the matter, including whether final disposition was  
113 entered by stipulation of the parties, including the amount of property returned to any claimant,

114 by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal  
115 forfeiture; [~~and~~]

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

118 (m) the agency's direct costs, expense of reporting under this section, and expenses for  
119 obtaining and maintaining the seized property, as described in Subsection [24-4-115\(3\)\(a\)](#);

120 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in  
121 Subsection [24-4-115\(3\)\(b\)](#); and

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

124 (i) the date of the transfer;

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

126 (iii) a reference to which reason under Subsection [24-4-114\(1\)\(a\)](#) justified the transfer;

127 (iv) the court or agency where the forfeiture case was heard;

128 (v) the date of the order of transfer of the property; and

129 (vi) the value of the property transferred to the federal agency, including currency and  
130 the estimated market value of any tangible property.

131 (6) On and after January 1, 2016, every state, county, municipal, or other law  
132 enforcement agency shall annually on or before April 30 submit a report for the prior calendar  
133 year to the Commission on Criminal and Juvenile Justice which states:

134 (a) whether the agency received an award from the State Asset Forfeiture Grant  
135 Program under Section [24-4-117](#) and, if so, the following information for each award:

136 (i) the amount of the award;

137 (ii) the date of the award;

138 (iii) how the award was used or is planned to be used; and

139 (iv) a statement signed by both the agency's executive officer or designee and by the  
140 agency's legal counsel, that:

141 (A) the agency has complied with all inventory, policy, and reporting requirements

142 under Section 24-4-117; and

143 (B) all awards were used for crime reduction or law enforcement purposes as specified  
144 in the application and that the awards were used only upon approval by the agency's legislative  
145 body; and

146 (b) whether the agency received any property, money, or other things of value pursuant  
147 to federal law as described in Subsection 24-4-114(2) and, if so, the following information for  
148 each piece of property, money, or other thing of value:

149 (i) the case number or other case identification;

150 (ii) the value of the award and the property, money, or other things of value received by  
151 the agency;

152 (iii) the date of the award;

153 (iv) the identity of any federal agency involved in the forfeiture;

154 (v) how the awarded property has been used or is planned to be used; and

155 (vi) a statement signed by both the agency's executive officer or designee and by the  
156 agency's legal counsel, that the agency has only used the award for crime reduction or law  
157 enforcement purposes authorized under Section 24-4-117, and that the award was used only  
158 upon approval by the agency's legislative body.

159 (7) (a) On or before July 1 of each year, the Commission on Criminal and Juvenile  
160 Justice shall submit notice of the annual reports in Subsection (3) and Subsection (6), in  
161 electronic format, to:

162 (i) the Utah attorney general;

163 (ii) the speaker of the House of Representatives, for referral to any House standing or  
164 interim committees with oversight over law enforcement and criminal justice;

165 (iii) the president of the Senate, for referral to any Senate standing or interim  
166 committees with oversight over law enforcement and criminal justice; and

167 (iv) each law enforcement agency.

168 (b) The reports described in Subsection (3) and Subsection (6), as well as the  
169 individual case data described in Subsection (1) for the previous calendar year, shall be

170 published on the Utah Open Government website at [open.utah.gov](http://open.utah.gov) on or before July 15 of each  
171 year.