

Senator Todd Weiler proposes the following substitute bill:

ASSET FORFEITURE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies provisions related to asset forfeiture.

Highlighted Provisions:

This bill:

- ▶ addresses grounds for seizing property;
- ▶ addresses custody and control of property, including removing a retention requirement for interviews of a minor;
- ▶ requires a court to make certain findings before the court can order property be returned to a person claiming property;
- ▶ addresses jurisdiction in state court;
- ▶ addresses voiding a forfeiture;
- ▶ addresses civil forfeiture;
- ▶ provides for release of property held for forfeiture on certain grounds;
- ▶ changes interest requirements;
- ▶ modifies transfer and sharing procedures;
- ▶ modifies grant provisions under the State Asset Forfeiture Grant Program;
- ▶ addresses forfeiture reporting requirements; and
- ▶ makes technical and conforming amendments.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **24-2-102**, as enacted by Laws of Utah 2013, Chapter 394

33 **24-2-103**, as last amended by Laws of Utah 2017, Chapter 362

34 **24-3-104**, as enacted by Laws of Utah 2013, Chapter 394

35 **24-4-103**, as enacted by Laws of Utah 2013, Chapter 394

36 **24-4-104**, as last amended by Laws of Utah 2017, Chapter 362

37 **24-4-108**, as enacted by Laws of Utah 2013, Chapter 394

38 **24-4-109**, as enacted by Laws of Utah 2013, Chapter 394

39 **24-4-114**, as last amended by Laws of Utah 2015, Chapter 134

40 **24-4-117**, as last amended by Laws of Utah 2015, Chapter 134

41 **24-4-118**, as last amended by Laws of Utah 2017, Chapter 303



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

44 Section 1. Section **24-2-102** is amended to read:

45 **24-2-102. Grounds for seizing property.**

46 (1) Property may be seized by a peace officer or any other person authorized by law
47 upon process issued by a court having jurisdiction over the property in accordance with the
48 Utah Rules of Criminal Procedure relating to search warrants or administrative warrants.

49 (2) Property may be seized under this chapter when:

50 [~~(a) the seizure is incident to an arrest;~~]

51 [~~(b)~~] (a) the property seized is the subject of a prior judgment in favor of the state in a
52 criminal injunction or forfeiture proceeding under this title; or

53 [~~(c)~~] (b) the peace officer or other person authorized by law has probable cause to
54 believe that the property:

55 (i) is directly or indirectly dangerous to health or safety;

56 (ii) is evidence of a crime;

57 (iii) has been used or was intended to be used to commit a crime; or

58 (iv) is proceeds of a crime.

59 Section 2. Section **24-2-103** is amended to read:

60 **24-2-103. Property seized by a peace officer -- Custody and control of property.**

61 (1) (a) When property is seized by a peace officer, the peace officer or the peace
62 officer's employing agency shall provide a receipt to the person from whom the property was
63 seized.

64 (b) The receipt shall describe the:

65 (i) property seized;

66 (ii) date of seizure; and

67 (iii) name and contact information of the peace officer's employing agency.

68 (c) In addition to the receipt, the person from whom the property [~~was~~] is seized shall
69 be provided with information regarding the forfeiture process, including:

70 (i) important time periods in the forfeiture process;

71 (ii) what happens to the property upon conviction or acquittal; and

72 (iii) how to make a claim for the return of the property.

73 (d) A copy of the receipt shall be maintained by the agency.

74 (e) If custody of the property is transferred to another agency, a copy of the receipt
75 under Subsection (1)(a) shall be provided with the property.

76 (2) The agency responsible for maintaining the property shall:

77 (a) hold all seized property in safe physical custody until [~~it~~] the seized property can be
78 disposed of as provided in this title; and

79 (b) maintain a record of the property that includes:

80 (i) a detailed inventory of all property seized;

81 (ii) the name of the person from whom [~~it was~~] the property is seized; and

82 (iii) the agency's case number.

83 (3) Property seized under this title is not recoverable by replevin, but is considered in
84 the agency's physical custody subject only to the orders of the court or the official having
85 jurisdiction.

86 (4) [~~All controlled~~] Controlled substances or other contraband that is seized by a peace
87 officer may be processed for evidentiary or investigative purposes, including sampling or other

88 preservation procedure [~~prior to~~] before disposal or destruction.

89 (5) (a) An agency shall deposit property in the form of cash or other readily negotiable
90 instruments into a separate, restricted, interest-bearing account maintained by the agency solely
91 for the purpose of managing and protecting the property from commingling, loss, or
92 devaluation.

93 (b) [~~Each~~] An agency shall have written policies for the identification, tracking,
94 management, and safekeeping of seized property, which shall include a prohibition against the
95 transfer, sale, or auction of seized property to any employee of the agency.

96 [~~(6) If a peace officer or the officer's employing agency records an interview of a minor
97 child during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, or
98 76-5-404.1, the agency shall retain a copy of the recording for 18 years following the date of
99 the last recording unless the prosecuting attorney requests in writing that the recording be
100 retained for an additional period of time.]~~

101 [~~(7)~~] (6) Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction
102 Information Act, governs the disposition of property held by a pawn or secondhand business in
103 the course of [~~its~~] the pawn or secondhand's business.

104 Section 3. Section **24-3-104** is amended to read:

105 **24-3-104. Petition to return property held as evidence.**

106 (1) (a) A person claiming ownership of property held as evidence may file a petition
107 with the court for the return of the property.

108 (b) The petition may be filed in:

109 (i) the court in which criminal proceedings have commenced regarding the conduct for
110 which the property is held as evidence; or

111 (ii) the district court of the jurisdiction where the property was seized, if there [~~are~~] is
112 no pending criminal [~~proceedings~~] proceeding.

113 (c) A copy of the petition shall be served on the prosecuting attorney and the agency
114 [~~which~~] that has possession of the property.

115 (2) The court shall provide an opportunity for an expedited hearing. After the
116 opportunity for an expedited hearing, the court may order that the property be:

117 (a) returned to the rightful owner as determined by the court;

118 (b) applied directly or by proceeds of the sale of the property toward restitution, fines,

119 or fees owed by the rightful owner in an amount set by the court;

120 (c) converted to a public interest use;

121 (d) held for further legal action;

122 (e) sold at public auction and the proceeds of the sale applied to a public interest use;

123 or

124 (f) destroyed.

125 (3) Before the court can order property be returned to a person claiming ownership of

126 property, the ~~[person shall establish]~~ court shall enter findings establishing by clear and

127 convincing evidence that the person:

128 (a) is the rightful owner; and

129 (b) may lawfully possess the property.

130 (4) If the court orders the property to be returned, the agency that possesses the

131 property shall return the property to the claimant as expeditiously as possible.

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

133 **24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.**

134 (1) (a) Property held for forfeiture is immediately subject to the legal custody and sole
135 in rem jurisdiction of the state court of competent jurisdiction.

136 (b) The state court of competent jurisdiction is the state district court:

137 (i) where a forfeiture proceeding is initiated; or

138 (ii) in the jurisdiction where the property is seized, if no criminal or forfeiture
139 proceeding is commenced or initiated.

140 ~~[(+)]~~ (2) (a) Within 30 days from the date that property is seized, an agency seeking to
141 forfeit property shall serve a notice of intent to seek forfeiture upon any ~~[claimants]~~ claimant
142 known to the agency.

143 (b) The notice of intent to seek forfeiture shall describe the:

144 (i) date of the seizure;

145 (ii) property seized;

146 (iii) claimant's rights and obligations under this chapter, including the availability of
147 hardship relief in appropriate circumstances; and

148 (iv) statutory basis for the forfeiture, including the judicial proceedings by which
149 property may be forfeited under this chapter.

150 (c) The notice of intent to seek forfeiture shall be served by:
151 (i) certified mail, return receipt requested, to the claimant's known address; or
152 (ii) personal service.
153 (d) The court [~~may void any~~] shall void a forfeiture made without notice under
154 Subsection [~~(1)~~] (2)(a), unless the agency demonstrates:
155 (i) good cause for the failure to give notice to the claimant; or
156 (ii) that the claimant had actual notice of the seizure.
157 [~~(2)~~] (3) (a) Once the agency has served each claimant with a notice of intent to seek
158 forfeiture, but no later than 60 days from the date that property is seized, the agency shall
159 present a written request for forfeiture to the prosecuting attorney.

160 (b) The written request shall:
161 (i) describe the property to be forfeited; and
162 (ii) include a copy of [~~all~~] the reports, supporting documents, and other evidence
163 necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture
164 action.

165 Section 5. Section **24-4-104** is amended to read:

166 **24-4-104. Civil forfeiture procedure.**

167 (1) (a) The law enforcement agency shall promptly return seized property, and the
168 prosecuting attorney may take no further action to effect the forfeiture of the property, unless
169 within 75 days after the property is seized the prosecuting attorney:

- 170 (i) files a criminal indictment or information under Subsection [24-4-105\(2\)](#);
- 171 (ii) obtains a restraining order under Subsection [24-4-105\(3\)](#);
- 172 (iii) files a petition under Subsection [24-4-114\(1\)](#); or
- 173 (iv) files a civil forfeiture complaint.

174 (b) A complaint for civil forfeiture shall describe with reasonable particularity the:

- 175 (i) property that is the subject of the forfeiture proceeding;
- 176 (ii) date and place of seizure; and
- 177 (iii) factual allegations that constitute a basis for forfeiture.

178 (2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the
179 complaint and summons upon each claimant known to the prosecuting attorney within 30 days.

180 (b) The prosecuting attorney is not required to serve a copy of the complaint or the

181 summons upon any claimant who has disclaimed, in writing, an ownership interest in the
182 seized property.

183 (c) Service of the complaint and summons shall be by:

184 (i) personal service;

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

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

188 (d) Service by publication shall be by publication of two notices, in two successive
189 weeks, of the forfeiture proceeding:

190 (i) in a newspaper of general circulation in the county in which the seizure occurred;

191 and

192 (ii) on Utah's Public Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#).

193 (e) Service is effective upon the earlier of:

194 (i) personal service;

195 (ii) mailing of a written notice; or

196 (iii) publication.

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

199 (3) (a) In any case where the prosecuting attorney files a complaint for forfeiture, a
200 claimant may file an answer to the complaint.

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

203 (c) When the property subject to forfeiture is valued at less than \$10,000, the agency
204 that has custody of the property shall return the property to the claimant if:

205 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has
206 filed an answer through an attorney or pro se, in accordance with Subsections (3)(a) and (b);

207 and

208 (B) the prosecuting attorney has not filed an information or indictment for criminal
209 conduct giving rise to the forfeiture within 60 days after the date that service of the forfeiture
210 complaint on the claimant was completed, or has not timely moved a court of competent
211 jurisdiction and demonstrated reasonable cause for an extension of time to file such an

212 information or indictment; or

213 (ii) the information or indictment for criminal conduct giving rise to the forfeiture was
214 dismissed and the prosecuting attorney has not refiled the information or indictment within
215 seven days of the dismissal.

216 (d) The return of property to the claimant under Subsection (3)(c) does not include any
217 expenses, costs, or attorney fees.

218 (e) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if a
219 claimant timely seeks to recover possession of seized property pursuant to Subsection
220 24-4-107(8), but shall resume immediately upon the seizing agency's or prosecuting attorney's
221 timely denial of the claim on the merits.

222 (4) Except as otherwise provided in this chapter, forfeiture proceedings are governed
223 by the Utah Rules of Civil Procedure.

224 (5) The court shall take all reasonable steps to expedite civil forfeiture proceedings and
225 shall give these proceedings the same priority as is given to criminal cases.

226 (6) In [~~all suits or actions~~] a suit or action brought under this section for the civil
227 forfeiture of any property, the burden of proof is on the prosecuting attorney to establish by
228 clear and convincing evidence that [~~the claimant engaged in conduct giving rise to the~~]
229 property is subject to forfeiture.

230 (7) A claimant may file an answer to a complaint for civil forfeiture without posting
231 bond with respect to the property subject to forfeiture.

232 (8) Property is subject to forfeiture under this chapter if the prosecuting attorney
233 establishes that:

234 (a) (i) the claimant has engaged in conduct giving rise to forfeiture;

235 [~~(b)~~] (ii) the property [~~was~~] is acquired by the claimant during that portion of the
236 conduct that gives rise to forfeiture, or within a reasonable time after that conduct is
237 committed; and

238 [~~(c)~~] (iii) there is no likely source for the purchase or acquisition of the property other
239 than the conduct that gives rise to forfeiture[-]; or

240 (b) (i) there is no known claimant;

241 (ii) there is cause to believe that the property has been used to commit a crime or is
242 proceeds of a crime; and

243 (iii) the prosecuting attorney has complied with the notice requirements of Subsection
244 (2)(d).

245 (9) A finding by the court that property is the proceeds of conduct giving rise to
246 forfeiture does not require proof that the property was the proceeds of any particular exchange
247 or transaction.

248 (10) If the prosecutor establishes that the property is subject to forfeiture, but the
249 claimant is subsequently criminally charged with the conduct giving rise to the forfeiture and is
250 acquitted of that charge on the merits:

251 (a) the property subject to the forfeiture or the open market value of the property, if the
252 property has been disposed of under Subsection 24-4-108(13), shall be returned to the
253 claimant; and

254 (b) any payments required under this chapter regarding the costs of holding the
255 property shall be paid to the claimant.

256 Section 6. Section 24-4-108 is amended to read:

257 **24-4-108. Release of property held for forfeiture on certain grounds.**

258 (1) After ~~the~~ a seizing agency gives notice ~~[that the property is to be held for~~
259 ~~forfeiture]~~ pursuant to Subsection 24-4-103(2), a person ~~[or entity]~~ may not alienate, convey,
260 sequester, or attach that property until the court issues a final order of dismissal or an order of
261 forfeiture regarding the property.

262 (2) The seizing agency or the prosecuting attorney may authorize the release of
263 property held for forfeiture to a claimant if retention of actual custody is unnecessary.

264 (3) ~~[With]~~ Subject to Subsection 24-4-114(1)(c), ~~with~~ the consent of a court of
265 competent jurisdiction, the prosecuting attorney may discontinue forfeiture proceedings and
266 transfer the action to another state or federal agency that has initiated forfeiture proceedings
267 involving the same property.

268 (4) Property held for forfeiture is ~~[considered to be in the custody of the district court~~
269 ~~and]~~ subject only to:

270 (a) the orders and decrees of the state court ~~[having jurisdiction over the property or the~~
271 ~~forfeiture proceedings]~~ identified in Subsection 24-4-103(1); and

272 (b) the acts of the agency that possesses the property or the prosecuting attorney
273 pursuant to this chapter.

274 (5) (a) A claimant may obtain release of property held for forfeiture by posting with the
275 district court a surety bond or cash in an amount equal to the current fair market value of the
276 property as determined by the court or by the parties' stipulation.

277 (b) The district court may refuse to order the release of the property if:

278 (i) the bond tendered is inadequate;

279 (ii) the property is contraband or is retained as evidence; or

280 (iii) the property is particularly altered or designed for use in conduct giving cause for
281 forfeiture.

282 (c) If a surety bond or cash is posted and the court later determines that the property is
283 subject to forfeiture, the court shall order the forfeiture of the surety bond or cash in lieu of the
284 property.

285 (6) A claimant is entitled to the immediate release of property held for forfeiture
286 pending the final determination of forfeiture if:

287 (a) the claimant had a possessory interest in the property at the time of seizure;

288 (b) continued possession by the agency or the state pending the final disposition of the
289 forfeiture proceedings will cause substantial hardship to the claimant, such as:

290 (i) preventing the functioning of a legitimate business;

291 (ii) preventing any individual from working;

292 (iii) preventing any child from attending elementary or secondary school;

293 (iv) preventing or hindering any person from receiving necessary medical care;

294 (v) hindering the care of an elderly or disabled dependent child or adult;

295 (vi) leaving any individual homeless; or

296 (vii) any other condition that the court determines causes a substantial hardship;

297 (c) the hardship from the continued possession of the property by the agency outweighs
298 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is
299 returned to the claimant during the pendency of the proceeding; and

300 (d) determination of substantial hardship under this Subsection (6) is based upon the
301 property's use [~~prior to~~] before the seizure.

302 (7) After the seizing agency gives notice that the property is to be held for forfeiture, a
303 claimant may file a motion for hardship release:

304 (a) in the court in which forfeiture proceedings have commenced; or

305 (b) in any district court having jurisdiction over the property, if forfeiture proceedings
306 have not yet commenced.

307 (8) The motion for hardship release shall also be served upon the prosecuting attorney
308 or the seizing agency within 10 days after filing the motion.

309 (9) The court shall render a decision on a motion for hardship filed under this section
310 not later than 20 days after the date of filing, or 10 days after service upon the prosecuting
311 attorney or seizing agency, whichever is earlier, unless this period is extended by the agreement
312 of both parties or by the court for good cause shown.

313 (10) (a) If the claimant demonstrates substantial hardship pursuant to this section, the
314 court shall order the property immediately released to the claimant pending completion of
315 proceedings by the government to obtain forfeiture of the property.

316 (b) The court may place conditions on release of the property as it finds necessary and
317 appropriate to preserve the availability of the property or its equivalent for forfeiture.

318 (11) The hardship release under this section does not apply to:

319 (a) contraband;

320 (b) currency or other monetary instrument or electronic funds; or

321 (c) property that is likely to be used to commit additional illegal acts if returned to the
322 claimant.

323 (12) (a) The court may order property that is held for forfeiture to be sold, as allowed
324 by Subsection (13), leased, rented, or operated to satisfy a specified interest of any claimant, or
325 to preserve the interests of any party on motion of that party.

326 (b) The court may enter orders under Subsection (12)(a) after written notice to persons
327 known to have an interest in the property, and after an opportunity for a hearing.

328 (13) (a) A sale may be ordered under Subsection (12) when the property is liable to
329 perish, waste, or be significantly reduced in value, or when the expenses of maintaining the
330 property are disproportionate to its value.

331 (b) A third party designated by the court shall dispose of the property by commercially
332 reasonable public sale and distribute the proceeds in the following order of priority:

333 (i) first, for the payment of reasonable expenses incurred in connection with the sale;

334 (ii) second, for the satisfaction of any interests, including those of interest holders, in
335 the order of their priority as determined by Title 70A, Uniform Commercial Code; and

336 (iii) third, any balance of the proceeds shall be preserved in the actual or constructive
337 custody of the court, in an interest-bearing account, subject to further proceedings under this
338 chapter.

339 Section 7. Section **24-4-109** is amended to read:

340 **24-4-109. Postseizure interest.**

341 In ~~[any]~~ a proceeding to forfeit currency or other negotiable instruments under this
342 chapter, the court shall award a prevailing party ~~[postjudgment]~~ postseizure interest on the
343 currency or negotiable instruments at the interest rate established under Section 15-1-4.

344 Section 8. Section **24-4-114** is amended to read:

345 **24-4-114. Transfer and sharing procedures.**

346 (1) (a) ~~[Seizing agencies or prosecuting attorneys]~~ A seizing agency or prosecuting
347 attorney who is authorized to bring forfeiture proceedings under this chapter may not directly
348 or indirectly transfer property held for forfeiture and not already named in a criminal
349 indictment to any federal agency or any governmental entity not created under and subject to
350 state law unless the court enters an order, upon petition of the prosecuting attorney, authorizing
351 the property to be transferred.

352 (b) If the commission is aware that an agency has been found by a court to have
353 intentionally violated the transfer provisions of this chapter, the agency is ineligible to
354 participate in the program during the following fiscal year.

355 ~~[(b) The]~~ (c) A court may not enter an order authorizing a transfer under Subsection
356 (1)(a) unless:

357 (i) the conduct giving rise to the investigation or seizure is interstate in nature and
358 sufficiently complex to justify the transfer;

359 (ii) the property may only be forfeited under federal law; or

360 (iii) pursuing forfeiture under state law would unreasonably burden a prosecuting
361 ~~[attorneys]~~ attorney or state law enforcement ~~[agencies]~~ agency.

362 ~~[(c)]~~ (d) A petition to transfer property to a federal agency under this section shall
363 include:

364 (i) a detailed description of the property seized;

365 (ii) the location where the property was seized;

366 (iii) the date the property was seized;

367 (iv) the case number assigned by the seizing law enforcement agency; and
368 (v) a declaration that:
369 (A) states the basis for relinquishing jurisdiction to a federal agency;
370 (B) contains the ~~[names and addresses of any claimants]~~ name and address of any
371 claimant then known; and
372 (C) is signed by the prosecutor.

373 ~~[(d)]~~ (e) The court may not authorize the transfer of property to the federal government
374 if the transfer would circumvent the protections of the Utah Constitution or of this chapter that
375 would otherwise be available to the property owner.

376 ~~[(e)(i) Prior to]~~ (f) (i) Before granting ~~[any]~~ an order to transfer pursuant to this
377 section, the court shall give any claimant the right to be heard with regard to the transfer by the
378 mailing of a notice to each address contained in the declaration.

379 (ii) If no claimant objects to the petition to transfer property within 10 days of the
380 mailing of the notice, the court shall issue its order under this section.

381 (iii) If the declaration does not include an address for a claimant, the court shall delay
382 its order under this section for 20 days to allow time for the claimant to appear and make an
383 objection.

384 ~~[(f)]~~ (g) (i) If a claimant contests a petition to transfer property to a federal agency, the
385 court shall promptly set the matter for hearing.

386 (ii) (A) The court shall determine whether the state may relinquish jurisdiction by a
387 standard of preponderance of the evidence.

388 (B) In making the determination, the court shall consider evidence regarding hardship,
389 complexity, judicial and law enforcement resources, and any other matter the court determines
390 to be relevant.

391 (2) ~~[A]~~ The property, money, or other things of value received by an agency pursuant
392 to federal law, which authorizes the sharing or transfer of all or a portion of forfeited property
393 or the proceeds of the sale of forfeited property to an agency:

394 (a) shall be used in compliance with federal laws and regulations relating to equitable
395 sharing;

396 (b) may be used for ~~[those]~~ the law enforcement purposes ~~[specified]~~ described in
397 Subsection [24-4-117](#)~~[(9)]~~ (10); and

398 (c) may not be used for [~~those~~] the law enforcement purposes prohibited in Subsection
399 24-4-117[~~(10)~~] (11).

400 (3) A state or local law enforcement agency awarded any equitable share of property
401 forfeited by the federal government;

402 (a) may only use the award money after approval of the use by the agency's legislative
403 body[-]; and

404 (b) shall report the date on which the award money was received and the amount of the
405 award money to the commission.

406 (4) An agency that receives an equitable share of property forfeited by the federal
407 government is ineligible to participate in the program the following fiscal year.

408 (5) Before transferring any property under Subsection (1), an agency shall adopt and
409 comply with a written policy governing the transfer of property that is consistent with the
410 provisions of this section.

411 Section 9. Section 24-4-117 is amended to read:

412 **24-4-117. State Asset Forfeiture Grant Program.**

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

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

416 (a) deterring crime by depriving [~~criminals~~] a criminal of the profits and proceeds of
417 [~~their~~] the criminal's illegal activities;

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

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

421 (d) encouraging cooperation between local, state, and multijurisdictional law
422 enforcement agencies;

423 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
424 proceeds of crime;

425 (f) increasing the equitability and accountability of the use of forfeited property used to
426 assist law enforcement in reducing and preventing crime; and

427 (g) providing aid to victims of criminally injurious conduct, as defined in Section
428 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office

429 for Victims of Crime.

430 (3) (a) When property is forfeited under this chapter and transferred to the account,
431 upon appropriation the commission shall allocate and administer grants to state agencies, local
432 law enforcement agencies, multijurisdictional law enforcement agencies, or political
433 subdivisions of the state in compliance with this section and to further the program purposes
434 under Subsection (2).

435 (b) The commission may retain up to [~~3%~~] 5% of the annual appropriation from the
436 account to pay for administrative costs incurred by the commission, including salary and
437 benefits, equipment, supplies, or travel costs that are directly related to the administration of
438 the program.

439 (4) [~~Agencies or political subdivisions~~] An agency or political subdivision shall apply
440 for an award from the program by completing and submitting forms specified by the
441 commission.

442 (5) In granting [~~the awards~~] an award, the commission shall ensure that the amount of
443 each award takes into consideration the:

444 (a) demonstrated needs of the agency;

445 (b) demonstrated ability of the agency to appropriately use the award; and

446 [~~(c) degree to which the agency's need is offset through the agency's participation in
447 federal equitable sharing or through other federal and state grant programs; and]~~

448 [~~(d)~~] (c) agency's cooperation with other state and local agencies and task forces.

449 (6) The commission may not disqualify an agency from being awarded a grant based
450 on the agency's participation in state or federal forfeiture.

451 [~~(6) Applying agencies or political subdivisions~~]

452 (7) (a) An applying agency or political subdivision shall demonstrate compliance with
453 [~~the~~] the reporting and policy requirements applicable under this chapter and under Title 63M,
454 Chapter 7, Criminal Justice and Substance Abuse, [~~in order~~] to qualify as a potential award
455 recipient.

456 (b) A law enforcement agency that fails to provide a report of its forfeiture activities
457 may not be awarded a grant during the following calendar year.

458 [~~(7)~~] (8) (a) [~~Recipient~~] A recipient law enforcement [~~agencies~~] agency may only use
459 award money after approval by the agency's legislative body.

460 (b) The award money is nonlapsing.

461 [~~8~~] (9) A recipient state agency, local law enforcement agency, multijurisdictional
462 law enforcement agency, or political subdivision shall use awards only for law enforcement
463 purposes as described in this section or for victim reparations as described in Subsection (2)(g),
464 and only as these purposes are specified by the agency or political subdivision in its application
465 for the award.

466 [~~9~~] (10) Permissible law enforcement purposes for which award money may be used
467 include:

468 (a) controlled substance interdiction and enforcement activities;

469 (b) drug court programs;

470 (c) activities calculated to enhance future law enforcement investigations;

471 (d) law enforcement training that includes:

472 (i) implementation of the Fourth Amendment to the United States Constitution and
473 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
474 right of due process;

475 (ii) protection of the rights of innocent property holders; and

476 (iii) the Tenth Amendment to the United States Constitution regarding states'
477 sovereignty and the states' reserved rights;

478 (e) law enforcement or detention facilities;

479 (f) law enforcement operations or equipment that are not routine costs or operational
480 expenses;

481 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
482 in part by the law enforcement agency or its legislative body;

483 (h) matching funds for other state or federal law enforcement grants; and

484 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
485 actions.

486 [~~10~~] (11) Law enforcement purposes for which award money may not be granted or
487 used include:

488 (a) payment of salaries, retirement benefits, or bonuses to any person;

489 (b) payment of expenses not related to law enforcement;

490 (c) uses not specified in the agency's award application;

491 (d) uses not approved by the agency's legislative body;
492 (e) payments, transfers, or pass-through funding to [~~entities~~] an entity other than a law
493 enforcement [~~agencies~~] agency; or

494 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

495 Section 10. Section **24-4-118** is amended to read:

496 **24-4-118. Forfeiture reporting requirements.**

497 (1) [~~On and after January 1, 2016, every~~] A state, county, municipal, or other law
498 enforcement agency shall provide [~~all~~] the reasonably available data described in Subsection
499 (5), along with the transfer of any applicable forfeited property:

500 (a) when [~~transferring the forfeited property resulting from~~] the final disposition [~~of~~
501 ~~any~~] has been made for a civil or criminal forfeiture matter [~~to the Commission on Criminal~~
502 ~~and Juvenile Justice as required under Subsection 24-4-115(5)~~]; or

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

505 (2) The [~~Commission on Criminal and Juvenile Justice~~] commission shall develop a
506 standardized report format that each agency shall use in reporting the data required under this
507 section.

508 (3) The [~~Commission on Criminal and Juvenile Justice~~] commission shall annually, on
509 or before April 30, prepare a summary report of the case data submitted by each agency under
510 Subsection (1) during the prior calendar year.

511 (4) (a) If an agency does not comply with the reporting requirements under this section,
512 the [~~Commission on Criminal and Juvenile Justice~~] commission shall contact the agency and
513 request that the agency comply with the required reporting provisions.

514 (b) If an agency fails to comply with the reporting requirements under this section
515 within 30 days after receiving the request to comply, the [~~Commission on Criminal and~~
516 ~~Juvenile Justice~~] commission shall report the noncompliance to the Utah attorney general, the
517 speaker of the House of Representatives, and the president of the Senate.

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

520 (a) the agency that conducted the seizure;

521 (b) the case number or other identification;

- 522 (c) the date or dates on which the seizure was conducted;
- 523 (d) the number of individuals having a known property interest in each seizure of
524 property;
- 525 (e) the type of property seized;
- 526 (f) the alleged offense that was the cause for seizure of the property;
- 527 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the
528 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether
529 action on a charge is pending;
- 530 (h) the type of enforcement action that resulted in the seizure, including an
531 enforcement stop, a search warrant, or an arrest warrant;
- 532 (i) whether the forfeiture procedure was civil or criminal;
- 533 (j) the value of the property seized, including currency and the estimated market value
534 of any tangible property;
- 535 (k) the final disposition of the matter, including whether final disposition was entered
536 by stipulation of the parties, including the amount of property returned to any claimant, by
537 default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal
538 forfeiture;
- 539 (l) if the property was forfeited by the federal government, the amount of forfeited
540 money awarded to the agency;
- 541 (m) the agency's direct costs, expense of reporting under this section, and expenses for
542 obtaining and maintaining the seized property, as described in Subsection [24-4-115\(3\)\(a\)](#);
- 543 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in
544 Subsection [24-4-115\(3\)\(b\)](#); and
- 545 (o) if the property was transferred to a federal agency or any governmental entity not
546 created under and subject to state law:
 - 547 (i) the date of the transfer;
 - 548 (ii) the name of the federal agency or entity to which the property was transferred;
 - 549 (iii) a reference to which reason under Subsection [24-4-114\(1\)\(a\)](#) justified the transfer;
 - 550 (iv) the court or agency where the forfeiture case was heard;
 - 551 (v) the date of the order of transfer of the property; and
 - 552 (vi) the value of the property transferred to the federal agency, including currency and

553 the estimated market value of any tangible property.

554 (6) On and after January 1, 2016, ~~[every]~~ a state, county, municipal, or other law
555 enforcement agency shall annually on or before April 30 submit a report for the prior calendar
556 year to the ~~[Commission on Criminal and Juvenile Justice which]~~ commission that states:

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

560 (i) the amount of the award;

561 (ii) the date of the award;

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

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

565 (A) the agency has complied with ~~[aH]~~ the inventory, policy, and reporting
566 requirements under Section 24-4-117; and

567 (B) ~~[aH]~~ the awards were used for crime reduction or law enforcement purposes as
568 specified in the application and that the awards were used only upon approval by the agency's
569 legislative body; and

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

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

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

576 (iii) the date of the award;

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

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

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

583 (7) (a) On or before July 1 of each year, the ~~[Commission on Criminal and Juvenile~~

584 ~~Justice]~~ commission shall submit notice of the annual reports in Subsection (3) and Subsection
585 (6), in electronic format, to:

586 (i) the Utah attorney general;

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

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

591 (iv) each law enforcement agency.

592 (b) The reports described in Subsection (3) and Subsection (6), as well as the
593 individual case data described in Subsection (1) for the previous calendar year, shall be
594 published on the Utah Open Government website at open.utah.gov on or before July 15 of each
595 year.