

HB 390 (1st Sub.) - Amendments to Asset Forfeiture

Sponsor: Rep. Lee B. Perry

Introduction:

HB 390 is a clarification bill that is partially the result of the Utah Supreme Court's decision in *Savely v. Utah Highway Patrol* (2018). The case involved a valid and lawful seizure based on probable cause of nearly \$500,000 in cash found in Savely's vehicle. However, due to unclear and inconsistent language in Title 24, the Court ordered the seized money be returned to the owner, and attorney's fees were paid out from the pockets of Utah taxpayers. Acknowledging the confusing language of Title 24, the Supreme Court stated in its opinion that it was "the prerogative of the legislature step back into this dialogue (by amending the [Act]) if it deems it appropriate to do so."

This bill addresses the Supreme Court's concerns by clarifying existing provisions. The bill also adds new provisions highlighted below.

- Lines 270-272: The person whose property was seized will be provided with information about the asset forfeiture process and as well as the self-help website for Utah Law Library.
- Lines 376-396: The property can be transferred for three reasons: (1) if it is cash and was in evidence or subject to a federal case before the seizure; (2) if it is not cash and becomes the subject of evidence before the agency is required to return it; (3) if an agency in another state requests a transfer because the property was used in an offense in that state; or (4) if the prosecuting attorney or federal prosecutor petitions for transfer of the property to the federal government.
- Lines 491-513: Provides the law enforcement agency the ability to return property to the claimant if the agency or prosecutor seeks to return it.
- Line 792-793: The time period within which a law enforcement agency must present a case to a prosecutor for forfeiture has been shortened from 60 to 45 days from the date of seizure.
- Lines 979-982: A civil forfeiture action can be converted to a criminal forfeiture at any time after the prosecutor files for the property's forfeiture. This encourages the prosecution to pursue a criminal rather than a civil forfeiture. This removes the "pay to play" element.
- Lines 1336-1337: Any law enforcement and prosecutorial agency with a certified asset forfeiture specialist may participate in the asset forfeiture grant fund whether or not the agency contributes to the fund.