

Effective 5/13/2014

24-4-104 Civil forfeiture procedure.

- (1)
 - (a) The law enforcement agency shall promptly return seized property, and the prosecuting attorney may take no further action to effect the forfeiture of the property, unless within 75 days after the property is seized the prosecuting attorney:
 - (i) files a criminal forfeiture indictment or information under Subsection 24-4-105(2);
 - (ii) obtains a restraining order under Subsection 24-4-105(3);
 - (iii) files a petition under Subsection 24-4-114(1); or
 - (iv) files a civil forfeiture complaint.
 - (b) A complaint for civil forfeiture shall describe with reasonable particularity the:
 - (i) property that is the subject of the forfeiture proceeding;
 - (ii) date and place of seizure; and
 - (iii) factual allegations that constitute a basis for forfeiture.
- (2)
 - (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the complaint and summons upon each claimant known to the prosecuting attorney within 30 days.
 - (b) The prosecuting attorney is not required to serve a copy of the complaint or the summons upon any claimant who has disclaimed, in writing, an ownership interest in the seized property.
 - (c) Service of the complaint and summons shall be by:
 - (i) personal service;
 - (ii) certified mail, return receipt requested, to the claimant's known address; or
 - (iii) service by publication, if the prosecuting attorney demonstrates to the court that service cannot reasonably be made by personal service or certified mail.
 - (d) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:
 - (i) in a newspaper of general circulation in the county in which the seizure occurred; and
 - (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).
 - (e) Service is effective upon the earlier of:
 - (i) personal service;
 - (ii) mailing of a written notice; or
 - (iii) publication.
 - (f) Upon motion of the prosecuting attorney and a showing of good cause, the court may extend the period to complete service under this section for an additional 60 days.
- (3)
 - (a) In any case where the prosecuting attorney files a complaint for forfeiture, a claimant may file an answer to the complaint.
 - (b) The answer shall be filed within 30 days after the complaint is served upon the claimant as provided in Subsection (2)(b).
- (4) Except as otherwise provided in this chapter, forfeiture proceedings are governed by the Utah Rules of Civil Procedure.
- (5) The court shall take all reasonable steps to expedite civil forfeiture proceedings and shall give these proceedings the same priority as is given to criminal cases.
- (6) In all suits or actions brought under this section for the civil forfeiture of any property, the burden of proof is on the prosecuting attorney to establish by clear and convincing evidence the extent to which, if any, the property is subject to forfeiture.

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

Amended by Chapter 112, 2014 General Session