

ASSET FORFEITURE REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill modifies the purposes of the State Asset Forfeiture Grant Program to include victim reparations.

Highlighted Provisions:

This bill:

► modifies the Forfeiture and Disposition of Property Act to provide that the funds in the State Asset Forfeiture Grant Program may be used for crime victim reparations.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

24-4-117, as enacted by Laws of Utah 2013, Chapter 394

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

Section 1. Section **24-4-117** is amended to read:

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

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

(2) The program shall fund crime prevention, crime victim reparations, and law



28 enforcement activities that have the purpose of:

29 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
30 activities;

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

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

34 (d) encouraging cooperation between local, state, and multijurisdictional law
35 enforcement agencies;

36 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
37 proceeds of crime; ~~and~~

38 (f) increasing the equitability and accountability of the use of forfeited property used to
39 assist law enforcement in reducing and preventing crime~~[-]; and~~

40 (g) providing aid to victims of criminally injurious conduct, as defined in Section
41 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office
42 for Victims of Crime.

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

48 (b) The commission may retain up to 3% of the annual appropriation from the account
49 to pay for administrative costs incurred by the commission, including salary and benefits,
50 equipment, supplies, or travel costs that are directly related to the administration of the
51 program.

52 (4) Agencies or political subdivisions shall apply for an award from the program by
53 completing and submitting forms specified by the commission.

54 (5) In granting the awards, the commission shall ensure that the amount of each award
55 takes into consideration the:

56 (a) demonstrated needs of the agency;

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

58 (c) degree to which the agency's need is offset through the agency's participation in

59 federal equitable sharing or through other federal and state grant programs; and

60 (d) agency's cooperation with other state and local agencies and task forces.

61 (6) Applying agencies or political subdivisions shall demonstrate compliance with all
62 reporting and policy requirements applicable under this chapter and under Title 63M, Chapter
63 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

64 (7) (a) Recipient law enforcement agencies may only use award money after approval
65 by the agency's legislative body.

66 (b) The award money is nonlapsing.

67 (8) A recipient state agency, local law enforcement agency, multijurisdictional law
68 enforcement agency, or political subdivision shall use awards only for law enforcement
69 purposes as described in this section or for victim reparations as described in Subsection (2)(g),
70 and only as these purposes are specified by the agency or political subdivision in its application
71 for the award.

72 (9) Permissible law enforcement purposes for which award money may be used
73 include:

74 (a) controlled substance interdiction and enforcement activities;

75 (b) drug court programs;

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

77 (d) law enforcement training that includes:

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

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

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

84 (e) law enforcement or detention facilities;

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

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

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

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

92 (10) Law enforcement purposes for which award money may not be granted or used
93 include:

- 94 (a) payment of salaries, retirement benefits, or bonuses to any person;
- 95 (b) payment of expenses not related to law enforcement;
- 96 (c) uses not specified in the agency's award application;
- 97 (d) uses not approved by the agency's legislative body;
- 98 (e) payments, transfers, or pass-through funding to entities other than law enforcement
99 agencies; or

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

101 (11) (a) For each fiscal year, any state, local, or multijurisdictional agency or political
102 subdivision that received an award shall prepare, and file with the commission, a report in a
103 form specified by the commission.

104 (b) The report shall include the following regarding each award:

- 105 (i) the agency's name;
- 106 (ii) the amount of the award;
- 107 (iii) the date of the award;
- 108 (iv) how the award has been used; and
- 109 (v) a statement signed by both the agency's or political subdivision's executive officer
110 or designee and by the agency's legal counsel, that:

111 (A) the agency or political subdivision has complied with all inventory, policy, and
112 reporting requirements of this chapter; and

113 (B) all awards were used for crime reduction, crime victim reparations, or law
114 enforcement purposes as specified in the application and only upon approval by the agency's or
115 political subdivision's legislative body.

116 (12) (a) The commission shall report in writing to the legislative Law Enforcement and
117 Criminal Justice Interim Committee annually regarding the forfeited property transferred to the
118 account, awards made by the program, uses of program awards, and any equitable share of
119 property forfeited by the federal government as reported by agencies pursuant to Subsection
120 [24-4-114\(4\)](#).

121 (b) The report shall be submitted annually on or before November 1.

122 Section 2. **Effective date.**

123 If approved by two-thirds of all the members elected to each house, this bill takes effect
124 upon approval by the governor, or the day following the constitutional time limit of Utah
125 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
126 the date of veto override.

Legislative Review Note
as of 2-25-14 3:59 PM

Office of Legislative Research and General Counsel