

ASSET FORFEITURE TRANSPARENCY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: John Knotwell

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

in addition to current reporting requirements, requires that law enforcement agencies reporting on a forfeiture action shall include:

- information on related criminal charges;
the value of seized property;
the agency's share of property received from a federal forfeiture case;
the agency's costs incurred for storage of storing seized property; and
the legal costs incurred by the prosecuting attorney; and

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

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

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

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **24-4-118**, as enacted by Laws of Utah 2015, Chapter 134



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

35 Section 1. Section **24-4-118** is amended to read:

36 **24-4-118. Forfeiture reporting requirements.**

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

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

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

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

49 (3) The Commission on Criminal and Juvenile Justice shall annually, on or before  
50 April 30, prepare a summary report of the case data submitted by each agency under Subsection  
51 (1) during the prior calendar year.

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

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

- 59 (5) The data for any civil or criminal forfeiture matter for which final disposition has  
60 been made under Subsection (1) shall include:
- 61 (a) the agency that conducted the seizure;
  - 62 (b) the case number or other identification;
  - 63 (c) the date or dates on which the seizure was conducted;
  - 64 (d) the number of individuals having a known property interest in each seizure of  
65 property;
  - 66 (e) the type of property seized;
  - 67 (f) the alleged offense that was the cause for seizure of the property;
  - 68 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the  
69 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether  
70 action on a charge is pending;
  - 71 ~~(g)~~ (h) the type of enforcement action that resulted in the seizure, including an  
72 enforcement stop, a search warrant, or an arrest warrant;
  - 73 ~~(h)~~ (i) whether the forfeiture procedure was civil or criminal;
  - 74 (j) the value of the property seized, including currency and the estimated market value  
75 of any tangible property;
  - 76 ~~(i)~~ (k) the final disposition of the matter, including whether final disposition was  
77 entered by stipulation of the parties, including the amount of property returned to any claimant,  
78 by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal  
79 forfeiture; ~~and~~
  - 80 (l) if the property was forfeited by the federal government, the amount of forfeited  
81 money awarded to the agency;
  - 82 (m) the agency's direct costs and expenses for obtaining and maintaining the seized  
83 property, as described in Subsection 24-4-115(3)(a);
  - 84 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in  
85 Subsection 24-4-115(3)(b); and
  - 86 ~~(j)~~ (o) if the property was transferred to a federal agency or any governmental entity  
87 not created under and subject to state law:
    - 88 (i) the date of the transfer;
    - 89 (ii) the name of the federal agency or entity to which the property was transferred;

90 (iii) a reference to which reason under Subsection 24-4-114(1)(a) justified the transfer;

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

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

93 (vi) the value of the property transferred to the federal agency, including currency and

94 the estimated market value of any tangible property.

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

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

100 (i) the amount of the award;

101 (ii) the date of the award;

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

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

105 (A) the agency has complied with all inventory, policy, and reporting requirements  
106 under Section 24-4-117; and

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

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

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

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

116 (iii) the date of the award;

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

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

119 (vi) a statement signed by both the agency's executive officer or designee and by the  
120 agency's legal counsel, that the agency has only used the award for crime reduction or law

121 enforcement purposes authorized under Section 24-4-117, and that the award was used only  
122 upon approval by the agency's legislative body.

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

126 (i) the Utah attorney general;

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

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

131 (iv) each law enforcement agency.

132 (b) The reports described in Subsection (3) and Subsection (6), as well as the  
133 individual case data described in Subsection (1) for the previous calendar year, shall be  
134 published on the Utah Open Government website at [open.utah.gov](http://open.utah.gov) on or before July 15 of each  
135 year.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**