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AMENDMENTS TO ASSET FORFEITURE

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to asset forfeiture.

Highlighted Provisions:

This bill:

- ▶ adds and modifies definitions;
- ▶ clarifies provisions related to the seizure and forfeiture of property and contraband;
- ▶ provides, with certain exceptions, that seized property may not be transferred or shared with a federal agency or an agency of another state;
- ▶ requires that a disclaimer of seized property by an individual be knowing and voluntary;
- ▶ provides that law enforcement agencies have 30 days to process seized cash or negotiable instruments;
- ▶ requires the cash or negotiable instrument be deposited into an interest-bearing account;
- ▶ amends provisions related to the retention of property for court proceedings;
- ▶ reduces the length of time for an agency to present a written request for forfeiture to a prosecutor;
- ▶ requires the attorney general's office to review written requests for forfeiture from certain counties;
- ▶ provides the attorney general's office with discretion to review any seizure of



28 \$10,000 or more;

29 ▶ prohibits the forfeiture of property seized upon the sole offense of possession of a
30 controlled substance;

31 ▶ permits grants to any agency involved in forfeiture activities regardless of whether
32 the agency contributed to the State Asset Forfeiture Fund;

33 ▶ requires certification of asset forfeiture specialists by Peace Officers Standards and
34 Training or Utah Prosecution Council; and

35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 24-1-102, as last amended by Laws of Utah 2017, Chapters 285 and 362

43 24-1-103, as enacted by Laws of Utah 2013, Chapter 394

44 24-2-102, as enacted by Laws of Utah 2013, Chapter 394

45 24-2-103, as last amended by Laws of Utah 2017, Chapter 362

46 24-3-101, as enacted by Laws of Utah 2013, Chapter 394

47 24-3-103, as last amended by Laws of Utah 2017, Chapters 285 and 334

48 24-3-104, as enacted by Laws of Utah 2013, Chapter 394

49 24-4-101, as enacted by Laws of Utah 2013, Chapter 394

50 24-4-102, as last amended by Laws of Utah 2017, Chapter 362

51 24-4-103, as enacted by Laws of Utah 2013, Chapter 394

52 24-4-104, as last amended by Laws of Utah 2017, Chapter 362

53 24-4-105, as last amended by Laws of Utah 2014, Chapter 112

54 24-4-107, as last amended by Laws of Utah 2017, Chapter 362

55 24-4-109, as enacted by Laws of Utah 2013, Chapter 394

56 24-4-110, as last amended by Laws of Utah 2017, Chapter 362

57 24-4-111, as enacted by Laws of Utah 2013, Chapter 394

58 24-4-112, as enacted by Laws of Utah 2013, Chapter 394

- 59 24-4-113, as enacted by Laws of Utah 2013, Chapter 394
- 60 24-4-115, as last amended by Laws of Utah 2017, Chapter 303
- 61 24-4-116, as enacted by Laws of Utah 2013, Chapter 394
- 62 24-4-117, as last amended by Laws of Utah 2015, Chapter 134
- 63 24-4-118, as last amended by Laws of Utah 2017, Chapter 303

64 ENACTS:

- 65 24-2-102.5, Utah Code Annotated 1953
- 66 24-2-104, Utah Code Annotated 1953
- 67 24-3-101.5, Utah Code Annotated 1953
- 68 24-4-103.5, Utah Code Annotated 1953
- 69 24-4-119, Utah Code Annotated 1953
- 70 53-13-110.5, Utah Code Annotated 1953

71 RENUMBERS AND AMENDS:

- 72 24-2-105, (Renumbered from 24-3-102, as enacted by Laws of Utah 2013, Chapter 394)
- 73 24-2-106, (Renumbered from 24-4-114, as last amended by Laws of Utah 2015,
- 74 Chapter 134)
- 75 24-2-107, (Renumbered from 24-4-108, as enacted by Laws of Utah 2013, Chapter 394)



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

78 Section 1. Section 24-1-102 is amended to read:

79 **24-1-102. Definitions.**

80 As used in this title:

81 (1) "Account" means the Criminal Forfeiture Restricted Account created in Section
82 24-4-116.

83 (2) (a) "Acquitted" means a finding-by a jury or a judge at trial that a claimant is not
84 guilty.

85 (b) "Acquitted" does not include:

- 86 (i) a verdict of guilty on a lesser or reduced charge;
- 87 (ii) a plea of guilty to a lesser or reduced charge; or
- 88 (iii) dismissal of a charge as a result of a negotiated plea agreement.

89 (3) "Agency" means ~~[any]~~ an agency of ~~[municipal, county, or state government,~~

90 including law enforcement agencies, law enforcement personnel, and multijurisdictional task
91 forces] this state or a political subdivision of this state, including a law enforcement agency or
92 a multijurisdictional task force.

93 (4) "Claimant" means ~~[any]:~~

94 (a) an owner of property as defined in this section;

95 (b) an interest holder as defined in this section; or

96 (c) ~~[person]~~ an individual or entity who asserts a claim to any property seized for
97 forfeiture under this title.

98 (5) "Commission" means the ~~[Utah]~~ State Commission on Criminal and Juvenile
99 Justice created in Section 63M-7-201.

100 (6) "Complaint" means a civil in rem or criminal complaint seeking the forfeiture of
101 any real or personal property under this title.

102 (7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other
103 high-speed data processing device that performs logical, arithmetic, and storage functions[;
104 ~~and~~].

105 (b) "Computer" includes any device that is used for the storage of digital or electronic
106 files, flash memory, software, or other electronic information.

107 ~~[(b)]~~ (c) "Computer" does not mean a computer server of an Internet or ~~[an]~~ electronic
108 service provider, or the service provider's employee, if used ~~[for the purpose of compliance~~
109 ~~with obligations pursuant to]~~ to comply with the requirements under 18 U.S.C. Sec. 2258A.

110 (8) "Constructive seizure" means a seizure of property where the property is left in the
111 control of the owner and ~~[the seizing]~~ an agency posts the property with a notice of intent to
112 seek forfeiture.

113 (9) (a) "Contraband" means any property, item, or substance that is unlawful to
114 produce or to possess under state or federal law.

115 ~~[(b) All controlled substances that are]~~

116 (b) "Contraband" includes:

117 (i) a controlled substance that is possessed, transferred, distributed, or offered for
118 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act~~[are~~
119 ~~contraband.]; or~~

120 ~~[(c) A computer is contraband if it:]~~

121 (ii) a computer that:

122 ~~[(+)]~~ (A) contains or houses child pornography, or is used to create, download, transfer,
123 upload to a storage account, or store any electronic or digital files containing child
124 pornography; or

125 ~~[(+)]~~ (B) contains the personal identifying information of another ~~[person]~~ individual,
126 as defined in Subsection 76-6-1102(1), whether that ~~[person]~~ individual is alive or deceased,
127 and the personal identifying information has been used to create false or fraudulent
128 identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part
129 5, Fraud.

130 (10) "Forfeit" means to divest a claimant of an ownership interest in property seized
131 under this title.

132 ~~[(+)]~~ (11) "Innocent owner" means a claimant who:

133 (a) held an ownership interest in property at the time ~~[the conduct subjecting the~~
134 ~~property to forfeiture occurred]~~ of the commission of an offense subjecting the property to
135 forfeiture under this title, and:

136 (i) did not have actual knowledge of the ~~[conduct]~~ offense subjecting the property to
137 forfeiture; or

138 (ii) upon learning of the ~~[conduct subjecting the property to forfeiture]~~ commission of
139 the offense, took reasonable steps to prohibit the ~~[illegal]~~ use of the property in the commission
140 of the offense; or

141 (b) acquired an ownership interest in the property and had no knowledge that the
142 ~~[illegal conduct subjecting the property to forfeiture]~~ commission of the offense subjecting the
143 property to forfeiture under this title had occurred or that the property had been seized for
144 forfeiture, and:

145 (i) acquired the property in a bona fide transaction for value;

146 (ii) was ~~[a person]~~ an individual, including a minor child, who acquired an interest in
147 the property through probate or inheritance; or

148 (iii) was a spouse who acquired an interest in property through dissolution of marriage
149 or by operation of law.

150 ~~[(+)]~~ (12) (a) "Interest holder" means a secured party as defined in Section
151 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a

152 security interest or encumbrance pertaining to an interest in property, whose interest would be
153 perfected against a good faith purchaser for value.

154 (b) "Interest holder" does not mean a person;

155 (i) who holds property for the benefit of or as an agent or nominee for another
156 person~~[;]~~; or

157 (ii) who is not in substantial compliance with any statute requiring an interest in
158 property to be recorded or reflected in public records in order to perfect the interest against a
159 good faith purchaser for value.

160 ~~[(12)]~~ (13) "Known address" means any address provided by a claimant to the peace
161 officer or agency at the time the property ~~[was]~~ is seized, or the claimant's most recent address
162 on record with a governmental entity if no address was provided at the time of the seizure.

163 ~~[(13)]~~ (14) "Legal costs" means the costs and expenses incurred by a party in a
164 forfeiture action.

165 ~~[(14)]~~ (15) "Legislative body" means:

166 (a) (i) the Legislature, county commission, county council, city commission, city
167 council, or town council that has fiscal oversight and budgetary approval authority over an
168 agency; or

169 (ii) the agency's governing political subdivision; or

170 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
171 memorandum of understanding executed by the agencies participating in the task force.

172 ~~[(15)]~~ (16) "Multijurisdictional task force" means a law enforcement task force or other
173 agency comprised of ~~[persons]~~ individuals who are employed by or acting under the authority
174 of different governmental entities, including federal, state, county or municipal governments,
175 or any combination of ~~[these]~~ federal, state, county, or municipal agencies.

176 ~~[(16)]~~ (17) "Owner" means ~~[any person]~~ an individual or entity, other than an interest
177 holder, that possesses a bona fide legal or equitable interest in real or personal property.

178 (18) "Peace officer" means an employee:

179 (a) of an agency;

180 (b) whose duties consist primarily of the prevention and detection of violations of laws
181 of this state or a political subdivision of this state; and

182 (c) who is authorized by the agency to seize property under this title.

183 ~~[(17)]~~ (19) (a) "Proceeds" means:

184 (i) property of any kind that is obtained directly or indirectly as a result of the
185 commission of an offense ~~[that gives rise to forfeiture]~~; or

186 (ii) any property acquired directly or indirectly from, produced through, realized
187 through, or caused by an act or omission regarding property under Subsection ~~[(17)]~~ (19)(a)(i).

188 (b) "Proceeds" includes any property of any kind without reduction for expenses
189 incurred in the acquisition, maintenance, or production of that property, or any other purpose
190 regarding property under Subsection ~~[(17)]~~ (19)(a)(i).

191 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
192 ~~[gives rise to forfeiture]~~ subjects the property to forfeiture.

193 ~~[(18)]~~ (20) "Program" means the State Asset Forfeiture Grant Program ~~[established]~~
194 created in Section [24-4-117](#).

195 ~~[(19)]~~ (21) (a) "Property" means all property, whether real or personal, tangible or
196 intangible~~[-but]~~.

197 (b) "Property" does not include contraband.

198 ~~[(20) "Prosecuting attorney" means:]~~

199 (22) Except as provided in Subsection [24-4-103\(3\)](#), "prosecuting attorney" means:

200 (a) the attorney general and ~~[any]~~ an assistant attorney general;

201 (b) ~~[any]~~ a district attorney or deputy district attorney;

202 (c) ~~[any]~~ a county attorney or assistant county attorney; and

203 (d) ~~[any other]~~ an attorney authorized to commence an action on behalf of the state
204 under this title.

205 ~~[(21)]~~ (23) "Public interest use" means a:

206 (a) use by a government agency as determined by the legislative body of the agency's
207 jurisdiction; or

208 (b) donation of the property to a nonprofit charity registered with the state.

209 ~~[(22)]~~ (24) "Real property" means land ~~[and includes]~~, including any building, fixture,
210 improvement, appurtenance, structure, or other development that is affixed permanently to
211 land.

212 Section 2. Section **24-1-103** is amended to read:

213 **24-1-103. Venue.**

214 ~~[(1) A state district court has jurisdiction over any action filed in accordance with this~~
215 ~~title regarding:]~~

216 ~~[(a) all interests in property if the property is within this state at the time the action is~~
217 ~~filed; and]~~

218 ~~[(b) a claimant's interests in the property, if the claimant is subject to the personal~~
219 ~~jurisdiction of the district court.]~~

220 ~~[(2)(a)]~~ (1) In addition to the venue provided for under Title 78B, Chapter 3, Part 3,
221 Place of Trial -- Venue, or any other provisions of law, a proceeding for forfeiture under this
222 title may be maintained in the judicial district in which:

223 ~~[(i)]~~ (a) any part of the property is found; or

224 ~~[(ii)]~~ (b) a civil or criminal action could be maintained against a claimant for the
225 ~~[conduct alleged to constitute grounds for forfeiture]~~ offense subjecting the property to
226 forfeiture under this title.

227 ~~[(b)]~~ (2) A claimant may obtain a change of venue under Section [78B-3-309](#).

228 Section 3. Section **24-2-102** is amended to read:

229 **24-2-102. Grounds for seizing property.**

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

233 (1) A peace officer may seize property and contraband upon a search warrant or
234 administrative warrant that is issued in accordance with the Utah Rules of Criminal Procedure.

235 (2) ~~[Property may be seized]~~ A peace officer may seize property and contraband under
236 this chapter when:

237 (a) the seizure is incident to an arrest;

238 (b) the property seized is the subject of a prior judgment in favor of the state in a
239 criminal injunction or forfeiture proceeding under this title; or

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

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

243 (ii) is evidence of ~~[a crime]~~ an offense;

244 (iii) has been used or was intended to be used to commit ~~[a crime]~~ an offense; or

245 (iv) is proceeds of [~~a crime~~] an offense.

246 Section 4. Section **24-2-102.5** is enacted to read:

247 **24-2-102.5. Seizure of contraband.**

248 If a peace officer seizes contraband, a person may not assert an ownership interest in the
249 contraband under this title.

250 Section 5. Section **24-2-103** is amended to read:

251 **24-2-103. Property seized by a peace officer.**

252 (1) To disclaim an ownership interest in property at the time of seizure, an individual's
253 disclaimer of the property shall be knowing, voluntary, and in writing.

254 [~~(1) (a) When~~] (2) If property is seized [by a peace officer], the peace officer or the
255 peace officer's employing agency shall provide a receipt to the person from [whom] which the
256 property [was] is seized.

257 [~~(b)~~] (3) The receipt shall describe the:

258 [~~(i)~~] (a) property seized;

259 [~~(ii)~~] (b) date of seizure; and

260 [~~(iii)~~] (c) name and contact information of the peace officer's employing agency.

261 [~~(e)~~] (4) (a) In addition to the receipt, [the person from whom the property was seized
262 shall be provided with information regarding the forfeiture process, including:] the peace
263 officer or agency shall provide the person with information on how the person may request the
264 return of seized property and the district court that has jurisdiction over the property.

265 (b) The information described in Subsection (4)(a) shall include contact information
266 for the Utah State Law Library's self-help center.

267 [~~(i) important time periods in the forfeiture process;~~]

268 [~~(ii) what happens to the property upon conviction or acquittal; and]~~

269 [~~(iii) how to make a claim for the return of the property.]~~

270 [~~(d) A copy of the receipt shall be maintained by the agency.]~~

271 (5) The agency shall maintain a copy of the receipt provided in accordance with
272 Subsection (2).

273 [~~(e)~~] (6) If custody of the property is transferred to another agency, [a copy of the
274 receipt under Subsection (1)(a) shall be provided with the property] the transferring agency
275 shall provide the other agency a copy of the receipt under Subsection (2) and the name of the

276 person from which the property was seized.

277 [~~(2) The agency responsible for maintaining the property shall:~~]

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

280 [~~(b) maintain a record of the property that includes:]~~

281 [~~(i) a detailed inventory of all property seized;]~~

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

283 [~~(iii) the agency's case number.]~~

284 [~~(3) Property seized under this title is not recoverable by replevin, but is considered in~~
285 ~~the agency's custody subject only to the orders of the court or the official having jurisdiction.]~~

286 [~~(4) All controlled substances or other contraband that is seized by a peace officer may~~
287 ~~be processed for evidentiary or investigative purposes, including sampling or other preservation~~
288 ~~procedure prior to disposal or destruction.]~~

289 [~~(5) (a) An agency shall deposit property in the form of cash or other readily negotiable~~
290 ~~instruments into a separate, restricted, interest-bearing account maintained by the agency solely~~
291 ~~for the purpose of managing and protecting the property from commingling, loss, or~~
292 ~~devaluation.]~~

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

296 [~~(6) If a peace officer or the officer's employing agency records an interview of a minor~~
297 ~~child during an investigation of a violation of Section [76-5-402.1](#), [76-5-402.3](#), [76-5-403.1](#), or~~
298 ~~[76-5-404.1](#), the agency shall retain a copy of the recording for 18 years following the date of~~
299 ~~the last recording unless the prosecuting attorney requests in writing that the recording be~~
300 ~~retained for an additional period of time.]~~

301 [~~(7) Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction~~
302 ~~Information Act, governs the disposition of property held by a pawn or secondhand business in~~
303 ~~the course of its business.]~~

304 Section 6. Section **24-2-104** is enacted to read:

305 **24-2-104. Custody of seized property and contraband.**

306 (1) If a peace officer seizes property or contraband under Section [24-2-102](#), the

307 property and contraband:

308 (a) is not recoverable by replevin; and

309 (b) is considered in the custody of the agency that employed the peace officer.

310 (2) An agency with custody of seized property shall:

311 (a) hold the property in safe custody until the property is disposed of in accordance
312 with this title; and

313 (b) maintain a record of the property, including:

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

315 (ii) the name of the person from whom the property was seized; and

316 (iii) the agency's case number.

317 (3) An agency may process, for evidentiary or investigative purposes, property or
318 contraband that is seized by a peace officer, including sampling or other preservation
319 procedure, before disposal or destruction.

320 (4) (a) Except as provided in Subsection (4)(b), no later than 30 days after the day on
321 which a peace officer seizes property in the form of cash or other readily negotiable
322 instruments under Section 24-2-102, an agency shall deposit the property into a separate,
323 restricted, interest-bearing account maintained by the agency solely for the purpose of
324 managing and protecting the property from commingling, loss, or devaluation.

325 (b) A prosecuting attorney may authorize one or more written extensions of the 30-day
326 period under Subsection (4)(a) if the property needs to maintain the form in which the property
327 was seized for evidentiary purposes or other good cause.

328 (c) An agency shall:

329 (i) have written policies for the identification, tracking, management, and safekeeping
330 of seized property; and

331 (ii) shall have a written policy that prohibits the transfer, sale, or auction of seized
332 property to an employee of the agency.

333 Section 7. Section **24-2-105**, which is renumbered from Section 24-3-102 is
334 renumbered and amended to read:

335 **~~[24-3-102].~~ 24-2-105. Retention of property.**

336 (1) ~~[When property is received in evidence by the court]~~ If seized property is admitted
337 into evidence during a court proceeding, the clerk of the court shall:

338 (a) retain the property; or ~~[the clerk shall]~~
 339 (b) return the property to the custody ~~[of the peace officer or the agency employing the~~
 340 ~~peace officer]~~ of the agency.

341 ~~[(2) The property shall be retained by the clerk or the officer or the officer's agency]~~

342 (2) (a) The agency shall retain seized or forfeited property:

343 (i) at the discretion of the prosecuting attorney; or

344 (ii) until all direct appeals and retrials are final~~[, at which time the property shall be~~
 345 ~~disposed of in accordance with this title].~~

346 (3) If the prosecuting attorney ~~[considers it necessary]~~ decides to retain control over the
 347 ~~[evidence]~~ seized or forfeited property under Subsection (2)(a) in anticipation of possible
 348 collateral attacks upon the judgment or for use in a potential prosecution, the ~~[prosecutor]~~
 349 prosecuting attorney may decline to authorize the disposal of the property ~~[under this chapter].~~

350 Section 8. Section **24-2-106**, which is renumbered from Section 24-4-114 is
 351 renumbered and amended to read:

352 ~~[24-4-114].~~ **24-2-106. Transfer and sharing procedures.**

353 ~~[(1) (a) Seizing agencies or prosecuting attorneys authorized to bring forfeiture~~
 354 ~~proceedings under this chapter may not directly or indirectly transfer property held for~~
 355 ~~forfeiture and not already named in a criminal indictment to any federal agency or any~~
 356 ~~governmental entity not created under and subject to state law unless the court enters an order;~~
 357 ~~upon petition of the prosecuting attorney, authorizing the property to be transferred.]~~

358 ~~[(b) The court may not enter an order authorizing a transfer under Subsection (1)(a)~~
 359 ~~unless:]~~

360 ~~[(i) the conduct giving rise to the investigation or seizure is interstate in nature and~~
 361 ~~sufficiently complex to justify the transfer;]~~

362 ~~[(ii) the property may only be forfeited under federal law; or]~~

363 ~~[(iii) pursuing forfeiture under state law would unreasonably burden prosecuting~~
 364 ~~attorneys or state law enforcement agencies.]~~

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

366 ~~[(i) a detailed description of the property seized;]~~

367 ~~[(ii) the location where the property was seized;]~~

368 ~~[(iii) the date the property was seized;]~~

- 369 ~~[(iv) the case number assigned by the seizing law enforcement agency; and]~~
370 ~~[(v) a declaration that:]~~
371 ~~[(A) states the basis for relinquishing jurisdiction to a federal agency;]~~
372 ~~[(B) contains the names and addresses of any claimants then known; and]~~
373 ~~[(C) is signed by the prosecutor.]~~
374 ~~[(d) The court may not authorize the transfer of property to the federal government if~~
375 ~~the transfer would circumvent the protections of the Utah Constitution or of this chapter that~~
376 ~~would otherwise be available to the property owner.]~~
377 (1) If a peace officer seizes property under this title, the property is subject to:
378 (a) the orders and decrees of the district court with jurisdiction over the property; and
379 (b) the acts of the agency with custody of the property and the prosecuting attorney in
380 accordance with this title.
381 (2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting
382 attorney may not directly or indirectly transfer or release property seized under this title to a
383 federal agency or to a governmental entity not created or subject to the laws of this state.
384 (3) An agency or prosecuting attorney may transfer or release property to a federal
385 agency or to a governmental entity not created or subject to the laws of this state if:
386 (a) the property is named in a federal criminal indictment, criminal information, or
387 criminal complaint before the day on which the agency files a notice of intent to seek forfeiture
388 in accordance with Section [24-4-103](#);
389 (b) an agency of another state requests the transfer of the property to the agency of that
390 state because the property was used in the commission of an offense in that state; or
391 (c) a district court authorizes in accordance with Subsection (5) the transfer or release
392 of the property to an agency of another state or a federal agency upon a petition by a
393 prosecuting attorney or federal prosecutor.
394 (4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district
395 court for the transfer or release of property.
396 (b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection
397 (4)(a), the petition shall include:
398 (i) a detailed description of the property seized;
399 (ii) the location where the property was seized;

400 (iii) the date the property was seized;
401 (iv) the case number assigned by the agency; and
402 (v) a declaration that:
403 (A) states the basis for relinquishing jurisdiction to a federal agency;
404 (B) contains the names and addresses of any known claimant; and
405 (C) is signed by the prosecuting attorney or federal prosecutor.
406 (5) (a) A district court may not authorize the transfer or release of property under
407 Subsection (3)(c), unless by a preponderance of the evidence:
408 (i) the offense giving rise to the investigation or seizure of the property is interstate in
409 nature and constitutes a felony violation of federal law;
410 (ii) the property may only be forfeited under federal law; or
411 (iii) forfeiting the property under state law would unreasonably burden the prosecuting
412 attorney or agency.
413 ~~[(e) (i) Prior to granting any order to transfer pursuant to this section, the court shall~~
414 ~~give any]~~
415 (b) (i) Before a district court may order the transfer of property in accordance with this
416 section, the court, the prosecuting attorney, or federal prosecutor shall mail a notice to each
417 address contained in the declaration under Subsection (4)(b)(v) in order to give a claimant the
418 right to be heard with regard to the transfer [by the mailing of a notice to each address
419 contained in the declaration].
420 (ii) If no claimant objects to the petition to transfer the property within 10 days of the
421 mailing of the notice, the court shall issue [its] the court's order [~~under~~] in accordance with this
422 section.
423 (iii) If the declaration does not include an address for a claimant, the court shall delay
424 [its] the court's order under this section for 20 days to allow time for the claimant to appear and
425 make an objection.
426 ~~[(f)]~~ (c) (i) If a claimant contests a petition to transfer the property to a federal agency
427 or to another governmental entity not created or subject to the laws of this state, the district
428 court shall promptly set the matter for hearing.
429 ~~[(ii) (A) The court shall determine whether the state may relinquish jurisdiction by a~~
430 ~~standard of preponderance of the evidence.]~~

431 ~~[(B)]~~ (ii) In making ~~[the]~~ a determination under Subsection (5)(a), the district court
 432 shall consider evidence regarding hardship, complexity, judicial and law enforcement
 433 resources, protections afforded under state and federal law, pending state or federal
 434 investigations, and any other relevant matter ~~[the court determines to be relevant]~~.

435 ~~[(2) All property, money, or other things of value received by an agency pursuant to~~
 436 ~~federal law, which authorizes the sharing or transfer of all or a portion of forfeited property or~~
 437 ~~the proceeds of the sale of forfeited property to an agency:]~~

438 (6) If an agency receives property, money, or other things of value under a federal law
 439 that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds
 440 from the sale of forfeited property, the agency:

441 (a) shall ~~[be used]~~ use the property, money, or other things of value in compliance with
 442 federal laws and regulations relating to equitable sharing;

443 (b) may ~~[be used for those law enforcement purposes specified]~~ use the property,
 444 money, or other things of value for a law enforcement purpose described in Subsection
 445 24-4-117[(9)](10); and

446 (c) may not ~~[be used for those law enforcement purposes]~~ use the property, money, or
 447 other thing of value for a law enforcement purpose prohibited in Subsection
 448 24-4-117[(10)](11).

449 ~~[(3)]~~ (7) ~~[A state or local law enforcement]~~ An agency awarded [any] an equitable
 450 share of property forfeited by the federal government may [only] use the award money only
 451 after approval of the use by the agency's legislative body.

452 Section 9. Section **24-2-107**, which is renumbered from Section 24-4-108 is
 453 renumbered and amended to read:

454 ~~[24-4-108].~~ **24-2-107. Release of property on certain grounds.**

455 (1) ~~[After the seizing agency gives notice that the property is to be held for forfeiture, a~~
 456 ~~person]~~ If an agency sends a notice of intent to forfeit seized property under Section 24-4-103,
 457 an individual or entity may not alienate, convey, sequester, or attach ~~[that]~~ the property until
 458 ~~[the court issues]~~ a court:

459 (a) issues a final order ~~[of dismissal or an order of forfeiture regarding the property:]~~ to
 460 dismiss an action under this title; or

461 (b) orders the forfeiture of the property.

462 (2) The ~~[seizing]~~ agency or the prosecuting attorney may authorize the release of seized
463 property ~~[held for forfeiture]~~ to a claimant if retention of actual custody is unnecessary.

464 ~~[(3) With the consent of a court of competent jurisdiction, the prosecuting attorney may~~
465 ~~discontinue forfeiture proceedings and transfer the action to another state or federal agency that~~
466 ~~has initiated forfeiture proceedings involving the same property.]~~

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

469 ~~[(a) the orders and decrees of the court having jurisdiction over the property or the~~
470 ~~forfeiture proceedings, and]~~

471 ~~[(b) the acts of the agency that possesses the property or the prosecuting attorney~~
472 ~~pursuant to this chapter.]~~

473 ~~[(5)]~~ (3) (a) A claimant may obtain release of seized property ~~[held for forfeiture]~~ by
474 posting ~~[with the district court]~~ a surety bond or cash with the court that is in an amount equal
475 to the current fair market value of the property as determined by the court or by the parties'
476 stipulation.

477 (b) ~~[The district]~~ A court may refuse to order the release of:

478 (i) the property if:

479 ~~[(i)]~~ (A) the bond tendered is inadequate;

480 ~~[(ii)]~~ (B) the property ~~[is contraband or]~~ is retained as evidence; or

481 ~~[(iii)]~~ (C) the property is particularly altered or designed for use in ~~[conduct giving~~
482 ~~cause for forfeiture.]~~ the commission of the offense subjecting the property to forfeiture; or

483 (ii) contraband.

484 (c) If a surety bond or cash is posted and the court later determines that the property ~~[is~~
485 ~~subject to forfeiture]~~ is fortified, the court shall order the forfeiture of the surety bond or cash
486 in lieu of the property.

487 ~~[(6)]~~ (4) A claimant is entitled to the immediate release of ~~[property held for forfeiture]~~
488 seized property, at any time, pending the final determination of forfeiture if:

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

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

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

493 (ii) preventing any individual from working;

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

495 (iv) preventing or hindering [~~any person~~] an individual from receiving necessary

496 medical care;

497 (v) hindering the care of [~~an~~] a dependent child or adult who is elderly or disabled

498 [~~dependent child or adult~~];

499 (vi) leaving [~~any~~] an individual homeless; or

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

501 (c) the hardship from the continued possession of the property by the agency outweighs

502 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if [~~it~~] the

503 property is returned to the claimant during the pendency of the proceeding; and

504 (d) the determination of substantial hardship under this Subsection [~~(6)~~] (4) is based

505 upon the property's use prior to the seizure.

506 [~~(7) After the seizing agency gives notice that the property is to be held for forfeiture, a~~

507 ~~claimant may file a motion for hardship release.~~]

508 (5) A claimant may request a hardship release:

509 (a) by motion in the court in which forfeiture proceedings have commenced; or

510 (b) by motion in [~~any~~] a district court [~~having jurisdiction over the property;~~] where

511 there is venue if forfeiture proceedings have not yet commenced.

512 [~~(8)~~] (6) The motion or petition for hardship release shall also be served upon the

513 prosecuting attorney or the [~~seizing~~] agency within [~~10 days after filing the motion~~] five days

514 after the day on which the motion or petition is filed.

515 [~~(9)~~] (7) The court shall:

516 (a) schedule a hearing on the motion or petition within 14 days after the day on which

517 the motion or petition is filed; and

518 (b) render a decision on a motion or petition for hardship filed under this section [~~not~~]

519 no later than 20 days after the date of [~~filing, or 10 days after service upon the prosecuting~~

520 ~~attorney or seizing agency, whichever is earlier~~] the hearing, unless this period is extended by

521 the agreement of both parties or by the court for good cause shown.

522 [~~(10)~~] (8) (a) If the claimant demonstrates substantial hardship [~~pursuant to~~] in

523 accordance with this section, the court shall order the property immediately released to the

524 claimant pending completion of [~~proceedings by the government to obtain forfeiture of the~~
525 ~~property~~] forfeiture proceedings.

526 (b) The court may place conditions on release of the property as [~~it~~] the court finds
527 necessary and appropriate to preserve the availability of the property or its equivalent for
528 forfeiture.

529 [~~(11)~~] (9) The hardship release under this section does not apply to:

530 (a) contraband; or

531 [~~(b) currency or other monetary instrument or electronic funds; or~~]

532 [~~(c)~~] (b) property that is likely to be used to commit additional illegal acts if returned to
533 the claimant.

534 [~~(12)~~] (10) (a) [~~The~~] Subject to Subsection (11), the court may order seized property
535 [that is held for forfeiture], for which a forfeiture proceeding is pending, to be sold, [as allowed
536 by Subsection (13);] leased, rented, or operated to satisfy a specified interest of any claimant, or
537 to preserve the interests of any party on motion of that party.

538 (b) The court may enter orders under Subsection [~~(12)~~] (10)(a) after:

539 (i) written notice to [~~persons~~] any person known to have an interest in the property[;];
540 and [~~after~~]

541 (ii) an opportunity for a hearing.

542 [~~(13)~~] (11) (a) [~~A sale may be ordered~~] A court may order a sale of property under
543 Subsection [~~(12)~~] (10) when:

544 (i) the property is liable to perish, waste, or be significantly reduced in value[~~, or~~
545 ~~when~~]; or

546 (ii) the expenses of maintaining the property are disproportionate to [~~its~~] the property's
547 value.

548 (b) A third party designated by the court shall:

549 (i) dispose of the property by a commercially reasonable public sale; and

550 (ii) distribute the proceeds in the following order of priority:

551 [~~(i)~~] (A) first, for the payment of reasonable expenses incurred in connection with the
552 sale;

553 [~~(ii)~~] (B) second, for the satisfaction of [~~any interests, including those of interest~~
554 ~~holders;~~] an interest, including an interest of an interest holder, in the order of [their] an interest

555 holder's priority as determined by Title 70A, Uniform Commercial Code; and
 556 [(iii)] (C) third, any balance of the proceeds shall be preserved in the actual or
 557 constructive custody of the court, in an interest-bearing account, subject to further proceedings
 558 under this chapter.

559 Section 10. Section **24-3-101** is amended to read:

560 **CHAPTER 3. DISPOSAL OF PROPERTY**

561 **24-3-101. Title.**

562 This chapter is known as [~~"Property Held as Evidence."~~] "Disposal of Property."

563 Section 11. Section **24-3-101.5** is enacted to read:

564 **24-3-101.5. Application of this chapter.**

565 The provisions of this chapter do not apply to property for which an agency has filed a
 566 notice of intent to seek forfeiture under Section [23-4-103](#).

567 Section 12. Section **24-3-103** is amended to read:

568 **24-3-103. Disposition of property.**

569 (1) [~~When the~~] If a prosecuting attorney determines that seized property no longer
 570 needs to be [~~held as evidence~~] retained for court proceedings, the prosecuting attorney may:

571 (a) petition the court to apply [~~any~~] the property that is money towards restitution,
 572 fines, fees, or monetary judgments owed by the owner of the property;

573 (b) petition the court for an order transferring ownership of any weapons to the
 574 [~~seizing~~] agency with custody for the agency's use and disposal in accordance with [~~applicable~~
 575 ~~law~~] Section [24-3-103.5](#), if the owner:

576 (i) is the [~~person~~] individual who committed the [~~crime~~] offense for which the weapon
 577 was seized; or

578 (ii) may not lawfully possess the weapon; or

579 (c) notify the agency [~~that has possession~~] with custody of the property [~~that the~~
 580 ~~property may be:~~] or contraband that:

581 (i) the property may be returned to the rightful owner, if the rightful owner may
 582 lawfully possess [~~it~~] the property; or

583 (ii) the contraband may be disposed of or destroyed[, ~~if the property is contraband~~].

584 (2) The agency shall exercise due diligence in attempting to notify the rightful owner of
 585 the property to advise the owner that the property is to be returned.

586 (3) (a) For a computer determined to be contraband, a court may order the reasonable
587 extraction and return of specifically described personal digital data to the rightful owner.

588 (b) The law enforcement agency shall determine a reasonable cost to [provide] extract
589 the data~~[, which shall be paid by the owner at the time of the request to extract the data].~~

590 (c) At the time of the request to extract the data, the owner of the computer shall pay
591 the agency the cost to extract the data.

592 (4) (a) Before ~~[the]~~ an agency may release seized property to a person claiming
593 ownership of the property, the person shall establish in accordance with Subsection (4)(b) that
594 the person:

595 (i) is the rightful owner; and

596 (ii) may lawfully possess the property.

597 (b) The person shall establish ownership under Subsection (4)(a) by providing to the
598 agency:

599 (i) identifying proof or documentation of ownership of the property; or

600 (ii) a notarized statement~~;~~ if proof or documentation is not available.

601 (5) (a) When seized property is returned to the owner, the owner shall sign a receipt
602 listing in detail the property that is returned ~~[shall be signed by the owner].~~

603 ~~[(b) The receipt shall be retained by the agency and a copy shall be provided to the~~
604 ~~owner.]~~

605 (b) The agency shall:

606 (i) retain a copy of the receipt; and

607 (ii) provide a copy of the receipt to the owner.

608 (6) (a) Except as provided in Subsection (6)(b), if the agency is unable to locate the
609 rightful owner of the property or ~~[if]~~ the rightful owner is not entitled to lawfully possess the
610 property, the agency may:

611 (i) apply the property to a public interest use;

612 (ii) sell the property at public auction and apply the proceeds of the sale to a public
613 interest use; or

614 (iii) destroy the property if the property is unfit for a public interest use or for sale.

615 (b) If the property described in Subsection (6)(a) is a firearm, the agency shall dispose
616 of the firearm in accordance with Section [24-3-103.5](#).

617 (7) Before applying the property or the proceeds from the sale of the property to a
 618 public interest use, the agency shall obtain from the legislative body of ~~[its]~~ the agency's
 619 jurisdiction:

620 (a) permission to apply the property or the proceeds to public interest use; and
 621 (b) the designation and approval of the public interest use of the property or the
 622 proceeds.

623 (8) If a peace office seizes property that at the time of seizure is held by a pawn or
 624 secondhand business in the course of the pawn or secondhand business's business, the
 625 provisions of Section 13-32a-116 shall apply to the disposition of the property.

626 Section 13. Section **24-3-104** is amended to read:

627 **24-3-104. Petition to return property.**

628 (1) (a) A person claiming ownership of property ~~[held as evidence]~~ that is being
 629 retained as evidence may file a petition with the court for the return of the property.

630 ~~[(b) The petition may be filed in:]~~

631 (b) A claimant may file the petition in:

632 (i) the court in which criminal proceedings have commenced regarding the ~~[conduct]~~
 633 offense for which the property is ~~[held as]~~ being retained as evidence; or

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

636 (c) ~~[A copy of the petition shall be served]~~ A claimant shall serve a copy of the petition
 637 on the prosecuting attorney and the agency [which has possession] with custody of the
 638 property.

639 (2) (a) The court shall provide an opportunity for an expedited hearing.

640 (b) After the opportunity for an expedited hearing, the court may order that the property
 641 ~~[be]~~ is:

642 ~~[(a)]~~ (i) returned to the rightful owner as determined by the court;

643 ~~[(b)]~~ (ii) if the offense subjecting the property to seizure results in a conviction, applied
 644 directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the
 645 rightful owner in an amount set by the court;

646 ~~[(c)]~~ (iii) converted to a public interest use;

647 ~~[(d)]~~ (iv) held for further legal action;

648 ~~[(e)]~~ (v) sold at public auction and the proceeds of the sale applied to a public interest
649 use; or

650 ~~[(f)]~~ (vi) destroyed.

651 (3) Before the court can order property be returned to a ~~[person claiming ownership of~~
652 ~~property, the person]~~ claimant, the claimant shall establish, by clear and convincing evidence,
653 that the ~~[person]~~ claimant:

654 (a) is the rightful owner; and

655 (b) may lawfully possess the property.

656 (4) If the court orders the property to be returned to the claimant, the agency ~~[that~~
657 ~~possesses]~~ with custody of the property shall return the property to the claimant as
658 expeditiously as possible.

659 Section 14. Section **24-4-101** is amended to read:

660 **CHAPTER 4. FORFEITURE OF SEIZED PROPERTY**

661 **24-4-101. Title.**

662 This chapter is known as ~~["Property Held for Forfeiture."]~~ "Forfeiture of Seized
663 Property."

664 Section 15. Section **24-4-102** is amended to read:

665 **24-4-102. Property subject to forfeiture.**

666 ~~[(1) Except as provided in Subsection (3), property that has been used to facilitate the~~
667 ~~commission of a federal or state criminal offense and any proceeds of criminal activity may be~~
668 ~~forfeited under this chapter, including:]~~

669 ~~[(a) real property, including things growing on, affixed to, and found in land; and]~~

670 ~~[(b) tangible and intangible personal property, including money, rights, privileges,~~
671 ~~interests, claims, and securities of any kind.]~~

672 (1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

673 (a) seized property that was used to facilitate the commission of an offense that is a
674 violation of federal or state law; and

675 (b) seized proceeds.

676 (2) If ~~[the]~~ seized property is used to facilitate ~~[a]~~ an offense that is a violation of

677 Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, ~~[the property subject to~~
678 ~~forfeiture under this section is limited to property, the seizure or forfeiture of which would not]~~

679 an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the
 680 exercise of an affected party's rights under the First Amendment to the Constitution of the
 681 United States or Utah Constitution, Article I, Section 15, or would [~~not~~] otherwise unlawfully
 682 interfere with the exercise of [~~those~~] the party's rights under the First Amendment to the
 683 Constitution of the United States or Utah Constitution, Article I, Section 15.

684 (3) [~~A~~] If a motor vehicle is used in [a] an offense that is a violation of Section
 685 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection
 686 41-6a-510(1), Subsection 58-37-8(2)(g), or Section 76-5-207 [~~may not be forfeited unless], an~~
 687 agency may not seek forfeiture of the motor vehicle, unless:

688 (a) the operator of the vehicle has previously been convicted of [~~a violation,] an~~
 689 offense committed after May 12, 2009, [of] that is:

690 (i) a felony driving under the influence violation under Section 41-6a-502;

691 (ii) a felony violation under Subsection 58-37-8(2)(g); or

692 (iii) automobile homicide under Section 76-5-207; or

693 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
 694 disqualified license[;] and:

695 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
 696 was imposed because of a violation under:

697 (A) Section 41-6a-502;

698 (B) Section 41-6a-517;

699 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

700 (D) Section 41-6a-520;

701 (E) Subsection 58-37-8(2)(g);

702 (F) Section 76-5-207; or

703 (G) a criminal prohibition [~~that the person was charged with violating~~] as a result of a
 704 plea bargain after having been originally charged with violating one or more of the sections or
 705 ordinances described in Subsections (3)(b)(i)(A) through (F); or

706 (ii) the denial, suspension, revocation, or disqualification described in Subsections
 707 (3)(b)(i)(A) through (G):

708 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
 709 revocation, or disqualification; and

710 (B) the original denial, suspension, revocation, or disqualification was imposed
711 because of a violation described in Subsections (3)(b)(i)(A) through (G).

712 (4) If a peace officer seizes property incident to an arrest solely for possession of a
713 controlled substance, an agency may not seek to forfeit the property that was seized in
714 accordance with the arrest.

715 Section 16. Section **24-4-103** is amended to read:

716 **24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.**

717 ~~[(1)(a) Within 30 days from the date that property is seized, an agency seeking to~~
718 ~~forfeit property shall serve a notice of intent to seek forfeiture upon any claimants known to the~~
719 ~~agency.]~~

720 (1) (a) If an agency seeks to forfeit property seized under this title, the agency shall
721 serve a notice of intent to seek forfeiture to any known claimant within 30 days after the day on
722 which the property is seized.

723 (b) The notice of intent to seek forfeiture shall describe ~~[the]~~:

724 (i) the date of the seizure;

725 (ii) the property seized;

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

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

730 ~~[(c) The notice of intent to seek forfeiture shall be served by:]~~

731 (c) The agency shall serve the notice of intent to seek forfeiture by:

732 (i) certified mail, with a return receipt requested, to the claimant's known address; or

733 (ii) personal service.

734 (d) ~~[The]~~ A court may void ~~[any]~~ a forfeiture made without notice under Subsection
735 (1)(a), unless the agency demonstrates:

736 (i) good cause for the failure to give notice to the claimant; or

737 (ii) that the claimant had actual notice of the seizure.

738 ~~[(2)(a) Once the agency has served each claimant with a notice of intent to seek~~
739 ~~forfeiture, but no later than 60 days from the date that property is seized, the agency shall~~
740 ~~present a written request for forfeiture to the prosecuting attorney.]~~

741 (2) (a) (i) If an agency has served each claimant with a notice of intent to seek
742 forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of
743 the municipality or county where the property is seized.

744 (ii) The agency shall provide the request under Subsection (2)(a)(i) no later than 45
745 days after the day on which the property is seized.

746 (b) The written request described in Subsection (2)(a) shall:

747 (i) describe the property [~~to be forfeited~~] that the agency is seeking to forfeit; and

748 (ii) include a copy of all reports, supporting documents, and other evidence that is
749 necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture
750 action.

751 (c) The prosecuting attorney shall:

752 (i) review the written request described in Subsection (2)(a)(i); and

753 (ii) within 75 days after the day on which the property is seized, decline or accept, in
754 writing, the agency's written request for the prosecuting attorney to initiate a proceeding to
755 forfeit the property.

756 (3) (a) As used in this Subsection (3), "prosecuting attorney" means a district attorney,
757 a deputy district attorney, a county attorney, or an assistant county attorney.

758 (b) If a prosecuting attorney from a county of the third, fourth, fifth, or sixth class
759 requests the attorney general's office to review a written request under Subsection (2)(a), the
760 attorney general's office may review the written request.

761 (c) If an agency presents a written request under Subsection (2)(b) for a seizure of
762 \$10,000 or more and the request is declined by a prosecuting attorney, the attorney general's
763 office may review the request de novo within the time periods established in this section and
764 Section [24-4-103.5](#).

765 Section 17. Section **24-4-103.5** is enacted to read:

766 **24-4-103.5. Mandatory return of seized property.**

767 (1) An agency shall promptly return property seized under this title, and the
768 prosecuting attorney may take no further action to forfeit the property, unless, within 75 days
769 after the day on which the property is seized:

770 (a) the prosecuting attorney:

771 (i) files a criminal indictment or information under Subsection [24-4-105\(3\)](#);

772 (ii) files a petition to transfer the property to another agency under Section 24-2-106;
773 (iii) files a civil forfeiture complaint under Section 24-4-104; or
774 (b) the prosecuting attorney or a federal prosecutor obtains a restraining order under
775 Subsection 24-4-105(4).

776 (2) (a) The prosecuting attorney may file a petition to extend the deadline under
777 Subsection (1) by 21 days.

778 (b) If a prosecuting attorney files a petition under Subsection (2)(a), and the
779 prosecuting attorney provides good cause for extending the deadline, a court shall grant the
780 petition.

781 Section 18. Section **24-4-104** is amended to read:

782 **24-4-104. Civil forfeiture procedure.**

783 ~~[(1)(a) The law enforcement agency shall promptly return seized property, and the~~
784 ~~prosecuting attorney may take no further action to effect the forfeiture of the property, unless~~
785 ~~within 75 days after the property is seized the prosecuting attorney.]~~

786 ~~[(i) files a criminal indictment or information under Subsection 24-4-105(2);]~~

787 ~~[(ii) obtains a restraining order under Subsection 24-4-105(3);]~~

788 ~~[(iii) files a petition under Subsection 24-4-114(1); or]~~

789 ~~[(iv) files a civil forfeiture complaint.]~~

790 (1) (a) A prosecuting attorney may commence a civil action to forfeit seized property
791 by filing a complaint.

792 ~~(b) [A complaint for civil forfeiture]~~ The complaint under Subsection (1)(a) shall
793 describe with reasonable particularity:

794 (i) the property that [is the subject of the forfeiture proceeding] the agency is seeking to
795 forfeit;

796 (ii) the date and place of seizure; and

797 (iii) the factual allegations that constitute a basis for forfeiture.

798 (2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the
799 complaint and summons upon each claimant known to the prosecuting attorney within 30 days
800 after the day on which the complaint is filed.

801 (b) The prosecuting attorney is not required to serve a copy of the complaint or the
802 summons upon [any] a claimant [who] which has disclaimed, in writing, an ownership interest

803 in the seized property.

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

805 (i) personal service;

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

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

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

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

812 and

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

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

815 (i) personal service;

816 [~~(ii) mailing of a written notice; or~~]

817 (ii) certified mail; or

818 (iii) publication in accordance with Subsection (2)(d).

819 (f) [~~Upon motion of the prosecuting attorney and a showing of good cause, the~~] The
820 court may extend the period to complete service under this section for an additional 60 days[~~;~~]
821 if the prosecuting attorney:

822 (i) moves the court to extend the period to complete service; and

823 (ii) has shown good cause for extending service.

824 (3) (a) [~~In any case where the~~] If a prosecuting attorney files a complaint for forfeiture
825 as described in Subsection (1), a claimant may file an answer to the complaint.

826 [~~(b) The answer shall be filed within 30 days after the complaint is served upon the~~
827 ~~claimant as provided in Subsection (2)(b).]~~

828 (b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant
829 shall file the answer within 30 days after the day on which the complaint is served upon the
830 claimant.

831 (c) [~~When the property subject to forfeiture~~] If an agency is seeking to forfeit property
832 under Section [24-4-103](#) and the property is valued at less than \$10,000, the agency [~~that has~~
833 custody of the property] shall return the property to the claimant if:

834 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has
835 filed an answer [~~through an attorney or pro se~~], in accordance with Subsections (3)(a) and (b);
836 and

837 (B) the prosecuting attorney has not filed an information or indictment for [~~criminal~~
838 ~~conduct giving rise to the forfeiture~~] the offense for which the property is seized within 60 days
839 after the [~~date that service of the forfeiture complaint on the claimant was completed~~] day on
840 which the prosecuting attorney served the claimant with the complaint, or the prosecuting
841 attorney has not timely moved a court [~~of competent jurisdiction~~] and demonstrated reasonable
842 cause for [~~an extension of time to file such an~~] extending the time to file the information or
843 indictment; or

844 (ii) the information or indictment for [~~criminal conduct giving rise to the forfeiture~~] the
845 offense for which the property was seized was dismissed and the prosecuting attorney has not
846 refiled the information or indictment within seven days [~~of the dismissal~~] after the day on
847 which the information or indictment was dismissed.

848 (d) [~~The~~] An agency may not pay any expenses, costs, or attorney fees for the return of
849 property to the claimant under Subsection (3)(c) [~~does not include any expenses, costs, or~~
850 ~~attorney fees~~].

851 (e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if
852 a claimant timely seeks to recover possession of seized property [~~pursuant to~~] in accordance
853 with Subsection 24-4-107[(8), ~~but~~](7).

854 (ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations
855 in Subsection (3)(c)(i) shall resume immediately upon the [~~seizing~~] agency's or prosecuting
856 attorney's timely denial of [~~the~~] a claim under Subsection 24-4-107(7) on the merits.

857 (4) Except as otherwise provided in this chapter, [~~forfeiture proceedings are~~] a civil
858 action for a forfeiture proceeding is governed by the Utah Rules of Civil Procedure.

859 (5) The court shall:

860 (a) take all reasonable steps to expedite [~~civil forfeiture proceedings and shall~~] a civil
861 forfeiture proceeding; and

862 (b) give [~~these proceedings~~] a civil forfeiture proceeding the same priority as [~~is given~~
863 ~~to criminal cases~~] a criminal case.

864 [(6) ~~In all suits or actions brought under this section for the civil forfeiture of any~~

865 ~~property, the burden of proof is on the prosecuting attorney to establish by clear and convincing~~
866 ~~evidence that the claimant engaged in conduct giving rise to the forfeiture.]~~

867 ~~[(7)] (6) A claimant may file an answer to a complaint for civil forfeiture without~~
868 ~~posting bond with respect to the property [subject to forfeiture] that the agency seeks to forfeit.~~

869 ~~[(8)] (7) [Property is subject to forfeiture under this chapter] A court shall grant an~~
870 ~~agency's request to forfeit property if the prosecuting attorney establishes, by clear and~~
871 ~~convincing evidence, that:~~

872 ~~(a) the claimant [has engaged in conduct giving rise to forfeiture];~~

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

875 ~~(i) committed the offense subjecting the property to forfeiture under Subsection~~
876 ~~24-4-102(1);~~

877 ~~(ii) knew of the offense subjecting the property to forfeiture under Subsection~~
878 ~~24-4-102(1) and allowed the property to be used in furtherance of the offense; or~~

879 ~~(iii) acquired the property at the time of the offense subjecting the property to forfeiture~~
880 ~~under Subsection 24-4-102(1), or within a reasonable time after the offense occurred; or~~

881 ~~[(e)] (b) there is no likely source for the purchase or acquisition of the property other~~
882 ~~than [the conduct that gives rise to forfeiture] the commission of the offense subjecting the~~
883 ~~property to forfeiture under Subsection 24-4-102(1).~~

884 ~~[(9) A finding by the court that property is the proceeds of conduct giving rise to~~
885 ~~forfeiture does not require proof that the property was the proceeds of any particular exchange~~
886 ~~or transaction.]~~

887 ~~[(10) If the prosecutor establishes that the property is subject to forfeiture, but the~~
888 ~~claimant is subsequently criminally charged with the conduct giving rise to the forfeiture and is~~
889 ~~acquitted of that charge on the merits:]~~

890 ~~(8) If a court finds that the property is the proceeds of an offense that subjects the~~
891 ~~proceeds to forfeiture under Subsection 24-4-102(1), the prosecuting attorney does not need to~~
892 ~~prove that the property was the proceeds of a particular exchange or transaction.~~

893 ~~(9) If a court has ordered property to be forfeited under this section, and a claimant is~~
894 ~~acquitted of a charge for the offense subjecting the property to forfeiture:~~

895 ~~(a) the property [subject to the forfeiture] or the open market value of the property, if~~

896 the property has been disposed of under Subsection ~~[24-4-108(13)]~~ 24-2-107(11), shall be
897 returned to the claimant; and

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

900 (10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
901 section and transfer the action to another state or federal agency that has initiated a forfeiture
902 proceeding involving the same property, the prosecuting attorney shall seek a transfer of the
903 property in accordance with Section 24-2-106.

904 (11) A civil forfeiture action under this section may be converted to a criminal
905 forfeiture action at any time after a prosecuting attorney files a criminal complaint, information,
906 or indictment for the offense subjecting the property to forfeiture under Subsection
907 24-4-102(1).

908 Section 19. Section **24-4-105** is amended to read:

909 **24-4-105. Criminal forfeiture procedure.**

910 (1) As used in this section, "defendant" means a claimant who is criminally prosecuted
911 for the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

912 ~~[(1)]~~ (2) ~~[If a claimant is criminally prosecuted for conduct giving rise to the forfeiture,~~
913 ~~the] A prosecuting attorney may ~~[elect to]~~ seek forfeiture of ~~[the claimant's]~~ the defendant's
914 interest in [the property] seized property through the criminal case.~~

915 ~~[(2)]~~ (3) ~~If the prosecuting attorney ~~[elects to seek]~~ seeks forfeiture of ~~[the claimant's]~~ a~~
916 defendant's interest in [the property] seized property through the criminal case, ~~[the information~~
917 ~~or indictment shall state that the claimant's interest in the property is subject to forfeiture and~~
918 ~~the basis for the forfeiture]~~ the prosecuting attorney shall state in the information or indictment
919 the grounds for which the agency seeks to forfeit the property.

920 ~~[(3) (a) Upon application of the prosecuting attorney, the court may enter restraining~~
921 ~~orders or injunctions, or take other reasonable actions to preserve for forfeiture under this~~
922 ~~section, any property subject to forfeiture if, after notice to known claimants and claimants who~~
923 ~~can be identified after due diligence and who are known to have an interest in the property, and~~
924 ~~after affording those persons an opportunity for a hearing, the court determines that:]~~

925 (4) (a) (i) A court may enter a restraining order or injunction or take any other
926 reasonable action to preserve property being forfeited under this section.

927 (ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be
928 identified after due diligence, shall be:

929 (A) provided notice; and

930 (B) given an opportunity for a hearing.

931 (iii) A court shall grant an order under Subsection (4)(a)(i) if:

932 [(i)] (A) there is a substantial probability that the state will prevail on the issue of
933 forfeiture and that failure to enter the order will result in the property being sold, transferred,
934 destroyed, or removed from the jurisdiction of the court or otherwise made unavailable for
935 forfeiture; and

936 [(ii)] (B) the need to preserve the availability of the property or prevent [its] the
937 property's sale, transfer, destruction, or removal through the entry of the requested order
938 outweighs the hardship against [any party] a claimant against [whom] which the order is to be
939 entered.

940 (b) A [~~temporary restraining order may be entered~~] court may enter a temporary
941 restraining order ex parte upon application of the prosecuting attorney or a federal prosecutor
942 before or after an information or indictment has been filed, with respect to the property, if the
943 prosecuting attorney or federal prosecutor demonstrates that:

944 (i) there is probable cause to believe that the property with respect to which the order is
945 sought would, in the event of a conviction, be [~~subject to forfeiture~~] forfeited under this
946 section; and

947 (ii) [~~provision of notice~~] providing notice to a claimant would jeopardize the
948 availability of the property for forfeiture or would jeopardize an ongoing criminal investigation.

949 (c) The temporary order expires not more than 10 days after entry unless extended for
950 good cause shown or unless the [party] claimant against whom [it] the temporary order is
951 entered consents to an extension.

952 (d) After service of the temporary order upon [~~any claimants~~] a claimant known to the
953 prosecuting attorney[~~, a hearing concerning the order entered under this section shall be held~~]
954 or federal prosecutor, the court shall hold a hearing on the order as soon as practicable and
955 [~~prior to~~] before the expiration of the temporary order.

956 (e) The court is not bound by the Utah Rules of Evidence regarding evidence [it] the
957 court may receive and consider at [~~any~~] a hearing under this section.

958 ~~[(4) (a) Upon conviction of a claimant for conduct giving rise to criminal forfeiture, the~~
959 ~~prosecutor shall ask the finder of fact to make a specific finding as to whether the property or~~
960 ~~any part of it is subject to forfeiture.]~~

961 ~~[(b) A determination of whether property is subject to forfeiture under this section shall~~
962 ~~be proven beyond a reasonable doubt.]~~

963 (5) Upon conviction of a defendant for the offense subjecting the property to forfeiture,
964 a court or jury shall find property forfeited to the agency if the prosecuting attorney establishes,
965 beyond a reasonable doubt, that:

966 (a) the defendant:

967 (i) committed the offense subjecting the property to forfeiture under Subsection
968 24-4-102(1);

969 (ii) knew of the offense subjecting the property to forfeiture under Subsection
970 24-4-102(1) and allowed the property to be used in furtherance of the offense; or

971 (iii) acquired the property at the time of the offense subjecting the property to forfeiture
972 under Subsection 24-4-102(1), or within a reasonable time after the offense occurred; or

973 (b) there is no likely source for the purchase or acquisition of the property other than
974 the commission of the offense subjecting the property to forfeiture under Subsection
975 24-4-102(1).

976 ~~[(5)]~~ (6) (a) Upon conviction of a [claimant for violating any provision of state law
977 subjecting a claimant's property to forfeiture] defendant for the offense subjecting the property
978 to forfeiture and a finding by [the trier of fact] a court or jury that the property [is subject to
979 forfeiture] is forfeited, the court shall enter a judgment and order the property forfeited to the
980 [state] agency upon the terms stated by the court in [its] the court's order.

981 (b) Following the entry of an order declaring the property forfeited under Subsection
982 (6)(a), and upon application by the prosecuting attorney, the court may[, upon application of
983 the prosecuting attorney,]:

984 (i) enter [appropriate restraining orders or injunctions,] a restraining order or
985 injunction;

986 (ii) require the execution of satisfactory performance bonds[;];

987 (iii) appoint [receivers, conservators, appraisers, accountants, or trustees,] a receiver,
988 conservator, appraiser, accountant, or trustee; or

989 (iv) take any other action to protect the [~~interest of the state~~] the agency's interest in
990 property ordered forfeited.

991 [~~(6)~~] (7) (a) (i) After property is ordered forfeited under this section, the [~~seizing~~]
992 agency shall direct the disposition of the property under Section 24-4-115.

993 [~~(ii) Any property right or interest under this Subsection (6)(a) not exercisable by or~~
994 ~~transferable for value to the state expires and does not revert to the defendant.~~]

995 (ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or
996 the agency is not able to exercise an ownership interest in the property, the property may not
997 revert to the defendant.

998 (iii) [~~The defendant or any person~~] A defendant, or a person acting in concert with or
999 on behalf of the defendant, is not eligible to purchase forfeited property at any sale held by the
1000 [~~seizing~~] agency unless approved by the judge.

1001 (b) [~~The~~] A court may stay the sale or disposition of the property pending the
1002 conclusion of any appeal of [~~the criminal case giving rise to the forfeiture~~] the offense
1003 subjecting the property to forfeiture if the [~~defendant~~] claimant demonstrates that proceeding
1004 with the sale or disposition of the property may result in irreparable injury, harm, or loss.

1005 [~~(7)~~] (8) Except as provided under Subsection [~~(3) or (10)~~] (4) or (11), a [~~party~~]
1006 claimant claiming an interest in property [~~subject to forfeiture~~] that is being forfeited under this
1007 section:

1008 (a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of
1009 the property [~~under this section~~]; and

1010 (b) may not commence an action at law or equity concerning the validity of the
1011 [~~party's~~] claimant's alleged interests in the property subsequent to the filing of an indictment or
1012 an information alleging that the property is [~~subject to forfeiture~~] being forfeited under this
1013 section.

1014 [~~(8) The district~~] (9) A court that has jurisdiction of a case under this part may enter
1015 orders under this section without regard to the location of any property that [~~may be subject to~~
1016 ~~forfeiture~~] is or has been ordered forfeited under this section [~~or that has been ordered forfeited~~
1017 ~~under this section~~].

1018 [~~(9)~~] (10) To facilitate the identification or location of property [~~declared forfeited~~]
1019 forfeited under this section, and to facilitate the disposition of [~~petitions~~] a petition for

1020 remission or mitigation of forfeiture after the entry of an order declaring property forfeited to
1021 the [state] agency, the court may, upon application of the prosecuting attorney, order [that]:

1022 (a) the testimony of any witness relating to the forfeited property be taken by
1023 deposition[;]; and [that]

1024 (b) any book, paper, document, record, recording, or other material [shall be] is
1025 produced [as provided for depositions and discovery under] in accordance with the Utah Rules
1026 of Civil Procedure.

1027 ~~[(10)]~~ (11) (a) (i) ~~[Following the entry of an order of forfeiture under this section]~~ If a
1028 court orders property forfeited under this section, the prosecuting attorney shall publish notice
1029 of the [order's] intent to dispose of the property [~~by publication~~].

1030 (ii) Service by publication shall be by publication of two notices, in two successive
1031 weeks, of the forfeiture proceeding:

1032 (A) in a newspaper of general circulation in the county in which the seizure of the
1033 property occurred; and

1034 (B) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

1035 ~~[(ii)]~~ (iii) The prosecuting attorney shall also send written notice to any claimants,
1036 other than the defendant, known to the prosecuting attorney to have an interest in the property,
1037 at the claimant's known address.

1038 (b) (i) (A) ~~[Any]~~ A claimant, other than the defendant, ~~[asserting a legal interest in~~
1039 ~~property that has been ordered forfeited to the state under this section may, within 30 days after~~
1040 ~~the notice has been published or the claimant receives the written notice under Subsection~~
1041 ~~(10)(a), whichever is earlier,]~~ may petition the court for a hearing to adjudicate the validity of
1042 the claimant's alleged interest in ~~[the]~~ property forfeited under this section.

1043 ~~[(ii) Any genuine issue of material fact, including issues of standing, may be tried to a~~
1044 ~~jury upon demand of any party.]~~

1045 (B) A claimant shall file a petition within 30 days after the earlier of the day on which
1046 a notice is published, or the day on which the claimant receives written notice under Subsection
1047 (11)(a).

1048 (ii) Any party may request a jury to decide any genuine issue of material fact, including
1049 an issue of standing.

1050 (c) The petition under Subsection (11)(b) shall:

1051 (i) be in writing and signed by the claimant under penalty of perjury;

1052 (ii) set forth the nature and extent of the claimant's right, title, or interest in the

1053 property, the time and circumstances of the claimant's acquisition of the right, title, or interest

1054 in the property; and

1055 (iii) set forth any additional facts supporting the claimant's claim and the relief sought.

1056 ~~[(d) The trial or hearing on the petition shall be expedited to the extent practicable.]~~

1057 (d) (i) The court shall expedite the trial or hearing under this Subsection (11) to the

1058 extent practicable.

1059 (ii) The court may consolidate a trial or hearing on the petition under Subsection

1060 (11)(b) and any other petition filed by ~~[any]~~ a claimant, other than the defendant, under this

1061 section.

1062 (iii) ~~[The]~~ For a petition under this section, the court shall permit the parties to conduct

1063 pretrial discovery ~~[pursuant to]~~ in accordance with the Utah Rules of Civil Procedure.

1064 (e) (i) (A) At the trial or hearing, the claimant may testify and present evidence and

1065 witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

1066 (B) The prosecuting attorney may present evidence and witnesses in rebuttal and in

1067 defense of the claim to the property and cross-examine witnesses who appear.

1068 (ii) In addition to testimony and evidence presented at the trial or hearing, the court

1069 may consider the relevant portion of the record of the criminal case that resulted in the order of

1070 forfeiture.

1071 (iii) ~~[Any]~~ A trial or hearing shall be conducted ~~[pursuant to]~~ in accordance with the

1072 Utah Rules of Evidence.

1073 (f) The court shall amend the order of forfeiture in accordance with ~~[its]~~ the court's

1074 determination, if after the trial or hearing, the court or jury determines that the ~~[petitioner]~~

1075 claimant has established, by a preponderance of the evidence, that:

1076 (i) (A) the claimant has a legal right, title, or interest in the property~~;~~; and

1077 (B) the claimant's right, title, or interest renders the order of forfeiture invalid in whole

1078 or in part because the right, title, or interest was vested in the claimant rather than the

1079 defendant, or was superior to any right, title, or interest of the defendant at the time ~~[of the~~

1080 ~~commission of the acts or conduct that gave rise to the forfeiture of the property under this~~

1081 section] of the commission of the offense subjecting the property to forfeiture under Subsection

1082 [24-4-102\(1\)](#); or

1083 (ii) the claimant acquired the right, title, or interest in the property in a bona fide
1084 transaction for value, and, at the time of acquisition, the claimant did not know that the
1085 property [~~was subject to forfeiture~~] could be forfeited under this chapter.

1086 [~~(g) Following the court's disposition of all petitions filed under this Subsection (10),
1087 or if no petitions are filed following the expiration of the period provided in Subsection (10)(b)
1088 for the filing of petitions, the state has clear title to property subject to the order of forfeiture
1089 and may warrant good title to any subsequent purchaser or transferee.]~~

1090 (g) An agency has clear title to the property and may transfer title to a purchaser or
1091 transferee if:

1092 (i) the court issued a disposition on all petitions under this Subsection (11) denying any
1093 claimant's right, title, or interest to the property; or

1094 (ii) a petition was not filed under the timelines provided in Subsection (11)(b).

1095 (12) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
1096 section and transfer the action to another state or federal agency that has initiated a forfeiture
1097 proceeding involving the same property, the prosecuting attorney shall seek a transfer of the
1098 property in accordance with Section [24-2-106](#).

1099 Section 20. Section **24-4-107** is amended to read:

1100 **24-4-107. Innocent owners.**

1101 (1) An innocent owner's interest in property may not be forfeited.

1102 (2) In a forfeiture proceeding under this chapter, the prosecuting attorney has the
1103 burden of establishing evidence that a claimant:

1104 (a) [~~is responsible for the conduct giving rise to the forfeiture,~~] subject to Subsection
1105 (4), committed the offense subjecting the property to forfeiture under Subsection [24-4-102\(1\)](#);

1106 (b) knew of the [~~conduct giving rise to the forfeiture~~] offense subjecting the property to
1107 forfeiture under Subsection [24-4-102\(1\)](#), and allowed the property to be used in [furtherance of
1108 the conduct] the commission of the offense;

1109 (c) acquired the property with notice of [~~its~~] the property's actual or constructive
1110 seizure for forfeiture under this chapter;

1111 (d) acquired the property knowing the property [~~was subject to forfeiture~~] could be
1112 forfeited under this chapter; or

1113 (e) acquired the property in an effort to conceal, prevent, hinder, or delay [its] the
1114 property's lawful seizure or forfeiture under any provision of state law.

1115 (3) (a) A claimant under this chapter is not required to take steps to prevent illegal use
1116 or criminal activity regarding the property that the claimant reasonably believes would be likely
1117 to result in physical harm or danger to ~~[any person]~~ an individual.

1118 (b) A claimant may demonstrate that the claimant took reasonable action to prohibit
1119 the ~~[illegal use of the property]~~ use of the property in the commission of an offense that is a
1120 violation of state or federal law by:

1121 (i) making a timely notification to a law enforcement agency of information that led the
1122 claimant to know ~~[that conduct subjecting the property to seizure]~~ the commission of the
1123 offense would occur, was occurring, or has occurred;

1124 (ii) timely revoking or attempting to revoke permission to use the property ~~[regarding~~
1125 ~~those engaging in the illegal conduct]~~ by an individual engaging in an offense that is a violation
1126 of state or federal law; or

1127 (iii) taking reasonable actions to discourage or prevent the ~~[illegal use of the property]~~
1128 use of the property in the commission of an offense that is a violation of state or federal law.

1129 (4) If the state relies on Subsection (2)(a) to establish that a claimant is not an innocent
1130 owner, and if the claimant is criminally charged with the ~~[conduct giving rise to the forfeiture]~~
1131 the offense subjecting the property to forfeiture under Subsection 24-4-102(1) and is acquitted
1132 of that charge on the merits:

1133 (a) the property ~~[subject to the forfeiture]~~ for which forfeiture is sought, or the open
1134 market value of the property~~;~~ if the property has been disposed of under Subsection
1135 ~~[24-4-108(13)]~~ 24-2-107(11), shall be returned to the claimant; and

1136 (b) any payments required under this chapter regarding holding the property shall be
1137 paid to the claimant.

1138 ~~[(5) A person may not assert under this chapter an ownership interest in contraband.]~~

1139 ~~[(6) Property is presumed to be subject to forfeiture under this chapter if the~~
1140 ~~prosecuting attorney establishes that:]~~

1141 ~~[(a) the claimant has engaged in conduct giving cause for forfeiture;]~~

1142 ~~[(b) the property was acquired by the claimant during that period of the conduct giving~~
1143 ~~cause for forfeiture or within a reasonable time after that period; and]~~

1144 ~~[(c) there was no likely source for the purchase or acquisition of the property other than~~
 1145 ~~the conduct giving cause for forfeiture.]~~

1146 ~~[(7) A finding that property is the proceeds of conduct giving cause for forfeiture does~~
 1147 ~~not require proof that the property was the proceeds of any particular exchange or transaction.]~~

1148 (5) A court shall presume that property may be forfeited under this chapter if the
 1149 prosecuting attorney establishes that:

1150 (a) the claimant:

1151 (i) committed the offense subjecting the property to forfeiture under Subsection

1152 24-4-102(1);

1153 (ii) knew of the offense subjecting the property to forfeiture under Subsection

1154 24-4-102(1) and allowed the property to be used in furtherance of the offense; or

1155 (iii) acquired the property at the time of the offense subjecting the property to forfeiture

1156 under Subsection 24-4-102(1), or within a reasonable time after the offense occurred; or

1157 (b) there is no likely source for the purchase or acquisition of the property other than

1158 the commission of the offense subjecting the property to forfeiture under Subsection

1159 24-4-102(1).

1160 (6) If a court finds that the property is the proceeds of an offense that subjects the

1161 proceeds to forfeiture under Subsection 24-4-102(1), the prosecuting attorney does not need to

1162 prove that the property was the proceeds of a particular exchange or transaction.

1163 ~~[(8)] (7) (a) A claimant may recover possession of seized property [that is subject to~~

1164 ~~forfeiture] by:~~

1165 (i) contacting the [seizing] agency or prosecuting attorney [prior to] before the

1166 commencement of a civil asset forfeiture proceeding, or within 30 days of the seizure,

1167 whichever is longer[;]; and

1168 (ii) providing to the [seizing] agency or prosecuting attorney:

1169 [(i)] (A) evidence that establishes proof of ownership; and

1170 [(ii)] (B) a brief description of the date, time, and place that the claimant mislaid or

1171 relinquished possession of the seized property.

1172 (b) (i) [A seizing] An agency or prosecuting attorney [who] that receives a claim from

1173 a claimant utilizing the procedure in Subsection [(8)] (7)(a) shall issue a written response to

1174 that claim within 30 days [of receipt, indicating] after the day on which the agency or

1175 prosecuting attorney receives the claim.

1176 (ii) The response under Subsection (7)(b) shall indicate whether the claim has been
1177 granted, denied on the merits, or denied for failure to provide the information required by
1178 statute [subject to the following:].

1179 ~~[(i)]~~ (iii) [if] If the claim is denied for failure to provide the information required by
1180 statute, the claimant has 15 days [from the date of denial] after the day on which the claim is
1181 denied to submit additional information before the prosecuting attorney may commence a civil
1182 action seeking to forfeit the property[; and].

1183 ~~[(ii)]~~ (iv) [if] If the [seizing] agency or prosecuting attorney fails to issue a written
1184 response within 30 days after the day on which the agency or prosecuting attorney receives the
1185 response, the property shall be returned.

1186 ~~[(c) Any property returned under Subsection (8)(b), either because the claim was~~
1187 ~~granted or because the seizing agency or prosecuting attorney failed to respond within 30 days~~
1188 ~~may not include any expenses, costs, or attorney fees.]~~

1189 ~~[(d) A claimant who utilizes the procedures in Subsection (8)(a) and whose claim is~~
1190 ~~denied on the merits by the seizing agency or prosecuting attorney, but who is later determined~~
1191 ~~by a court of competent jurisdiction in a civil forfeiture action to be an innocent owner within~~
1192 ~~the meaning of Section 24-4-107, may collect reasonable attorney fees and court costs from the~~
1193 ~~date on which the seizing agency or prosecuting attorney denied the claim. Legal costs and~~
1194 ~~attorney fees collected pursuant to this Subsection are not subject to the 50% cap set forth in~~
1195 ~~Subsection 24-4-110(2).]~~

1196 (c) If a claim under Subsection (7)(b) was granted, or the agency or prosecuting
1197 attorney fails to respond within 30 days, a claimant may not receive any expenses, costs, or
1198 attorney fees for the returned property.

1199 (d) A claimant may collect reasonable attorney fees and court costs if:

1200 (i) a claimant filed a claim under Subsection (7)(a);

1201 (ii) an agency or prosecuting attorney denied the claim on the merits; and

1202 (iii) a court determines that the claimant is an innocent owner under this section in a
1203 civil forfeiture action.

1204 (e) If a court grants reasonable attorney fees and court costs, the amount of the attorney
1205 fees begins to accrue from the day on which the agency or prosecuting attorney denied the

1206 claim.

1207 (f) If the court grants reasonable attorney fees and court costs under this Subsection (7),
 1208 the attorney fees and costs are not subject to the 50% cap under Subsection 24-4-110(2).

1209 ~~[(e)]~~ (g) ~~[All communications]~~ A communication between ~~[or]~~ parties regarding a
 1210 claim submitted under this Subsection (7) and any evidence provided to the parties in
 1211 connection with [a claim submitted pursuant to Subsection (8) are] a claim is subject to the
 1212 Utah Rules of Evidence, Rules 408 and 410.

1213 Section 21. Section **24-4-109** is amended to read:

1214 **24-4-109. Postjudgment interest.**

1215 In ~~[any]~~ a proceeding to forfeit currency or other negotiable instruments under this
 1216 chapter, the court shall award postjudgment interest to a prevailing party ~~[postjudgment~~
 1217 ~~interest]~~ on the currency or negotiable instruments at the interest rate established under Section
 1218 15-1-4.

1219 Section 22. Section **24-4-110** is amended to read:

1220 **24-4-110. Attorney fees and costs.**

1221 (1) In ~~[any]~~ a forfeiture proceeding under this chapter, ~~[the]~~ a court shall award ~~[a~~
 1222 ~~prevailing claimant reasonable:]~~ reasonable legal costs and attorney fees to a prevailing
 1223 claimant.

1224 ~~[(a) legal costs; and]~~

1225 ~~[(b) attorney fees.]~~

1226 (2) ~~[The legal costs and attorney fees awarded by the court to the prevailing party]~~ If a
 1227 court awards legal costs and attorney fees to a prevailing claimant under Subsection (1), the
 1228 award may not exceed 50% of the value of the seized property.

1229 (3) A claimant who prevails only in part is entitled to recover reasonable legal costs
 1230 and attorney fees only on ~~[those issues]~~ an issue on which the party prevailed~~[, as determined~~
 1231 ~~by the court].~~

1232 Section 23. Section **24-4-111** is amended to read:

1233 **24-4-111. Compensation for damaged property.**

1234 (1) As used in this section, "damage or other injury" does not mean normal
 1235 depreciation, deterioration, or ordinary wear and tear of the property.

1236 ~~[(+)]~~ (2) If ~~[property seized for forfeiture]~~ seized property is returned ~~[by operation of]~~

1237 under this chapter, a claimant has a civil right of action against [~~a seizing~~] an agency for [~~any~~] a
 1238 claim based upon the negligent destruction, loss, or damage[;] or other injury to seized property
 1239 while in the possession or custody of the agency.

1240 [~~(2) As used in this section, "damage or other injury" does not include normal~~
 1241 ~~depreciation, deterioration, or ordinary wear and tear.~~]

1242 Section 24. Section **24-4-112** is amended to read:

1243 **24-4-112. Limitation on fees for holding seized property.**

1244 In any civil or criminal proceeding under this chapter in which a judgment is entered in
 1245 favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily dismissed
 1246 by the prosecuting attorney, [~~the seizing~~] an agency may not charge [~~that~~] a claimant any fee or
 1247 cost for holding seized property.

1248 Section 25. Section **24-4-113** is amended to read:

1249 **24-4-113. Proportionality.**

1250 (1) (a) A claimant's interest in property that is used to facilitate [~~a crime, excluding~~
 1251 ~~contraband, is not subject to forfeiture~~] an offense may not be forfeited under any provision of
 1252 state law if the forfeiture is substantially disproportionate to the use of the property in
 1253 committing or facilitating [~~a~~] an offense that is a violation of state law and the value of the
 1254 property.

1255 (b) [~~Forfeiture of property~~] If property is used solely in a manner that is merely
 1256 incidental and not instrumental to the commission or facilitation of [~~a violation of law~~] an
 1257 offense, a forfeiture of the property is not proportional.

1258 (2) (a) In determining proportionality, the court shall consider:

1259 (i) the [~~conduct giving cause for the forfeiture~~] offense subjecting the property to
 1260 forfeiture under Subsection [24-4-102\(1\)](#);

1261 (ii) what portion of the forfeiture, if any, is remedial in nature;

1262 (iii) the gravity of the conduct for which the claimant is responsible in light of the
 1263 offense; and

1264 (iv) the value of the property.

1265 (b) If the court finds that the forfeiture is substantially disproportional to [~~the conduct~~]
 1266 an offense for which the claimant is responsible, [~~it~~] the court shall reduce or eliminate the
 1267 forfeiture[;] as [~~it~~] the court finds appropriate.

1268 (3) ~~[The]~~ A prosecuting attorney has the burden ~~[to demonstrate]~~ of demonstrating that
1269 ~~[any]~~ a forfeiture is proportional to the ~~[conduct giving rise to the forfeiture]~~ offense subjecting
1270 the property to forfeiture under Subsection 24-4-102(1).

1271 (4) In all cases, the court shall decide questions of proportionality.

1272 (5) ~~[Forfeiture]~~ A forfeiture of any proceeds used to facilitate the commission of an
1273 offense that is a violation of federal or state law is proportional.

1274 Section 26. Section **24-4-115** is amended to read:

1275 **24-4-115. Disposition and allocation of forfeiture property.**

1276 (1) ~~[Upon finding that property is subject to forfeiture under this chapter]~~ If a court
1277 finds that property is forfeited under this chapter, the court shall order the property forfeited to
1278 the ~~[state]~~ agency.

1279 (2) (a) If the property is not currency, the ~~[seizing]~~ agency shall authorize a public or
1280 otherwise commercially reasonable sale of that property ~~[that]~~ if the property is not required by
1281 law to be destroyed and ~~[that]~~ is not harmful to the public.

1282 (b) If the property forfeited is an alcoholic product as defined in Section **32B-1-102**,
1283 ~~[it]~~ the property shall be disposed of as follows:

1284 (i) an alcoholic product shall be sold if the alcoholic product is:

1285 (A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic
1286 alcohol, or any other deleterious substance or liquid; and

1287 (B) otherwise in saleable condition; or

1288 (ii) an alcoholic product and ~~[its]~~ the alcoholic product's package shall be destroyed if
1289 the alcoholic product is impure, adulterated, or otherwise unfit for sale.

1290 (c) If the property forfeited is a cigarette or other tobacco product as defined in Section
1291 **59-14-102**, ~~[it]~~ the property shall be destroyed, except that ~~[prior to the destruction of any~~
1292 ~~cigarette or other tobacco product seized pursuant to this part,]~~ the lawful holder of the
1293 trademark rights in the cigarette or tobacco product brand ~~[shall be]~~ is permitted to inspect the
1294 cigarette before the destruction of the cigarette or tobacco product.

1295 (d) The proceeds of the sale of forfeited property shall remain segregated from other
1296 property, equipment, or assets of the ~~[seizing]~~ agency until transferred ~~[to the state]~~ in
1297 accordance with this chapter.

1298 (3) ~~[From the forfeited property, both]~~ Before transferring currency and the proceeds or

1299 revenue from the sale of the property in accordance with this chapter, the ~~[seizing]~~ agency
1300 shall:

1301 (a) deduct the ~~[seizing]~~ agency's direct costs, expense of reporting under Section
1302 24-4-118, and ~~[expenses]~~ expense of obtaining and maintaining the property pending a
1303 forfeiture proceeding; and

1304 (b) if the prosecuting agency that employed the prosecuting attorney has met the
1305 requirements of Subsection 24-4-119(3), pay the ~~[office of the]~~ prosecuting attorney the legal
1306 costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of
1307 the forfeited property in attorney fees.

1308 (4) If the forfeiture arises from ~~[any]~~ a violation relating to wildlife resources, the
1309 agency shall deposit any remaining currency and the proceeds or revenue from the sale of the
1310 property ~~[shall be deposited]~~ in the Wildlife Resources Account created in Section 23-14-13.

1311 (5) The agency shall transfer any remaining currency, ~~[and]~~ the proceeds, or revenue
1312 from the sale of the property ~~[shall then be transferred]~~ to the commission and deposited into
1313 the account.

1314 Section 27. Section **24-4-116** is amended to read:

1315 **24-4-116. Criminal Forfeiture Restricted Account.**

1316 (1) There is created within the General Fund a restricted account known as the
1317 "Criminal Forfeiture Restricted Account."

1318 (2) ~~[Proceeds]~~ Except as provided in Section 24-4-115, the commission shall deposit
1319 any proceeds from forfeited property and forfeited money through ~~[state forfeitures shall be~~
1320 ~~deposited into the account]~~ a forfeiture proceeding under this chapter.

1321 (3) Money in the account shall be appropriated to the commission for implementing the
1322 program under Section 24-4-117.

1323 Section 28. Section **24-4-117** is amended to read:

1324 **24-4-117. State Asset Forfeiture Grant Program.**

1325 (1) There is created the State Asset Forfeiture Grant Program.

1326 (2) The program shall fund crime prevention, crime victim reparations, and law
1327 enforcement activities that have the purpose of:

1328 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
1329 activities;

- 1330 (b) weakening criminal enterprises by removing the instrumentalities of crime;
- 1331 (c) reducing crimes involving substance abuse by supporting the creation,
- 1332 administration, or operation of drug court programs throughout the state;
- 1333 (d) encouraging cooperation between [~~local, state, and multijurisdictional law~~
- 1334 ~~enforcement~~] agencies;
- 1335 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
- 1336 proceeds of crime;
- 1337 (f) increasing the equitability and accountability of the use of forfeited property used to
- 1338 assist [~~law enforcement~~] agencies in reducing and preventing crime; and
- 1339 (g) providing aid to victims of criminally injurious conduct, as defined in Section
- 1340 [63M-7-502](#), who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office
- 1341 for Victims of Crime.
- 1342 (3) (a) [~~When property is forfeited under this chapter and transferred to the account,~~
- 1343 ~~upon appropriation~~] Upon appropriation of funds from the account, the commission shall
- 1344 allocate and administer grants to [~~state agencies, local law enforcement agencies,~~
- 1345 ~~multijurisdictional law enforcement agencies, or political subdivisions~~] an agency or political
- 1346 subdivision of the state in compliance with this section and Subsection [24-4-119\(2\)](#) and to
- 1347 further the program purposes under Subsection (2).
- 1348 (b) The commission may retain up to 3% of the annual appropriation from the account
- 1349 to pay for administrative costs incurred by the commission, including salary and benefits,
- 1350 equipment, supplies, or travel costs that are directly related to the administration of the
- 1351 program.
- 1352 (4) [~~Agencies or political subdivisions~~] An agency or political subdivision shall apply
- 1353 for an award from the program by completing and submitting forms specified by the
- 1354 commission.
- 1355 (5) In granting the awards, the commission shall ensure that the amount of each award
- 1356 takes into consideration the:
- 1357 (a) demonstrated needs of the agency or political subdivision;
- 1358 (b) demonstrated ability of the agency or political subdivision to appropriately use the
- 1359 award;
- 1360 (c) degree to which the agency's or political subdivision's need is offset through the

1361 agency's or political subdivision's participation in federal equitable sharing or through other
1362 federal and state grant programs; and

1363 (d) agency's or political subdivision's cooperation with other state and local agencies
1364 and task forces.

1365 (6) The commission may award a grant to any agency or political subdivision engaged
1366 in activities associated with Subsection (2) even if the agency has not contributed to the fund.

1367 ~~[(6)]~~ (7) ~~[Applying agencies or political subdivisions]~~ An applying agency or political
1368 subdivision shall demonstrate compliance with all reporting and policy requirements applicable
1369 under this chapter and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in
1370 order to qualify as a potential award recipient.

1371 ~~[(7)]~~ (8) (a) ~~[Recipient law enforcement agencies]~~ A recipient agency may only use
1372 award money after approval by the agency's legislative body.

1373 (b) The award money is nonlapsing.

1374 ~~[(8)]~~ (9) A recipient ~~[state agency, local law enforcement agency, multijurisdictional~~
1375 ~~law enforcement]~~ agency~~;~~ or political subdivision shall use ~~[awards]~~ an award:

1376 (a) only for law enforcement purposes [as] described in this section, or for victim
1377 reparations as described in Subsection (2)(g)[, and only as these]; and

1378 (b) for the purposes [are] specified by the agency or political subdivision in [its] the
1379 agency's or political subdivision's application for the award.

1380 ~~[(9)]~~ (10) ~~[Permissible law enforcement purposes]~~ A permissible law enforcement
1381 purpose for which award money may be used [include] includes:

1382 (a) controlled substance interdiction and enforcement activities;

1383 (b) drug court programs;

1384 (c) activities calculated to enhance future law enforcement investigations;

1385 (d) law enforcement training that includes:

1386 (i) implementation of the Fourth Amendment to the United States Constitution and
1387 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
1388 right of due process;

1389 (ii) protection of the rights of innocent property holders; and

1390 (iii) the Tenth Amendment to the United States Constitution regarding states'
1391 sovereignty and the states' reserved rights;

- 1392 (e) law enforcement or detention facilities;
 1393 (f) law enforcement operations or equipment that are not routine costs or operational
 1394 expenses;
 1395 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
 1396 in part by the law enforcement agency or its legislative body;
 1397 (h) matching funds for other state or federal law enforcement grants; and
 1398 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
 1399 actions.

1400 ~~[(10)]~~ (11) ~~[Law enforcement purposes]~~ A law enforcement purpose for which award
 1401 money may not be granted or used ~~[include]~~ includes:

- 1402 (a) payment of salaries, retirement benefits, or bonuses to any ~~[person]~~ individual;
 1403 (b) payment of expenses not related to law enforcement;
 1404 (c) uses not specified in the agency's award application;
 1405 (d) uses not approved by the agency's legislative body;
 1406 (e) payments, transfers, or pass-through funding to ~~[entities other than law enforcement~~
 1407 ~~agencies]~~ an entity other than an agency; or
 1408 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

1409 Section 29. Section **24-4-118** is amended to read:

1410 **24-4-118. Forfeiture reporting requirements.**

1411 (1) ~~[On and after January 1, 2016, every state, county, municipal, or other law~~
 1412 ~~enforcement]~~ An agency shall provide all reasonably available data described in Subsection
 1413 (5) ~~[, along with the transfer of any applicable forfeited property]:~~

1414 (a) ~~[when]~~ if transferring the forfeited property resulting from the final disposition of
 1415 any civil or criminal forfeiture matter to the ~~[Commission on Criminal and Juvenile Justice]~~
 1416 commission as required under Subsection **24-4-115(5)**; or

1417 (b) ~~[when]~~ if the agency has been awarded ~~[any]~~ an equitable share of property
 1418 forfeited by the federal government.

1419 (2) The ~~[Commission on Criminal and Juvenile Justice]~~ commission shall develop a
 1420 standardized report format that each agency shall use in reporting the data required under this
 1421 section.

1422 (3) The ~~[Commission on Criminal and Juvenile Justice]~~ commission shall annually, on

1423 or before April 30, prepare a summary report of the case data submitted by each agency under
1424 Subsection (1) during the prior calendar year.

1425 (4) (a) If an agency does not comply with the reporting requirements under this section,
1426 the [~~Commission on Criminal and Juvenile Justice~~] commission shall contact the agency and
1427 request that the agency comply with the required reporting provisions.

1428 (b) If an agency fails to comply with the reporting requirements under this section
1429 within 30 days after receiving the request to comply, the [~~Commission on Criminal and~~
1430 ~~Juvenile Justice~~] commission shall report the noncompliance to the [~~Utah~~] attorney general, the
1431 speaker of the House of Representatives, and the president of the Senate.

1432 (5) The data for any civil or criminal forfeiture matter for which final disposition has
1433 been made under Subsection (1) shall include:

1434 (a) the agency that conducted the seizure;

1435 (b) the case number or other identification;

1436 (c) the date or dates on which the seizure was conducted;

1437 (d) the number of individuals having a known property interest in each seizure of
1438 property;

1439 (e) the type of property seized;

1440 (f) the alleged offense that was the cause for seizure of the property;

1441 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the
1442 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether
1443 action on a charge is pending;

1444 (h) the type of enforcement action that resulted in the seizure, including an
1445 enforcement stop, a search warrant, or an arrest warrant;

1446 (i) whether the forfeiture procedure was civil or criminal;

1447 (j) the value of the property seized, including currency and the estimated market value
1448 of any tangible property;

1449 (k) the final disposition of the matter, including whether final disposition was entered
1450 by stipulation of the parties, including the amount of property returned to any claimant, by
1451 default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal
1452 forfeiture;

1453 (l) if the property was forfeited by the federal government, the amount of forfeited

1454 money awarded to the agency;

1455 (m) the agency's direct costs, expense of reporting under this section, and expenses for
1456 obtaining and maintaining the seized property, as described in Subsection [24-4-115\(3\)\(a\)](#);

1457 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in
1458 Subsection [24-4-115\(3\)\(b\)](#); and

1459 (o) if the property was transferred to a federal agency or any governmental entity not
1460 created under and subject to state law:

1461 (i) the date of the transfer;

1462 (ii) the name of the federal agency or entity to which the property was transferred;

1463 (iii) a reference to which reason under Subsection ~~[\[24-4-114\(1\)\(a\)\]](#)~~ [24-2-106\(3\)](#)

1464 justified the transfer;

1465 (iv) the court or agency where the forfeiture case was heard;

1466 (v) the date of the order of transfer of the property; and

1467 (vi) the value of the property transferred to the federal agency, including currency and
1468 the estimated market value of any tangible property.

1469 (6) ~~[On and after January 1, 2016, every state, county, municipal, or other law~~
1470 ~~enforcement]~~ An agency shall annually on or before April 30 submit a report for the prior
1471 calendar year to the ~~[Commission on Criminal and Juvenile Justice which]~~ commission that
1472 states:

1473 (a) whether the agency received an award from the State Asset Forfeiture Grant
1474 Program under Section [24-4-117](#) and, if so, the following information for each award:

1475 (i) the amount of the award;

1476 (ii) the date of the award;

1477 (iii) how the award was used or is planned to be used; and

1478 (iv) a statement signed by both the agency's executive officer or designee and by the
1479 agency's legal counsel, that:

1480 (A) the agency has complied with all inventory, policy, and reporting requirements
1481 under Section [24-4-117](#); and

1482 (B) all awards were used for crime reduction or law enforcement purposes as specified
1483 in the application and that the awards were used only upon approval by the agency's legislative
1484 body; and

1485 (b) whether the agency received any property, money, or other things of value
1486 [~~pursuant to~~] in accordance with federal law as described in Subsection [~~24-4-114(2)~~
1487 ~~24-2-106(6)~~] and, if so, the following information for each piece of property, money, or other
1488 thing of value:

- 1489 (i) the case number or other case identification;
- 1490 (ii) the value of the award and the property, money, or other things of value received by
1491 the agency;
- 1492 (iii) the date of the award;
- 1493 (iv) the identity of any federal agency involved in the forfeiture;
- 1494 (v) how the awarded property has been used or is planned to be used; and
- 1495 (vi) a statement signed by both the agency's executive officer or designee and by the
1496 agency's legal counsel, that the agency has only used the award for crime reduction or law
1497 enforcement purposes authorized under Section ~~24-4-117~~, and that the award was used only
1498 upon approval by the agency's legislative body.

1499 (7) (a) On or before July 1 of each year, the [~~Commission on Criminal and Juvenile~~
1500 ~~Justice~~] commission shall submit notice of the annual reports in Subsection (3) and Subsection
1501 (6), in electronic format, to:

- 1502 (i) the [~~Utah~~] attorney general;
- 1503 (ii) the speaker of the House of Representatives, for referral to any House standing or
1504 interim committees with oversight over law enforcement and criminal justice;
- 1505 (iii) the president of the Senate, for referral to any Senate standing or interim
1506 committees with oversight over law enforcement and criminal justice; and
- 1507 (iv) each law enforcement agency.

1508 (b) The reports described in Subsection (3) and Subsection (6), as well as the
1509 individual case data described in Subsection (1) for the previous calendar year, shall be
1510 published on the Utah Open Government website at open.utah.gov on or before July 15 of each
1511 year.

1512 Section 30. Section **24-4-119** is enacted to read:

1513 **24-4-119. Training requirements.**

1514 (1) As used in this section:

1515 (a) "Council" means the Utah Prosecution Council created in Section ~~67-5a-1~~.

1516 (b) "Division" means the Peace Officers Standards and Training Division created in
1517 Section 53-6-103.

1518 (2) To participate in the program, an agency shall have at least one employee who is
1519 certified by the division as an asset forfeiture specialist through the completion of an online
1520 asset forfeiture course by the division.

1521 (3) The division shall:

1522 (a) develop an online asset forfeiture specialist course that is available to an agency for
1523 certification purposes;

1524 (b) certify an employee of an agency who meets the course requirements to be an asset
1525 forfeiture specialist;

1526 (c) recertify, every 36 months, an employee who is designated as an asset forfeiture
1527 specialist by an agency;

1528 (d) submit annually a report to the commission no later than April 30 that contains a
1529 list of the names of the employees and agencies participating in the certification courses;

1530 (e) review and update the asset forfeiture specialist course each year to comply with
1531 state and federal law; and

1532 (f) provide asset forfeiture training to all peace officers in basic training programs.

1533 (4) To be reimbursed for costs under Subsection 24-4-115(3)(b), a prosecuting agency
1534 shall have at least one employee who is certified by the council as an asset forfeiture specialist
1535 through the completion of an online asset forfeiture course.

1536 (5) The council shall:

1537 (a) develop an online asset forfeiture specialist course that is available to a prosecuting
1538 agency for certification purposes;

1539 (b) certify an employee of a prosecuting agency who meets the course requirements to
1540 be an asset forfeiture specialist;

1541 (c) submit annually a report to the commission no later than April 30 that contains a
1542 list of the names of the employees and prosecuting agencies participating in certification
1543 courses by the council; and

1544 (d) review and update the asset forfeiture specialist course each year to comply with
1545 state and federal law.

1546 Section 31. Section 53-13-110.5 is enacted to read:

1547 **53-13-110.5. Retention of records of interviews of minors.**
1548 If a peace officer, or the officer's employing agency, records an interview of a minor
1549 during an investigation of a violation of Section [76-5-402.1](#), [76-5-402.3](#), [76-5-403.1](#), or
1550 [76-5-404.1](#), the agency shall retain a copy of the recording for 18 years after the day on which
1551 the last recording of the interview is made, unless the prosecuting attorney requests in writing
1552 that the recording be retained for an additional period of time.