

HOUSE BILL No. 5250

January 23, 2014, Introduced by Reps. McMillin, Callton, Robinson, McBroom, Johnson, Santana, Geiss, Irwin and Kivela and referred to the Committee on Criminal Justice.

A bill to create the uniform forfeiture reporting act; to require certain reports by reporting agencies regarding seized and forfeited property; to prescribe the powers and duties of certain local and state officials; to provide for certain fees and the expenditure of those fees; to require certain audits; to require certain reports by the department of state police; to provide for the withholding of law enforcement funds under certain circumstances; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform forfeiture reporting act".

3 Sec. 2. (1) Beginning February 1, 2014, each reporting agency
4 shall report on a monthly basis all of the following information to

1 the department of state police for all property seized by or
2 forfeited to that reporting agency under sections 7521 to 7533 of
3 the public health code, 1978 PA 368, MCL 333.7521 to 333.7533,
4 chapter 38 of the revised judicature act of 1961, 1961 PA 236, MCL
5 600.3801 to 600.3840, and chapter 47 of the revised judicature act
6 of 1961, 1961 PA 236, MCL 600.4701 to 600.4710:

7 (a) The number of forfeiture proceedings that were instituted
8 in the circuit court by the reporting agency.

9 (b) The number of forfeiture proceedings instituted by the
10 reporting agency that were concluded in the circuit court.

11 (c) The number of all forfeiture proceedings instituted by the
12 reporting agency that were pending in the circuit court at the end
13 of the year.

14 (d) The number of forfeitures accomplished by the reporting
15 agency without filing a forfeiture proceeding in the circuit court.

16 (e) The violation alleged to have been committed for which
17 forfeiture is authorized.

18 (f) The date the property was seized.

19 (g) Whether any person was charged with the violation for
20 which forfeiture is authorized and whether he or she was convicted
21 of that violation or was convicted of any other violation arising
22 out of the same transaction.

23 (h) A description of the property that was seized.

24 (i) A description of any property that was forfeited.

25 (j) Whether the forfeiture was subject to a plea or any other
26 agreement.

27 (k) Whether the property owner was represented by an attorney

1 in the forfeiture proceedings.

2 (l) The value of the property seized and the means by which
3 that value was obtained.

4 (m) The value of the property forfeited.

5 (n) Whether the property was subject to a security interest or
6 ownership by any other person.

7 (o) If a firearm was seized or forfeited, the make, model, and
8 serial number of that firearm.

9 (p) The final disposition, including use by this state or by
10 that local unit of government, of all property seized and all
11 property forfeited. The information reported under this subdivision
12 shall include all administrative and other expenses deducted from
13 the forfeiture proceedings and the net amount received from the
14 forfeiture.

15 (q) The date the property was disposed of.

16 (r) Whether any property that was seized or forfeited was
17 subsequently ordered to be returned to an owner.

18 (s) Whether the forfeiture resulted from an adoptive seizure.
19 As used in this subdivision, "adoptive seizure" means that all of
20 the following apply:

21 (i) The seizure resulted from a violation of state law and
22 there is a federal basis for the forfeiture action.

23 (ii) All of the preseizure activity and related investigations
24 were performed by this state or the local reporting agency before a
25 request was made to the federal government for adoption.

26 (iii) The seizure did not result from a joint investigation or
27 task force case.

1 (t) Information regarding the expenditure of funds obtained in
2 all forfeiture actions under this chapter, including the total
3 amount of funds expended in each of the following categories:

4 (i) Crime, gang, and substance abuse prevention programs.

5 (ii) Witness protection and victim reparation.

6 (iii) Informant fees and buy money.

7 (iv) Regular-time salaries, overtime pay, and employee benefits
8 of prosecuting attorneys and prosecuting personnel.

9 (v) Regular-time salaries, overtime pay, and employee benefits
10 of law enforcement agency personnel other than prosecuting
11 attorneys and prosecuting personnel.

12 (vi) Professional or outside services, including services
13 related to auditing, court reporting, expert witnesses, and other
14 court costs.

15 (vii) Travel, meals, and entertainment.

16 (viii) Training and attending conferences.

17 (ix) All operating expenses, including purchasing supplies.

18 (x) Purchasing vehicles.

19 (xi) Purchasing canines, firearms, or equipment such as
20 tactical gear.

21 (xii) All capital expenditures such as furniture, computers, or
22 office equipment.

23 (xiii) All other use not described in subparagraphs (i) to (xii).

24 (u) Any other information considered to be appropriate by the
25 department of state police.

26 (2) Subsection (1) applies to property seized by or forfeited
27 to a reporting agency on or after the effective date of this act

1 and to all forfeiture proceedings pending on the effective date of
2 this act.

3 Sec. 3. (1) A reporting agency shall file separate reports
4 under this act for forfeitures under state and federal law.

5 (2) A null report shall be filed under this act by a reporting
6 agency that did not engage in any seizures or forfeitures during
7 the reporting period.

8 Sec. 4. The department of state police may charge a fee to
9 reporting agencies that engage in seizures or forfeitures required
10 to be reported under this act during the reporting period to cover
11 the actual costs to the department for implementing the
12 requirements of this act. A reporting agency may use forfeiture
13 proceeds to pay the cost of compiling and reporting data under this
14 act, including any fee imposed by the department of state police.

15 Sec. 5. (1) The records of a reporting agency regarding the
16 seizure and forfeiture of any property that is required to be
17 reported under this act shall be audited in accordance with 1 of
18 the following, as applicable:

19 (a) 1919 PA 71, MCL 21.41 to 21.55.

20 (b) The uniform budgeting and accounting act, 1968 PA 2, MCL
21 141.421 to 141.440a.

22 (2) The records of a reporting agency regarding the seizure
23 and forfeiture of any property required to be reported under this
24 act may be audited by an auditor of the local unit of government.

25 Sec. 6. The department of state police may withhold the
26 payment of any law enforcement funds to a reporting agency that
27 fails to comply with the reporting requirements of this act until

1 that reporting agency complies with the reporting requirements of
2 this act.

3 Sec. 7. The department of state police shall analyze and
4 compile the information reported to the department under sections 2
5 and 3. The department shall file an annual report of its findings
6 under this section with the secretary of the senate and with the
7 clerk of the house of representatives and shall place a copy of the
8 report on its departmental website. The report shall be filed not
9 later than February 1 of each year. The report shall identify any
10 state departments or agencies or local units of government that
11 have failed to properly report the information required under
12 sections 2 and 3 with the department of state police and whether
13 any funds were withheld due to that failure. The report shall also
14 include the department's recommendations for improvements to the
15 forfeiture process to ensure the appropriate and effective use of
16 forfeiture proceedings, including recommendations to improve the
17 administration and fairness of forfeiture proceedings.

18 Sec. 8. As used in this act:

19 (a) "Local unit of government" means a village, city,
20 township, or county.

21 (b) "Reporting agency" means 1 of the following:

22 (i) If property is seized by or forfeited to a local unit of
23 government, that local unit of government.

24 (ii) If property is seized by or forfeited to this state, the
25 state department or agency effectuating the seizure or forfeiture.

26 Enacting section 1. Section 7524a of the public health code,
27 1978 PA 368, MCL 333.7524a, is repealed.

1 Enacting section 2. This act does not take effect unless all
2 of the following bills of the 97th Legislature are enacted into
3 law:

4 (a) House Bill No. 5081.

5 (b) Senate Bill No. ____ or House Bill No. 5252 (request no.
6 02198'13 a *).

7 (c) Senate Bill No. ____ or House Bill No. 5251 (request no.
8 04238'13 *).