

HOUSE BILL NO. 6429

November 12, 2020, Introduced by Reps. Meerman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 4704 and 4706a (MCL 600.4704 and 600.4706a),
section 4704 as amended by 2014 PA 333 and section 4706a as added
by 1988 PA 104.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 4704. (1) Within 28 days after personal property is
- 2 seized or a lien notice is filed against real property under
- 3 section 4703, the seizing agency or, if the property is real

property, the attorney general, the prosecuting attorney, or the city or township attorney shall give notice of the seizure of the property and the intent to forfeit and dispose of the property according to this chapter to each of the following persons:

(a) If charges have been filed against a person for a crime, the person charged.

(b) Each person with a known ownership interest in the property.

(c) Each mortgagee, person holding a security interest, or person having a lien that appears on the certificate of title or is on file with the secretary of state or **recorded with the** appropriate register of deeds, if the property is real property ~~or~~ **or** a mobile home, motor vehicle, watercraft, or other personal property.

(d) Each holder of a preferred ship mortgage of record in the appropriate public office ~~pursuant to~~ **under** 46 USC ~~30101, 31301-31343, 31301 to 31343~~, if the property is a watercraft more than 28 feet long or a watercraft that has a capacity of 5 net tons or more.

(e) Each person whose security interest is recorded with the appropriate public office ~~pursuant to~~ **under** the federal aviation act of 1958, Public Law 85-726, if the property is an aircraft, aircraft engine, or aircraft propeller, or a part of an aircraft, aircraft engine, or aircraft propeller.

(f) Each person with a known security interest in the property.

(g) Each victim of the crime.

(2) The notice required under subsection (1) ~~shall~~ **must** be a written notice delivered to the person or sent to the person by

1 certified mail. If the name and address of the person are not
 2 reasonably ascertainable or delivery of the notice cannot
 3 reasonably be accomplished, the notice ~~shall~~**must** be published,
 4 **before January 1, 2022**, in a newspaper of general circulation in
 5 the county in which the personal property was seized or the real
 6 property is located for 10 successive publishing days **or, after**
 7 **December 31, 2021, in the manner provided under the Michigan court**
 8 **rules for publication of notice as ordered by a court.** Proof of
 9 written notice or publication ~~shall~~**must** be filed with the court
 10 ~~having~~**that has** jurisdiction over the seizure or forfeiture.

11 (3) If personal property was seized, the seizing agency shall
 12 immediately notify the prosecuting attorney for the county in which
 13 the property was seized or, if the attorney general is actively
 14 handling a case involving or relating to the property, the attorney
 15 general of the seizure of the property and the intent to forfeit
 16 and dispose of the property according to this chapter.

17 (4) ~~An~~**The seizing agency shall give an** attorney for a person
 18 described in subsection (1) (a) ~~shall be afforded a period of 56~~
 19 days within which to examine money seized under section 4703. This
 20 56-day period ~~shall begin to run~~**begins** after notice is given under
 21 subsection (1) ~~but~~**and** before the money is deposited ~~into~~**with** a
 22 financial institution.

23 Sec. 4706a. (1) Within 7 days after personal property is
 24 returned to the owner ~~or~~ a lien filed against real property or a
 25 motor vehicle is discharged ~~pursuant to~~**under** section 4706, the
 26 seizing agency ~~or~~, if the property is real property, the attorney
 27 general, the prosecuting attorney, or the city or township attorney
 28 who gave notice of the seizure of the property and the intent to
 29 forfeit and dispose of the property ~~pursuant to~~**under** section 4704,

1 shall give notice to the persons who received notice ~~pursuant to~~
2 **under** section 4704 that the property has been returned to the owner
3 or that the lien has been discharged ~~pursuant to~~ **under** section
4 4706.

5 (2) The notice required under subsection (1) ~~shall be a~~
6 ~~written notice~~ **must be in writing and** delivered to the person or
7 sent to the person by certified mail. If the name and address of
8 the person are not reasonably ascertainable or delivery of the
9 notice cannot reasonably be accomplished, the notice ~~shall~~ **must** be
10 published **as follows:**

11 (a) **Before January 1, 2022,** in a newspaper of general
12 circulation in the county in which the personal property was seized
13 or the real property is located for 10 successive publishing days.

14 (b) **After December 31, 2021, in the manner provided under the**
15 **Michigan court rules for publication of notice as ordered by a**
16 **court.**

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 6440 (request no.
19 02449'19) of the 100th Legislature is enacted into law.