



Reprinted  
February 24, 2015

---

---

## SENATE BILL No. 388

---

DIGEST OF SB 388 (Updated February 23, 2015 4:34 pm - DI 106)

**Citations Affected:** IC 10-11; IC 33-39; IC 34-24.

**Synopsis:** Reporting of property forfeiture. Requires the Indiana prosecuting attorneys council to make an annual report to the legislative council concerning civil forfeitures conducted in Indiana, and requires the state police department to annually report to the legislative council the amount of money it has received from the federal government as the result of a forfeiture conducted by the federal government.

**Effective:** July 1, 2015.

---

---

### Hershman, Bray

---

---

January 12, 2015, read first time and referred to Committee on Judiciary.  
February 12, 2015, amended, reported favorably — Do Pass.  
February 17, 2015, read second time, ordered engrossed. Engrossed.  
February 19, 2015, returned to second reading.  
February 23, 2015, re-read second time, amended, ordered engrossed.

---

---

SB 388—LS 6723/DI 69





Reprinted  
February 24, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 388

---

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 10-11-2-34 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 34. (a) The superintendent shall annually report to**  
4 **the legislative council, to the extent the information is available, the**  
5 **amount of money that the state police department has received**  
6 **from the federal government as the result of a forfeiture conducted**  
7 **by the federal government.**  
8 **(b) The report shall be:**  
9 **(1) submitted before July 15 of every year; and**  
10 **(2) in an electronic format under IC 5-14-6.**  
11 **(c) The report may include any other information that the**  
12 **superintendent believes would be helpful.**  
13 SECTION 2. IC 33-39-8-5, AS AMENDED BY P.L.176-2005,  
14 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2015]: **Sec. 5. The council shall do the following:**  
16 **(1) Assist in the coordination of the duties of the prosecuting**

SB 388—LS 6723/DI 69



1 attorneys of the state and their staffs.

2 (2) Prepare manuals of procedure.

3 (3) Give assistance in preparation of the trial briefs, forms, and  
4 instructions.

5 (4) Conduct research and studies that would be of interest and  
6 value to all prosecuting attorneys and their staffs.

7 (5) Maintain liaison contact with study commissions and agencies  
8 of all branches of local, state, and federal government that will be  
9 of benefit to law enforcement and the fair administration of  
10 justice in Indiana.

11 (6) Adopt guidelines for the expenditure of funds derived from a  
12 deferral program or a pretrial diversion program.

13 **(7) The council shall:**

14 **(A) compile forfeiture data received under IC 34-24-1-4.5;**  
15 **and**

16 **(B) annually submit a report to the legislative council**  
17 **containing the compiled data.**

18 **The council shall submit the report to the legislative council**  
19 **before July 15 of every year. The report must be in an**  
20 **electronic format under IC 5-14-6. The council may adopt**  
21 **rules under IC 4-22-2 to implement this subdivision.**

22 SECTION 3. IC 34-24-1-4.5 IS ADDED TO THE INDIANA CODE  
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
24 1, 2015]: **Sec. 4.5. (a) After a court enters a judgment in favor of**  
25 **the state or a unit under section 4 of this chapter, the prosecuting**  
26 **attorney shall report the:**

27 **(1) amount of money or property that is the subject of the**  
28 **judgment; and**

29 **(2) law enforcement agency to which the money or property**  
30 **is ordered to be transferred;**

31 **to the Indiana prosecuting attorneys council. This subsection**  
32 **applies even if the prosecuting attorney has retained an attorney to**  
33 **bring an action under this chapter.**

34 **(b) After a court, upon motion of the prosecuting attorney under**  
35 **IC 35-33-5-5(j), orders property transferred to a federal authority**  
36 **for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21**  
37 **U.S.C. 881(e), and any related regulations adopted by the United**  
38 **States Department of Justice, the prosecuting attorney shall report**  
39 **to the Indiana prosecuting attorneys council the amount of money**  
40 **or property transferred. This subsection applies even if the**  
41 **prosecuting attorney has retained an attorney to bring an action**  
42 **under this chapter.**



1           **(c) A report made to the Indiana prosecuting attorneys council**  
2           **under this section must be in a format approved by the prosecuting**  
3           **attorneys council.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 388, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 16, begin a new paragraph and insert:

"SECTION 1. IC 10-11-2-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 34. At least one (1) time every calendar month, the superintendent shall:**

**(A) compile forfeiture and seizure data received under IC 34-24-1-4.5; and**

**(B) provide the compiled data under clause (A) to the treasurer of state in a format approved by the treasurer.**

**The superintendent may adopt rules under IC 4-22-2 to comply with this subdivision.**

SECTION 2. IC 33-39-8-5, AS AMENDED BY P.L.176-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. The council shall do the following:

(1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.

(2) Prepare manuals of procedure.

(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.

**(7) At least one (1) time every calendar month, the council shall:**

**(A) compile forfeiture and seizure data received under IC 34-24-1-4.5; and**

**(B) provide the compiled data under clause (A) to the treasurer of state in a format approved by the treasurer.**

**The council may adopt rules under IC 4-22-2 to comply with this subdivision."**

Delete pages 2 through 4.

Page 5, delete lines 1 through 11.

SB 388—LS 6723/DI 69



Page 5, line 14, delete "Any time:" and insert **"Not later than thirty (30) days from the end of the calendar month in which property was seized under this chapter by a law enforcement officer, the agency employing the law enforcement officer shall report the following to the state police department (or to the appropriate division of the state police department, if the officer is employed by the state police department):"**

- (1) An itemized list of property seized by the law enforcement agency.**
- (2) The estimated value of the seized property.**
- (3) An itemized list of any previously seized property returned to the owner.**

The subsection applies even if the property is transferred to a federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e), and any related regulations adopted by the United States Department of Justice.

**(b) Not later than thirty (30) days from the end of the calendar month in which a law enforcement agency receives money or property as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice, the agency shall report the amount of money or property received to the state police department (or to the appropriate division of the state police department, if the law enforcement agency is the state police department).**

**(c) Not later than thirty (30) days from the end of the calendar month in which a law enforcement agency receives money or property under a:**

- (1) judgment entered under section 4 of this chapter; or**
- (2) sale conducted under section 6 of this chapter;**

**the agency shall report the amount of money or property received to the state police department (or to the appropriate division of the state police department, if the law enforcement agency is the state police department).**

**(d) This subsection applies only to a prosecuting attorney. Not later than thirty (30) days from the end of the calendar month in which a court enters a judgment in favor of the state or a unit under section 4 of this chapter, the prosecuting attorney shall report the:**

- (1) amount of money or property that is the subject of the judgment; and**
- (2) law enforcement agency to which the money or property**



is ordered to be transferred;  
to the Indiana prosecuting attorneys council. This subsection applies even if the prosecuting attorney has retained an attorney to bring an action under this chapter.

(e) This subsection applies only to a prosecuting attorney. Not later than thirty (30) days from the end of the calendar month in which a court, upon motion of the prosecuting attorney under IC 35-33-5-5(j), orders property transferred to a federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e), and any related regulations adopted by the United States Department of Justice, the prosecuting attorney shall report to the Indiana prosecuting attorneys council the amount of money or property transferred. This subsection applies even if the prosecuting attorney has retained an attorney to bring an action under this chapter.

(f) A report made to the state police department or the Indiana prosecuting attorneys council under this section must be in a format approved by the state police department and the prosecuting attorneys council."

Page 5, delete lines 15 through 42.

Delete pages 6 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 388 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

---

SENATE MOTION

Madam President: I move that Engrossed SB 388, which is eligible for third reading, be returned to second reading for purposes of amendment.

HERSHMAN





## SENATE MOTION

Madam President: I move that Senate Bill 388 be amended to read as follows:

Page 1, line 3, delete "At least one (1) time every calendar month, the" and insert "**(a) The superintendent shall annually report to the legislative council, to the extent the information is available, the amount of money that the state police department has received from the federal government as the result of a forfeiture conducted by the federal government.**

**(b) The report shall be:**

**(1) submitted before July 15 of every year; and**

**(2) in an electronic format under IC 5-14-6.**

**(c) The report may include any other information that the superintendent believes would be helpful."**

Page 1, delete lines 4 through 10.

Page 2, line 11, delete "At least one (1) time every calendar month, the" and insert "**The**".

Page 2, line 13, delete "and seizure".

Page 2, delete lines 15 through 18, begin a new line double block indented and insert:

**"(B) annually submit a report to the legislative council containing the compiled data.**

**The council shall submit the report to the legislative council before July 15 of every year. The report must be in an electronic format under IC 5-14-6. The council may adopt rules under IC 4-22-2 to implement this subdivision."**

Page 2, line 21, delete "(a) Not later than thirty (30) days from the end".

Page 2, delete lines 22 through 42.

Page 3, delete lines 1 through 14.

Page 3, line 15, delete "which" and insert:

**"(a) After"**.

Page 3, delete lines 25 through 26.

Page 3, line 27, delete "which" and insert:

**"(b) After"**.

Page 3, line 36, delete "(f)" and insert "**(c)**".

Page 3, line 36, delete "state police department or the".

Page 3, line 38, delete "state police department and the".

(Reference is to SB 388 as printed February 13, 2015.)

HERSHMAN

