

SENATE BILL No. 458

AN ACT concerning seizure and forfeiture of property; relating to the Kansas standard asset seizure and forfeiture act; specifying that certain drug offenses do not give rise to forfeiture under the act; providing limitations on state and local law enforcement agency requests for federal adoption of a seizure under the act; requiring courts to make a finding that forfeiture is not excessive; restricting actions prior to commencement of forfeiture proceedings; requiring probable cause affidavit filing and review to commence forfeiture proceedings; increasing the burden of proof required to forfeit property to clear and convincing evidence; authorizing courts to order payment of attorney fees and costs for certain claimants; requiring the Kansas bureau of investigation to submit forfeiture fund financial reports to the legislature; amending K.S.A. 2023 Supp. 60-4104, 60-4106, 60-4107, 60-4109, 60-4111, 60-4112, 60-4113, 60-4116, 60-4117 and 60-4127 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2023 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

(a) All offenses which statutorily and specifically authorize forfeiture;

(b) violations involving controlled substances, as described in K.S.A. ~~21-5701 through 21-5717~~ 21-5703, 21-5705, 21-5707, 21-5708(b), 21-5709(a), (b)(1), (c) and (d), 21-5710, 21-5713(a), 21-5714 and 21-5716, and amendments thereto;

(c) theft, as defined in K.S.A. 21-5801, and amendments thereto;

(d) criminal discharge of a firearm, as defined in K.S.A. 21-6308(a)(1) and (a)(2), and amendments thereto;

(e) gambling, as defined in K.S.A. 21-6404, and amendments thereto, and commercial gambling, as defined in K.S.A. 21-6406(a)(1), and amendments thereto;

(f) counterfeiting, as defined in K.S.A. 21-5825, and amendments thereto;

(g) unlawful possession or use of a scanning device or reencoder, as described in K.S.A. 21-6108, and amendments thereto;

(h) medicaid fraud, as described in K.S.A. 21-5925 through 21-5934, and amendments thereto;

(i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;

(j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;

(k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;

(l) terrorism, as defined in K.S.A. 21-5421, and amendments thereto, illegal use of weapons of mass destruction, as defined in K.S.A. 21-5422, and amendments thereto, and furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 21-5423, and amendments thereto;

(m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in K.S.A. 21-6414(a) and (b), and amendments thereto;

(n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in K.S.A. 21-6417(a) and (b), and amendments thereto;

(o) selling sexual relations, as defined in K.S.A. 21-6419, and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 21-6420, and amendments thereto, and buying sexual

relations, as defined in K.S.A. 21-6421, and amendments thereto;

(p) human trafficking and aggravated human trafficking, as defined in K.S.A. 21-5426, and amendments thereto;

(q) violations of the banking code, as described in K.S.A. 9-2012, and amendments thereto;

(r) mistreatment of a dependent adult, as defined in K.S.A. 21-5417, and amendments thereto;

(s) giving a worthless check, as defined in K.S.A. 21-5821, and amendments thereto;

(t) forgery, as defined in K.S.A. 21-5823, and amendments thereto;

(u) making false information, as defined in K.S.A. 21-5824, and amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 21-5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 21-5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in K.S.A. 21-6107(a) and (b), and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 21-5509, and amendments thereto;

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8-1568, and amendments thereto;

(aa) commercial sexual exploitation of a child, as defined in K.S.A. 21-6422, and amendments thereto;

(bb) violations of the Kansas racketeer influenced and corrupt organization act, as described in K.S.A. 21-6329, and amendments thereto;

(cc) indecent solicitation of a child and aggravated indecent solicitation of a child, as defined in K.S.A. 21-5508, and amendments thereto;

(dd) sexual exploitation of a child, as defined in K.S.A. 21-5510, and amendments thereto; and

(ee) violation of a consumer protection order as defined in K.S.A. 21-6423, and amendments thereto.

Sec. 2. K.S.A. 2023 Supp. 60-4106 is hereby amended to read as follows: 60-4106. (a) *Except as provided in this subsection*, all property, including all interests in property, described in K.S.A. 60-4105, and amendments thereto, is subject to forfeiture subject to all mortgages, deeds of trust, financing statements or security agreements properly of record prior to the forfeiture held by an interest holder ~~except that property specifically exempted hereunder:~~

(1) No real property or conveyance, or an interest therein, may be forfeited under this act unless the offense or conduct giving rise to forfeiture constitutes a felony.

(2) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this act unless the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act.

(3) No property is subject to forfeiture under this act if the owner or interest holder acquired the property before or during the conduct giving rise to the property's forfeiture, and such owner or interest holder:

(A) Did not know and could not have reasonably known of the act or omission or that it was likely to occur; or

(B) acted reasonably to prevent the conduct giving rise to forfeiture.

(4) No property is subject to forfeiture if the owner or interest holder acquired the property after the conduct giving rise to the

property's forfeiture, including acquisition of proceeds of conduct giving rise to forfeiture, and such owner or interest holder:

- (A) Acquired the property in good faith, for value; and
- (B) was not knowingly taking part in an illegal transaction.

(5) (A) An interest in property acquired in good faith by an attorney as reasonable payment or to secure payment for legal services in a criminal matter relating to violations of this act or for the reimbursement of reasonable expenses related to the legal services is exempt from forfeiture unless before the interest was acquired the attorney knew of a judicial determination of probable cause that the property is subject to forfeiture.

(B) The state bears the burden of proving that an exemption claimed under this section is not applicable. Evidence made available by the compelled disclosure of confidential communications between an attorney and a client other than nonprivileged information relating to attorney fees, is not admissible to satisfy the state's burden of proof.

(b) Notwithstanding subsection (a), property is not exempt from forfeiture, even though the owner or interest holder lacked knowledge or reason to know that the conduct giving rise to property's forfeiture had occurred or was likely to occur, if the:

(1) Person whose conduct gave rise to the property's forfeiture had authority to convey the property of the person claiming the exemption to a good faith purchaser for value at the time of the conduct;

(2) owner or interest holder is criminally responsible for the conduct giving rise to the property's forfeiture, whether or not there is a prosecution or conviction; or

(3) owner or interest holder acquired the property with notice of the property's actual or constructive seizure for forfeiture under this act, or with reason to believe that the property was subject to forfeiture under this act.

(c) Prior to final judgment in a judicial forfeiture proceeding, ~~a the court shall limit the scope of a proposed forfeiture to the extent the court finds the effect of the forfeiture is grossly disproportionate to the nature and severity of the owner's conduct including, but not limited to, a consideration of any of the following factors:~~

~~(1) The gain received or expected to be received by an owner from conduct that allows forfeiture;~~

~~(2) the value of the property subject to forfeiture;~~

~~(3) the extent to which the property actually facilitated the criminal conduct;~~

~~(4) the nature and extent of the owner's knowledge of the role of others in the conduct that allows forfeiture of the property and efforts of the owner to prevent the conduct; and~~

~~(5) the totality of the circumstances regarding the investigation determine whether the proposed forfeiture is unconstitutionally excessive pursuant to K.S.A. 60-4112(g), and amendments thereto, if the court has not made such determination earlier in the proceeding as a result of a petition filed pursuant to K.S.A. 60-4112(g), and amendments thereto.~~

Sec. 3. K.S.A. 2023 Supp. 60-4107 is hereby amended to read as follows: 60-4107. (a) Property may be seized for forfeiture by a law enforcement officer upon process issued by the district court. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for the property's forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant. All real property is to be seized

constructively or pursuant to a pre-seizure adversarial judicial determination of probable cause, except that this determination may be done ex parte when the attorney for the state has demonstrated exigent circumstances to the court.

(b) Property may be seized for forfeiture by a law enforcement officer without process on probable cause to believe the property is subject to forfeiture under this act.

(c) Property may be seized constructively by:

(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the property.

(2) Giving notice pursuant to K.S.A. 60-4109, and amendments thereto.

(3) Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien or a lis pendens. Filings or recordings made pursuant to this act are not subject to a filing fee or other charge, except that court costs may be assessed and, if assessed, shall include the amount of the docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and any additional court costs accrued in the action.

(d) The seizing agency shall make reasonable effort to provide notice of the seizure to the person from ~~whose~~ *whom* possession or control of the property was seized and any interest holder of record within 30 days of seizing the property. If no person is in possession or control, the seizing agency may attach the notice to the property or to the place of the property's seizure or may make a reasonable effort to deliver the notice to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

(e) A person who acts in good faith and in a reasonable manner to comply with an order of the court or a request of a law enforcement officer is not liable to any person on account of acts done in reasonable compliance with the order or request. No liability may attach from the fact that a person declines a law enforcement officer's request to deliver property.

(f) A possessory lien of a person from ~~whose~~ *whom* possession of the property is seized is not affected by the seizure.

(g) When property is seized for forfeiture under this act, the seizing agency shall, within ~~45 days of~~ *14 days after* such seizure, forward to the county or district attorney in whose jurisdiction the seizure occurred, a written request for forfeiture which shall include a statement of facts and circumstances of the seizure, the estimated value of the property, the owner and lienholder of the property, the amount of any lien, and a summary of the facts relied on for forfeiture.

(h) (1) Upon receipt of a written request for forfeiture from a local law enforcement agency, the county or district attorney shall accept or decline the request within 14 days. ~~If~~

(2) *Upon the expiration of the 14-day time limitation provided in paragraph (1) or upon notification that the county or district attorney declines such request, or fails to answer whichever occurs first, the seizing agency may has 14 days to:*

(~~1~~)*(A)* Request a state law enforcement agency that enforces this act to adopt the forfeiture; or

(~~2~~)*(B)* engage an attorney, approved by the county or district attorney, to represent the agency in the forfeiture proceeding, but in no event shall the county or district attorney approve an attorney with whom the county or district attorney has a financial interest, either directly or indirectly.

(3) *Upon the expiration of the 14-day time limitation provided in paragraph (2), if a state law enforcement agency has not adopted the forfeiture or the seizing agency has not engaged an attorney to represent the agency, the property that was seized for forfeiture shall be returned within 30 days to the owner or interest holder or as provided for the same kind of property in K.S.A. 22-2512, and amendments thereto.*

(i) (1) Upon receipt of a written request for forfeiture from a state law enforcement agency, the county or district attorney shall accept or decline the request within 14 days. ~~ff~~

(2) *Upon the expiration of the 14-day time limitation provided in paragraph (1) or upon notification that the county or district attorney declines such request, or fails to answer whichever occurs first, the seizing agency may has 14 days to engage an assistant attorney general or other attorney approved by the attorney general to represent the agency in the forfeiture proceeding, but in no event shall the attorney general approve an attorney with whom the attorney general has a financial interest, either directly or indirectly.*

(3) *Upon the expiration of the 14-day time limitation provided in paragraph (2), if the seizing agency has not engaged an attorney to represent the agency, the property that was seized for forfeiture shall be returned within 30 days to the owner or interest holder or as provided for the same kind of property in K.S.A. 22-2512, and amendments thereto.*

(j) *Nothing in subsection (h) or (i) shall affect the time limitations for initiating or filing a forfeiture proceeding pursuant to K.S.A. 60-4109, and amendments thereto.*

(k) A county or district attorney or the attorney general shall not request or receive any referral fee or personal financial benefit, either directly or indirectly, in any proceeding conducted under this act.

~~(l)~~ Nothing in this act shall prevent the attorney general, an employee of the attorney general or an authorized representative of the attorney general from conducting forfeiture proceedings under this act.

~~(m)~~ (1) ~~Nothing in this act shall prevent a seizing agency from requesting federal adoption of a seizure. A state or local law enforcement agency may request federal adoption of a seizure pursuant to this act or otherwise transfer or refer seized property to a federal agency only if:~~

(A) *The seizure by the agency occurs pursuant to a joint task force with federal law enforcement authorities;*

(B) *the seizure by the agency occurs pursuant to a joint investigation with federal law enforcement authorities as part of an ongoing federal investigation;*

(C) *the agency makes such request in conjunction with a request for federal law enforcement authorities to adopt the criminal investigation relating to the seizure;*

(D) *the property seized by the agency is subsequently seized pursuant to a federal seizure warrant, obtained from a federal court to take custody of assets originally seized under state law;*

(E) *the property seized by the agency directly relates to a serious public safety concern; or*

(F) *the gross estimated value of the property seized by the agency is \$25,000 or more.*

(2) *Subject to the requirements of paragraph (1), it shall not be necessary to obtain any order pursuant to K.S.A. 22-2512, and amendments thereto, to release any seized property to a federal agency if the county or district attorney approves of such transfer.*

~~(n)~~ Nothing in this act shall prevent a seizing agency, or the plaintiff's attorney on behalf of the seizing agency, from settling any

alleged forfeiture claim against property before or during forfeiture proceedings. Such settlement shall be in writing and shall be approved, if a local agency, by the county or district attorney or, if a state agency, by the attorney general's office and a district court judge. No hearing or other proceeding shall be necessary. The records of settlements occurring prior to commencement of judicial forfeiture proceedings in the district court shall be retained by the county or district attorney for not less than five years.

~~(n)~~(o) Settlements under this act shall not be conditioned upon any disposition of criminal charges.

(p) When property is seized for forfeiture under this act, the seizing agency shall not request, induce or otherwise coerce a person who has at any time asserted rights as an owner or interest holder of such property to waive in writing such rights in the property until forfeiture proceedings are commenced pursuant to K.S.A. 60-4109, and amendments thereto.

Sec. 4. K.S.A. 2023 Supp. 60-4109 is hereby amended to read as follows: 60-4109. (a) *(1) (A)* Forfeiture proceedings shall be commenced by filing:

(i) A notice of pending forfeiture or a judicial forfeiture action;
and

(ii) an affidavit describing the probable cause supporting forfeiture.

(B) After an affidavit is filed under this section, further proceedings shall occur only after a judge of the district court has determined from the affidavit that there is probable cause to believe that the property is subject to forfeiture pursuant to K.S.A. 60-4105, and amendments thereto.

~~(1)~~(2) If the plaintiff's attorney fails to initiate forfeiture proceedings by notice of pending forfeiture within 90 days against property seized for forfeiture or if the seizing agency fails to pursue forfeiture of the property upon which a proper claim has been timely filed by filing a judicial forfeiture proceeding within 90 days after notice of pending forfeiture, the property shall be released on the request of an owner or interest holder to such owner's or interest holder's custody, as custodian for the court, pending further proceedings pursuant to this act. Such custodianship shall not exceed 90 days following the release to the owner or interest holder unless an extension is authorized by the court for good cause shown.

~~(2)~~(3) If, after notice of pending forfeiture, a claimant files a petition for recognition of exemption pursuant to K.S.A. 60-4110, and amendments thereto, the plaintiff's attorney may delay filing the judicial forfeiture proceeding for a total of 180 days after the notice of pending forfeiture except that if an interest holder timely files a proper petition documenting the complete nature and extent of such holder's interest, including all of the contractual terms and current status, the plaintiff's attorney may delay filing a judicial forfeiture proceeding only if such attorney provides each such petitioner with a written recognition of exemption within 60 days after the effective date of the notice of pending forfeiture, recognizing the interest of such petitioner to the extent of documented outstanding principal plus interest at the contract rate until paid and any attorney fees ordered by a court pursuant to such contract.

~~(3)~~(4) Whenever notice of pending forfeiture or service of an in rem complaint or notice of a recognition of exemption and statement of nonexempt interests is required under this act, notice or service shall be given in accordance with one of the following:

(A) If the owner's or interest holder's name and current address are known, by either personal service by any person qualified to serve

process or by any law enforcement officer or by mailing a copy of the notice by certified mail, return receipt requested, to the known address, pursuant to the code of civil procedure;

(B) if the owner's or interest holder's name and address are required by law to be on record with a municipal, county, state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail, return receipt requested, to any address of record with any of the described agencies, pursuant to the code of civil procedure; or

(C) if the owner's or interest holder's address is not known and is not on record as provided in subparagraph (B), or the owner's or interest holder's interest is not known, or if service by certified mail was attempted pursuant to subparagraph (A) or (B) and was not effective, by publication in one issue of the official county newspaper, as defined by K.S.A. 64-101, and amendments thereto, in the county in which the seizure occurred.

~~(4)~~(5) Notice is effective pursuant to the code of civil procedure, except that notice of pending forfeiture of real property is not effective until it is recorded. Notice of pending forfeiture shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged and a summary of procedures and procedural rights applicable to the forfeiture action. ~~At~~ *When notice of pending forfeiture is mailed to an owner or interest holder, the following shall be included with the notice: (A) The affidavit describing the essential facts probable cause supporting forfeiture shall be included with the notice.; and (B) copies of judicial council forms for petitioning for recognition of an exemption pursuant to K.S.A. 60-4110, and amendments thereto, and for making a claim pursuant to K.S.A. 60-4111, and amendments thereto, shall be provided with the notice.*

(b) The plaintiff's attorney, ~~without a filing fee,~~ may file a lien for the forfeiture of property upon the ~~initiation of any civil or criminal proceeding relating to conduct giving rise to forfeiture under this act or upon seizure for forfeiture~~ commencement of a forfeiture proceeding as provided in subsection (a). *The court shall not charge the plaintiff's attorney a filing fee.* Court costs may be assessed and, if assessed, shall include the amount of the docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and any additional court costs accrued in the action. A plaintiff's attorney may also file a forfeiture lien in this state in connection with a proceeding or seizure for forfeiture in any other state under a state or federal statute substantially similar to the relevant provisions of this act. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

(1) The lien notice shall set forth the following:

(A) The name of the person and, in the discretion of the lienor, any alias, or the name of any corporation, partnership, trust or other entity, including nominees, that are owned entirely or in part or controlled by the person; and

(B) the description of the seized property, the criminal or civil proceeding that has been brought relating to conduct giving rise to forfeiture under this act, the amount claimed by the lienor, the name of the district court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing.

(2) A lien filed pursuant to this subsection applies to the described seized property or to one named person, any aliases, fictitious names, or other names, including the names of any corporation, partnership,

trust, or other entity, owned entirely or in part, or controlled by the named person, and any interest in real property owned or controlled by the named person. A separate forfeiture lien shall be filed for each named person.

(3) The notice of lien creates, upon filing, a lien in favor of the lienor as it relates to the seized property or the named person or related entities. The lien secures the amount of potential liability for civil judgment, and if applicable, the fair market value of seized property relating to all proceedings under this act enforcing the lien. The notice of forfeiture lien referred to in this subsection shall be filed in accordance with the provisions of the laws of this state relating to the type of property that is subject to the lien. The validity and priority of the forfeiture lien shall be determined in accordance with applicable law pertaining to liens. The lienor may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this subsection which identifies the lien amended. The lienor, as soon as practical after filing the lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection shall not invalidate or otherwise affect the lien.

(4) Upon entry of judgment in the seizing agency's favor, the seizing agency may proceed to execute on the lien as provided by law.

(5) A trustee, constructive or otherwise, who has notice that a notice of forfeiture lien, or a notice of pending forfeiture, or a ~~civil~~ forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as record owner, shall furnish within 14 days, to the seizing agency or the plaintiff's attorney all of the following information, unless all of the information is of record in the public records giving notice of liens on that type of property:

(A) The name and address of each person or entity for whom the property is held;

(B) the description of all other property whose legal title is held for the benefit of the named person; and

(C) a copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as record owner of the property.

(6) A trustee with notice who knowingly fails to comply with the provisions of this subsection shall be guilty of a class B nonperson misdemeanor.

(7) A trustee with notice who fails to comply with paragraph (5) is subject to a civil penalty of \$100 for each day of noncompliance. The court shall enter judgment ordering payment of \$100 for each day of noncompliance from the effective date of the notice until the required information is furnished or the seizing agency executes the seizing agency's judgment lien under this section.

(8) To the extent permitted by the constitutions of the United States and the state of Kansas, the duty to comply with paragraph (5) shall not be excused by any privilege or provision of law of this state or any other state or country which authorizes or directs that testimony or records required to be furnished pursuant to paragraph (5) are privileged, confidential and otherwise may not be disclosed.

(9) A trustee who furnishes information pursuant to paragraph (5) is immune from civil liability for the release of the information.

(10) An employee of the seizing agency or the plaintiff's attorney who releases the information obtained pursuant to paragraph (5), except in the proper discharge of official duties, is guilty of a class B nonperson misdemeanor.

(11) If any information furnished pursuant to paragraph (5) is

offered in evidence, the court may seal that portion of the record or may order that the information be disclosed in a designated way.

(12) A judgment or an order of payment entered pursuant to this section becomes a judgment lien against the property alleged to be subject to forfeiture.

Sec. 5. K.S.A. 2023 Supp. 60-4111 is hereby amended to read as follows: 60-4111. (a) (1) Only an owner of or interest holder in property seized for forfeiture may file a claim, and shall do so in the manner provided in this section. The claim shall be mailed to the seizing agency and to the plaintiff's attorney by certified mail, return receipt requested, within 60 days after the effective date of notice of pending forfeiture.

(2) *The plaintiff's attorney shall file a notice of receipt with the court when a claim is received unless the claim was already filed with the court. Such filing shall include a copy of the claim and documents showing the date that the claim was mailed and received.*

(b) The claim shall be signed by the claimant under penalty of perjury, K.S.A. 21-5903, and amendments thereto, and shall set forth the following:

(1) The caption of the proceedings and identifying number, if any, as set forth on the notice of pending forfeiture or complaint, the name of the claimant, and the name of the plaintiff's attorney who authorized the notice of pending forfeiture or complaint;

(2) the address where the claimant will accept mail;

(3) the nature and extent of the claimant's interest in the property; and

(4) a detailed description of when and how the claimant obtained an interest in the property.

(c) Substantial compliance with subsection (b) shall be deemed sufficient.

(d) It is permissible to assert the right against self-incrimination in a claim. If a claimant asserts the right, the court, in the court's discretion, may draw an adverse inference from the assertion against the claimant. The adverse inference shall not, by itself, be the basis of a judgment against the claimant.

Sec. 6. K.S.A. 2023 Supp. 60-4112 is hereby amended to read as follows: 60-4112. (a) A judicial forfeiture proceeding under this act is subject to the provisions of this section.

(b) The court, on application of the plaintiff's attorney, may enter any restraining order or injunction, require the execution of satisfactory performance bonds, create receiverships, appoint conservators, custodians, appraisers, accountants or trustees, or take any other action to seize, secure, maintain or preserve the availability of property subject to forfeiture under this act, including a writ of attachment or a warrant for such property's seizure, whether before or after the filing of a notice of pending forfeiture or complaint.

~~(c) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under K.S.A. 60-4114(c), and amendments thereto, the court, on an application filed by an owner of or interest holder in the property within 14 days after notice of the property's seizure for forfeiture or lien, or actual knowledge of it, whichever is earlier, and after complying with the requirements for claims in K.S.A. 60-4109, and amendments thereto, after seven days' notice to the plaintiff's attorney, may issue an order to show cause to the seizing agency, for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing shall be held within 30 days of the order to show cause unless continued for good cause on motion of either party. If the court finds that there is no probable cause~~

~~for forfeiture of the property, or if the seizing agency elects not to contest the issue, the property shall be released to the custody of the applicant, as custodian for the court, or from the lien pending the outcome of a judicial proceeding pursuant to this act. If the court finds that probable cause for the forfeiture of the property exists, the court shall not order the property released.~~ *At any time prior to final judgment, an owner or interest holder may petition the court for determination or reconsideration of its prior determination that there is probable cause to believe that the property is subject to forfeiture.*

~~(d) All applications filed within the 14-day period prescribed by subsection (c) shall be consolidated for a single hearing relating to each applicant's interest in the property seized for forfeiture.~~

~~(e)~~ A person charged with a criminal offense may apply at any time before final judgment to the court where the forfeiture proceeding is pending for the release of property seized for forfeiture, that is necessary for the defense of the person's criminal charge. The application shall satisfy the requirements under K.S.A. 60-4111(b), and amendments thereto. The court shall hold a probable cause hearing if the applicant establishes that:

(1) The person has not had an opportunity to participate in a previous adversarial judicial determination of probable cause;

(2) the person has no access to other moneys adequate for the payment of criminal counsel; and

(3) the interest in property to be released is not subject to any claim other than the forfeiture.

~~(f)~~ *(e)* If the court finds that there is no probable cause for forfeiture of the property, the court shall order the property released ~~pursuant to subsection (e) to the custody of the applicant, as custodian for the court, or from a forfeiture lien pending the outcome of a judicial proceeding pursuant to this act.~~ If the seizing agency does not contest the hearing, the court may release a reasonable amount of property for the payment of the applicant's criminal defense costs. Property that has been released by the court and that has been paid for criminal defense services actually rendered is exempt under this act.

~~(g)~~ *(f)* A defendant convicted in any criminal proceeding is precluded from later denying the elements of the criminal offense of which the defendant was convicted in any proceeding pursuant to this section. For the purposes of this section, a conviction results from a verdict or plea of guilty, including a plea of no contest or nolo contendere.

(g) (1) At any time following seizure pursuant to this act, the person from whom possession or control of the property was seized may petition the court to determine whether such forfeiture is unconstitutionally excessive.

(2) The plaintiff's attorney has the burden of establishing that the forfeiture is proportional to the seriousness of the offense giving rise to the forfeiture by clear and convincing evidence.

(3) In determining whether the forfeiture is unconstitutionally excessive, the court may consider all relevant factors, including, but not limited to:

(A) The seriousness of the offense;

(B) the extent of participation in the offense by the person from whom possession or control of the property was seized;

(C) the extent to which the property was used in committing the offense;

(D) the sentence imposed for committing the offense that gave rise to forfeiture;

(E) the effect of the forfeiture on the livelihood of the person from whom possession or control of the property was seized; and

(F) *the fair market value of the property compared to the property owner's net worth.*

(h) In any proceeding under this act, if a claim is based on any exemption provided for in this act, the burden of proving the existence of the exemption is on the claimant, and is not necessary for the seizing agency or plaintiff's attorney to negate the exemption in any application or complaint.

(i) In hearings and determinations pursuant to this section, the court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or in the issuance of a search warrant, together with inferences ~~therefrom~~ *from such admissible evidence.*

(j) The totality of the circumstances shall determine if the property of a person is subject to forfeiture under this act. Factors that may be considered include, but are not limited to, the following:

(1) The person has engaged in conduct giving rise to forfeiture;

(2) the property was acquired by the person during that period of the conduct giving rise to forfeiture or within a reasonable time after the period;

(3) there was no likely source for the property other than the conduct giving rise to forfeiture; and

(4) the proximity to contraband or an instrumentality giving rise to forfeiture.

(k) A finding that property is the proceeds of conduct giving rise to forfeiture does not require proof the property is the proceeds of any particular exchange or transaction.

(l) A person who acquires any property subject to forfeiture is a constructive trustee of the property, and such property's fruits, for the benefit of the seizing agency, to the extent that such agency's interest is not exempt from forfeiture. If property subject to forfeiture has been commingled with other property, the court shall order the forfeiture of the mingled property and of any fruits of the mingled property, to the extent of the property subject to forfeiture, unless an owner or interest holder proves that specified property does not contain property subject to forfeiture, or that such owner's or interest holder's interest in specified property is exempt from forfeiture.

(m) All property declared forfeited under this act vests in the law enforcement agency seeking forfeiture on the date of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee acquired the property in good faith, for value, and was not knowingly taking part in an illegal transaction, and the transferee's interest is exempt under K.S.A. 60-4106, and amendments thereto.

(n) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this act, nor give rise to any presumption adverse or contrary to any fact alleged by the seizing agency.

(o) ~~On motion,~~ The court shall *automatically* stay discovery against the criminal defendant and against the seizing agency in civil proceedings during a related criminal proceeding alleging the same conduct, after making provision to prevent loss to any party resulting from the delay. ~~Such a stay shall not be available pending any appeal by a defendant.~~ *The court may lift the automatic stay of discovery upon good cause shown.*

(p) Except as otherwise provided by this act, all proceedings ~~hereunder~~ *under the act* shall be governed by the rules of civil

procedure pursuant to K.S.A. 60-101 et seq., and amendments thereto.

(q) An action pursuant to this act shall be consolidated with any other action or proceeding pursuant to this act or to such other foreclosure or trustee sale proceedings relating to the same property on motion of the plaintiff's attorney, and may be consolidated on motion of an owner or interest holder.

Sec. 7. K.S.A. 2023 Supp. 60-4113 is hereby amended to read as follows: 60-4113. (a) A judicial in rem forfeiture proceeding brought by the plaintiff's attorney pursuant to a notice of pending forfeiture or verified petition for forfeiture is also subject to the provisions of this section. If a forfeiture is authorized by this act, it shall be ordered by the court in the in rem action.

(b) An action in rem may be brought by the plaintiff's attorney in addition to, or in lieu of, civil in personam forfeiture procedures. The seizing agency may serve the complaint in the manner provided by K.S.A. 60-4109(a)(3), and amendments thereto, or as provided by the rules of civil procedure.

(c) Only an owner of or an interest holder in the property who has timely filed a proper claim may file an answer in an action in rem. For the purposes of this section, an owner of or interest holder in property who has filed a claim and answer shall be referred to as a claimant.

(d) The answer shall be signed by the claimant under penalty of perjury, K.S.A. 21-5903, and amendments thereto, shall otherwise be in accordance with the rules of civil procedure on answers and shall also set forth the following:

- (1) The caption of the proceedings and identifying number, if any, as set forth on the notice of pending forfeiture or complaint and the name of the claimant;
 - (2) the address where the claimant will accept mail;
 - (3) the nature and extent of the claimant's interest in the property;
- and
- (4) a detailed description of when and how the claimant obtained an interest in the property.

(e) Substantial compliance with subsection (d) shall be deemed sufficient.

(f) It is permissible to assert the right against self-incrimination in an answer. If a claimant asserts the right, the court, in the court's discretion, may draw an adverse inference from the assertion against the claimant. The adverse inference shall not, by itself, be the basis of a judgment against the claimant.

(g) The answer shall be filed within 21 days after service of the civil in rem complaint.

(h) The issue shall be determined by the court alone. The plaintiff's attorney shall have the initial burden of proving the interest in the property is subject to forfeiture by a preponderance of the *clear and convincing* evidence. If the state proves the interest in the property is subject to forfeiture, the claimant has the burden of showing by a preponderance of the evidence that the claimant has an interest in the property which is not subject to forfeiture.

(i) If the plaintiff's attorney fails to meet the burden of proof for forfeiture, or a claimant establishes by a preponderance of the evidence that the claimant has an interest that is exempt under the provisions of K.S.A. 60-4106, and amendments thereto, the court shall order the interest in the property returned or conveyed to the claimant. The court shall order all other property forfeited to the seizing agency and conduct further proceedings pursuant to K.S.A. 60-4116 and 60-4117, and amendments thereto.

Sec. 8. K.S.A. 2023 Supp. 60-4116 is hereby amended to read as follows: 60-4116. (a) If no proper claims are timely filed in an action in

rem, or if no proper answer is timely filed in response to a complaint, the plaintiff's attorney may apply for an order of forfeiture and allocation of forfeited property pursuant to K.S.A. 60-4117, and amendments thereto. Upon a determination by the court that the seizing agency's written application established the court's jurisdiction, the giving of proper notice, and facts sufficient to show probable cause for forfeiture, the court shall order the property forfeited to the seizing agency.

(b) After final disposition of all claims timely filed in an action in rem, or after final judgment and disposition of all claims timely filed in an action in personam, the court shall enter an order that the seizing agency has clear title to the forfeited property interest. Title to the forfeited property interest and such property's proceeds shall be deemed to have vested in the seizing agency on the commission of the conduct giving rise to forfeiture under this act.

(c) If, in the discretion of the plaintiff's attorney, such plaintiff's attorney has recognized in writing that an interest holder has an interest that is exempt from forfeiture, the court, on application of the plaintiff's attorney, may release or convey forfeited personal property to a regulated interest holder on all of the following conditions:

(1) The interest holder has an interest which was acquired in the regular course of business as an interest holder.

(2) The amount of the interest holder's encumbrance is readily determinable and the amount has been reasonably established by proof made available by the plaintiff's attorney to the court.

(3) The encumbrance held by the interest holder seeking possession is the only interest exempted from forfeiture and the order forfeiting the property to the seizing agency transferred all of the rights of the owner prior to forfeiture, including rights of redemption to the seizing agency.

(4) After the court's release or conveyance, the interest holder shall dispose of the property by a commercially reasonable public sale, and within 14 days of disposition shall tender to the seizing agency the amount received at disposition less the amount of the interest holder's encumbrance and reasonable expense incurred by the interest holder in connection with the sale or disposal.

(d) On order of the court forfeiting the subject property, the seizing agency may transfer good and sufficient title to any subsequent purchaser or transferee, unless satisfied and released earlier, subject to all mortgages, deeds of trust, financing statements or security agreements of record prior to the forfeiture held by an interest holder and the title shall be recognized by all courts, by this state, and by all agencies of and any political subdivision. Likewise on entry of judgment in favor of a person claiming an interest in the property that is subject to proceedings to forfeit property under this act, the court shall enter an order that the property or interest in property shall be released or delivered promptly to that person free of liens and encumbrances under this act and the person's cost bond shall be discharged.

(e) Upon motion by the plaintiff's attorney, if it appears after a hearing there was reasonable cause for the seizure for forfeiture or for the filing of the notice of pending forfeiture or complaint, the court shall cause a finding to be entered that reasonable cause existed, or that any such action was taken under a reasonable good faith belief that it was proper, and the claimant is not entitled to costs or damages, and the person or seizing agency who made the seizure, and the plaintiff's attorney, are not liable to suit or judgment on account of the seizure, suit or prosecution. *Nothing in this subsection shall affect whether a claimant is entitled to payment of attorney fees, litigation costs and interest pursuant to subsection (f).*

(f) (1) The court ~~shall~~ *may* order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture under K.S.A. 60-4105, and amendments thereto, to pay the reasonable costs and expenses of any claimant who established such claimant's interest is exempt from forfeiture under K.S.A. 60-4105, and amendments thereto, and to pay the reasonable costs and expenses of the seizing agency for the investigation and litigation of the matter, including reasonable attorney fees, in connection with that claimant.

(2) *In any proceeding in which the court finds that the claimant has prevailed by ordering the return of at least half of the aggregate value of the claimant's interest in the property or currency in which the claimant asserted an interest, the court shall order the seizing agency to pay:*

(A) *Reasonable attorney fees and other litigation costs incurred by the claimant;*

(B) *post judgment interest; and*

(C) *in cases involving currency, other negotiable instruments or the proceeds of an interlocutory sale, any interest actually paid from the date of seizure.*

(g) *If there are multiple claims to the same property, the seizing agency shall not be liable for attorney fees and costs associated with any claim if the seizing agency:*

(1) *Promptly recognizes such claim;*

(2) *promptly returns the interest of the claimant in the property to the claimant, if the property can be divided without difficulty and there are no competing claims to that portion of the property;*

(3) *does not cause the claimant to incur additional costs or fees; and*

(4) *prevails in obtaining forfeiture with respect to one or more of the other claims.*

(h) If more than one law enforcement agency is substantially involved in effecting a forfeiture pursuant to this act, and no interagency agreement exists, the court shall equitably distribute the proceeds among such agencies.

~~(h)~~(i) Notwithstanding any other provision of law, upon the request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.

Sec. 9. K.S.A. 2023 Supp. 60-4117 is hereby amended to read as follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments thereto: (a) When property is forfeited under this act, the law enforcement agency may:

(1) Retain such property for official use or transfer the custody or ownership to any local; ~~or state-or federal~~ agency, subject to any lien preserved by the court;

(2) *transfer the custody or ownership to any federal agency if authorized pursuant to K.S.A. 60-4107, and amendments thereto;*

(3) destroy or use for investigative or training purposes, any illegal or controlled substances and equipment or other contraband, provided that materials necessary as evidence shall be preserved;

~~(3)~~(4) sell property which is not required by law to be destroyed and which is not harmful to the public:

(A) All property, except real property, designated by the seizing agency to be sold shall be sold at public sale to the highest bidder for cash without appraisal. The seizing agency shall first cause notice of the sale to be made by publication at least once in an official county

newspaper as defined by K.S.A. 64-101, and amendments thereto. Such notice shall include the time, place, and conditions of the sale and description of the property to be sold. Nothing in this subsection shall prevent a state agency from using the state surplus property system and such system's procedures shall be sufficient to meet the requirements of this subsection.

(B) Real property may be sold pursuant to subsection (a)(3)(A), or the seizing agency may contract with a real estate company, licensed in this state, to list, advertise and sell such real property in a commercially reasonable manner.

(C) No employee or public official of any agency involved in the investigation, seizure or forfeiture of seized property may purchase or attempt to purchase such property; or

~~(4)~~(5) salvage the property, subject to any lien preserved by the court.

(b) When firearms are forfeited under this act, the firearms in the discretion of the seizing agency, shall be destroyed, used within the seizing agency for official purposes, traded to another law enforcement agency for use within such agency or given to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

(c) The proceeds of any sale shall be distributed in the following order of priority:

(1) For satisfaction of any court preserved security interest or lien, or in the case of a violation, as defined by K.S.A. 60-4104(i), and amendments thereto, the proceeds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the medicaid fraud reimbursement fund;

(2) thereafter, for payment of all proper expenses of the proceedings for forfeiture and disposition, including expenses of seizure, inventory, appraisal, maintenance of custody, preservation of availability, advertising, service of process, sale and court costs;

(3) reasonable attorney fees:

(A) If the plaintiff's attorney is a county or district attorney, an assistant, or another governmental agency's attorney, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be deposited in the county or city treasury and credited to the special prosecutor's trust fund. Moneys in such fund shall not be considered a source of revenue to meet normal operating expenditures, including salary enhancement. Such fund shall be expended by the county or district attorney, or other governmental agency's attorney through the normal county or city appropriation system and shall be used for such additional law enforcement and prosecutorial purposes as the county or district attorney or other governmental agency's attorney deems appropriate, including educational purposes. All moneys derived from past or pending forfeitures shall be expended pursuant to this act. The board of county commissioners shall provide adequate funding to the county or district attorney's office to enable such office to enforce this act. Neither future forfeitures nor the proceeds therefrom shall be used in planning or adopting a county or district attorney's budget;

(B) if the plaintiff's attorney is the attorney general and the conduct and offense giving rise to forfeiture is pursuant to K.S.A. 60-4104(i), and amendments thereto, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor 20% of the total proceeds, less the amounts

of subsection (c)(1) and (2) in a contested forfeiture. Such fees shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medicaid fraud prosecution revolving fund. Moneys paid into the medicaid fraud prosecution revolving fund pursuant to this subsection shall be appropriated to the attorney general for use by the attorney general in the investigation and prosecution of medicaid fraud and abuse; or

(C) if the plaintiff's attorney is a private attorney, such reasonable fees shall be negotiated by the employing law enforcement agency;

(4) repayment of law enforcement funds expended in purchasing of contraband or controlled substances, subject to any interagency agreement.

(d) Any proceeds remaining shall be credited as follows, subject to any interagency agreement:

(1) If the law enforcement agency is a state agency, the entire amount shall be deposited in the state treasury and credited to such agency's state forfeiture fund. There is hereby established in the state treasury the following state funds: Kansas bureau of investigation state forfeiture fund, Kansas attorney general's state medicaid fraud forfeiture fund, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund and Kansas national guard counter drug state forfeiture fund. Expenditures from the Kansas bureau of investigation state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general. Expenditures from the Kansas attorney general's state medicaid fraud forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general. Expenditures from the Kansas highway patrol state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the highway patrol or by a person or persons designated by the superintendent. Expenditures from the Kansas department of corrections state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of corrections or by a person or persons designated by the secretary. Expenditures from the Kansas national guard counter drug state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general of Kansas or by a person or persons designated by the adjutant general.

(2) If the law enforcement agency is a city or county agency, the entire amount shall be deposited in such city or county treasury and credited to a special law enforcement trust fund.

(e) (1) Moneys in the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund, the special law enforcement trust funds and the Kansas national guard counter drug state forfeiture fund shall not be considered a source of revenue to meet normal operating expenses. Such funds shall be expended by the agencies or departments through the normal city, county or state appropriation system and shall be used for such special, additional law enforcement purposes specified in subsection (e)(2) as the law enforcement agency head deems appropriate. Neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget.

(2) Moneys in the funds described in subsection (e)(1) shall be used only for the following special, additional law enforcement purposes:

(A) The support of investigations and operations that further the law enforcement agency's goals or missions;

(B) the training of investigators, prosecutors and sworn and non-sworn law enforcement personnel in any area that is necessary to perform official law enforcement duties;

(C) the costs associated with the purchase, lease, construction, expansion, improvement or operation of law enforcement or detention facilities used or managed by the recipient agency;

(D) the costs associated with the purchase, lease, maintenance or operation of law enforcement equipment for use by law enforcement personnel that supports law enforcement activities;

(E) the costs associated with the purchase of multi-use equipment and operations used by both law enforcement and non-law enforcement personnel;

(F) the costs associated with a contract for a specific service that supports or enhances law enforcement;

(G) the costs associated with travel and transportation to perform or in support of law enforcement duties and activities;

(H) the costs associated with the purchase of plaques and certificates for law enforcement personnel in recognition of a law enforcement achievement, activity or training;

(I) the costs associated with conducting awareness programs by law enforcement agencies;

(J) the costs associated with paying a state or local law enforcement agency's matching contribution or share in a state or federal grant program for items other than salaries;

(K) cash transfers from one state or local law enforcement agency to another in support of the law enforcement agency's goals or missions; ~~and~~

(L) transfers from a state or local law enforcement agency to a state, county or local governmental agency or community non-profit organization in support of the law enforcement agency's goals or missions; *and*

(M) payment of attorney fees, litigation costs and interest ordered by a court pursuant to K.S.A. 60-4116, and amendments thereto.

(3) Moneys in the funds described in subsection (e)(1) shall be separated and accounted for in a manner that allows accurate tracking and reporting of deposits and expenditures of the following categories of money:

(A) Proceeds from forfeiture credited to the fund pursuant to this section;

(B) proceeds from pending forfeiture actions under this act; and

(C) proceeds from forfeiture actions under federal law.

(f) Moneys in the Kansas attorney general's medicaid fraud forfeiture fund shall defray costs of the attorney general in connection with the duties of investigating and prosecuting medicaid fraud and abuse.

~~(g)(1) If the law enforcement agency is a state agency, such agency shall compile and submit a forfeiture fund report to the legislature on or before February 1 of each year. Such report shall include, but not be limited to: (A) The fund balance on December 1; and (B) the deposits and expenditures for the previous 12-month period ending December 1.~~

~~(2) If the law enforcement agency is a city or county agency, such agency shall compile and submit annually a special law enforcement trust fund report to the entity that has budgetary authority over such agency and such report shall specify, for such period, the type and~~

~~approximate value of the forfeited property received, the amount of any forfeiture proceeds received and how any of those proceeds were expended.~~

~~(3) The provisions of this subsection shall expire on July 1, 2019.~~

Sec. 10. K.S.A. 2023 Supp. 60-4127 is hereby amended to read as follows: 60-4127. (a) ~~On or before July 1, 2019,~~ The Kansas bureau of investigation shall establish the Kansas asset seizure and forfeiture repository. The repository shall gather information concerning each seizure for forfeiture made by a seizing agency pursuant to the Kansas standard asset seizure and forfeiture act including, but not limited to, the following:

(1) The name of the seizing agency or the name of the lead agency if part of a multi-jurisdictional task force;

(2) the county where the seizure occurred;

(3) the date and time the seizure occurred;

(4) any applicable agency or district court case numbers for the seizure;

(5) a description of the initiating law enforcement activity leading to the seizure;

(6) a description of the specific location where the seizure occurred;

(7) the conduct or offense giving rise to the forfeiture;

(8) a description of the type of property seized and the estimated value;

(9) a description of the type of contraband seized and the estimated value;

(10) whether criminal charges were filed for an offense related to the forfeiture and, if so, court and case number information for the criminal charges;

(11) a description of the final disposition of the forfeiture action, including a description of the disposition of any claim or exemption asserted under this act;

(12) whether the forfeiture was transferred to the federal government for disposition;

(13) the total cost of the forfeiture action, including attorney fees; and

(14) the total amount of proceeds from the forfeiture action, specifying the amount received by the seizing agency and the amount received by any other agency or person.

(b) ~~On and after July 1, 2019,~~ The Kansas bureau of investigation shall maintain the repository and an associated public website. ~~On or before July 1, 2019,~~ The Kansas bureau of investigation shall promulgate rules and regulations to implement this section.

(c) ~~On and after July 1, 2019,~~ Each seizing agency shall report information concerning each seizure for forfeiture to the Kansas asset seizure and forfeiture repository as required by this section and the rules and regulations promulgated pursuant to this section. The prosecuting attorney shall submit information concerning each forfeiture action to the seizing agency within 30 days after the final disposition of the forfeiture. The seizing agency shall submit the required information to the repository within 60 days after the final disposition of the forfeiture.

(d) ~~On or before February 1, 2020, and~~ Annually, on or before February 1 ~~thereafter,~~ each law enforcement agency shall compile and submit a forfeiture fund *financial* report to the Kansas asset seizure and forfeiture repository as required by this section and the rules and regulations promulgated pursuant to this section.

(1) If the law enforcement agency is a state agency, the report shall include, but not be limited to:

(A) The agency's state forfeiture fund balance on January 1 and December 31 of the preceding calendar year; and

(B) the total amount of the deposits and a listing, by category, of expenditures from January 1 through December 31 of the preceding calendar year.

(2) If the law enforcement agency is a city or county agency, the report shall include, but not be limited to:

(A) The agency's special law enforcement trust fund balance on January 1 and December 31 of the preceding calendar year; and

(B) the total amount of the deposits and a listing, by category, of expenditures from January 1 through December 31 of the preceding calendar year.

(3) The report shall separate and account for:

(A) Deposits and expenditures from proceeds from forfeiture credited to the fund pursuant to K.S.A. 60-4117, and amendments thereto;

(B) deposits and expenditures from proceeds from forfeiture actions under federal law; and

(C) amounts held by the agency related to pending forfeiture actions under the Kansas standard asset seizure and forfeiture act.

(e) *(1)* ~~On March 1, 2020, and~~ Annually, on March 1 ~~thereafter~~, the Kansas bureau of investigation shall determine whether each agency's *forfeiture fund* financial report matches the agency's seizing report. If the Kansas bureau of investigation determines that an agency's financial report does not substantially match that agency's seizing report or the agency has not submitted a financial report, the Kansas bureau of investigation shall notify such agency of the difference in reports. Such agency shall correct the reporting error within 30 days. If the reporting error is not corrected within 30 days, the Kansas bureau of investigation shall send such law enforcement agency, and the county or district attorney for the county in which such law enforcement agency is located, a certified letter notifying such agency that it is out of compliance. Upon receipt of such letter, no forfeiture proceedings shall be filed on property seized by such law enforcement agency. When such law enforcement agency has achieved compliance with the reporting requirements, the bureau shall send such law enforcement agency, and the county or district attorney for the county in which such law enforcement agency is located, a certified letter notifying such agency that it is in compliance and forfeiture proceeding filings may continue pursuant to this act.

(2) Annually, on or before April 15, the Kansas bureau of investigation shall report to the ~~legislature~~ *president of the senate, the speaker of the house of representatives and the standing committees on judiciary in the senate and the house of representatives*:

(A) Any law enforcement agencies in the state that have failed to come into compliance with the reporting requirements in subsection (d); and

(B) *each agency's forfeiture fund financial report submitted pursuant to subsection (d)*.

Sec. 11. K.S.A. 2023 Supp. 60-4104, 60-4106, 60-4107, 60-4109, 60-4111, 60-4112, 60-4113, 60-4116, 60-4117 and 60-4127 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.