

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1189

By: Loveless

4
5
6 AS INTRODUCED

7 An Act relating to asset forfeiture; creating the
8 Personal Asset Protection Act; providing short title;
9 amending 12 O.S. 2011, Section 66, which relates to
10 state as a party; modifying certain exception;
11 amending 51 O.S. 2011, Section 24A.8, as last amended
12 by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp.
13 2015, Section 24A.8), which relates to law
14 enforcement records; requiring certain reports to be
15 available for public inspection; amending 63 O.S.
16 2011, Sections 2-503, as amended by Section 5,
17 Chapter 154, O.S.L. 2014, 2-506, as amended by
18 Section 1, Chapter 284, O.S.L. 2014 and 2-508, as
19 last amended by Section 2, Chapter 284, O.S.L. 2014
20 (63 O.S. Supp. 2015, Sections 2-503, 2-506 and 2-
21 508), which relate to property subject to forfeiture,
22 seizure of property and disposition of seized
23 property; modifying certain burdens of proof;
24 requiring conviction for certain property forfeiture;
providing exceptions; providing for jury trial in
certain actions; establishing requirements for
certain actions; modifying Fund for deposit of
certain monies; making language gender neutral;
requiring return of seized property within specified
time period under certain circumstances; providing
exception; requiring award of certain costs and fees
under certain circumstances; deleting definition;
requiring submission of certain report; requiring
certain reports be available to the public;
prohibiting certain transfer; creating the Forfeited
Assets Distribution Revolving Fund; stating purpose
of Fund; requiring grants to be awarded by certain
Board; authorizing certain agreements; requiring
adoption of certain guidelines; authorizing certain
mediation; requiring maintenance of certain records;
creating the Forfeited Assets Distribution and

1 Oversight Board; stating duties of Board; specifying
2 makeup of Board; establishing terms; providing for
3 exception; authorizing reappointment; allowing
4 removal under certain circumstances; specifying
5 appointment authority for certain membership;
6 providing for administration of Board; requiring
7 certain assistance to Board; providing for certain
8 reimbursement; providing for codification; providing
9 for noncodification; and providing an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law not to be
12 codified in the Oklahoma Statutes reads as follows:

13 This act shall be known and may be cited as the "Personal Asset
14 Protection Act".

15 SECTION 2. AMENDATORY 12 O.S. 2011, Section 66, is
16 amended to read as follows:

17 Section 66. A. Whenever an action is filed in any of the
18 courts of this state where the State of Oklahoma or any of its
19 departments or agencies, as defined in Section 152 of Title 51 of
20 the Oklahoma Statutes, is a party, no bonds or other obligation of
21 security shall be required from the state or from any party acting
22 under the direction of the state, either to prosecute, answer, or
23 appeal the action. The execution of a judgment or final order of
24 any judicial tribunal against the state or any of its departments or
agencies is automatically stayed without the execution of a

1 supersedeas bond until any appeal of such judgment or final order
2 has finally been determined.

3 In case of an adverse decision, such costs as by law are taxable
4 against the state, or against the party acting by its direction,
5 shall be paid out of the funds of the department under whose
6 direction the proceedings were instituted or defended.

7 B. Costs shall be paid to the court fund of the district court
8 in which an action is filed from the first funds collected in
9 satisfaction of any judgment obtained by this state or any party
10 acting under the direction of this state, except when the funds are
11 collected pursuant to a child support order, or judgment, ~~or~~
12 ~~pursuant to any civil forfeiture action.~~ No action filed by this
13 state or by any party acting under the direction of this state shall
14 be dismissed with unpaid costs of the action without the prior
15 notification of the district court clerk of the county in which the
16 action was filed.

17 SECTION 3. AMENDATORY 51 O.S. 2011, Section 24A.8, as
18 last amended by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp.
19 2015, Section 24A.8), is amended to read as follows:

20 Section 24A.8. A. Law enforcement agencies shall make
21 available for public inspection and copying, if kept, the following
22 records:
23
24

1 1. An arrestee description, including the name, date of birth,
2 address, race, sex, physical description, and occupation of the
3 arrestee;

4 2. Facts concerning the arrest, including the cause of arrest
5 and the name of the arresting officer;

6 3. A chronological list of all incidents, including initial
7 offense report information showing the offense, date, time, general
8 location, officer, and a brief summary of what occurred;

9 4. Radio logs, including a chronological listing of the calls
10 dispatched;

11 5. Conviction information, including the name of any person
12 convicted of a criminal offense;

13 6. Disposition of all warrants, including orders signed by a
14 judge of any court commanding a law enforcement officer to arrest a
15 particular person;

16 7. A crime summary, including an agency summary of crimes
17 reported and public calls for service by classification or nature
18 and number;

19 8. Jail registers, including jail blotter data or jail booking
20 information recorded on persons at the time of incarceration showing
21 the name of each prisoner with the date and cause of commitment, the
22 authority committing the prisoner, whether committed for a criminal
23 offense, a description of the prisoner, and the date or manner of
24 discharge or escape of the prisoner;

1 9. Annual reports submitted pursuant to subsection S of Section
2 2-506 of Title 63 of the Oklahoma Statutes;

3 10. Audio and video recordings from recording equipment
4 attached to law enforcement vehicles or associated audio recordings
5 from recording equipment on the person of a law enforcement officer;
6 provided, the law enforcement agency may, before releasing any audio
7 or video recording provided for in this paragraph, redact or obscure
8 specific portions of the recording which:

- 9 a. depict the death of a person or a dead body, unless
10 the death was effected by a law enforcement officer,
- 11 b. depict nudity,
- 12 c. would identify minors under the age of sixteen (16)
13 years or would undermine any requirement to keep
14 certain juvenile records confidential as provided for
15 in Title 10A of the Oklahoma Statutes,
- 16 d. depict acts of severe violence resulting in great
17 bodily injury, as defined in Section 11-904 of Title
18 47 of the Oklahoma Statutes, against persons that are
19 clearly visible, unless the act of severe violence was
20 effected by a law enforcement officer,
- 21 e. depict great bodily injury, as defined in Section 11-
22 904 of Title 47 of the Oklahoma Statutes, unless the
23 great bodily injury was effected by a law enforcement
24 officer,

- 1 f. include personal medical information that is not
2 already public,
- 3 g. would undermine the assertion of a privilege provided
4 in Section 1-109 or Section 3-428 of Title 43A of the
5 Oklahoma Statutes for detention or transportation for
6 mental health evaluation or treatment or drug or
7 alcohol detoxification purposes,
- 8 h. include personal information other than the name or
9 license plate number of a person not arrested, cited,
10 charged or issued a written warning. Such personal
11 information shall include any government-issued
12 identification number, date of birth, address or
13 financial information, or
- 14 i. reveal the identity of law enforcement officers who
15 have become subject to internal investigation by the
16 law enforcement agency as a result of an event
17 depicted in the recording. The option to protect the
18 identity of a law enforcement officer shall not be
19 available to the law enforcement agency after the law
20 enforcement agency has concluded the investigation and
21 rendered a decision as to final disciplinary action.
22 At such time when an investigation has concluded and
23 the law enforcement agency has rendered its decision
24 as to final disciplinary action, the portions of the

1 recordings previously withheld as provided for in this
2 subparagraph shall be available for public inspection
3 and copying. The audio and video recordings withheld
4 as provided for in this subparagraph shall be
5 available for public inspection and copying before the
6 conclusion of the investigation if the investigation
7 lasts for an unreasonable amount of time; and

8 ~~10.~~

9 11. a. Audio and video recordings from recording equipment
10 attached to the person of a law enforcement officer
11 that depict:

- 12 (1) the use of any physical force or violence by a
13 law enforcement officer,
 - 14 (2) pursuits of any kind,
 - 15 (3) traffic stops,
 - 16 (4) any person being arrested, cited, charged or
17 issued a written warning,
 - 18 (5) events that directly led to any person being
19 arrested, cited, charged or receiving a written
20 warning,
 - 21 (6) detentions of any length for the purpose of
22 investigation,
- 23
24

1 (7) any exercise of authority by a law enforcement
2 officer that deprives a citizen of his or her
3 liberty,

4 (8) actions by a law enforcement officer that have
5 become the cause of an investigation or charges
6 being filed,

7 (9) recordings in the public interest that may
8 materially aid a determination of whether law
9 enforcement officers are appropriately performing
10 their duties as public servants, or

11 (10) any contextual events occurring before or after
12 the events depicted in divisions (1) through (9)
13 of this subparagraph.

14 b. Notwithstanding the provisions of subparagraph a of
15 this paragraph, the law enforcement agency may, before
16 releasing any audio or video recording provided for in
17 this paragraph, redact or obscure specific portions of
18 the recording that:

19 (1) depict the death of a person or a dead body,
20 unless the death was effected by a law
21 enforcement officer,

22 (2) depict nudity,

23 (3) would identify minors under the age of sixteen
24 (16) years or would undermine any requirement to

1 keep certain juvenile records confidential as
2 provided for in Title 10A of the Oklahoma
3 Statutes,

4 (4) depict acts of severe violence resulting in great
5 bodily injury, as defined in Section 11-904 of
6 Title 47 of the Oklahoma Statutes, against
7 persons that are clearly visible, unless the act
8 of severe violence was effected by a law
9 enforcement officer,

10 (5) depict great bodily injury, as defined in Section
11 11-904 of Title 47 of the Oklahoma Statutes,
12 unless the great bodily injury was effected by a
13 law enforcement officer,

14 (6) include personal medical information that is not
15 already public,

16 (7) undermine the assertion of a privilege as
17 provided in Section 1-109 or Section 3-428 of
18 Title 43A of the Oklahoma Statutes for detention
19 or transportation for mental health evaluation or
20 treatment or drug or alcohol detoxification
21 purposes,

22 (8) identify alleged victims of sex crimes or
23 domestic violence,
24

1 (9) identify any person who provides information to
2 law enforcement or the information provided by
3 that person when that person requests anonymity
4 or where disclosure of the identity of the person
5 or the information provided could reasonably be
6 expected to threaten or endanger the physical
7 safety or property of the person or the physical
8 safety or property of others,

9 (10) undermine the assertion of a privilege to keep
10 the identity of an informer confidential as
11 provided for in Section 2510 of Title 12 of the
12 Oklahoma Statutes,

13 (11) include personal information other than the name
14 or license plate number of a person not
15 officially arrested, cited, charged or issued a
16 written warning. Such personal information shall
17 include any government-issued identification
18 number, date of birth, address or financial
19 information,

20 (12) include information that would materially
21 compromise an ongoing criminal investigation or
22 ongoing criminal prosecution, provided that:

23 (a) ten (10) days following the formal
24 arraignment or initial appearance, whichever

1 occurs first, of a person charged in the
2 case in question, the recording shall be
3 made available for public inspection and
4 copying with no redaction of the portions
5 that were temporarily withheld by reliance
6 on this division. Provided, before
7 potential release of a recording as provided
8 for in this subdivision, the prosecutor or
9 legal representative of the person charged
10 may request from the appropriate district
11 court an extension of time during which the
12 recording may be withheld under the
13 provisions of this division. When a request
14 for an extension of time has been filed with
15 the court, the recording in question may be
16 withheld until the court has issued a
17 ruling. Such requests for an extension of
18 the time during which the recording may be
19 withheld may be made on the grounds that
20 release of the recording will materially
21 compromise an ongoing criminal investigation
22 or criminal prosecution or on the grounds
23 that release of the recording will
24 materially compromise the right of an

1 accused to a fair trial that has yet to
2 begin. Courts considering such requests
3 shall conduct a hearing and consider whether
4 the interests of the public outweigh the
5 interests asserted by the parties. In
6 response to such requests, the court shall
7 order that the recording be made available
8 for public inspection and copying with no
9 redaction of the portions that were
10 temporarily withheld by reliance on this
11 division or order an extension of time
12 during which the recording may be withheld
13 under the provisions of this division.
14 Provided further, each such time extension
15 shall only be ordered by the court for an
16 additional six-month period of time or less
17 and cumulative time extensions shall not add
18 up to more than eighteen (18) months, or
19 (b) in the event that one hundred twenty (120)
20 days expire from the date of the events
21 depicted in the recording without any person
22 being criminally charged in the case in
23 question and release of a recording or
24 portions of a recording have been denied on

1 the grounds provided for in this division,
2 an appeal of such denial may be made to the
3 appropriate district court. In situations
4 where one hundred twenty (120) days have
5 expired since the creation of the recording,
6 criminal charges have not been filed against
7 a person and the recording is being withheld
8 on the grounds provided for in this
9 division, courts considering appeals to the
10 use of the provisions of this division for
11 temporarily withholding a recording shall
12 conduct a hearing and consider whether the
13 interests of the public outweigh the
14 interests of the parties protected by this
15 division. In response to such appeals, the
16 district court shall order that the
17 recording be made available for public
18 inspection and copying with no redaction of
19 the portions that were temporarily withheld
20 by reliance on this division or order an
21 extension of time during which the recording
22 may be withheld under the provisions of this
23 division. An order granting an extension of
24 time shall be applicable to the recording

1 against all appellants for the duration of
2 the extension. Provided, each such time
3 extension shall only be ordered by the
4 district court for an additional twelve-
5 month period of time or less and cumulative
6 time extensions shall not add up to more
7 than three (3) years. Provided, charges
8 being filed against a person in the case in
9 question automatically cancels any extension
10 of time. A new request for an extension of
11 time following an arraignment or initial
12 appearance may be requested by the parties
13 on the grounds and under the terms provided
14 for in subdivision (a) of this division.

15 The options presented in this division to
16 potentially withhold a recording or portions of a
17 recording on the grounds provided for in this
18 division shall expire in totality four (4) years
19 after the recording was made at which time all
20 recordings previously withheld on the grounds
21 provided for in this division shall be made
22 available for public inspection and copying, or
23 (13) reveal the identity of law enforcement officers
24 who have become subject to internal investigation

1 by the law enforcement agency as a result of an
2 event depicted in the recording. The option to
3 protect the identity of a law enforcement officer
4 shall not be available to the law enforcement
5 agency after the law enforcement agency has
6 concluded the investigation and rendered a
7 decision as to final disciplinary action. At
8 such time when an investigation has concluded and
9 the law enforcement agency has rendered its
10 decision as to final disciplinary action, the
11 portions of the recordings previously withheld as
12 provided for in this division shall be available
13 for public inspection and copying. The audio and
14 video recordings withheld on the grounds provided
15 for in this division shall be available for
16 public inspection and copying before the
17 conclusion of the investigation if the
18 investigation lasts for an unreasonable amount of
19 time.

20 B. Except for the records listed in subsection A of this
21 section and those made open by other state or local laws, law
22 enforcement agencies may deny access to law enforcement records
23 except where a court finds that the public interest or the interest
24 of an individual outweighs the reason for denial. The provisions of

1 this section shall not operate to deny access to law enforcement
2 records if such records have been previously made available to the
3 public as provided in the Oklahoma Open Records Act or as otherwise
4 provided by law.

5 C. Nothing contained in this section imposes any new
6 recordkeeping requirements. Law enforcement records shall be kept
7 for as long as is now or may hereafter be specified by law. Absent
8 a legal requirement for the keeping of a law enforcement record for
9 a specific time period, law enforcement agencies shall maintain
10 their records for so long as needed for administrative purposes.

11 D. Registration files maintained by the Department of
12 Corrections pursuant to the provisions of the Sex Offenders
13 Registration Act shall be made available for public inspection in a
14 manner to be determined by the Department.

15 E. The Council on Law Enforcement Education and Training
16 (C.L.E.E.T.) shall keep confidential all records it maintains
17 pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and
18 deny release of records relating to any employed or certified full-
19 time officer, reserve officer, retired officer or other person;
20 teacher lesson plans, tests and other teaching materials; and
21 personal communications concerning individual students except under
22 the following circumstances:

23 1. To verify the current certification status of any peace
24 officer;

1 2. As may be required to perform the duties imposed by Section
2 3311 of Title 70 of the Oklahoma Statutes;

3 3. To provide to any peace officer copies of the records of
4 that peace officer upon submitting a written request;

5 4. To provide, upon written request, to any law enforcement
6 agency conducting an official investigation, copies of the records
7 of any peace officer who is the subject of such investigation;

8 5. To provide final orders of administrative proceedings where
9 an adverse action was taken against a peace officer; and

10 6. Pursuant to an order of the district court of the State of
11 Oklahoma.

12 F. The Department of Public Safety shall keep confidential:

13 1. All records it maintains pursuant to its authority under
14 Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway
15 Patrol Division, the Communications Division, and other divisions of
16 the Department relating to:

17 a. training, lesson plans, teaching materials, tests, and
18 test results,

19 b. policies, procedures, and operations, any of which are
20 of a tactical nature, and

21 c. the following information from radio logs:

22 (1) telephone numbers,

23 (2) addresses other than the location of incidents to
24 which officers are dispatched, and

1 (3) personal information which is contrary to the
2 provisions of the Driver's Privacy Protection
3 Act, 18 United States Code, Sections 2721 through
4 2725; and

5 2. For the purpose of preventing identity theft and invasion of
6 law enforcement computer systems, except as provided in Title 47 of
7 the Oklahoma Statutes, all driving records.

8 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-503, as
9 amended by Section 5, Chapter 154, O.S.L. 2014 (63 O.S. Supp. 2015,
10 Section 2-503), is amended to read as follows:

11 Section 2-503. A. The Except for the conditions described in
12 paragraph 10 of this subsection, the following property of a person
13 who has been convicted for a violation of the Uniform Controlled
14 Dangerous Substances Act shall be subject to forfeiture:

15 1. All controlled dangerous substances and synthetic controlled
16 substances which have been manufactured, distributed, dispensed,
17 acquired, concealed or possessed in violation of the Uniform
18 Controlled Dangerous Substances Act;

19 2. All raw materials, products and equipment of any kind and
20 all drug paraphernalia as defined by the Uniform Controlled
21 Dangerous Substances Act, which are used, or intended for use, in
22 manufacturing, compounding, processing, delivering, importing or
23 exporting, injecting, ingesting, inhaling, or otherwise introducing
24 into the human body any controlled dangerous substance or synthetic

1 controlled substance in violation of the provisions of the Uniform
2 Controlled Dangerous Substances Act;

3 3. All property which is used, or intended for use, as a
4 container for property described in paragraphs 1, 2, 5 and 6 of this
5 subsection;

6 4. All conveyances, including aircraft, vehicles, vessels, or
7 farm implements which are used to transport, conceal, or cultivate
8 for the purpose of distribution as defined in the Uniform Controlled
9 Dangerous Substances Act, or which are used in any manner to
10 facilitate the transportation or cultivation for the purpose of sale
11 or receipt of property described in paragraphs 1 or 2 of this
12 subsection or when the property described in paragraphs 1 or 2 of
13 this subsection is unlawfully possessed by an occupant thereof,
14 except that:

15 a. no conveyance used by a person as a common carrier in
16 the transaction of business as a common carrier shall
17 be forfeited under the provisions of the Uniform
18 Controlled Dangerous Substances Act unless it shall
19 appear that the owner or other person in charge of
20 such conveyance was a consenting party or privy to a
21 violation of the Uniform Controlled Dangerous
22 Substances Act, and

23 b. no conveyance shall be forfeited under the provisions
24 of this section by reason of any act or omission

1 established by the owner thereof to have been
2 committed or omitted without the knowledge or consent
3 of such owner, and if the act is committed by any
4 person other than such owner the owner shall establish
5 further that the conveyance was unlawfully in the
6 possession of a person other than the owner in
7 violation of the criminal laws of the United States,
8 or of any state;

9 5. All books, records and research, including formulas,
10 microfilm, tapes and data which are used in violation of the Uniform
11 Controlled Dangerous Substances Act;

12 6. All things of value furnished, or intended to be furnished,
13 in exchange for a controlled dangerous substance in violation of the
14 Uniform Controlled Dangerous Substances Act, all proceeds traceable
15 to such an exchange, and all monies, negotiable instruments, and
16 securities used, or intended to be used, to facilitate any violation
17 of the Uniform Controlled Dangerous Substances Act;

18 7. All monies, coin and currency found in close proximity to
19 any amount of forfeitable substances, to forfeitable drug
20 manufacturing or distribution paraphernalia or to forfeitable
21 records of the importation, manufacture or distribution of
22 substances, ~~which are rebuttably presumed to be forfeitable under~~
23 ~~the Uniform Controlled Dangerous Substances Act. The burden of~~
24 ~~proof is upon claimants of the property to rebut this presumption;~~

1 8. All real property, including any right, title, and interest
2 in the whole of any lot or tract of land and any appurtenance or
3 improvement thereto, which is used, or intended to be used, in any
4 manner or part, to commit, or to facilitate the commission of, a
5 violation of the Uniform Controlled Dangerous Substances Act which
6 is punishable by imprisonment for more than one (1) year, except
7 that no property right, title or interest shall be forfeited
8 pursuant to this paragraph, by reason of any act or omission
9 established by the owner thereof to have been committed or omitted
10 without the knowledge or consent of that owner; and

11 9. All weapons possessed, used or available for use in any
12 manner to facilitate a violation of the Uniform Controlled Dangerous
13 Substances Act.

14 10. A conviction shall not be required for forfeiture of a
15 person's property pursuant to this section if:

- 16 a. the person dies,
17 b. the person is deported by the federal government,
18 c. the person is unavailable after being arrested,
19 charged with a crime for which forfeiture applies and
20 released on bail,
21 d. the person is granted immunity in exchange for
22 providing testimony or other assistance to a law
23 enforcement investigation or prosecution;
24

1 e. the property is abandoned personal property left by an
2 owner who intentionally relinquishes all rights to its
3 control, or

4 f. the property is valued in excess of Fifty Thousand
5 Dollars (\$50,000.00).

6 B. Any property or thing of value of a person is subject to
7 forfeiture if it is established by a ~~preponderance of the~~ clear and
8 convincing evidence that such property or thing of value was
9 acquired by such person during the period of the violation of the
10 Uniform Controlled Dangerous Substances Act or within a reasonable
11 time after such period and there was no likely source for such
12 property or thing of value other than the violation of the Uniform
13 Controlled Dangerous Substances Act. A party to forfeiture action
14 under this section shall be entitled to a trial by jury. A trial
15 related to a forfeiture action shall be held in a single proceeding
16 with the trial of the related alleged crime unless the court grants
17 the defendant's motion for a separate trial on the forfeiture issue.

18 C. Any property or thing of value of a person is subject to
19 forfeiture if it is established by a ~~preponderance of the~~ clear and
20 convincing evidence that the person has not paid all or part of a
21 fine imposed pursuant to the provisions of Section 2-415 of this
22 title.

1 D. All items forfeited in this section shall be forfeited under
2 the procedures established in Section 2-506 of this title. Whenever
3 any item is forfeited pursuant to this section except for items
4 confiscated by the Oklahoma State Bureau of Narcotics and Dangerous
5 Drugs Control, the Department of Public Safety, the Oklahoma State
6 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
7 Commission, the Department of Corrections, or the Office of the
8 Attorney General, the district court of the district shall order
9 that such item, money, or monies derived from the sale of such item
10 be deposited by the state, county or city law enforcement agency
11 which seized the item in the ~~revolving fund provided for in Section~~
12 ~~2-506 of this title; provided, such item, money or monies derived~~
13 ~~from the sale of such item forfeited due to nonpayment of a fine~~
14 ~~imposed pursuant to the provisions of Section 2-415 of this title~~
15 ~~shall be apportioned as provided in Section 2-416 of this title~~
16 Forfeited Assets Distribution Fund created pursuant to Section 7 of
17 this act. Items, money or monies seized pursuant to subsections A
18 and B of this section shall not be applied or considered toward
19 satisfaction of the fine imposed by Section 2-415 of this title.
20 All raw materials used or intended to be used by persons to
21 unlawfully manufacture or attempt to manufacture any controlled
22 dangerous substance in violation of the Uniform Controlled Dangerous
23 Substances Act shall be summarily forfeited pursuant to the
24 provisions of Section 2-505 of this title.

1 E. All property taken or detained under this section by the
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
3 Department of Public Safety, the Oklahoma State Bureau of
4 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
5 the Department of Corrections, or the Office of the Attorney
6 General, shall not be repleviable, but shall remain in the custody
7 of the Bureaus, Departments, Commission, or Office, respectively,
8 subject only to the orders and decrees of a court of competent
9 jurisdiction. The Director of the Oklahoma State Bureau of
10 Narcotics and Dangerous Drugs Control, the Commissioner of Public
11 Safety, the Director of the Oklahoma State Bureau of Investigation,
12 the Director of the Alcoholic Beverage Laws Enforcement Commission,
13 the Director of the Department of Corrections, and the Attorney
14 General shall follow the procedures outlined in Section 2-506 of
15 this title dealing with notification of seizure, intent of
16 forfeiture, final disposition procedures, and release to innocent
17 claimants with regard to all property included in this section
18 detained by the Department of Public Safety, the Oklahoma State
19 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
20 Commission, the Department of Corrections, or the Office of the
21 Attorney General. Property taken or detained by the Oklahoma State
22 Bureau of Narcotics and Dangerous Drugs Control, the Department of
23 Public Safety, the Oklahoma State Bureau of Investigation, the
24 Alcoholic Beverage Laws Enforcement Commission, the Department of

1 Corrections, or the Office of the Attorney General shall be disposed
2 of or sold pursuant to the provisions of Section 2-508 of this
3 title. Any money, coins, and currency, taken or detained pursuant
4 to this section ~~may~~ shall be deposited in an ~~interest bearing~~
5 ~~account by or at the direction of the State Treasurer~~ the Forfeited
6 Assets Distribution Fund created pursuant to Section 7 of this act
7 if the seizing agency determines the currency is not to be held as
8 evidence. All interest earned on such monies shall be returned to
9 the claimant or forfeited with the money, coins, and currency which
10 was taken or detained as provided by law.

11 F. The proceeds of any forfeiture of items seized by the
12 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall
13 be distributed as follows:

14 1. To the bona fide or innocent purchaser, conditional sales
15 vendor or mortgagee of the property, if any, up to the amount of his
16 or her interest in the property, when the court declaring a
17 forfeiture orders a distribution to such person; and

18 2. The balance to the ~~Bureau of Narcotics Revolving Fund~~
19 ~~established pursuant to Section 2-107 of this title, provided the~~
20 ~~Bureau may enter into agreements with municipal, tribal, county,~~
21 ~~state or federal law enforcement agencies, or other state agencies~~
22 ~~with CLEET-certified law enforcement officers, assisting in the~~
23 ~~forfeiture or underlying criminal investigation, to return to such~~

24

1 ~~an agency a percentage of said proceeds~~ Forfeited Assets
2 Distribution Fund created pursuant to Section 7 of this act.

3 G. Any agency that acquires seized or forfeited property or
4 money shall maintain a true and accurate inventory and record of all
5 such property seized pursuant to this section.

6 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-506, as
7 amended by Section 1, Chapter 284, O.S.L. 2014 (63 O.S. Supp. 2015,
8 Section 2-506), is amended to read as follows:

9 Section 2-506. A. Any peace officer of this state shall seize
10 the following property:

11 1. Any property described in subsection A of Section 2-503 of
12 this title. Such property shall be held as evidence until a
13 forfeiture has been declared or release ordered, except for property
14 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503
15 of this title, or in the case of money, coins, and currency,
16 deposited as provided in subsection E of Section 2-503 of this
17 title; provided, any money, coins and currency taken or detained
18 pursuant to this section may be deposited in an interest-bearing
19 account by or at the direction of the district attorney in the
20 office of the county treasurer if the district attorney determines
21 the currency is not to be held as evidence. All interest earned on
22 such monies shall be returned to the claimant or forfeited with the
23 money, coins and currency which was taken or detained as provided by
24 law;

1 2. Any property described in subsection B of Section 2-503 of
2 this title; or

3 3. Any property described in subsection C of Section 2-503 of
4 this title.

5 B. All property taken or detained pursuant to this section
6 shall be returned to the claimant if no charges are filed within
7 thirty (30) days of the seizure; provided, however, the property may
8 be held an additional thirty (30) days if the seizing authority can
9 show good cause for the property to remain in its custody. Notice
10 of seizure and intended forfeiture proceeding shall be filed in the
11 office of the clerk of the district court for the county wherein
12 such property is seized and shall be given all owners and parties in
13 interest. ~~Notwithstanding any other provision of law, no filing~~
14 ~~fees shall be assessed by the court clerk for the filing of any~~
15 ~~forfeiture action.~~

16 C. Notice shall be given by the agency seeking forfeiture
17 according to one of the following methods:

18 1. Upon each owner or party in interest whose right, title or
19 interest is of record in the Tax Commission, by mailing a copy of
20 the notice by certified mail to the address as given upon the
21 records of the Tax Commission;

22 2. Upon each owner or party in interest whose name and address
23 is known to the attorney in the office of the agency prosecuting the
24

1 action to recover unpaid fines, by mailing a copy of the notice by
2 registered mail to the last-known address; or

3 3. Upon all other owners or interested parties, whose addresses
4 are unknown, but who are believed to have an interest in the
5 property, by one publication in a newspaper of general circulation
6 in the county where the seizure was made.

7 D. Within forty-five (45) days after the mailing or publication
8 of the notice, the owner of the property and any other party in
9 interest or claimant may file a verified answer and claim to the
10 property described in the notice of seizure and of the intended
11 forfeiture proceeding.

12 E. If at the end of forty-five (45) days after the notice has
13 been mailed or published there is no verified answer on file, the
14 court shall hear evidence upon the fact of the unlawful use and
15 shall order the property forfeited to the state, if such fact is
16 proved. Except as otherwise provided for in Section 2-503 of this
17 title, any such property shall be forfeited to the state and sold
18 under judgment of the court pursuant to the provisions of Section 2-
19 508 of this title.

20 F. If a verified answer is filed, the forfeiture proceeding
21 shall be set for hearing.

22 G. At a hearing in a proceeding against property described in
23 paragraphs 3 through 9 of subsection A or subsections B and C of
24 Section 2-503 of this title, the requirements set forth in said

1 paragraph or subsection, respectively, shall be satisfied by the
2 state by ~~a preponderance of the~~ clear and convincing evidence.

3 H. The claimant of any right, title, or interest in the
4 property may prove a lien, mortgage, or conditional sales contract
5 to be a bona fide or innocent ownership interest and that such
6 right, title, or interest was created without any knowledge or
7 reason to believe that the property was being, or was to be, used
8 for the purpose charged.

9 I. In the event of such proof, the court shall order the
10 property released to the bona fide or innocent owner, lien holder,
11 mortgagee or vendor if the amount due him is equal to, or in excess
12 of, the value of the property as of the date of the seizure, it
13 being the intention of this section to forfeit only the right, title
14 or interest of the purchaser. The court shall also award court
15 costs and attorney fees to such owner, lien holder, mortgagee or
16 vendor.

17 J. If the amount due to such person is less than the value of
18 the property, or if no bona fide claim is established, the property
19 shall be forfeited to the state and sold under judgment of the
20 court, as provided for in Section 2-508 of this title, except as
21 otherwise provided for in Section 2-503 of this title.

22 K. Property taken or detained under this section shall not be
23 repleviable, but shall be deemed to be in the custody of the office
24 of the district attorney of the county wherein the property was

1 seized, subject only to the orders and decrees of the court or the
2 official having jurisdiction thereof; said official shall maintain a
3 true and accurate inventory and record of all such property seized
4 under the provisions of this section. The provisions of this
5 subsection shall not apply to property taken or detained by the
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
7 Department of Public Safety, the Oklahoma State Bureau of
8 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
9 the Department of Corrections or the Office of the Attorney General.
10 Property taken or detained by the Oklahoma State Bureau of Narcotics
11 and Dangerous Drugs Control, the Department of Public Safety, the
12 Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws
13 Enforcement Commission, the Department of Corrections or the Office
14 of the Attorney General shall be subject to the provisions of
15 subsections E and F of Section 2-503 of this title.

16 L. The proceeds of the sale of any property not taken or
17 detained by the Oklahoma State Bureau of Narcotics and Dangerous
18 Drugs Control, the Department of Public Safety, the Oklahoma State
19 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
20 Commission, the Department of Corrections or the Office of the
21 Attorney General shall be distributed as follows, in the order
22 indicated:

23 1. To the bona fide or innocent purchaser, conditional sales
24 vendor or mortgagee of the property, if any, up to the amount of his

1 or her interest in the property, when the court declaring the
2 forfeiture orders a distribution to such person;

3 2. To the payment of the actual expenses of preserving the
4 property and legitimate costs related to the civil forfeiture
5 proceedings. ~~For purposes of this paragraph, the term "legitimate~~
6 ~~costs" shall not include court costs associated with any civil~~
7 ~~forfeiture proceeding; and~~

8 3. The balance to a ~~revolving fund in the office of the county~~
9 ~~treasurer of the county wherein the property was seized, said fund~~
10 ~~to be used as a revolving fund solely for enforcement of controlled~~
11 ~~dangerous substances laws, drug abuse prevention and drug abuse~~
12 ~~education, and maintained by the district attorney in his or her~~
13 ~~discretion for those purposes with a yearly accounting to the board~~
14 ~~of county commissioners in whose county the fund is established and~~
15 ~~to the District Attorneys Council; provided, one hundred percent~~
16 ~~(100%) of the balance of the proceeds of such sale of property~~
17 ~~forfeited due to nonpayment of a fine imposed pursuant to the~~
18 ~~provisions of Section 2-415 of this title shall be apportioned as~~
19 ~~provided in Section 2-416 of this title. The revolving fund shall~~
20 ~~be audited by the State Auditor and Inspector at least every two (2)~~
21 ~~years in the manner provided in Section 171 of Title 19 of the~~
22 ~~Oklahoma Statutes. Said audit shall include, but not be limited to,~~
23 ~~a compliance audit. A district attorney may enter into agreements~~
24 ~~with municipal, tribal, county or state agencies to return to such~~

1 ~~an agency a percentage of proceeds of the sale of any property~~
2 ~~seized by the agency and forfeited under the provisions of this~~
3 ~~section. The District Attorneys Council shall adopt guidelines~~
4 ~~which ensure that such agencies receive a reasonable percentage of~~
5 ~~such proceeds, considering the relative contribution of each agency~~
6 ~~to the drug enforcement and prosecution operations relating to the~~
7 ~~seizure. In formulating said guidelines, the District Attorneys~~
8 ~~Council shall examine federal guidelines on asset distribution and~~
9 ~~use said guidelines as a basis for establishing guidelines for this~~
10 ~~state. The Attorney General is hereby authorized to mediate~~
11 ~~disputes between district attorneys and such agencies concerning the~~
12 ~~application of said guidelines in particular instances. Any agency~~
13 ~~that receives proceeds from an asset distribution shall maintain a~~
14 ~~true and accurate record of all such assets the Forfeited Assets~~
15 ~~Distribution Fund created pursuant to Section 7 of this act.~~

16 M. Whenever any vehicle, airplane or vessel is forfeited under
17 the Uniform Controlled Dangerous Substances Act, the district court
18 of jurisdiction may order that the vehicle, airplane or vessel
19 seized may be ~~retained by the state, county or city law enforcement~~
20 ~~agency which seized the vehicle, airplane or vessel for its official~~
21 ~~use transferred to the custody of the Forfeited Assets Distribution~~
22 ~~Fund.~~

23
24

1 N. If the court finds that the state failed to satisfy the
2 required showing provided for in subsection G of this section, the
3 court shall order the property released to the owner or owners.

4 O. Except as provided for in subsection Q of this section, a
5 bona fide or innocent owner, lien holder, mortgagee or vendor that
6 recovers property pursuant to this section shall not be liable for
7 storage fees.

8 P. Except as provided for in subsection Q of this section,
9 storage fees shall be paid by the agency which is processing the
10 seizure and forfeiture from funds generated by seizure and
11 forfeiture actions.

12 Q. The bona fide or innocent owner, lien holder, mortgagee or
13 vendor shall reclaim subject seized property within thirty (30) days
14 of written notice from the seizing agency. If such person fails to
15 reclaim the property within the thirty-day time period, then storage
16 fees may be assessed against their secured interest.

17 R. 1. At any hearing held relevant to this section, a report
18 of the findings of the laboratory of the Oklahoma State Bureau of
19 Investigation, the medical examiner's report of investigation or
20 autopsy report, or a laboratory report from a forensic laboratory
21 operated by the State of Oklahoma or any political subdivision
22 thereof, which has been made available to the accused by the office
23 of the district attorney or other party to the forfeiture at least
24 five (5) days prior to the hearing, with reference to all or part of

1 the evidence submitted, when certified as correct by the persons
2 making the report shall be received as evidence of the facts and
3 findings stated, if relevant and otherwise admissible in evidence.
4 If such report is deemed relevant by the forfeiture applicant or the
5 respondent, the court shall admit such report without the testimony
6 of the person making the report, unless the court, pursuant to this
7 subsection, orders such person to appear.

8 2. When any alleged controlled dangerous substance has been
9 submitted to the laboratory of the OSBI for analysis, and such
10 analysis shows that the submitted material is a controlled dangerous
11 substance, the distribution of which constitutes a felony under the
12 laws of this state, no portion of such substance shall be released
13 to any other person or laboratory except to the criminal justice
14 agency originally submitting the substance to the OSBI for analysis,
15 absent an order of a district court. The defendant shall
16 additionally be required to submit to the court a procedure for
17 transfer and analysis of the subject material to ensure the
18 integrity of the sample and to prevent the material from being used
19 in any illegal manner.

20 3. The court, upon motion of either party, shall order the
21 attendance of any person preparing a report submitted as evidence in
22 the hearing when it appears there is a substantial likelihood that
23 material evidence not contained in said report may be produced by
24 the testimony of any person having prepared a report. The hearing

1 shall be held and, if sustained, an order issued not less than five
2 (5) days prior to the time when the testimony shall be required.

3 4. If within five (5) days prior to the hearing or during a
4 hearing, a motion is made pursuant to this section requiring a
5 person having prepared a report to testify, the court may hear a
6 report or other evidence but shall continue the hearing until such
7 time notice of the motion and hearing is given to the person making
8 the report, the motion is heard, and, if sustained, the testimony
9 ordered can be given.

10 S. Any law enforcement agency seizing property pursuant to this
11 section shall submit an annual report identifying the property
12 seized and the disposition of such property to the Governor, the
13 President Pro Tempore of the Senate, the Speaker of the House of
14 Representatives and the Office of the State Auditor and Inspector.
15 All reports submitted pursuant to this subsection shall be made
16 available to the public.

17 SECTION 6. AMENDATORY 63 O.S. 2011, Section 2-508, as
18 last amended by Section 2, Chapter 284, O.S.L. 2014 (63 O.S. Supp.
19 2015, Section 2-508), is amended to read as follows:

20 Section 2-508. A. Except as otherwise provided, all property
21 described in paragraphs 1 and 2 of subsection A of Section 2-503 of
22 this title which is seized or surrendered pursuant to the provisions
23 of the Uniform Controlled Dangerous Substances Act shall be
24 destroyed. The destruction shall be done by or at the direction of

1 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
2 (OSBNDD), who shall have the discretion prior to destruction to
3 preserve samples of the substance for testing. In any county with a
4 population of four hundred thousand (400,000) or more according to
5 the latest Federal Decennial Census, there shall be a located site,
6 approved by the OSBNDD, for the destruction of the property. Any
7 such property submitted to the OSBNDD which it deems to be of use
8 for investigative training, educational, or analytical purposes may
9 be retained by the OSBNDD in lieu of destruction.

10 B. 1. With respect to controlled dangerous substances seized
11 or surrendered pursuant to the provisions of the Uniform Controlled
12 Dangerous Substances Act, municipal police departments, sheriffs,
13 the Oklahoma Bureau of Narcotics and Dangerous Drugs Control
14 Commission, the Oklahoma Highway Patrol, and the Oklahoma State
15 Bureau of Investigation shall have the authority to destroy seized
16 controlled dangerous substances when the amount seized in a single
17 incident exceeds ten (10) pounds. The destroying agency shall:

- 18 a. photograph the seized substance with identifying case
19 numbers or other means of identification,
- 20 b. prepare a report describing the seized substance prior
21 to the destruction,
- 22 c. retain at least one (1) pound of the substance
23 randomly selected from the seized substance for the
24 purpose of evidence, and

1 d. obtain and retain samples of the substance from enough
2 containers, bales, bricks, or other units of substance
3 seized to establish the presence of a weight of the
4 substance necessary to establish a violation of the
5 Trafficking in Illegal Drugs Act pursuant to
6 subsection C of Section 2-415 of this title, if such a
7 weight is present. If such weight is not present,
8 samples of the substance from each container, bale,
9 brick or other unit of substance seized shall be
10 taken. Each sample taken pursuant to this section
11 shall be large enough for the destroying agency and
12 the defendant or suspect to have an independent test
13 performed on the substance for purposes of
14 identification.

15 2. If a defendant or suspect is known to the destroying agency,
16 the destroying agency shall give at least seven (7) days' written
17 notice to the defendant, suspect or counsel for the defendant or
18 suspect of:

- 19 a. the date, the time, and the place where the
20 photographing will take place and notice of the right
21 to attend the photographing, and
22 b. the right to obtain samples of the controlled
23 dangerous substance for independent testing and use as
24 evidence.

1 3. The written notice shall also inform the defendant, suspect
2 or counsel for the defendant or suspect that the destroying agency
3 must be notified in writing within seven (7) days from receipt of
4 the notice of the intent of the suspect or defendant to obtain
5 random samples and make arrangements for the taking of samples. The
6 samples for the defendant or suspect must be taken by a person
7 licensed by the Drug Enforcement Administration. If the defendant
8 or counsel for the defendant fails to notify the destroying agency
9 in writing of an intent to obtain samples and fails to make
10 arrangements for the taking of samples, a sample taken pursuant to
11 subparagraph d of paragraph 1 of this subsection shall be made
12 available upon request of the defendant or suspect.

13 The representative samples, the photographs, the reports, and
14 the records made under this section and properly identified shall be
15 admissible in any court or administrative proceeding for any
16 purposes for which the seized substance itself would have been
17 admissible.

18 C. All other property not otherwise provided for in the Uniform
19 Controlled Dangerous Substances Act which has come into the
20 possession of the Oklahoma State Bureau of Narcotics and Dangerous
21 Drugs Control, the Department of Public Safety, the Oklahoma State
22 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
23 Commission, the Department of Corrections, the Office of the
24 Attorney General, or a district attorney may be disposed of by order

1 of the district court when no longer needed in connection with any
2 litigation. If the owner of the property is unknown to the agency
3 or district attorney, the agency or district attorney shall hold the
4 property for at least six (6) months prior to filing a petition for
5 disposal with the district court except for laboratory equipment
6 which may be forfeited when no longer needed in connection with
7 litigation, unless the property is perishable. The Director or
8 Commissioner of the agency, the Attorney General, or district
9 attorney shall file a petition in the district court of Oklahoma
10 County or in the case of a district attorney, the petition shall be
11 filed in a county within the jurisdiction of the district attorney
12 requesting the authority to:

13 1. Conduct a sale of the property at a public auction or use an
14 Internet auction, which may include online bidding; or

15 2. Convert title of the property to the Oklahoma State Bureau
16 of Narcotics and Dangerous Drugs Control, the Department of Public
17 Safety, the Oklahoma State Bureau of Investigation, the Alcoholic
18 Beverage Laws Enforcement Commission, the Department of Corrections,
19 the Office of the Attorney General, or to the district attorney's
20 office for the purposes provided for in subsection J, K or L of this
21 section.

22 The Director, Commissioner, Attorney General or district
23 attorney shall attach to the petition:

24

- a. a list describing the property, including all identifying numbers and marks, if any,
- b. the date the property came into the possession of the agency or district attorney, and
- c. the name and address of the owner, if known.

For any item having an apparent value in excess of One Hundred Dollars (\$100.00), but less than Five Hundred Dollars (\$500.00), the notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by first-class mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. An affidavit of notice being sent shall be filed with the court by a representative of the agency, the Director or Commissioner of the agency, the Attorney General or district attorney. For items in excess of Five Hundred Dollars (\$500.00), a notice of the hearing of the petition for the sale of said property shall be delivered to every known owner as set forth in the petition by certified mail. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the Uniform Controlled Dangerous Substances Act shall not be required.

1 The notice shall contain a brief description of the property,
2 and the location and date of the hearing. In addition, notice of
3 the hearing shall be posted in three public places in the county,
4 one such place being the county courthouse at the regular place
5 assigned for the posting of legal notices. At the hearing, if no
6 owner appears and establishes ownership of the property, the court
7 may enter an order authorizing the Director, Commissioner, Attorney
8 General, or district attorney to donate the property pursuant to
9 subsection J, K or L of this section, to sell the property at a
10 public auction, including an Internet auction, which may include
11 online bidding, to the highest bidder, or to convert title of the
12 property to the Oklahoma State Bureau of Narcotics and Dangerous
13 Drugs Control, the Department of Public Safety, the Oklahoma State
14 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
15 Commission, the Department of Corrections, or the Office of the
16 Attorney General for the purposes provided for in subsection J, K or
17 L of this section after at least ten (10) days of notice has been
18 given by publication in one issue of a legal newspaper of the
19 county. If the property is offered for sale at public auction,
20 including an Internet auction, and no bid is received that exceeds
21 fifty percent (50%) of the value of the property, such value to be
22 announced prior to the sale, the Director, Commissioner, Attorney
23 General, or district attorney may refuse to sell the item pursuant
24 to any bid received. The Director, Commissioner, Attorney General,

1 or district attorney shall make a return of the sale and, when
2 confirmed by the court, the order confirming the sale shall vest in
3 the purchaser title to the property so purchased.

4 D. The money received from the sale of property by the Oklahoma
5 State Bureau of Narcotics and Dangerous Drugs Control shall be used
6 for general drug enforcement purposes. These funds shall be
7 transferred to the ~~Bureau of Narcotics Revolving Fund established~~
8 ~~pursuant to Section 2-107 of this title or in the case of a district~~
9 ~~attorney, the revolving fund provided for in paragraph 3 of~~
10 ~~subsection 1 of Section 2-506 of this title~~ Forfeited Assets
11 Distribution Fund created pursuant to Section 7 of this act.

12 E. At the request of the Department of Public Safety, the
13 district attorney or a designee of the district attorney may conduct
14 any forfeiture proceedings as described in Section 2-503 of this
15 title on any property subject to forfeiture as described in
16 subsection A, B or C of Section 2-503 of this title. The money
17 received from the sale of property by the Department of Public
18 Safety shall be deposited in the ~~Department of Public Safety~~
19 ~~Restricted Revolving Fund and shall be expended for law enforcement~~
20 ~~purposes~~ Forfeited Assets Distribution Fund created pursuant to
21 Section 7 of this act.

22 F. The money received from the sale of property by the
23 Alcoholic Beverage Laws Enforcement Commission shall be deposited in
24

1 the ~~General Revenue Fund of the state~~ Forfeited Assets Distribution
2 Fund created pursuant to Section 7 of this act.

3 G. The money received from the sale of property from the
4 Oklahoma State Bureau of Investigation shall be deposited in the
5 ~~OSBI Revolving Fund and shall be expended for law enforcement~~
6 ~~purposes~~ Forfeited Assets Distribution Fund created pursuant to
7 Section 7 of this act.

8 H. The Director of the Department of Corrections shall make a
9 return of the sale and when confirmed by the court, the order
10 confirming the sale shall vest in the purchaser title to the
11 property so purchased. ~~Twenty five percent (25%) of the~~ The money
12 received from the sale shall be disbursed to ~~a revolving fund in the~~
13 ~~office of the county treasurer of the county wherein the property~~
14 ~~was seized, said fund to be used as a revolving fund solely for~~
15 ~~enforcement of controlled dangerous substances laws, drug abuse~~
16 ~~prevention and drug abuse education. The remaining seventy-five~~
17 ~~percent (75%) shall be deposited in the Department of Corrections~~
18 ~~Revolving Fund to be expended for equipment for probation and parole~~
19 ~~officers and correctional officers~~ the Forfeited Assets Distribution
20 Fund created pursuant to Section 7 of this act.

21 I. The money received from the sale of property from the Office
22 of the Attorney General shall be deposited in the ~~Attorney General~~
23 ~~Law Enforcement Revolving Fund and shall be expended for law~~
24 ~~enforcement purposes. The Office of the Attorney General may enter~~

1 ~~into agreements with municipal, county or state agencies to return~~
2 ~~to such an agency a percentage of proceeds of the sale of any~~
3 ~~property seized by the agency and forfeited under the provisions of~~
4 ~~this section Forfeited Assets Distribution Fund created pursuant to~~
5 ~~Section 7 of this act.~~

6 J. Any property, including but not limited to uncontaminated
7 laboratory equipment used in the processing, manufacturing or
8 compounding of controlled dangerous substances in violation of the
9 provisions of the Uniform Controlled Dangerous Substances Act, upon
10 a court order, may be donated for classroom or laboratory use by the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
12 Department of Public Safety, district attorney, the Alcoholic
13 Beverage Laws Enforcement Commission, the Department of Corrections,
14 or the Office of the Attorney General to any public secondary school
15 or technology center school in this state or any institution of
16 higher education within The Oklahoma State System of Higher
17 Education.

18 K. Any vehicle or firearm which has come into the possession
19 and title vested in the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control, the Department of Public Safety, the
21 Oklahoma State Bureau of Investigation, the Office of the Attorney
22 General or a district attorney, ~~may shall~~ be transferred, ~~donated or~~
23 ~~offered for lease to any sheriff's office, tribal law enforcement~~
24 ~~agency, campus police department pursuant to the provisions of the~~

1 ~~Oklahoma Campus Security Act, or police department in this state on~~
2 ~~an annual basis to assist with the enforcement of the provisions of~~
3 ~~the Uniform Controlled Dangerous Substances Act. Each agency shall~~
4 ~~promulgate rules, regulations and procedures for leasing vehicles~~
5 ~~and firearms. No fully automatic weapons will be subject to the~~
6 ~~leasing agreement. All firearms leased may be utilized only by~~
7 ~~C.L.E.E.T. certified officers who have received training in the type~~
8 ~~and class of weapon leased. Every lessee shall be required to~~
9 ~~submit an annual report to the leasing agency stating the condition~~
10 ~~of all leased property. A lease agreement may be renewed annually~~
11 ~~at the option of the leasing agency. Upon termination of a lease~~
12 ~~agreement, the property shall be returned to the leasing agency for~~
13 ~~sale or other disposition. All funds derived from lease agreements~~
14 ~~or other disposition of property no longer useful to law enforcement~~
15 ~~shall be deposited in the agency's revolving fund, or in the case of~~
16 ~~the Department of Public Safety, the Department of Public Safety~~
17 ~~Restricted Revolving Fund, and shall be expended for law enforcement~~
18 ~~purposes to the custody of the Forfeited Assets Distribution Fund.~~

19 L. Before disposing of any property pursuant to subsections C
20 through I of this section, the Oklahoma State Bureau of Narcotics
21 and Dangerous Drugs Control, the Department of Public Safety, the
22 Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State
23 Bureau of Investigation, the Department of Corrections, the Office
24 of the Attorney General, or a district attorney may transfer or

1 donate the property to another state agency, tribal law enforcement
2 agency, or school district for use upon request. In addition to the
3 provisions of this section, the Oklahoma State Bureau of Narcotics
4 and Dangerous Drugs Control may transfer or donate property for any
5 purpose pursuant to Section 2-106.2 of this title. The agencies and
6 any district attorney that are parties to any transfer of property
7 pursuant to this subsection shall enter into written agreements to
8 carry out any such transfer of property. Any such agreement may
9 also provide for the granting of title to any property being
10 transferred as the parties deem appropriate. If the transfer of
11 property is to a school district, a written agreement shall be
12 entered into with the superintendent of the school district. No
13 weapons may be transferred to a school district except as provided
14 for in subsection K of this section.

15 M. No property seized pursuant to the provisions of the Uniform
16 Dangerous Controlled Substances Act or money received from the sale
17 of such property shall be transferred directly or indirectly to any
18 federal law enforcement authority or other federal agency unless the
19 property seized includes cash of Fifty Thousand Dollars (\$50,000.00)
20 or more.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-508A of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. There is hereby created in the State Treasury a revolving
2 fund to be known as the Forfeited Assets Distribution Revolving
3 Fund. The fund shall be a continuing fund, not subject to fiscal
4 year limitations, and shall consist of any monies appropriated or
5 transferred to the fund and any monies contributed to the fund from
6 any other source. All monies accruing to the credit of such fund
7 are hereby appropriated and may be budgeted and expended for the
8 purpose of providing grants to law enforcement agencies or drug
9 treatment facilities to be used for eradication of illegal drugs,
10 drug interdiction and drug treatment. Grants shall be awarded by
11 the Forfeited Assets Distribution and Oversight Board created
12 pursuant to subsection B of this section. The Attorney General is
13 hereby authorized to mediate disputes between the Board and such
14 agencies concerning the application of said guidelines in particular
15 instances. Any agency that receives proceeds from an asset
16 distribution shall maintain a true and accurate record of all such
17 assets.

18 B. There is hereby created the Forfeited Assets Distribution
19 and Oversight Board to administer and manage the Forfeited Assets
20 Distribution Revolving Fund created pursuant to subsection A of this
21 section. Such board shall be nonpartisan and shall consist of
22 fifteen (15) members, eight of whom shall be lay people and seven of
23 whom shall be representatives of law enforcement. Members shall be
24 appointed for six-year terms, except for the initial appointments,

1 which shall be staggered terms as agreed to by the appointing
2 authorities. Terms of office shall expire on June 30. Members may
3 be reappointed as deemed appropriate by the appointing authority.
4 Members may be removed by the appointing authority for incompetence,
5 willful neglect of duty, corruption in office or malfeasance in
6 office. Vacancies shall be filled in the same manner as the
7 original appointment. The members shall be appointed as follows:

8 1. The Governor shall appoint five members, four of whom shall
9 be lay members and one of whom shall be appointed from a list of
10 recommendations provided by the District Attorneys' Council;

11 2. The President Pro Tempore of the Senate shall appoint five
12 members, two of whom shall be lay members, two of whom shall be
13 appointed from a list of recommendations provided by the Oklahoma
14 Association of Chiefs of Police and one of whom shall be appointed
15 from a list of recommendations provided by the Oklahoma State
16 Fraternal Order of Police; and

17 3. The Speaker of the House of Representatives shall appoint
18 five members, two of whom shall be lay members, two of whom shall be
19 appointed from a list of recommendations provided by the Oklahoma
20 Sheriffs' Association and one of whom shall be appointed from a list
21 of recommendations provided by the Oklahoma State Fraternal Order of
22 Police.

23 C. The members of the Board shall elect from their membership a
24 chair and vice-chair to serve for one two-year term. A majority of

1 the members shall constitute a quorum for the purpose of conducting
2 business of the Board. The Board shall meet at least quarterly and
3 at the call of the chair. The Board shall comply with the Oklahoma
4 Open Meeting Act, the Oklahoma Open Records Act and the Oklahoma
5 Administrative Procedures Act.

6 D. The Office of the Attorney General shall provide office
7 supplies and personnel to assist the Board in the performance of its
8 duties until the fund has adequate resources to assume such
9 expenses. Members of the Board shall serve without compensation but
10 shall be reimbursed by the Office of the Attorney General for
11 expenses incurred in the performance of their duties as provided in
12 the State Travel Reimbursement Act.

13 SECTION 8. This act shall become effective November 1, 2016.

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