

SENATE BILL 362

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 40,
Chapter 33, relative to forfeiture.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-33-203, is amended by adding the following as a new subsection:

(1) Within twenty-four (24) hours of making a seizure, the seizing officer shall submit the following to the district attorney general for the jurisdiction in which the seizure was made:

(A) A copy of the Notice of Forfeiture Warrant Hearing or Notice of Seizure; and

(B) A report detailing the underlying circumstances of the seizure, including the legal and factual basis on which the property is subject to forfeiture.

(2) The district attorney general shall review the information provided by the seizing officer prior to the forfeiture warrant hearing and, if the district attorney determines there is no probable cause to justify forfeiture, shall file a motion to dismiss the application for forfeiture warrant with the court in which the application is set to be heard.

(3) Upon receiving a motion to dismiss the application for a forfeiture warrant, the court shall dismiss the application without convening a forfeiture warrant hearing. Upon dismissal, the seized property must be returned as provided in § 40-33-204(h).

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 33, Part 2, is amended by adding the following as a new section:

(a) A local or state law enforcement agency, including a judicial district drug task force, shall not refer, transfer, or otherwise relinquish possession of property seized under state law to a federal agency by way of adoption of the seized property or other means by the federal agency for the purpose of the property's forfeiture under the federal Controlled Substances Act, compiled in 21 U.S.C. § 801 et seq.

(b) A local or state law enforcement agency, including a judicial district drug task force, or participant in a joint task force or other multijurisdictional collaboration with the federal government shall not accept payment of any kind or distribution of forfeiture proceeds resulting from a joint task force or other multijurisdictional collaboration unless the aggregate net equity value of the property and currency seized in a case exceeds one hundred thousand dollars (\$100,000), excluding the value of contraband.

(c) Nothing in this section restricts a local or state law enforcement agency, including a judicial district drug task force, from acting alone or collaborating with a federal agency or other agency to seize contraband or property a law enforcement officer has probable cause to believe is the proceeds or instruments of a crime that subjects property to forfeiture.

(d) Nothing in this section prohibits the federal government, acting without the involvement of a local or state law enforcement agency, including a judicial district drug task force, from seizing property and seeking forfeiture under federal law.

SECTION 3. Tennessee Code Annotated, Section 40-33-210(a), is amended by deleting the language "a preponderance of evidence" and substituting instead the language "clear and convincing evidence".

SECTION 4. Tennessee Code Annotated, Section 40-33-213(a), is amended by deleting the language "preponderance of evidence" and substituting instead the language "clear and convincing evidence".

SECTION 5. This act shall take effect July 1, 2019, the public welfare requiring it, and shall apply to seizures occurring on or after that date.