

HOUSE BILL No. 5602

November 12, 2009, Introduced by Rep. LeBlanc and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7524 and 7524a (MCL 333.7524 and 333.7524a),
section 7524 as amended by 2006 PA 558 and section 7524a as amended
by 1994 PA 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7524. (1) When property is forfeited under this article,
2 the local unit of government that seized the property may do any of
3 the following, or if the property is seized by or in the custody of
4 the state, the state may do any of the following, subject to
5 section 7523(1)(d):

6 (a) Retain it for official use.

1 (b) Sell that which is not required to be destroyed by law and
2 which is not harmful to the public. The proceeds and any money,
3 negotiable instruments, securities, or any other thing of value as
4 described in section 7521(1)(f) that are forfeited ~~pursuant to~~
5 **UNDER** this article shall be deposited with the treasurer of the
6 entity having budgetary authority over the seizing agency and
7 applied as follows:

8 (i) For the payment of proper expenses of the proceedings for
9 forfeiture and sale, including expenses incurred during the seizure
10 process, maintenance of custody, advertising, and court costs,
11 except as otherwise provided in subsection (4).

12 (ii) ~~The~~ **OF THE** balance remaining after the payment of
13 expenses, **10% SHALL BE DEPOSITED IN THE MICHIGAN FORENSIC FUND**
14 **CREATED IN SUBSECTION (5). THE REMAINDER** shall be distributed by
15 the court having jurisdiction over the forfeiture proceedings to
16 the treasurer of the entity having budgetary authority over the
17 seizing agency. If more than 1 agency was substantially involved in
18 effecting the forfeiture, the court having jurisdiction over the
19 forfeiture proceeding shall equitably distribute the money among
20 the treasurers of the entities having budgetary authority over the
21 seizing agencies. A seizing agency may direct that the funds or a
22 portion of the funds it would otherwise have received under this
23 subsection be paid to nonprofit organizations whose primary
24 activity is to assist law enforcement agencies with drug-related
25 criminal investigations and obtaining information for solving
26 crimes. The money received by a seizing agency under this
27 subparagraph and all interest and other earnings on money received

1 by the seizing agency under this subparagraph shall be used to
2 enhance law enforcement efforts pertaining to this article, as
3 appropriated by the entity having budgetary authority over the
4 seizing agency. A distribution made under this subparagraph shall
5 serve as a supplement to, and not a replacement for, the funds
6 budgeted on January 1, 1991, for law enforcement efforts pertaining
7 to this article.

8 (c) Require the administrator to take custody of the property
9 and remove it for disposition in accordance with law.

10 (d) Forward it to the bureau for disposition.

11 (2) Notwithstanding subsection (1), this state or local units
12 of government may donate lights for plant growth or scales
13 forfeited under this article to elementary or secondary schools or
14 institutions of higher education that request in writing to receive
15 those lights or scales ~~pursuant to~~ **UNDER** this subsection, for
16 educational purposes. This state or local units of government shall
17 donate lights and scales ~~pursuant to~~ **UNDER** this subsection to
18 elementary or secondary schools or institutions of higher education
19 in the order in which the written requests are received. This state
20 or local units of government may limit the number of lights and
21 scales available to each requestor.

22 (3) In the course of selling real property ~~pursuant to~~ **UNDER**
23 subsection (1)(b), the court that has entered an order of
24 forfeiture may, on motion of the agency to whom the property has
25 been forfeited, appoint a receiver to dispose of the real property
26 forfeited. The receiver shall be entitled to reasonable
27 compensation. The receiver shall have authority to do all of the

1 following:

2 (a) List the forfeited real property for sale.

3 (b) Make whatever arrangements are necessary for the
4 maintenance and preservation of the forfeited real property.

5 (c) Accept offers to purchase the forfeited real property.

6 (d) Execute instruments transferring title to the forfeited
7 real property.

8 (4) If a court enters an order of forfeiture, the court may
9 order a person who claimed an interest in the forfeited property
10 pursuant to section 7523(1)(c) to pay the expenses of the
11 proceedings of forfeiture to the entity having budgetary authority
12 over the seizing agency.

13 (5) **THE MICHIGAN FORENSIC FUND IS CREATED WITHIN THE STATE**
14 **TREASURY.**

15 (6) **THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM**
16 **ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL**
17 **DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT**
18 **TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.**

19 (7) **MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL**
20 **REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.**

21 (8) **THE DEPARTMENT OF STATE POLICE SHALL BE THE ADMINISTRATOR**
22 **OF THE FUND FOR AUDITING PURPOSES.**

23 (9) **THE DEPARTMENT OF STATE POLICE SHALL EXPEND MONEY FROM THE**
24 **FUND, UPON APPROPRIATION, ONLY TO SUPPORT THE OPERATIONS OF THE**
25 **FORENSIC SCIENCE DIVISION OF THE DEPARTMENT OF STATE POLICE.**

26 Sec. 7524a. (1) Before February 1 of each year, each local
27 unit of government that had forfeiture proceedings pending in the

1 circuit court ~~pursuant to~~ **UNDER** section 7523; or effectuated a
2 forfeiture of property ~~pursuant to~~ **UNDER** section 7523 without a
3 forfeiture proceeding in the circuit court; or received money,
4 negotiable instruments, securities, or any other thing of value
5 ~~pursuant to~~ **UNDER** section 7524 during the fiscal year for the local
6 unit of government ending in the immediately preceding calendar
7 year shall submit a report to the ~~office of drug agencies~~ **BUREAU OF**
8 **SUBSTANCE ABUSE AND ADDICTION SERVICES** for analysis and transmittal
9 to the secretary of the senate and the clerk of the house of
10 representatives. The annual report shall be a summary of the local
11 unit of government's activities regarding the forfeiture of
12 property under this article ~~and pursuant to section 17766a~~ for the
13 fiscal year and shall contain the following information, as
14 applicable:

15 (a) The number of forfeiture proceedings that were instituted
16 in the circuit court by the local unit of government.

17 (b) The number of forfeiture proceedings instituted by the
18 local unit of government that were concluded in the circuit court.

19 (c) The number of all forfeiture proceedings instituted by the
20 local unit of government that were pending in the circuit court at
21 the end of the year.

22 (d) The number of forfeitures accomplished by the local unit
23 of government without filing a forfeiture proceeding in the circuit
24 court.

25 (e) The net total proceeds of all property forfeited under
26 this article ~~and pursuant to section 17766a~~ through forfeitures
27 instituted by the local unit of government that the local unit of

1 government is required to account for and report to the state
2 treasurer pursuant to either of the following, as applicable:

3 (i) ~~Act No. 71 of the Public Acts of 1919, being sections 21.41~~
4 ~~to 21.53 of the Michigan Compiled Laws 1919 PA 71, MCL 21.41 TO~~
5 ~~21.55.~~

6 (ii) The uniform budgeting and accounting act, ~~Act No. 2 of the~~
7 ~~Public Acts of 1968, being sections 141.421 to 141.440a of the~~
8 ~~Michigan Compiled Laws 1968 PA 2, MCL 141.421 TO 141.440A.~~

9 (f) An inventory of property received by the local unit of
10 government ~~pursuant to UNDER~~ section 7524, ~~and section 17766a,~~
11 including, but not limited to, all of the following:

12 (i) ~~all~~ **ALL** of the following real property:

13 (A) Single-family residential.

14 (B) Multiple-family residential.

15 (C) Industrial.

16 (D) Commercial.

17 (E) Agricultural.

18 (ii) Any type of conveyance described in section 7521(1)(d),
19 including the year, make, and model.

20 (iii) Money, negotiable instruments, and securities.

21 (iv) The total value of personal property, excluding personal
22 property described in subparagraphs (ii) and (iii).

23 (g) A statement explaining how the money received by the local
24 unit of government ~~pursuant to UNDER~~ section 7524(1)(b)(ii) has been
25 used or is being used to enhance the law enforcement efforts
26 pertaining to this article. ~~or section 17766a.~~

27 (h) A statement of the number of lights for plant growth or

1 scales donated under section 7524(2), the total value of those
2 lights or scales, and the elementary or secondary schools or
3 institutions of higher education to which they were donated.

4 (2) The records of a local unit of government described in
5 subsection (1) regarding the forfeiture of property under this
6 article ~~or pursuant to section 17766a~~ shall be audited in
7 accordance with 1 of the following, as applicable:

8 (a) ~~Act No. 71 of the Public Acts of 1919, being sections~~
9 ~~21.41 to 21.53 of the Michigan Compiled Laws 1919 PA 71, MCL 21.41~~
10 ~~TO 21.55.~~

11 (b) The uniform budgeting and accounting act, ~~Act No. 2 of the~~
12 ~~Public Acts of 1968, being sections 141.421 to 141.440a of the~~
13 ~~Michigan Compiled Laws 1968 PA 2, MCL 141.421 TO 141.440A.~~

14 (3) The records of a local unit of government described in
15 subsection (1) regarding the forfeiture of property under this
16 article ~~or pursuant to section 17766a~~ may be audited by an auditor
17 of the local unit of government.

18 (4) IF A LOCAL UNIT OF GOVERNMENT FAILS TO SUBMIT RECORDS
19 REQUIRED UNDER SUBSECTION (1), THE BUREAU OF SUBSTANCE ABUSE AND
20 ADDICTION SERVICES SHALL CONDUCT AN AUDIT OF THE LOCAL UNIT OF
21 GOVERNMENT TO DETERMINE WHETHER THERE WERE ANY FORFEITURE
22 PROCEEDINGS BY THAT LOCAL UNIT OF GOVERNMENT. THE LOCAL UNIT OF
23 GOVERNMENT SHALL PAY THE EXPENSE OF AN AUDIT UNDER THIS SUBSECTION.
24 IF THE AUDIT REVEALS THAT THE LOCAL UNIT OF GOVERNMENT SEIZED
25 PROPERTY SUBJECT TO FORFEITURE AND FAILED TO REPORT THAT SEIZURE,
26 THE LOCAL UNIT OF GOVERNMENT SHALL REMIT THAT PROPERTY, OR THE
27 VALUE OF THAT PROPERTY, TO THE BUREAU OF SUBSTANCE ABUSE AND

1 ADDICTION SERVICES.