



HOUSE BILL No. 4367

February 9, 1995, Introduced by Reps. Fitzgerald, Hill, DeLange, Bobier, Voorhees, Rhead, Hammerstrom, Perricone, Bullard, Dalman, McBryde, Goschka, Bush, Anthony, Nye and Jellema and referred to the Committee on Judiciary and Civil Rights.

A bill to amend Act No. 328 of the Public Acts of 1931, entitled as amended
"The Michigan penal code,"
as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding chapter XXVA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 328 of the Public Acts of 1931, as
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled
3 Laws, is amended by adding chapter XXVA to read as follows:

CHAPTER XXVA

CRIMINAL ENTERPRISES

6 SEC. 159F. AS USED IN THIS CHAPTER:

7 (A) "ENTERPRISE" INCLUDES AN INDIVIDUAL, SOLE
8 PROPRIETORSHIP, PARTNERSHIP, CORPORATION, TRUST, UNION,

1 ASSOCIATION, GOVERNMENTAL UNIT, OR OTHER LEGAL ENTITY OR A GROUP
2 OF PERSONS ASSOCIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY.
3 ENTERPRISE INCLUDES ILLICIT AS WELL AS LICIT ENTERPRISES.

4 (B) "INSTRUMENTALITY" MEANS AN INTEREST, REAL OR PERSONAL
5 PROPERTY, OR OTHER THING OF VALUE, THE USE OF WHICH CONTRIBUTES
6 DIRECTLY AND MATERIALLY TO THE COMMISSION OF AN OFFENSE INCLUDED
7 IN THE DEFINITION OF RACKETEERING.

8 (C) "PATTERN OF RACKETEERING ACTIVITY" MEANS NOT LESS THAN 2
9 INCIDENTS OF RACKETEERING TO WHICH ALL OF THE FOLLOWING CHARAC-
10 TERISTICS APPLY:

11 (i) THE INCIDENTS HAVE THE SAME OR A SUBSTANTIALLY SIMILAR
12 PURPOSE, RESULT, PARTICIPANT, VICTIM, OR METHOD OF COMMISSION, OR
13 ARE OTHERWISE INTERRELATED BY DISTINGUISHING CHARACTERISTICS AND
14 ARE NOT ISOLATED ACTS.

15 (ii) THE INCIDENTS AMOUNT TO OR POSE A THREAT OF CONTINUED
16 CRIMINAL ACTIVITY.

17 (iii) AT LEAST 1 OF THE INCIDENTS OCCURRED ON OR AFTER THE
18 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, AND
19 THE LAST OF THE INCIDENTS OCCURRED WITHIN 10 YEARS AFTER THE COM-
20 MISSION OF ANY PRIOR INCIDENT, EXCLUDING ANY PERIOD OF IMPRISON-
21 MENT SERVED BY A PERSON ENGAGING IN THE RACKETEERING ACTIVITY.

22 (D) "PERSON" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP, PART-
23 NERSHIP, COOPERATIVE, ASSOCIATION, CORPORATION, PERSONAL REPRE-
24 SENTATIVE, RECEIVER, TRUSTEE, ASSIGNEE, OR OTHER LEGAL OR ILLEGAL
25 ENTITY.

26 (E) "PROCEEDS" MEANS ANY REAL, PERSONAL, OR INTANGIBLE
27 PROPERTY OBTAINED THROUGH THE COMMISSION OF AN OFFENSE INCLUDED

1 IN THE DEFINITION OF RACKETEERING, INCLUDING ANY APPRECIATION IN
2 THE VALUE OF THE PROPERTY.

3 (F) "PROSECUTING AGENCY" MEANS THE ATTORNEY GENERAL OF THIS
4 STATE, OR HIS OR HER DESIGNEE, OR THE PROSECUTING ATTORNEY OF A
5 COUNTY, OR HIS OR HER DESIGNEE.

6 SEC. 159G. AS USED IN THIS CHAPTER, "RACKETEERING" MEANS
7 COMMITTING, ATTEMPTING TO COMMIT, CONSPIRING TO COMMIT, OR AIDING
8 OR ABETTING, SOLICITING, COERCING, OR INTIMIDATING A PERSON TO
9 COMMIT AN OFFENSE FOR FINANCIAL GAIN THAT IS CHARGEABLE OR
10 INDICTABLE UNDER THE LAWS OF THIS STATE OR A SUBSTANTIALLY SIMI-
11 LAR LAW OF THE UNITED STATES OR, IF THE OFFENSE OCCURRED IN
12 ANOTHER STATE, UNDER A SUBSTANTIALLY SIMILAR STATUTE OF THE STATE
13 IN WHICH THE OFFENSE OCCURRED, INVOLVING ANY OF THE FOLLOWING:

14 (A) A FELONY VIOLATION OF SECTION 9 OF ACT NO. 265 OF THE
15 PUBLIC ACTS OF 1947, BEING SECTION 205.509 OF THE MICHIGAN
16 COMPILED LAWS, CONCERNING CIGARETTE TAXES.

17 (B) A FELONY VIOLATION OF PART 74 OR SECTION 17766A OF THE
18 PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
19 SECTIONS 333.7401 TO 333.7461 AND 333.17766A OF THE MICHIGAN
20 COMPILED LAWS, CONCERNING CONTROLLED SUBSTANCES OR ANDROGENIC
21 ANABOLIC STEROIDS.

22 (C) A FELONY VIOLATION OF SECTION 60 OF THE SOCIAL WELFARE
23 ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTION 400.60
24 OF THE MICHIGAN COMPILED LAWS, CONCERNING WELFARE FRAUD.

25 (D) A VIOLATION OF SECTION 4, 5, OR 7 OF THE MEDICAID FALSE
26 CLAIM ACT, ACT NO. 72 OF THE PUBLIC ACTS OF 1977, BEING SECTIONS

1 400.604, 400.605, AND 400.607 OF THE MICHIGAN COMPILED LAWS,
2 CONCERNING MEDICAID FRAUD.

3 (E) A VIOLATION OF SECTION 2 OR 3 OF THE MICHIGAN ANTITRUST
4 REFORM ACT, ACT NO. 274 OF THE PUBLIC ACTS OF 1984, BEING SEC-
5 TIONS 445.772 AND 445.773 OF THE MICHIGAN COMPILED LAWS, CONCERN-
6 ING RESTRAINT OF TRADE AND MONOPOLIES.

7 (F) A VIOLATION OF SECTION 409 OF THE UNIFORM SECURITIES
8 ACT, ACT NO. 265 OF THE PUBLIC ACTS OF 1964, BEING SECTION
9 451.809 OF THE MICHIGAN COMPILED LAWS, CONCERNING SECURITIES
10 FRAUD.

11 (G) A VIOLATION OF SECTION 5 OR 7 OF ACT NO. 33 OF THE
12 PUBLIC ACTS OF 1978, BEING SECTIONS 722.675 AND 722.677 OF THE
13 MICHIGAN COMPILED LAWS, CONCERNING THE DISPLAY OR DISSEMINATION
14 OF OBSCENE MATTER TO MINORS.

15 (H) A FELONY VIOLATION OF SECTION 72, 73, 74, OR 75, CON-
16 CERNING ARSON.

17 (I) A VIOLATION OF SECTION 93, 94, 95, OR 96, CONCERNING
18 BANK BONDS, BILLS, NOTES, AND PROPERTY.

19 (J) A VIOLATION OF SECTION 117, 118, 119, 120, 121, OR 124,
20 CONCERNING BRIBERY.

21 (K) A VIOLATION OF SECTION 120A, CONCERNING JURY TAMPERING.

22 (L) A VIOLATION OF SECTION 145C, CONCERNING CHILD SEXUALLY
23 ABUSIVE ACTIVITY OR MATERIAL.

24 (M) A FELONY VIOLATION OF SECTION 157N, 157P, 157Q, 157R,
25 157S, 157T, OR 157U, CONCERNING CREDIT CARDS OR FINANCIAL TRANS-
26 ACTION DEVICES.

1 (N) A FELONY VIOLATION OF SECTION 174, 175, 176, 180, 181,
2 OR 182, CONCERNING EMBEZZLEMENT.

3 (O) A FELONY VIOLATION OF CHAPTER XXXIII, CONCERNING EXPLO-
4 SIVES AND BOMBS.

5 (P) A VIOLATION OF SECTION 213, CONCERNING EXTORTION.

6 (Q) A FELONY VIOLATION OF SECTION 218, CONCERNING FALSE
7 PRETENSES.

8 (R) A FELONY VIOLATION OF CHAPTER XLI, CONCERNING FORGERY
9 AND COUNTERFEITING.

10 (S) A VIOLATION OF SECTION 271, 272, 273, OR 274, CONCERNING
11 SECURITIES FRAUD.

12 (T) A VIOLATION OF SECTION 301, 302, 303, 304, 305, 305A, OR
13 313, CONCERNING GAMBLING.

14 (U) A VIOLATION OF SECTION 316 OR 317, CONCERNING MURDER.

15 (V) A VIOLATION OF SECTION 330, 331, OR 332, CONCERNING
16 HORSE RACING.

17 (W) A VIOLATION OF SECTION 349, 349A, OR 350, CONCERNING
18 KIDNAPPING.

19 (X) A FELONY VIOLATION OF CHAPTER LII, CONCERNING LARCENY.

20 (Y) A VIOLATION OF SECTION 422, 423, 424, OR 425, CONCERNING
21 PERJURY AND SUBORNATION OF PERJURY.

22 (Z) A VIOLATION OF SECTION 411K, CONCERNING MONEY
23 LAUNDERING.

24 (AA) A VIOLATION OF SECTION 452, 455, 457, 458, OR 459, CON-
25 CERNING PROSTITUTION.

26 (BB) A VIOLATION OF SECTION 529, 529A, 530, OR 531,
27 CONCERNING ROBBERY.

1 (CC) A FELONY VIOLATION OF SECTION 535, 535A, OR 536A,
2 CONCERNING STOLEN, EMBEZZLED, OR CONVERTED PROPERTY.

3 (DD) A VIOLATION OF SECTION 5 OF ACT NO. 343 OF THE PUBLIC
4 ACTS OF 1984, BEING SECTION 752.365 OF THE MICHIGAN COMPILED
5 LAWS, CONCERNING OBSCENITY.

6 SEC. 159H. AS USED IN THIS CHAPTER:

7 (A) "RECORDS" OR "DOCUMENTARY MATERIALS" MEANS A BOOK,
8 PAPER, DOCUMENT, WRITING, DRAWING, GRAPH, CHART, PHOTOGRAPH, PHO-
9 NORECORD, MAGNETIC TAPE, COMPUTER PROGRAM OR PRINTOUT, ANY OTHER
10 DATA COMPILATION FROM WHICH INFORMATION CAN BE OBTAINED OR TRANS-
11 LATED INTO USABLE FORM, OR ANY OTHER FUNCTIONALLY SIMILAR TANGI-
12 BLE ITEM.

13 (B) "SUBSTITUTED PROCEEDS" MEANS ANY REAL, PERSONAL, OR
14 INTANGIBLE PROPERTY OBTAINED OR ANY GAIN REALIZED BY THE SALE OR
15 EXCHANGE OF PROCEEDS.

16 SEC. 159I. (1) A PERSON EMPLOYED BY, OR ASSOCIATED WITH, AN
17 ENTERPRISE SHALL NOT KNOWINGLY CONDUCT OR PARTICIPATE IN,
18 DIRECTLY OR INDIRECTLY, THE AFFAIRS OF THE ENTERPRISE THROUGH A
19 PATTERN OF RACKETEERING ACTIVITY.

20 (2) A PERSON SHALL NOT KNOWINGLY, THROUGH A PATTERN OF RACK-
21 ETEERING ACTIVITY, ACQUIRE OR MAINTAIN, DIRECTLY OR INDIRECTLY,
22 AN INTEREST IN OR CONTROL OF AN ENTERPRISE OR REAL OR PERSONAL
23 PROPERTY.

24 (3) A PERSON WHO HAS KNOWINGLY RECEIVED ANY PROCEEDS DERIVED
25 DIRECTLY OR INDIRECTLY FROM A PATTERN OF RACKETEERING ACTIVITY
26 SHALL NOT DIRECTLY OR INDIRECTLY USE OR INVEST ANY PART OF THOSE
27 PROCEEDS, OR ANY PROCEEDS DERIVED FROM THE USE OR INVESTMENT OF

1 ANY OF THOSE PROCEEDS, IN THE ACQUISITION OF ANY TITLE TO, OR A
2 RIGHT, INTEREST, OR EQUITY IN, REAL OR PERSONAL PROPERTY, OR IN
3 THE ESTABLISHMENT OR OPERATION OF AN ENTERPRISE.

4 (4) A PERSON SHALL NOT CONSPIRE OR ATTEMPT TO VIOLATE
5 SUBSECTION (1), (2), OR (3).

6 SEC. 159J. (1) A PERSON WHO VIOLATES SECTION 159I IS GUILTY
7 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS
8 OR A FINE OF NOT MORE THAN \$100,000.00, OR BOTH.

9 (2) IN ADDITION TO ANY PENALTY IMPOSED UNDER SUBSECTION (1),
10 THE COURT MAY DO 1 OR MORE OF THE FOLLOWING WITH RESPECT TO A
11 PERSON CONVICTED UNDER SECTION 159I:

12 (A) ORDER THE PERSON TO PAY COURT COSTS.

13 (B) ORDER THE PERSON TO PAY TO THE STATE OR LOCAL LAW
14 ENFORCEMENT AGENCY THAT HANDLED THE INVESTIGATION AND PROSECUTION
15 THE COSTS OF THE INVESTIGATION AND PROSECUTION THAT ARE REASON-
16 ABLY INCURRED.

17 (3) THE COURT SHALL HOLD A HEARING TO DETERMINE THE AMOUNT
18 OF COURT COSTS AND OTHER COSTS TO BE IMPOSED UNDER
19 SUBSECTION (2).

20 (4) THE COURT SHALL ORDER A PERSON CONVICTED OF A VIOLATION
21 OF SECTION 159I TO CRIMINALLY FORFEIT TO THE STATE ANY PERSONAL
22 OR REAL PROPERTY IN WHICH HE OR SHE HAS AN INTEREST AND THAT WAS
23 USED IN THE COURSE OF, INTENDED FOR USE IN THE COURSE OF, DERIVED
24 FROM, OR REALIZED THROUGH CONDUCT IN VIOLATION OF SECTION 159I,
25 INCLUDING ANY PROPERTY CONSTITUTING AN INTEREST IN, MEANS OF CON-
26 TROL OVER, OR INFLUENCE OVER THE ENTERPRISE INVOLVED IN THE
27 VIOLATION AND ANY PROPERTY CONSTITUTING PROCEEDS DERIVED FROM THE

1 VIOLATION. IF 1 OF THE PREDICATE ACTS OF RACKETEERING INVOLVED
2 IN THE CONVICTION IS AN OFFENSE LISTED IN SECTION 159G(E), THE
3 COURT'S AUTHORITY UNDER THIS SUBSECTION ALSO INCLUDES, BUT IS NOT
4 LIMITED TO, THE AUTHORITY TO DO ANY OF THE FOLLOWING:

5 (A) ORDER THE CONVICTED PERSON TO DIVEST HIMSELF OR HERSELF
6 OF ANY INTEREST, DIRECT OR INDIRECT, IN THE ENTERPRISE.

7 (B) IMPOSE REASONABLE RESTRICTIONS ON THE FUTURE ACTIVITIES
8 OR INVESTMENTS OF THE CONVICTED PERSON, INCLUDING PROHIBITING THE
9 CONVICTED PERSON FROM ENGAGING IN THE SAME TYPE OF ENDEAVOR AS
10 THE ENTERPRISE ENGAGED IN.

11 (C) ORDER THE DISSOLUTION OR REORGANIZATION OF AN
12 ENTERPRISE.

13 (D) ORDER THE SUSPENSION OR REVOCATION OF A LICENSE, PERMIT,
14 OR PRIOR APPROVAL GRANTED TO AN ENTERPRISE BY ANY AGENCY OF THE
15 STATE, COUNTY, OR OTHER POLITICAL SUBDIVISION.

16 (E) ORDER THE SURRENDER OF THE CHARTER OF A CORPORATION
17 ORGANIZED UNDER THE LAWS OF THIS STATE OR THE REVOCATION OF A
18 CERTIFICATE AUTHORIZING A FOREIGN CORPORATION TO CONDUCT BUSINESS
19 WITHIN THIS STATE UPON FINDING THAT THE BOARD OF DIRECTORS OR A
20 MANAGERIAL AGENT ACTING ON BEHALF OF THE CORPORATION, IN CONDUCT-
21 ING THE AFFAIRS OF THE CORPORATION, AUTHORIZED OR ENGAGED IN
22 RACKETEERING AND, FOR THE PREVENTION OF FUTURE CRIMINAL ACTIVITY,
23 THAT THE PUBLIC INTEREST REQUIRES THAT THE CHARTER OR CERTIFICATE
24 OF THE CORPORATION BE SURRENDERED OR REVOKED.

25 (5) A SENTENCE ORDERING CRIMINAL FORFEITURE PURSUANT TO THIS
26 SECTION SHALL NOT BE ENTERED UNLESS THE INDICTMENT OR INFORMATION
27 ALLEGES THE EXTENT OF THE PROPERTY SUBJECT TO FORFEITURE, OR

1 UNLESS THE SENTENCE REQUIRES THE FORFEITURE OF PROPERTY THAT WAS
2 NOT REASONABLY FORESEEN TO BE SUBJECT TO FORFEITURE AT THE TIME
3 OF THE INDICTMENT OR INFORMATION, IF THE PROSECUTING AGENCY GAVE
4 PROMPT NOTICE TO THE DEFENDANT OF THE PROPERTY NOT REASONABLY
5 FORESEEN TO BE SUBJECT TO FORFEITURE WHEN IT WAS DISCOVERED TO BE
6 FORFEITABLE.

7 (6) AT SENTENCING AND FOLLOWING A HEARING, THE COURT SHALL
8 DETERMINE THE EXTENT OF THE PROPERTY SUBJECT TO FORFEITURE, IF
9 ANY, AND SHALL ENTER AN ORDER OF FORFEITURE. THE COURT MAY BASE
10 ITS DETERMINATION ON EVIDENCE IN THE TRIAL RECORD.

11 (7) IF ANY PROPERTY INCLUDED IN THE ORDER OF FORFEITURE PUR-
12 SUANT TO THIS SECTION CANNOT BE LOCATED OR HAS BEEN SOLD TO A
13 BONA FIDE PURCHASER FOR VALUE, PLACED BEYOND THE JURISDICTION OF
14 THE COURT, SUBSTANTIALLY DIMINISHED IN VALUE BY THE CONDUCT OF
15 THE DEFENDANT, OR COMMINGLED WITH OTHER PROPERTY THAT CANNOT BE
16 DIVIDED WITHOUT DIFFICULTY OR UNDUE INJURY TO INNOCENT PERSONS,
17 THE COURT SHALL ORDER FORFEITURE OF ANY OTHER REACHABLE PROPERTY
18 OF THE DEFENDANT UP TO THE VALUE OF THE PROPERTY THAT IS
19 UNREACHABLE.

20 (8) ALL PROPERTY ORDERED FORFEITED PURSUANT TO THIS SECTION
21 SHALL BE RETAINED BY THE LAW ENFORCEMENT AGENCY THAT SEIZED IT
22 FOR DISPOSAL PURSUANT TO SECTION 159R.

23 (9) AN ORDER OF CRIMINAL FORFEITURE ENTERED UNDER THIS SEC-
24 TION SHALL AUTHORIZE AN APPROPRIATE LAW ENFORCEMENT AGENCY TO
25 SEIZE THE PROPERTY DECLARED CRIMINALLY FORFEITED UNDER THIS SEC-
26 TION UPON THOSE TERMS AND CONDITIONS RELATING TO THE TIME AND
27 MANNER OF SEIZURE THE COURT DETERMINES PROPER.

(10) CRIMINAL PENALTIES UNDER THIS SECTION ARE NOT MUTUALLY EXCLUSIVE AND DO NOT PRECLUDE THE APPLICATION OF ANY OTHER CRIMINAL OR CIVIL REMEDY UNDER THIS SECTION OR ANY OTHER PROVISION OF LAW.

SEC. 159K. (1) UPON THE ENTRY OF THE ORDER OF CRIMINAL FORFEITURE PURSUANT TO SECTION 159J, THE COURT SHALL CAUSE NOTICE OF THE ORDER TO BE SENT BY CERTIFIED MAIL TO ALL PERSONS KNOWN TO HAVE, OR APPEARING TO HAVE, AN INTEREST IN THE PROPERTY TO BE FORFEITED. TO ASSIST THE COURT IN DETERMINING WHOM TO NOTIFY, THE PROSECUTING AGENCY SHALL CONDUCT A SEARCH OF COUNTY, STATE, AND FEDERAL PUBLIC RECORDS WHERE NOTICE OF LIENS AND SECURITY INTERESTS ARE NORMALLY RECORDED. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASONABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PROSECUTION OCCURRED FOR 10 SUCCESSIVE PUBLISHING DAYS. PROOF OF WRITTEN NOTICE OR PUBLICATION SHALL BE FILED WITH THE COURT ENTERING THE ORDER OF CRIMINAL FORFEITURE.

(2) WITHIN 21 DAYS AFTER RECEIPT OF THE NOTICE OR AFTER THE DATE OF PUBLICATION UNDER SUBSECTION (1), A PERSON, OTHER THAN THE DEFENDANT, WHO CLAIMS AN INTEREST IN THE PROPERTY SUBJECT TO CRIMINAL FORFEITURE MAY PETITION THE COURT FOR A HEARING TO DETERMINE THE VALIDITY OF THE CLAIM. THE PETITION SHALL BE SIGNED AND SWORN TO BY THE PETITIONER AND SHALL SET FORTH THE NATURE AND EXTENT OF THE PETITIONER'S INTEREST IN THE PROPERTY, THE DATE AND CIRCUMSTANCES OF THE PETITIONER'S ACQUISITION OF THE INTEREST, ANY ADDITIONAL ALLEGATIONS SUPPORTING THE CLAIM, AND

1 THE RELIEF SOUGHT. THE PETITIONER SHALL FURNISH THE PROSECUTING
2 AGENCY WITH A COPY OF THE PETITION.

3 (3) THE COURT, TO THE EXTENT PRACTICABLE AND CONSISTENT WITH
4 THE INTERESTS OF JUSTICE, SHALL HOLD THE HEARING WITHIN 28 DAYS
5 AFTER THE FILING OF THE PETITION. THE COURT MAY CONSOLIDATE THE
6 HEARINGS ON ALL PETITIONS FILED BY THIRD PARTY CLAIMANTS UNDER
7 THIS SECTION. AT THE HEARING, THE PETITIONER MAY TESTIFY AND
8 PRESENT EVIDENCE ON HIS OR HER OWN BEHALF AND MAY CROSS-EXAMINE
9 WITNESSES. THE PROSECUTING AGENCY MAY PRESENT EVIDENCE AND WIT-
10 NESSES IN REBUTTAL AND IN DEFENSE OF THE CLAIM OF THE STATE TO
11 THE PROPERTY AND MAY CROSS-EXAMINE WITNESSES. THE COURT, IN
12 MAKING ITS DETERMINATION, SHALL CONSIDER THE TESTIMONY AND EVI-
13 DENCE PRESENTED AT THE HEARING AND THE RELEVANT PORTIONS OF THE
14 RECORD OF THE CRIMINAL PROCEEDING THAT RESULTED IN THE ORDER OF
15 CRIMINAL FORFEITURE.

16 (4) IF THE COURT, BY A PREPONDERANCE OF THE EVIDENCE, DETER-
17 MINES EITHER OF THE FOLLOWING, THE COURT SHALL AMEND, IN ACCORD-
18 ANCE WITH ITS DETERMINATION, THE ORDER OF CRIMINAL FORFEITURE TO
19 PROTECT THE RIGHTS OF INNOCENT PERSONS:

20 (A) THE PETITIONER HAS A LEGAL RIGHT, TITLE, OR INTEREST IN
21 THE PROPERTY THAT, AT THE TIME OF THE COMMISSION OF THE ACTS
22 GIVING RISE TO THE FORFEITURE OF THE PROPERTY, WAS VESTED IN THE
23 PETITIONER AND NOT IN THE DEFENDANT OR WAS SUPERIOR TO THE RIGHT,
24 TITLE, OR INTEREST OF THE DEFENDANT.

25 (B) THE PETITIONER IS A BONA FIDE PURCHASER FOR VALUE OF THE
26 RIGHT, TITLE, OR INTEREST IN THE PROPERTY AND WAS AT THE TIME OF

1 THE PURCHASE REASONABLY WITHOUT CAUSE TO BELIEVE THAT THE
2 PROPERTY WAS SUBJECT TO FORFEITURE UNDER SECTION 159J.

3 SEC. 159L. (1) IN A PROSECUTION UNDER SECTION 159I, THE
4 COURT HAS JURISDICTION TO ENTER SUCH RESTRAINING ORDERS OR
5 INJUNCTIONS OR TO TAKE OTHER ACTION BY ORDER, INCLUDING, BUT NOT
6 LIMITED TO, THE ACCEPTANCE OF SATISFACTORY PERFORMANCE BONDS, IN
7 CONNECTION WITH ANY PROPERTY SUBJECT TO CRIMINAL FORFEITURE UNDER
8 SECTION 159J, AS THE COURT CONSIDERS PROPER.

9 (2) WITHIN 14 DAYS AFTER THE ENTRY OF AN ORDER DESCRIBED IN
10 SUBSECTION (1), THE PROSECUTING AGENCY SHALL NOTIFY ALL PERSONS
11 KNOWN TO HAVE OR APPEARING TO HAVE AN INTEREST IN THE PROPERTY OF
12 THE ORDER, BY CERTIFIED MAIL. IN DETERMINING WHOM TO NOTIFY
13 UNDER THIS SUBSECTION, THE PROSECUTING AGENCY SHALL CONDUCT A
14 SEARCH OF COUNTY, STATE, AND FEDERAL PUBLIC RECORDS WHERE NOTICES
15 OF LIENS AND SECURITY INTERESTS ARE NORMALLY RECORDED.

16 SEC. 159M. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-
17 TION, ALL REAL OR PERSONAL PROPERTY THAT IS THE PROCEEDS OF RACK-
18 ETEERING, THE SUBSTITUTED PROCEEDS OF RACKETEERING, OR AN INSTRU-
19 MENTALITY OF RACKETEERING, IS SUBJECT TO CIVIL IN REM FORFEITURE
20 TO A LOCAL UNIT OF GOVERNMENT OR THE STATE UNDER THIS SECTION AND
21 SECTIONS 159N TO 159Q.

22 (2) REAL PROPERTY THAT IS THE PRIMARY RESIDENCE OF THE
23 SPOUSE OR A DEPENDENT CHILD OF THE OWNER IS NOT SUBJECT TO CIVIL
24 IN REM FORFEITURE UNDER THIS SECTION AND SECTIONS 159N TO 159Q,
25 UNLESS THAT SPOUSE OR DEPENDENT CHILD HAD PRIOR ACTUAL KNOWLEDGE
26 OF, AND CONSENTED TO THE COMMISSION OF, THE OFFENSE.

1 (3) PROPERTY IS NOT SUBJECT TO CIVIL IN REM FORFEITURE IF
2 EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

3 (A) THE OWNER OF THE PROPERTY DID NOT HAVE PRIOR ACTUAL
4 KNOWLEDGE OF THE COMMISSION OF THE RACKETEERING ACTIVITY.

5 (B) THE OWNER OF THE PROPERTY SERVED NOTICE OF THE COMMIS-
6 SION OF THE CRIME UPON AN APPROPRIATE LAW ENFORCEMENT AGENCY.

7 (4) THE CIVIL IN REM FORFEITURE OF PROPERTY ENCUMBERED BY A
8 SECURITY INTEREST IS SUBJECT TO THE INTEREST OF THE HOLDER OF THE
9 SECURITY INTEREST WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF THE
10 RACKETEERING ACTIVITY.

11 (5) THE CIVIL IN REM FORFEITURE OF PROPERTY ENCUMBERED BY AN
12 UNPAID BALANCE ON A LAND CONTRACT IS SUBJECT TO THE INTEREST OF
13 THE LAND CONTRACT VENDOR WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE
14 OF THE RACKETEERING ACTIVITY.

15 SEC. 159N. (1) A CIVIL IN REM FORFEITURE PROCEEDING UNDER
16 THIS CHAPTER IS A PROCEEDING AGAINST PROPERTY SUBJECT TO FORFEI-
17 TURE UNDER SECTION 159M INSTITUTED BY THE FILING OF A PETITION BY
18 THE PROSECUTING AGENCY.

19 (2) PERSONAL PROPERTY SUBJECT TO CIVIL IN REM FORFEITURE
20 UNDER SECTION 159M MAY BE SEIZED PURSUANT TO AN ORDER OF SEIZURE
21 ISSUED BY THE COURT HAVING JURISDICTION OVER THE PROPERTY.

22 (3) UPON AN EX PARTE APPLICATION BY THE PROSECUTING AGENCY,
23 BEFORE OR AFTER THE INITIATION OF A CIVIL IN REM FORFEITURE PRO-
24 CEEDING, THE COURT MAY DETERMINE EX PARTE WHETHER THERE IS PROBA-
25 BLE CAUSE TO BELIEVE THAT PROPERTY IS SUBJECT TO CIVIL IN REM
26 FORFEITURE UNDER SECTION 159M AND THAT NOTICE TO THOSE PERSONS
27 HAVING OR CLAIMING AN INTEREST IN THE PROPERTY BEFORE SEIZURE

1 WOULD CAUSE THE LOSS OR DESTRUCTION OF THE PROPERTY. IN MAKING
2 THIS DETERMINATION, THE COURT SHALL, AS A MATTER OF LAW, MAKE A
3 DETERMINATION THAT THE PROPERTY CONSTITUTED AN INTEREST IN, MEANS
4 OF CONTROL OVER, OR INFLUENCE OVER AN ENTERPRISE INVOLVED IN A
5 VIOLATION OF SECTION 159I. IF THE COURT FINDS THAT PROBABLE
6 CAUSE DOES NOT EXIST TO BELIEVE THE PROPERTY IS SUBJECT TO FOR-
7 FEITURE UNDER THIS ACT, THE COURT SHALL DISMISS THE PLAINTIFF
8 PROSECUTING AGENCY'S APPLICATION AND, IF A CIVIL IN REM FORFEI-
9 TURE PROCEEDING HAS BEEN INITIATED, SHALL DISMISS THE PETITION.
10 IF THE COURT FINDS THAT PROBABLE CAUSE DOES EXIST TO BELIEVE THE
11 PROPERTY IS SUBJECT TO FORFEITURE BUT THERE IS NOT PROBABLE CAUSE
12 TO BELIEVE THAT PRIOR NOTICE WOULD RESULT IN LOSS OR DESTRUCTION
13 OF THE PROPERTY, THE COURT SHALL ORDER SERVICE ON ALL PERSONS
14 KNOWN TO HAVE OR CLAIM AN INTEREST IN THE PROPERTY BEFORE A FUR-
15 THER HEARING ON WHETHER AN ORDER OF SEIZURE SHOULD ISSUE. IF THE
16 COURT FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
17 PROPERTY IS SUBJECT TO FORFEITURE AND TO BELIEVE THAT PRIOR
18 NOTICE WOULD CAUSE LOSS OR DESTRUCTION OF THE PROPERTY, THE COURT
19 SHALL ISSUE AN ORDER OF SEIZURE DIRECTING THE SHERIFF OR OTHER
20 LAW ENFORCEMENT OFFICER IN THE COUNTY WHERE THE PROPERTY IS FOUND
21 TO SEIZE IT.

22 (4) PERSONAL PROPERTY SUBJECT TO CIVIL IN REM FORFEITURE
23 UNDER THIS CHAPTER MAY BE SEIZED WITHOUT PROCESS UNDER ANY OF THE
24 FOLLOWING CIRCUMSTANCES:

25 (A) THE SEIZURE IS INCIDENT TO A LAWFUL ARREST.

26 (B) THE SEIZURE IS PURSUANT TO A VALID SEARCH WARRANT.

1 (C) THE SEIZURE IS PURSUANT TO AN INSPECTION UNDER A VALID
2 ADMINISTRATIVE INSPECTION WARRANT.

3 (D) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS
4 DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY.

5 (E) EXIGENT CIRCUMSTANCES EXIST THAT PRECLUDE THE OBTAINING
6 OF A COURT ORDER, AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
7 PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
8 SECTION 159M.

9 (F) THE PROPERTY IS THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR
10 OF THIS STATE IN A FORFEITURE PROCEEDING.

11 (5) THE PROSECUTING AGENCY MAY APPLY EX PARTE FOR AN ORDER
12 AUTHORIZING THE FILING OF A LIEN NOTICE AGAINST REAL PROPERTY
13 SUBJECT TO CIVIL IN REM FORFEITURE UNDER SECTION 159M. THE
14 APPLICATION SHALL BE SUPPORTED BY A SWORN AFFIDAVIT SETTING FORTH
15 PROBABLE CAUSE FOR A CIVIL IN REM FORFEITURE ACTION PURSUANT TO
16 SECTIONS 159M TO 159Q. AN ORDER AUTHORIZING THE FILING OF A LIEN
17 NOTICE MAY BE ISSUED UPON A SHOWING OF PROBABLE CAUSE TO BELIEVE
18 THAT THE PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
19 SECTION 159M.

20 (6) PROPERTY THAT BELONGS TO THE VICTIM OF A CRIME SHALL
21 PROMPTLY BE RETURNED TO THE VICTIM, EXCEPT IN THE FOLLOWING
22 CIRCUMSTANCES:

23 (A) THE PROPERTY IS CONTRABAND.

24 (B) IF THE OWNERSHIP OF THE PROPERTY IS DISPUTED, UNTIL THE
25 DISPUTE IS RESOLVED.

26 (C) THE PROPERTY IS REQUIRED TO BE RETAINED AS EVIDENCE
27 PURSUANT TO SECTION 4(4) OF THE CRIME VICTIM'S RIGHTS ACT, ACT

1 NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTION 780.754 OF THE
2 MICHIGAN COMPILED LAWS.

3 (7) PERSONAL PROPERTY SEIZED UNDER THIS SECTION IS NOT
4 SUBJECT TO ANY OTHER ACTION TO RECOVER PERSONAL PROPERTY, BUT IS
5 CONSIDERED TO BE IN THE CUSTODY OF THE SEIZING AGENCY SUBJECT
6 ONLY TO THIS CHAPTER, OR TO AN ORDER AND JUDGMENT OF THE COURT
7 HAVING JURISDICTION OVER THE CIVIL IN REM FORFEITURE
8 PROCEEDINGS. WHEN PROPERTY IS SEIZED UNDER THIS SECTION, THE
9 SEIZING AGENCY MAY DO EITHER OR BOTH OF THE FOLLOWING:

10 (A) PLACE THE PROPERTY UNDER SEAL.

11 (B) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

12 SEC. 1590. (1) WITHIN 14 DAYS AFTER PERSONAL PROPERTY IS
13 SEIZED OR A LIEN NOTICE IS FILED AGAINST REAL PROPERTY UNDER SEC-
14 TION 159N, THE PROSECUTING AGENCY SHALL GIVE NOTICE PURSUANT TO
15 THIS SECTION OF THE SEIZURE OF THE PROPERTY AND THE INTENT TO
16 FORFEIT AND DISPOSE OF THE PROPERTY ACCORDING TO THIS CHAPTER.
17 THIS 14-DAY NOTICE PERIOD IS NOT JURISDICTIONAL. THE PROSECUTING
18 AGENCY MAY MOVE FOR AN EXTENSION OF THE NOTICE PERIOD FOR GOOD
19 CAUSE SHOWN. THE PROSECUTING AGENCY SHALL GIVE THE NOTICE TO
20 EACH OF THE FOLLOWING PERSONS:

21 (A) IF CHARGES HAVE BEEN FILED AGAINST A PERSON FOR A CRIME,
22 THE PERSON CHARGED.

23 (B) EACH PERSON WITH A KNOWN OWNERSHIP INTEREST IN THE
24 PROPERTY.

25 (C) EACH MORTGAGEE, PERSON HOLDING A SECURITY INTEREST, OR
26 PERSON HAVING A LIEN THAT APPEARS ON THE CERTIFICATE OF TITLE OR
27 IS ON FILE WITH THE SECRETARY OF STATE OR APPROPRIATE REGISTER OF

1 DEEDS, IF THE PROPERTY IS REAL PROPERTY, A MOBILE HOME, MOTOR
2 VEHICLE, WATERCRAFT, OR OTHER PERSONAL PROPERTY.

3 (D) EACH HOLDER OF A PREFERRED SHIP MORTGAGE OF RECORD IN
4 THE APPROPRIATE PUBLIC OFFICE PURSUANT TO CHAPTER 313 OF SUBTITLE
5 III OF TITLE 46 OF THE UNITED STATES CODE, IF THE PROPERTY IS A
6 WATERCRAFT MORE THAN 28 FEET LONG OR A WATERCRAFT THAT HAS A
7 CAPACITY OF 5 NET TONS OR MORE.

8 (E) EACH PERSON WHOSE SECURITY INTEREST IS RECORDED WITH THE
9 APPROPRIATE PUBLIC OFFICE PURSUANT TO THE FEDERAL AVIATION ACT OF
10 1958, PUBLIC LAW 85-726, 72 STAT. 731, IF THE PROPERTY IS AN AIR-
11 CRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER, OR A PART OF AN
12 AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER.

13 (F) EACH PERSON WITH A KNOWN SECURITY INTEREST IN THE
14 PROPERTY.

15 (G) EACH VICTIM OF THE CRIME.

16 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL BE A
17 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
18 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
19 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
20 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
21 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
22 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
23 CESSIVE PUBLISHING DAYS. PROOF OF WRITTEN NOTICE OR PUBLICATION
24 SHALL BE FILED WITH THE COURT HAVING JURISDICTION OVER THE SEI-
25 ZURE OR FORFEITURE.

26 (3) IF PERSONAL PROPERTY IS SEIZED, THE SEIZING AGENCY SHALL
27 IMMEDIATELY NOTIFY THE PROSECUTING AGENCY OF THE SEIZURE OF THE

1 PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF THE PROPERTY
2 ACCORDING TO THIS CHAPTER.

3 SEC. 159P. (1) A PERSON CLAIMING AN INTEREST IN PROPERTY OR
4 PROCEEDS SUBJECT TO FORFEITURE MAY, AT ANY TIME WITHIN 28 DAYS
5 AFTER THE DATE OF THE COMPLETION OF THE PUBLICATION PURSUANT TO
6 SECTION 580 OR WITHIN 21 DAYS AFTER RECEIPT OF ACTUAL NOTICE PUR-
7 SUANT TO SECTION 159O, FILE WITH THE PROSECUTING AGENCY A VERI-
8 FIED CLAIM STATING HIS OR HER INTEREST IN THE PROPERTY OR
9 PROCEEDS.

10 (2) IF NO CLAIM IS FILED WITHIN THE PERIOD SPECIFIED IN SUB-
11 SECTION (1), THE PROSECUTING AGENCY SHALL DECLARE THE PROPERTY
12 FORFEITED AND SHALL DISPOSE OF THE PROPERTY ACCORDING TO SECTION
13 583.

14 (3) IF A CLAIM IS FILED WITHIN THE PERIOD SPECIFIED IN SUB-
15 SECTION (1), THE PROSECUTING AGENCY SHALL INSTITUTE A CIVIL IN
16 REM FORFEITURE ACTION WITHIN 7 DAYS AFTER THE EXPIRATION OF THE
17 PERIOD SPECIFIED IN SUBSECTION (1).

18 SEC. 159Q. (1) AT THE CIVIL IN REM FORFEITURE PROCEEDING,
19 IN WHICH THE COURT SHALL ACT AS TRIER OF FACT, THE PROSECUTING
20 AGENCY HAS THE BURDEN OF PROVING BOTH OF THE FOLLOWING BY A PRE-
21 PONDERANCE OF THE EVIDENCE:

22 (A) THE PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
23 SECTION 159M.

24 (B) THE PERSON CLAIMING AN OWNERSHIP OR SECURITY INTEREST IN
25 THE PROPERTY HAD ACTUAL PRIOR KNOWLEDGE OF THE COMMISSION OF AN
26 OFFENSE LISTED IN THE DEFINITION OF RACKETEERING.

1 (2) IF THE PROSECUTING AGENCY FAILS TO MEET THE BURDEN OF
2 PROOF UNDER SUBSECTION (1), THE PROPERTY SHALL BE RETURNED TO THE
3 OWNER WITHIN 28 DAYS AFTER A WRITTEN ORDER IS ENTERED TO RETURN
4 THE PROPERTY, UNLESS AN APPELLATE COURT STAYS THE ORDER. IN
5 ADDITION, THE PROSECUTING AGENCY SHALL REIMBURSE THE OWNER FOR
6 DAMAGES RELATED TO TOWING COSTS, STORAGE FEES AND EXPENSES, FORE-
7 CLOSURE COSTS, AND OTHER SIMILAR EXPENSES.

8 (3) IF THE PROSECUTING AGENCY MEETS THE BURDEN OF PROOF
9 UNDER SUBSECTION (1), THE PROPERTY SHALL BE DISPOSED OF PURSUANT
10 TO SECTION 159R.

11 (4) WITHIN 7 DAYS AFTER PERSONAL PROPERTY IS RETURNED TO THE
12 OWNER, OR A LIEN FILED AGAINST REAL PROPERTY OR A MOTOR VEHICLE
13 IS DISCHARGED, THE PROSECUTING AGENCY THAT GAVE NOTICE OF THE
14 SEIZURE OF THE PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF
15 THE PROPERTY PURSUANT TO SECTION 159O SHALL GIVE NOTICE TO THE
16 PERSONS WHO RECEIVED NOTICE PURSUANT TO SECTION 159O THAT THE
17 PROPERTY HAS BEEN RETURNED TO THE OWNER OR THAT THE LIEN HAS BEEN
18 DISCHARGED.

19 (5) THE NOTICE REQUIRED UNDER SUBSECTION (4) SHALL BE A
20 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
21 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
22 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
23 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
24 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
25 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
26 CESSIVE PUBLISHING DAYS.

1 (6) A DEFENDANT CONVICTED IN A CRIMINAL PROCEEDING IS
2 ESTOPPED FROM SUBSEQUENTLY DENYING IN A CIVIL ACTION THE
3 ESSENTIAL ALLEGATIONS OF THE CRIMINAL OFFENSE OF WHICH HE OR SHE
4 WAS CONVICTED.

5 (7) IF A CIVIL IN REM FORFEITURE ACTION HAS BEEN COMMENCED
6 PURSUANT TO THIS CHAPTER, THE DISMISSAL OF A CRIMINAL CASE OR AN
7 ACQUITTAL ON A CRIMINAL CHARGE BROUGHT AGAINST A PARTY WHO HAS OR
8 MAY HAVE AN INTEREST IN PROPERTY OR AN ITEM AT ISSUE IN THE CIVIL
9 IN REM FORFEITURE ACTION DOES NOT PRECLUDE OR ADVERSELY AFFECT
10 THE CONTINUED LITIGATION AGAINST THE PROPERTY OR ITEM IN THE
11 CIVIL IN REM FORFEITURE ACTION.

12 (8) THE TESTIMONY OF A PERSON AT A CIVIL IN REM FORFEITURE
13 PROCEEDING HELD UNDER THIS CHAPTER IS NOT ADMISSIBLE AGAINST HIM
14 OR HER, EXCEPT FOR THE PURPOSE OF IMPEACHMENT, IN A CRIMINAL PRO-
15 CEEDING OTHER THAN A CRIMINAL PROSECUTION FOR PERJURY. THE TES-
16 TIMONY OF A PERSON AT A CIVIL IN REM FORFEITURE PROCEEDING HELD
17 UNDER THIS CHAPTER DOES NOT WAIVE THE PERSON'S CONSTITUTIONAL
18 RIGHT AGAINST SELF-INCRIMINATION.

19 SEC. 159R. (1) IF PROPERTY IS CRIMINALLY OR CIVILLY FOR-
20 FEITED UNDER THIS CHAPTER, THE UNIT OF GOVERNMENT THAT SEIZED OR
21 FILED A LIEN AGAINST THE PROPERTY MAY SELL THE PROPERTY THAT IS
22 NOT REQUIRED TO BE DESTROYED BY LAW AND THAT IS NOT HARMFUL TO
23 THE PUBLIC AND MAY DISPOSE OF THE MONEY RECEIVED FROM THE SALE OF
24 THE PROPERTY AND ANY MONEY, NEGOTIABLE INSTRUMENT, SECURITY, OR
25 OTHER THING OF VALUE THAT IS FORFEITED PURSUANT TO THIS CHAPTER
26 IN THE FOLLOWING ORDER OF PRIORITY:

1 (A) PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED PARTY
2 WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF, OR CONSENT TO THE
3 COMMISSION OF, THE CRIME.

4 (B) SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION FOR
5 THE CRIME.

6 (C) PAY THE CLAIM OF EACH PERSON WHO SHOWS THAT HE OR SHE IS
7 A VICTIM OF THE CRIME TO THE EXTENT THAT THE CLAIM IS NOT COVERED
8 BY AN ORDER OF RESTITUTION.

9 (D) PAY ANY VALID OUTSTANDING LIEN AGAINST THE PROPERTY THAT
10 HAS BEEN IMPOSED BY A GOVERNMENTAL UNIT.

11 (E) PAY THE PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEI-
12 TURE AND SALE, INCLUDING, BUT NOT LIMITED TO, EXPENSES INCURRED
13 DURING THE SEIZURE PROCESS AND EXPENSES FOR MAINTAINING CUSTODY
14 OF THE PROPERTY, ADVERTISING, AND COURT COSTS.

15 (F) THE BALANCE REMAINING AFTER THE PAYMENT OF RESTITUTION,
16 THE CLAIMS OF VICTIMS, OUTSTANDING LIENS, AND EXPENSES SHALL BE
17 DISTRIBUTED BY THE COURT HAVING JURISDICTION OVER THE FORFEITURE
18 PROCEEDINGS TO THE UNIT OR UNITS OF GOVERNMENT SUBSTANTIALLY
19 INVOLVED IN EFFECTING THE FORFEITURE. THE MONEY RECEIVED BY A
20 UNIT OF GOVERNMENT UNDER THIS SUBDIVISION SHALL BE USED TO
21 ENHANCE ENFORCEMENT OF THE CRIMINAL LAWS.

22 (2) IN THE COURSE OF SELLING REAL PROPERTY PURSUANT TO SUB-
23 SECTION (1), THE COURT THAT ENTERS AN ORDER OR SENTENCE OF FOR-
24 FEITURE, ON MOTION OF THE UNIT OF GOVERNMENT TO WHICH THE PROP-
25 ERTY IS FORFEITED, MAY APPOINT A RECEIVER TO DISPOSE OF THE REAL
26 PROPERTY FORFEITED. THE RECEIVER IS ENTITLED TO REASONABLE
27 COMPENSATION. THE RECEIVER MAY DO ALL OF THE FOLLOWING:

(A) LIST THE FORFEITED REAL PROPERTY FOR SALE.

(B) MAKE WHATEVER ARRANGEMENTS ARE NECESSARY FOR MAINTAINING AND PRESERVING THE FORFEITED REAL PROPERTY.

(C) ACCEPT OFFERS TO PURCHASE THE FORFEITED REAL PROPERTY.

(D) EXECUTE INSTRUMENTS TRANSFERRING TITLE TO THE FORFEITED REAL PROPERTY.

SEC. 159S. A CIVIL IN REM FORFEITURE ACTION UNDER THIS CHAPTER RELATED TO AN OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING OR A VIOLATION OF SECTION 159I SHALL BE COMMENCED WITHIN 6 YEARS AFTER THE ACTIVITY TERMINATES OR THE CAUSE OF ACTION ACCRUES, WHICHEVER IS LATER.

SEC. 159T. NOTWITHSTANDING ANY PROVISION IN THIS CHAPTER, THE PROSECUTING AGENCY SHALL NOT SEIZE MATERIALS SUBJECT TO PROTECTION UNDER THE FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES IN A MANNER THAT VIOLATES THAT CONSTITUTIONAL PROVISION.

SEC. 159U. THIS CHAPTER DOES NOT CREATE A CAUSE OF ACTION BETWEEN 2 OR MORE PERSONS.

SEC. 159V. THIS CHAPTER DOES NOT PRECLUDE A PROSECUTING AGENCY FROM PURSUING A FORFEITURE PROCEEDING UNDER ANY OTHER LAW OF THIS STATE.

SEC. 159W. (1) IF THE PROSECUTING AGENCY HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON HAS INFORMATION, OR IS IN POSSESSION, CUSTODY, OR CONTROL OF ANY RECORDS, DOCUMENTARY MATERIALS, OR OTHER OBJECT, RELEVANT TO AN INVESTIGATION FOR AN OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING OR A VIOLATION OF SECTION 159I, THE PROSECUTING AGENCY MAY SERVE UPON THE PERSON,

1 BEFORE BRINGING ANY ACTION, A WRITTEN DEMAND TO APPEAR AND BE
2 EXAMINED UNDER OATH, AND TO PRODUCE THE RECORDS, DOCUMENTARY
3 MATERIALS, OR OBJECT FOR INSPECTION AND COPYING. THE DEMAND
4 SHALL DO ALL OF THE FOLLOWING:

5 (A) DESCRIBE THE NATURE OF THE CONDUCT CONSTITUTING THE VIO-
6 LATION UNDER INVESTIGATION.

7 (B) DESCRIBE THE RECORDS, DOCUMENTARY MATERIALS, OR OBJECT
8 REQUESTED WITH SUFFICIENT DEFINITENESS TO PERMIT THEM TO BE
9 FAIRLY IDENTIFIED.

10 (C) CONTAIN A COPY OF ANY WRITTEN INTERROGATORIES.

11 (D) PRESCRIBE A REASONABLE TIME AT WHICH THE PERSON MUST
12 APPEAR TO TESTIFY, WITHIN WHICH TO ANSWER THE WRITTEN INTERROGA-
13 TORIES, AND WITHIN WHICH THE RECORDS, DOCUMENTARY MATERIALS, OR
14 OBJECT MUST BE PRODUCED.

15 (E) ADVISE THE PERSON THAT OBJECTIONS TO OR REASONS FOR NOT
16 COMPLYING WITH THE DEMAND MAY BE FILED WITH THE PROSECUTING
17 AGENCY ON OR BEFORE THE TIME PRESCRIBED PURSUANT TO SUBDIVISION
18 (D).

19 (F) SPECIFY A PLACE FOR THE TAKING OF TESTIMONY OR FOR PRO-
20 Duction, AND DESIGNATE THE PERSON WHO SHALL BE CUSTODIAN OF THE
21 RECORDS, DOCUMENTARY MATERIALS, OR OBJECT.

22 (G) SPECIFY THAT THE PERSON MAY HAVE AN ATTORNEY PRESENT IF
23 TESTIMONY IS TO BE PROVIDED UNDER THIS SECTION AND THAT AN ATTOR-
24 NEY MAY ADVISE THE PERSON AS TO INTERROGATORIES, RECORDS, AND
25 DOCUMENTS REQUESTED BY THE PROSECUTING AGENCY UNDER THIS
26 SECTION.

1 (2) IF A PERSON OBJECTS TO OR OTHERWISE FAILS TO COMPLY WITH
2 THE WRITTEN DEMAND SERVED UPON HIM OR HER UNDER SUBSECTION (1),
3 THE PROSECUTING AGENCY MAY FILE IN THE CIRCUIT COURT OF THE
4 COUNTY IN WHICH THE PERSON RESIDES OR IN WHICH THE PERSON MAIN-
5 TAINS A PRINCIPAL PLACE OF BUSINESS WITHIN THIS STATE AN ACTION
6 TO ENFORCE THE DEMAND. NOTICE OF HEARING THE ACTION AND A COPY
7 OF ALL PLEADINGS SHALL BE SERVED UPON THE PERSON, WHO MAY APPEAR
8 IN OPPOSITION. IF THE COURT FINDS THAT THE DEMAND IS PROPER,
9 THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THERE MAY HAVE
10 BEEN OR IS PRESENTLY OCCURRING A VIOLATION DESCRIBED IN
11 SUBSECTION (1), AND THAT THE INFORMATION SOUGHT OR RECORDS, DOCU-
12 MENTARY MATERIALS, OR OBJECT DEMANDED IS RELEVANT TO THE INVESTI-
13 GATION, THE COURT SHALL ORDER THE PERSON TO COMPLY WITH THE
14 DEMAND, SUBJECT TO ANY MODIFICATION THE COURT MAY PRESCRIBE.
15 UPON MOTION BY THE PERSON AND FOR GOOD CAUSE SHOWN, THE COURT MAY
16 MAKE ANY FURTHER ORDER IN THE PROCEEDINGS THAT JUSTICE REQUIRES
17 TO PROTECT THE PERSON FROM UNREASONABLE ANNOYANCE, EMBARRASSMENT,
18 OPPRESSION, BURDEN, OR EXPENSE.

19 (3) ANY PROCEDURE, TESTIMONY TAKEN, OR MATERIAL PRODUCED
20 SHALL BE KEPT CONFIDENTIAL BY THE PROSECUTING AGENCY BEFORE
21 BRINGING AN ACTION AGAINST A PERSON UNDER THIS CHAPTER OR FOR A
22 VIOLATION DESCRIBED IN SUBSECTION (1) UNLESS CONFIDENTIALITY IS
23 WAIVED BY THE PERSON BEING INVESTIGATED AND THE PERSON WHO HAS
24 TESTIFIED, ANSWERED INTERROGATORIES, OR PRODUCED MATERIAL, OR
25 DISCLOSURE IS AUTHORIZED BY THE COURT. MATERIALS AND INFORMATION
26 OBTAINED UNDER THIS SECTION ARE CONFIDENTIAL AND EXEMPT FROM
27 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF

1 THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
2 MICHIGAN COMPILED LAWS.

3 (4) THIS SECTION DOES NOT DIMINISH A PERSON'S CONSTITUTIONAL
4 RIGHT AGAINST SELF-INCRIMINATION.

5 SEC. 159X. (1) SERVICE OF THE DEMAND FOR DOCUMENTS OR ANY
6 PETITION FILED UNDER SECTION 159W MAY BE MADE UPON A PERSON BY 1
7 OF THE FOLLOWING METHODS:

8 (A) DELIVERING A DULY EXECUTED COPY OF THE DEMAND OR PETI-
9 TION TO ANY PARTNER, EXECUTIVE OFFICER, MANAGING AGENT, GENERAL
10 AGENT, OR RESIDENT AGENT OF THE PERSON, AUTHORIZED BY APPOINTMENT
11 OR BY LAW TO RECEIVE SERVICE OF PROCESS ON BEHALF OF THE PERSON,
12 OR BY PERSONAL SERVICE UPON THE INDIVIDUAL.

13 (B) DELIVERING A DULY EXECUTED COPY OF THE DEMAND OR PETI-
14 TION TO THE RESIDENCE, PRINCIPAL OFFICE, OR PLACE OF BUSINESS OF
15 THE PERSON.

16 (C) DEPOSITING THE COPY IN THE UNITED STATES MAIL, BY REGIS-
17 TERED MAIL, ADDRESSED TO THE PERSON AT HIS OR HER RESIDENCE,
18 PRINCIPAL OFFICE, OR PLACE OF BUSINESS.

19 (2) A VERIFIED RETURN BY THE INDIVIDUAL SERVING THE DEMAND
20 OR PETITION SETTING FORTH THE MANNER OF THE SERVICE IS PRIMA
21 FACIE PROOF OF THE SERVICE. IN THE CASE OF SERVICE BY REGISTERED
22 MAIL, THE RETURN SHALL BE ACCOMPANIED BY THE RETURN POST OFFICE
23 RECEIPT OF DELIVERY OF THE DEMAND.