



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4629 (Substitute H-1 as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Oversight and Ethics
Senate Committee: Judiciary

Date Completed: 5-10-16

CONTENT

The bill would amend Article 7 (Controlled Substances) of the Public Health Code to eliminate a requirement that, as part of a property forfeiture proceeding, a person claiming an ownership interest in certain property pay a bond to the State or local unit of government.

Property related to a violation of Article 7, including money, is subject to seizure and forfeiture. If property is seized, forfeiture proceedings must be instituted promptly.

Article 7 specifies procedures that must be followed if the property is seized without process and the total value of the seized property does not exceed \$50,000. These include a requirement that the local unit of government that seized the property, or the State if it seized the property, notify the owner of the seizure. Any person claiming an interest in the property may, within 20 days after receiving notice or after the date of the first publication of the notice, file a written claim with the local unit of government or the State expressing his or her interest in the property.

When filing the claim, the person must give a bond to the local unit or the State in the amount of 10% of the value of the claimed property, but not less than \$250 or more than \$5,000, with sureties approved by the local unit or the State containing the condition that if the court orders the property forfeited, the obligor must pay all costs and expenses of the forfeiture proceedings. If a court enters an order of forfeiture, it may order a person who claimed an interest in the forfeited property to pay the expenses of the proceedings to the entity having budgetary authority over the agency that seized the property. The bill would delete these provisions.

The bill would take effect 90 days after enactment.

(Article 7 generally requires seizure to be made upon process issued by the circuit court, but allows property to be seized without process under any of the following circumstances:

- The seizure is incident to a lawful arrest, pursuant to a search warrant, or pursuant to an inspection under an administrative inspection warrant.
- The property is the subject of a prior judgment in favor of the State in an injunction or forfeiture proceeding under Article 7.
- There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.
- There is probable cause to believe that the property was used or is intended to be used in violation of Article 7.)

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. Removing the requirement to post a bond in order to claim an interest in seized property would likely increase the number of challenges to seizures, which could increase State and local government costs due to required attendance at additional hearings, the number of which cannot be known at this time. (According to the State Police, over 90% of property owners currently do not challenge.) Removing the provision that allows a court to order a person who claimed an interest to pay the expenses of the forfeiture proceedings would likely have little fiscal impact on State and local government because, according to the State Police, such orders are rare.

Fiscal Analyst: Bruce Baker

S1516\4629sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.