



Senate Fiscal Agency
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Lansing, Michigan 48909-7536

BILL ANALYSIS

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Senate Bill 2 (as reported without amendment)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

CONTENT

The bill would amend Article 7 (Controlled Substances) the Public Health Code to do the following:

- Specify that property seized for a violation of Article 7 would not be subject to forfeiture or disposition unless certain circumstances applied, including if the owner executed a signed form relinquishing ownership of the property.
- Require a prosecuting attorney or, if applicable, the Attorney General, to review the seizure of the property and approve its forfeiture, if a person relinquished ownership of the property.
- Allow a person claiming an interest in certain property that was seized without process to file a written claim expressing any objection to forfeiture.
- Require the State Court Administrative Office (SCAO) to develop and make available forms for relinquishing ownership of property, and forms to assert an ownership interest in seized property valued at less than \$50,000.

MCL 333.7523

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have an indeterminate negative impact upon the Michigan State Police (MSP) and local law enforcement agencies and a minimal impact on SCAO.

The bill would add restrictions as to when law enforcement agencies could seize cash and property related to crimes under the Public Health Code, specifically controlled substance violations. Chiefly, the bill would restrict forfeiture of property for controlled substance violations to those instances in which a conviction eventually followed, either by trial or plea agreement.

According to the 2018 Asset Forfeiture Report compiled by the MSP, over \$13.1 million in cash and property was awarded to law enforcement agencies across Michigan for calendar year 2017. This includes awards to MSP and local law enforcement agencies. This amount covers 6,662 forfeitures, of which 5,558, or 83%, were made because of violations of the Public Health Code. Of those 6,662 forfeitures, 2,368 concerned instances in which formal charges were brought and a conviction eventually followed, 2,876 concerned instances in which charges were brought but a conviction is still pending. The remaining 1,418 (21%) concerned forfeiture instances that did not result in a conviction, or a conviction was not verified by the reporting data. The bill would prohibit forfeiture of property without a corresponding conviction. It cannot be determined what percentage of property or cash went to the MSP or local law enforcement agencies. Also, additional data indicating the amount of

money seized under the Code is not available, but it is likely the bill would reduce revenue from forfeiture by several million dollars statewide.

Additionally, the bill would require SCAO to create and make available two forms: one for the owner of seized property to relinquish that property, and one for claimants to assert an ownership interest in seized property valued at less than \$50,000. The cost for creating and distributing these forms likely would be nominal.

Date Completed: 1-29-19

Fiscal Analyst: Michael Siracuse