UNIFORM FORFEITURE REPORTING ACT

Act 148 of 2015

AN ACT to create the uniform forfeiture reporting act; to require certain reports by reporting agencies regarding seized and forfeited property; to prescribe the powers and duties of certain local and state officials; to provide for certain fees and the expenditure of those fees; to require certain audits; to require certain reports by the department of state police; to provide for the withholding of law enforcement funds under certain circumstances; and to repeal acts and parts of acts.

History: 2015, Act 148, Eff. Feb. 1, 2016

The People of the State of Michigan enact:

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28.111 Short title.

Sec. 1.

This act shall be known and may be cited as the "uniform forfeiture reporting act".

History: 2015, Act 148, Eff. Feb. 1, 2016

28.112 Agency report to department of state police regarding forfeiture of property; form; contents; applicability to certain proceedings.

Sec. 2.

(1) Subject to subsections (2) and (3), before February 1 of each year, each reporting agency shall submit a report to the department of state police summarizing the reporting agency's activities for the preceding calendar year regarding the forfeiture of property under sections 7521 to 7533 of the public health code, 1978 PA 368, MCL 333.7521 to 333.7533, section 79d of the identity theft protection act, 2004 PA 452, MCL 445.79d, chapter 38 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to 600.3840, and chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. The annual report shall be made on a form as prescribed by the department and shall contain the following information, as applicable:

(a) The number of forfeiture proceedings that were instituted in the circuit court by the reporting agency.

(b) The number of forfeiture proceedings instituted by the reporting agency that were concluded in the circuit court.

(c) The number of all forfeiture proceedings instituted by the reporting agency that were pending in the circuit court at the end of the year.

(d) The number of forfeitures effectuated by the reporting agency without a forfeiture proceeding in the circuit court.

(e) The number of forfeiture proceedings subject to a consent judgment, settlement, or any other similar agreement involving the property owner and reporting agency.

(f) The number of public nuisance proceedings instituted by the reporting agency in the circuit court that concluded in an order of abatement involving the forfeiture of property.

(g) An inventory of property received by the reporting agency. Property shall be reported in accordance with each of the following categories:

(i) Residential real property.

(ii) Industrial or commercial real property.

(iii) Agricultural real property.

(iv) Money, negotiable instruments, and securities.

(v) Weapons.

(vi) Motor vehicles and other conveyances.

(vii) Other personal property of value.

(h) Each property inventoried under subdivision (g) shall include a description that contains the following information, as applicable:

(i) The date the property was seized.

(ii) The final disposition of the property, including the date the property was ordered forfeited or disposed of.

(iii) The estimated value of the property.

(iv) The violation or nuisance alleged to have been committed for which forfeiture is authorized.

(v) Whether any person was charged with the violation for which forfeiture is authorized and whether that person was ultimately convicted of that violation.

(vi) Whether any person claimed an interest in the property and the number of claimants to the property.

(vii) Whether the forfeiture resulted from an adoptive seizure. As used in this subdivision, "adoptive seizure" means that all of the following apply:

(A) The seizure resulted from a violation of state law and there is a federal basis for the forfeiture action.

(B) All of the preseizure activity and related investigations were performed by this state or the local reporting agency before a request was made to the federal government for adoption.

(C) The seizure did not result from a joint investigation or task force case.

(viii) Whether the property was seized pursuant to a search or arrest warrant or incident to arrest.

(ix) Whether a controlled substance was found in the course of the investigation that resulted in the forfeiture of the property.

(i) The net total proceeds of all property forfeited through actions instituted by the reporting agency that the reporting agency is required to account for and report to the state treasurer under either of the following, as applicable:

(i) 1919 PA 71, MCL 21.41 to 21.55.

(ii) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(j) For forfeiture proceedings instituted under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211:

(i) A statement explaining how any money received by the reporting agency under section 7524(1)(b)(ii) of the public health code, 1978 PA 368, MCL 333.7524, has been used or is being used for law enforcement purposes.

(ii) A statement of the number of lights for plant growth or scales donated under section 7524(2) of the public health code, 1978 PA 368, MCL 333.7524, the total value of those lights or scales, and the elementary or secondary schools or institutions of higher education to which they were donated.

(k) For nuisance proceedings instituted under chapter 38 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to 600.3840, a statement explaining how net proceeds were directed under section 3835 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3835.

(l) For forfeiture proceedings instituted under chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, the amount of money received under section 4708(1)(f) of the revised judicature act of 1961, 1961 PA 235, MCL 600.4708, that was used to enhance enforcement of criminal laws and the amount of money that was used to implement the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(2) Subsection (1) applies only to proceedings commenced on or after the effective date of this act.

(3) Subsection (1)(h) through (l) applies only to proceedings that have been finalized for purposes of appeal.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.113 Agencies not engaging in forfeiture; null report.

Sec. 3.

A null report shall be filed under this act by a reporting agency that did not engage in any forfeitures during the reporting period.

History: 2015, Act 148, Eff. Feb. 1, 2016

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28.114 Use of forfeiture proceeds to pay reporting costs.

Sec. 4.

A reporting agency may use forfeiture proceeds to pay the reasonable costs associated with compiling, analyzing, and reporting data under this act.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.115 Audit.

Sec. 5.

(1) The records of a reporting agency regarding the forfeiture of any property that is required to be reported under this act shall be audited in accordance with 1 of the following, as applicable:

(a) 1919 PA 71, MCL 21.41 to 21.55.

(b) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) The records of a reporting agency regarding the forfeiture of any property required to be reported under this act may be audited by an auditor of the local unit of government.

History: 2015, Act 148, Eff. Feb. 1, 2016

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28.116 Compilation of information by department of state police; filing of report with secretary of senate and clerk of house of representatives; placement of report on department website; identification of departments, agencies, or local units of government failing to report information.

Sec. 6.

The department of state police shall compile the information reported to the department under sections 2 and 3. Beginning January 1, 2017, the department shall file an annual report of its findings under this section with the secretary of the senate and with the clerk of the house of representatives and shall place a copy of the report on its departmental website. The report shall be filed not later than July 1 of each year. The report shall identify any state departments or agencies or local units of government that have failed to properly report the information required under sections 2 and 3 with the department of state police.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.117 Definitions

Sec. 7.

As used in this act:

(a) "Local unit of government" means a village, city, township, or county.

(b) "Reporting agency" means 1 of the following:

(i) If property is seized by or forfeited to a local unit of government, that local unit of government.

(ii) If property is seized by or forfeited to this state, the state department or agency effectuating the seizure or forfeiture.

History: 2015, Act 148, Eff. Feb. 1, 2016

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