

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.159k Order of criminal forfeiture; notice; hearing to determine validity of claim of property interest; petition; consolidation of hearings; testimony and evidence; amendment of order.**

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 the completion of the 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 the relief sought. The petitioner shall furnish the prosecuting agency with a copy of the petition.

(3) To the extent practicable and consistent with the interests of justice, the court shall hold the hearing within 28 days after the filing of the petition. The court may consolidate the hearings on all petitions filed by third party claimants under this section. At the hearing, the petitioner may testify and present evidence on his or her own behalf and may cross-examine witnesses. The prosecuting agency may present evidence and witnesses in rebuttal and in defense of the claim of the state to the property and may cross-examine witnesses. The court, in making its determination, shall consider the testimony and evidence presented at the hearing and the relevant portions of the record of the criminal proceeding that resulted in the order of criminal forfeiture.

(4) If the court determines 1 or more of the following, by a preponderance of the evidence, the court shall amend the order of criminal forfeiture in accordance with its determination to protect the rights of innocent persons:

(a) The petitioner has a legal right, title, or interest in the property that, at the time of the commission of the acts giving rise to the forfeiture of the property, was vested in the petitioner and not in the defendant or was superior to the right, title, or interest of the defendant, and the petitioner did not have prior actual knowledge of the racketeering activity.

(b) The petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture under section 159j.

(c) The property is encumbered by a security interest and the holder of the security interest did not have prior actual knowledge of the racketeering activity.

(d) The property is encumbered by an unpaid balance on a land contract and the land contract vendor did not have prior actual knowledge of the racketeering activity.

**History:** Add. 1995, Act 187, Eff. Apr. 1, 1996