

SECOND REGULAR SESSION

HOUSE BILL NO. 1893

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KORMAN.

4962H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 513.607, RSMo, and to enact in lieu thereof one new section relating to asset forfeiture, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 513.607, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 513.607, to read as follows:

513.607. 1. All property of every kind, including cash or other negotiable instruments, used or intended for use in the course of, derived from, or realized through criminal activity is subject to civil forfeiture. Civil forfeiture shall be had by a civil procedure known as a CAFA forfeiture proceeding.

2. A CAFA forfeiture proceeding shall be governed by the Missouri rules of court, rules of civil procedure, except to the extent that special rules of procedure are stated herein.

3. Any property seized by a law enforcement officer or agent shall not be disposed of pursuant to section 542.301 or by the uniform disposition of unclaimed property act, sections 447.500 through 447.595, unless the CAFA proceeding involving the seized property does not result in a judgment of forfeiture.

4. In cases where the property is abandoned or unclaimed, an in rem CAFA forfeiture proceeding may be instituted by petition by the prosecuting attorney of the county in which the property is located or seized by the attorney general's office. The proceeding may be commenced before or after seizure of the property.

5. In lieu of, or in addition to, an in rem proceeding under subsection 4 of this section, the prosecuting attorney or attorney general may bring an in personam action for the forfeiture of property, which may be commenced by petition before or after the seizure of property.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 6. [(1) If the petition is] **Notwithstanding any other provision of law, a petition shall**
19 **be** filed before seizure[, it] **and** shall state what property is sought to be forfeited, that the
20 property is within the jurisdiction of the court, the grounds for forfeiture, and the names of all
21 persons known to have or claim an interest in the property. The court shall determine ex parte
22 whether there is reasonable cause to believe that the property is subject to forfeiture and that
23 notice to those persons having or claiming an interest in the property prior to seizure would cause
24 the loss or destruction of the property. If the court finds that reasonable cause does not exist to
25 believe the property is subject to forfeiture, it shall dismiss the proceeding. If the court finds that
26 reasonable cause does exist to believe the property is subject to forfeiture but there is not
27 reasonable cause to believe that prior notice would result in loss or destruction, it shall order
28 service on all persons known to have or claim an interest in the property prior to a further hearing
29 on whether a writ of seizure should issue. If the court finds that there is reasonable cause to
30 believe that the property is subject to forfeiture and to believe that prior notice would cause loss
31 or destruction, it shall without any further hearing or notice issue a writ of seizure directing the
32 sheriff of the county or other authorized law enforcement agency where the property is found to
33 seize it.

34 [(2) Seizure may be effected by a law enforcement officer authorized to enforce the
35 criminal laws of this state prior to the filing of the petition and without a writ of seizure if the
36 seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to
37 believe the property is subject to forfeiture and will be lost or destroyed if not seized. Within
38 four days of the date of seizure, such seizure shall be reported by said officer to the prosecuting
39 attorney of the county in which the seizure is effected or the attorney general; and if in the
40 opinion of the prosecuting attorney or attorney general forfeiture is warranted, the prosecuting
41 attorney or attorney general shall, within ten days after receiving notice of seizure, file a petition
42 for forfeiture. The petition shall state, in addition to the information required in subdivision (1)
43 of this subsection, the date and place of seizure. The burden of proof will be on the investigative
44 agency to prove all allegations contained in the petition.]

45 7. After the petition is filed [or the seizure effected, whichever is later], every person
46 known to have or claim an interest in the property shall be served, if not previously served, with
47 a copy of the petition and a notice of seizure in the manner provided by the Missouri rules of
48 court and rules of civil procedure. Service by publication may be ordered upon any party whose
49 whereabouts cannot be determined or if there be unknown parties.

50 8. The prosecuting attorney or attorney general to whom the seizure is reported shall
51 report annually by January thirty-first for the previous calendar year all seizures. Such report
52 shall include the date, time, and place of seizure, the property seized, the estimated value of the
53 property seized, the person or persons from whom the property was seized, the criminal charges

54 filed, and the disposition of the seizure, forfeiture and criminal actions. The report shall be made
55 to the director of the Missouri department of public safety and shall be considered an open
56 record. The prosecuting attorney or attorney general shall submit a copy of the report to the state
57 auditor at the time the report is made to the director of the department of public safety.

58 9. The state auditor shall make an annual report compiling the data received from law
59 enforcement, prosecuting attorneys and the attorney general, and shall submit the report
60 regarding seizures for the previous calendar year to the general assembly annually by February
61 twenty-eighth.

62 10. Intentional or knowing failure to comply with any reporting requirement contained
63 in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand
64 dollars.

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