The Reporting of Seizure and Forfeiture Act

Summary

This Act establishes reporting requirements for law enforcement agencies that have the authority under state or federal law to seize property and sell it to fund agency budgets.

Model Policy

{Title, enacting clause, etc.}

Section 1. {Purpose.} Under state and federal forfeiture laws, state law enforcement agencies can seize money, vehicles, and other property, have them sold and use the proceeds to fund agency budgets. It is the responsibility of state legislators to monitor forfeiture. This bill provides legislators with the information necessary for basic oversight of members of the executive branch—law enforcement agencies—who seize and forfeit private property under state and federal forfeiture laws.

Section 2. {Definition of law enforcement agency.} “Law enforcement agency” means any police force, multijurisdictional task force, fire department, or other local, county or state agency that has the authority under state law or operates in cooperation with a federal agency under federal law to engage in seizure and forfeiture.

Section 3. This chapter is applicable to property seized and forfeited under the following sections in the state criminal code:

(A) Section ________

(B) Section ________

(C) Section ________

(D) Any other section in the state criminal code that authorizes a law enforcement agency to seize property that is used in the commission of a criminal offense.
Section 4. {Reporting requirement.} On an annual basis, each law enforcement agency shall report
the following information about each individual seizure and forfeiture completed by the agency
under state forfeiture law and federal forfeiture law:

Data on seizures and forfeitures including the following:

The Commissioner shall establish and maintain a case tracking system and searchable public
website that includes the following information about property seized and forfeited under state law
and under any agreement with the federal government.

(A) Name of the law enforcement agency that seized the property;

(B) Date that currency, vehicles, houses or other types of property were seized;

(C) Type of property seized, including year, make, and model and serial number, as applicable;

(D) Location of the seizure: home; business; traffic stop including street name and traffic
direction where seizure occurred, such as eastbound, westbound, southbound or northbound;

(E) Estimated value of the seizure;

Type of alleged crime associated with the seizure of the property

(F) Criminal offense alleged that led to the seizure (include under state or federal law);

(G) Crime for which suspect was charged (include under state or federal law);

(H) Criminal case number;

(I) Outcome of related criminal action, such as whether: no charges were brought, charges
dropped, a plea bargain was reached, a conviction was obtained or an acquittal was issued;

(J) If forfeiture not processed under state law, reason for the federal transfer: adoption or joint
task force;

(K) Forfeiture case number;
If a property owner filed a claim or counterclaim, who by: the suspect, innocent owner, joint owner or third-party owner

Type of forfeiture procedure: criminal forfeiture, civil-administrative forfeiture or civil-judicial forfeiture;

Type of civil forfeiture: administrative, judicial or other;

Venue of forfeiture case: administrative agency, small-claims court, civil court, criminal court or other;

Whether property owner was represented by an attorney in the forfeiture case;

Date of forfeiture decision

Market value of the property seized;

Gross amount received from the forfeiture;

Total administrative and other expenses deducted as part of the forfeiture process;

Net amount received from the forfeiture;

Disposition of property following seizure, such as whether the property was

(i) returned to the owner

(ii) partially returned to owner

(iii) destroyed

(iv) sold after forfeiture or

(iv) retained after forfeiture by law enforcement;

Date of forfeiture decision the aforementioned disposition of property; and

Whether the forfeiture resulted from an adoptive seizure. (yes or no)
If forfeiture not processed under state law, reason for the federal transfer: adoption or joint task force;

An adoptive seizure occurs when 100 percent of the pre-seizure activity and related investigations are performed by the state or local seizing agency before a request is made to the federal government for adoption. There must be a state violation and a federal basis for forfeiture in order for the seizure to be an adoptive seizure.

A seizure resulting from a joint investigation or task force case is not an adoptive seizure. [Note to drafter: This definition is based on the federal government’s definition in IRS code 9.7.2.7.3]

Section 5 The Commissioner shall also establish and maintain a searchable public website that includes

(A) The total value of seized and forfeited property held by the agency at the end of the reporting period; and

(B) The total amount of funds expended, in each of the following nine categories, which resulted from property seized, forfeited and reported in paragraph 4:

Data on expenditures of forfeiture funds by law enforcement agencies including the following: [Note to drafter: expenditures prohibited by state law should be deleted from this enumeration.]

Crime, gang and substance-abuse prevention programs;

Witness protection;

Victim reparations;

Informant fees and buy money;

Regular-time salaries, overtime pay and employee benefits of prosecutors;

Regular-time salaries, overtime pay and employee benefits of sworn law enforcement agency personnel other than prosecutors;

Regular-time salaries, overtime pay and employee benefits of unsworn law enforcement agency personnel other than prosecutors;
Professional or outside services, including services related to auditing, court reporting, expert witnesses and other court costs;

Travel and meals;

Entertainment;

Training;

Conferences;

Vehicles purchased;

Canines, firearms and equipment, such as tactical gear;

Capital expenditures, such as furniture, computers and office equipment; and

Other uses of forfeiture proceeds (describe):

(1) Drug abuse, crime and gang prevention programs;

(2) Victim reparations;

(3) Investigation costs, including witness protection, informant fees and controlled buys;

(4) Salaries, overtime and benefits, as permitted by law.

(5) Professional outside services, including auditing, court reporting, expert witness fees, outside attorney fees and membership fees paid to trade associations;

(6) Travel, meals, entertainment, conferences, training and continuing education;

(7) Other operating expenses including office supplies, postage and printing;

(8) Capital expenditures including vehicles, firearms, equipment, computers and furniture; and

(9) Other expenditures of forfeiture proceeds.
The State Reporting Agency-Commissioner {Note to drafter: insert name of appropriate state agency} may require information not specified in this section also be reported.

Section 6.

Each law enforcement agency shall file with the State Reporting Agency (or other state agency) the report required under section 3 for the law enforcement agency and the corresponding prosecutor’s office. The law enforcement agency shall file separate reports for forfeitures completed under state forfeiture law and federal forfeiture law. A null report shall be filed by a law enforcement agency that did not engage in seizures or forfeitures during the reporting period.

The law enforcement agency that seizes property and prosecutors that litigate related criminal cases and forfeiture proceedings shall update the Commissioner’s website with the information required under section 4 at the end of the month following each seizure of property. The commander of a multijurisdictional task force may appoint one agency to report its seizures. If an agency has made no seizures during the previous year, a null report shall be filed by the agency specifying that it did not engage in seizures or forfeitures under this title during the reporting period.

Section 7. The law enforcement agency that expends forfeiture-related proceeds shall update the Commissioner’s website with the information required under section 5 within 30 days after the end of the fiscal year. The commander of a multijurisdictional task force may appoint one agency to report its expenditures.

Section 8. {Standard form, data entry, financial audit and aggregate report.}

(A) The State Reporting Agency (or other state agency) Commissioner shall develop a standard form, webpage, process and deadlines for electronic data entry for annual submission of seizure data, forfeiture data and expenditures of proceeds by law enforcement agencies. The State Reporting Agency (or other state agency) shall compile the submissions and issue an aggregate report of all forfeitures in the state.

(B) By [Note to drafter: insert a date] ________ of each year, the State Reporting Agency (or other state agency) shall make available on its website the reports submitted by law enforcement agencies and its aggregate report. It shall distribute printed copies of its aggregate report to legislators, other government officials and the public upon request.

(B) The State Auditor shall perform annually a financial audit under the generally accepted auditing standards of records related to inventory of seized property and expenditures of forfeiture.
proceeds. A copy of the final audit report shall be submitted to the Commissioner no later than 90 days after the end of the fiscal year and shall be made public.

(C) The Commissioner, 120 days after the close of the fiscal year, shall submit to the Speaker of the House of Representatives, President of the Senate, Attorney General and Governor a written report summarizing activity in the state, for the preceding fiscal year, the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended at the state and local levels. The report shall provide a categorized accounting of all proceeds expended. The aggregate report shall also be made available on the Commissioner’s website.

Section 59. {Recommendations.} The State Reporting Agency Commissioner shall include in its aggregate report recommendations to the legislature to improve forfeiture statutes to better ensure that forfeiture proceedings are reported and handled in a manner that is fair to crime victims, innocent property owners, secured interest holders, citizens and taxpayers.

Section 610. {Penalty for failure to report.} The State Reporting Agency Commissioner shall include in its aggregate report information on law enforcement agencies not in compliance with this chapter. It shall order the State to withhold payment of any funds to those agencies until compliance is achieved.

Section 711. {Use of forfeiture proceeds to pay reporting costs.} The State Reporting Agency (or other state agency) Commissioner may recoup its costs by charging a fee to law enforcement agencies that engage in seizures or forfeitures during the reporting period. Each law enforcement agency may use forfeiture proceeds to pay the cost of compiling and reporting data under this chapter, including any fee imposed by the State Reporting Agency (or other state agency) Commissioner.

Section 812. {Public disclosure.} The data and reports compiled and prepared under this chapter about completed forfeitures are public information under the state’s Government Data Practices Act/Freedom of Information Act section _____. They are not exempted from disclosure by section______.

Section 13. The Commissioner may adopt rules that are necessary to implement this chapter.

Section 914. {Severability clause.}
Section 1015. {Repealer clause.}

Section 1116. {Effective date.}