

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4002

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7523 (MCL 333.7523), as amended by 2016 PA 418.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7523. (1) ~~If~~**Subject to section 7521a, if** property is
2 seized under section 7522, forfeiture proceedings ~~shall~~**must** be
3 instituted promptly. If the property is seized without process
4 under section 7522, and the total value of the property seized does
5 not exceed \$50,000.00, the following procedure ~~shall~~**must** be used:
6 (a) The local unit of government that seized the property or,
7 if the property was seized by this state, the state shall notify
8 the owner of the property that the property has been seized **and, if**
9 **charges have been filed against a person for a crime, the person**



1 **charged**, and that the local unit of government or, if applicable,
2 the state intends to forfeit and dispose of the property by
3 delivering a written notice to the owner of the property or by
4 sending the notice to the owner by certified mail. If the name and
5 address of the owner are not reasonably ascertainable, or delivery
6 of the notice cannot be reasonably accomplished, the notice ~~shall~~
7 **must** be published **on the local unit of government's or the**
8 **department of the attorney general's public website and** in a
9 newspaper of general circulation in the county in which the
10 property was seized, for 10 successive publishing days.

11 (b) Unless all criminal proceedings involving or relating to
12 the property have been completed, the seizing agency shall
13 immediately notify the prosecuting attorney for the county in which
14 the property was seized or, if the attorney general is actively
15 handling a case involving or relating to the property, the attorney
16 general of the seizure of the property and the intention to forfeit
17 and dispose of the property.

18 (c) Any person claiming an interest in property that is the
19 subject of a notice under subdivision (a) may, within 20 days after
20 receipt of the notice or of the date of the first publication of
21 the notice, file a written claim signed by the claimant with the
22 local unit of government or the state expressing his or her
23 interest in the property **and any objection to forfeiture. A claim**
24 **or an objection under this subsection must be written, verified,**
25 **and signed by the claimant, and include a detailed description of**
26 **the property and the property interest asserted. The verification**
27 **must include a certification under the penalty of perjury stating**
28 **that the undersigned has examined the claim and believes it to be,**
29 **to the best of the claimant's knowledge, true and complete. A**



1 **written claim under this subsection must be made on the form**
2 **developed by the state court administrative office as required**
3 **under subsection (2).** Upon the filing of the claim, the local unit
4 of government or, if applicable, this state shall transmit the
5 claim with a list and description of the property seized to the
6 attorney general, the prosecuting attorney for the county, or the
7 city or township attorney for the local unit of government in which
8 the seizure was made. The attorney general, the prosecuting
9 attorney, or the city or township attorney shall promptly institute
10 forfeiture proceedings after the expiration of the 20-day period.
11 However, unless all criminal proceedings involving or relating to
12 the property have been completed, a city or township attorney shall
13 not institute forfeiture proceedings without the consent of the
14 prosecuting attorney or, if the attorney general is actively
15 handling a case involving or relating to the property, the attorney
16 general.

17 (d) If no claim is filed within the 20-day period as described
18 in subdivision (c), the local unit of government or this state
19 shall declare the property forfeited and shall dispose of the
20 property as provided under section 7524. However, unless all
21 criminal proceedings involving or relating to the property have
22 been completed, the local unit of government or the state shall not
23 dispose of the property under this subdivision without the written
24 consent of the prosecuting attorney or, if the attorney general is
25 actively handling a case involving or relating to the property, the
26 attorney general.

27 **(2) The state court administrative office shall develop and**
28 **make available to law enforcement agencies, courts, and the public**
29 **a form for asserting an ownership interest in seized property under**



1 subsection (1) (c). The form must require a claimant to provide a
 2 detailed description of the property, the claimant's ownership
 3 interest in the property, and a signed attestation that the
 4 claimant has a bona fide ownership interest in the property.

5 (3) ~~(2)~~—Property taken or detained under this article is not
 6 subject to an action to recover personal property, but is deemed to
 7 be in the custody of the seizing agency subject only to this
 8 section or an order and judgment of the court having jurisdiction
 9 over the forfeiture proceedings. When property is seized under this
 10 article, the seizing agency may do any of the following:

11 (a) Place the property under seal.

12 (b) Remove the property to a place designated by the court.

13 (c) Require the administrator to take custody of the property
 14 and remove it to an appropriate location for disposition in
 15 accordance with law.

16 (d) Deposit money seized under this article into an interest-
 17 bearing account in a financial institution. As used in this
 18 subdivision, "financial institution" means a state or nationally
 19 chartered bank or a state or federally chartered savings and loan
 20 association, savings bank, or credit union whose deposits are
 21 insured by an agency of the United States government and that
 22 maintains a principal office or branch office located in this state
 23 under the laws of this state or the United States.

24 (4) ~~(3)~~—Title to real property forfeited under this article
 25 ~~shall~~**must** be determined by a court of competent jurisdiction. A
 26 forfeiture of real property encumbered by a bona fide security
 27 interest is subject to the interest of the secured party who
 28 neither had knowledge of nor consented to the act or omission.

29 (5) ~~(4)~~—An attorney for a person who is charged with a crime



1 involving or related to the money seized under this article ~~shall~~
2 **must** be afforded a period of 60 days within which to examine that
3 money. This 60-day period begins to run after notice is given under
4 subsection (1) (a) but before the money is deposited into a
5 financial institution under subsection ~~(2) (d)~~. **(3) (d)**. If the
6 attorney general, prosecuting attorney, or city or township
7 attorney fails to sustain his or her burden of proof in forfeiture
8 proceedings under this article, the court shall order the return of
9 the money, including any interest earned on money deposited into a
10 financial institution under subsection ~~(2) (d)~~. **(3) (d)**.

11 Enacting section 1. This amendatory act takes effect 90 days
12 after the date it is enacted into law.

13 Enacting section 2. This amendatory act does not take effect
14 unless all of the following bills of the 100th Legislature are
15 enacted into law:

- 16 (a) Senate Bill No. 2.
17 (b) House Bill No. 4001.

