

1 SB213
2 193556-2
3 By Senators Orr, Smitherman, Beasley, Dunn, Sanford, Ward and
4 Whatley
5 RFD: Judiciary
6 First Read: 23-JAN-18

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to civil forfeitures; to require the
12 Criminal Justice Information Center Commission to collect and
13 analyze data relating to forfeiture activities by state and
14 local criminal justice agencies; to require the commission to
15 prepare and submit an annual report containing specified
16 information concerning forfeitures in the state; and to
17 provide requirements regarding the accounting of funds derived
18 from civil forfeiture.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known and may be cited
21 as the Forfeiture Database and Reporting Act.

22 Section 2. The Legislature finds and declares the
23 following:

24 (1) Public safety is preserved by effective
25 deterrence of criminal activity. One invaluable deterrent is
26 the forfeiture of the proceeds of criminal activity and the
27 property used to facilitate criminal activity.

1 (2) Respect for the property rights of law-abiding
2 citizens is important to the state and the forfeiture process
3 must preserve those rights.

4 (3) To maintain the public's trust in law
5 enforcement, the government's power to seize and forfeit
6 private property must be exercised with transparency.

7 (4) While current state civil asset forfeiture
8 procedures are filed and disposed of in a public manner, no
9 state central repository currently exists to provide a
10 statewide database that is easily accessible to policymakers
11 and the public.

12 (5) The effectiveness and fairness of the forfeiture
13 process should be evaluated on a regular basis to maintain the
14 highest standards for the state's law enforcement agencies.

15 Section 3. (a) Through the uniform crime reporting
16 system operated by the Alabama State Law Enforcement Agency
17 (ALEA), the commission shall provide for the collection and
18 analysis of data relating to forfeiture activities by state,
19 county, and municipal criminal justice agencies as defined by
20 Section 41-9-590, within the state, to include the forfeiture
21 of criminal proceeds, instrumentalities, and abandoned
22 property upon the filing of a civil asset forfeiture action
23 pursuant to state law or, if an agreement for a forfeiture
24 action has been initiated, with the federal government. The
25 commission shall modify its uniform crime report to include
26 data related to forfeiture activity.

1 (b) The modification to include data related to
2 forfeiture activity in the crime reporting system shall be
3 implemented no later than January 1, 2019, and shall be
4 subject to the commission's regulatory authority.

5 (c) The information collected pursuant to subsection
6 (a) shall include, but not be limited to, all of the
7 following:

8 (1) The name of the law enforcement agency or
9 multijurisdictional task force that seized the property.

10 (2) The date of the seizure.

11 (3) The type of property seized. If the property is
12 other than currency, a description of the property seized,
13 including make, model, year, or serial or other unique
14 identification number.

15 (4) The location of the seizure.

16 (5) The value of any currency seized.

17 (6) The type of underlying criminal offense that led
18 to the seizure, including whether the offense is under state
19 or federal law, if applicable.

20 (7) Any crime for which the suspect was charged,
21 prior to final civil judgment, including whether the crime
22 charged is under state or federal law, if applicable.

23 (8) The criminal case number and court in which the
24 case was filed, if applicable.

25 (9) The disposition of the defendant's criminal
26 case, if applicable.

1 (10) If forfeiture is sought under federal law,
2 whether it is the result of a joint investigation or adoption.

3 (11) The forfeiture case number and court in which
4 the case was filed, if available.

5 (12) Whether a claim or counterclaim was filed by
6 the suspect or a third party, if applicable.

7 (13) The date of the forfeiture order.

8 (14) Whether there was a forfeiture settlement
9 agreement.

10 (15) The property disposition.

11 (16) The date of the property disposition.

12 (17) The value of the currency forfeited under state
13 law and description of any non-currency forfeited by order of
14 the state court.

15 (d) Each criminal justice agency that does not
16 receive any forfeitures in a calendar year pursuant to the
17 reporting requirements of this section shall notify ALEA by
18 January 31 of the immediately following calendar year.

19 Section 4. (a) A public report shall be annually
20 prepared by the commission, through the Alabama State Law
21 Enforcement Agency (ALEA), and provided to the Governor,
22 President Pro Tempore of the Senate, and Speaker of the House
23 of Representatives. The report shall summarize the information
24 received pursuant to subsection (a) of Section 5 and shall
25 provide underlying information set forth in subsection (b)
26 Section 5, by forfeiture action, in a manner that does not
27 disclose the identity of any individual. The initial annual

1 report shall be provided to the Governor, President Pro
2 Tempore of the Senate, and Speaker of the House of
3 Representatives no later than the fifth legislative day of the
4 2020 Legislative Regular Session.

5 (b) The Alabama State Law Enforcement Agency, acting
6 in conjunction with the commission, shall evaluate the cost
7 and feasibility of developing and maintaining a public
8 database regarding forfeiture-related activity. A published
9 report of this evaluation of the cost and feasibility shall be
10 provided to the Legislature and made public no later than
11 April 1, 2019, with an estimate of costs involved, if
12 available. The report may be supplemented at later dates at
13 the discretion of ALEA, and any subsequent reporting regarding
14 cost and feasibility shall be made public.

15 Section 5. (a) The summary information contained in
16 the annual report shall include, but not be limited to,
17 cumulative statewide annual data as well as by criminal
18 justice agencies regarding all of the following:

19 (1) Criminal justice agencies seizing property for
20 forfeiture.

21 (2) Types of property seized.

22 (3) Places of seizure, whether homes, businesses, or
23 locations of traffic stops.

24 (4) Value of currency seized.

25 (5) The alleged criminal offense that led to the
26 seizure, including whether the offense was under state or
27 federal law.

1 (6) Outcomes of criminal cases related to seizure,
2 if applicable.

3 (7) Forfeitures sought under federal law that were
4 the result of joint investigations or adoptions, if known.

5 (8) Total number of claims or counterclaims filed by
6 property owners or third parties.

7 (9) Forfeiture settlement orders.

8 (10) Property dispositions.

9 (11) Cumulative value of currency under state law
10 or, if forfeited under federal law, the cumulative proceeds
11 received from the federal government.

12 (b) The portion of the report, by forfeiture action,
13 shall provide non-identifiable data sufficient to determine
14 the value of currency forfeited, a generic description of
15 non-currency items, along with an estimated value at the time
16 of the seizure, whether a claim or counterclaim was filed by
17 the suspect or a third party, and the disposition of any
18 criminal charges brought against the person from whom the
19 property was seized.

20 Section 6. (a) Civil asset forfeiture funds or
21 monies shall be maintained consistent with any restrictions
22 set out in state forfeiture laws.

23 (b) All civil asset forfeiture funds or monies
24 derived from the liquidation of civil asset forfeiture funds
25 shall be kept on a separate line item in the budget of any law
26 enforcement agency that may be awarded the asset funds.

1 (c) Any expenditure of any monies by a law
2 enforcement agency from an award of a civil asset forfeiture
3 may only be expended from a line item pursuant to subsection
4 (b).

5 (d) All civil asset forfeiture funds or monies
6 derived from the liquidation of civil asset forfeiture funds
7 shall only be deposited into an account that is publicly
8 audited as other public funds pursuant to state law.

9 (e) Any expenditure of funds subject to this section
10 shall be reported annually to the Alabama State Law
11 Enforcement Agency for inclusion within the report to the
12 Legislature that is required under Section 4. For purposes of
13 the annual report, expenditures shall be reconciled to each
14 law enforcement agency that consumed or expended the funds or
15 that were expended on its behalf.

16 Section 7. The commission shall discharge its duties
17 of collecting and reporting data under this act in a manner
18 that maintains the security and confidentiality of individuals
19 whose data is collected under this act. Any data collected
20 under this act shall not identify an individual in any public
21 database by name, specific address, or any other manner that
22 would disclose the identity of the individual.

23 Section 8. (a) If the Alabama State Law Enforcement
24 Agency (ALEA) or the commission is not able to fully implement
25 the provisions of this act by April 1, 2019, the Secretary of
26 ALEA shall send notice to the Governor, President Pro Tempore

1 of the Senate, and Speaker of the House of Representatives
2 that explains the reason for the delay.

3 (b) The Alabama State Law Enforcement Agency shall
4 file any reports required by this act even if this act has not
5 been fully implemented. The report shall also state which
6 provisions of this act have not been implemented in full.

7 (c) Any data collected in the calendar year 2019
8 shall be included within the initial report in 2020, pursuant
9 to Section 3 and Section 4.

10 Section 9. Notwithstanding any state forfeiture law
11 to the contrary, property may only be forfeited by a circuit
12 civil court and only if the state proves by clear and
13 convincing evidence that the property subject to forfeiture
14 was used in, intended to be used in, or derived from, a felony
15 offense.

16 Section 10. This act shall become effective January
17 1, 2019, following its passage and approval by the Governor,
18 or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 23-JAN-18

Read for the second time and placed on the calen-
dar..... 20-FEB-18

Read for the third time and passed as amended 21-MAR-18

Yeas 25
Nays 1

Patrick Harris,
Secretary.