

1 SB213
2 189610-1
3 By Senators Orr, Smitherman, Beasley, Dunn, Sanford, Ward and
4 Whatley
5 RFD: Finance and Taxation Education
6 First Read: 23-JAN-18

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8 SYNOPSIS: This bill would provide for the Alabama
9 Forfeiture Accountability and Integrity Reform Act
10 and would set out the exclusive process for asset
11 forfeitures in the state.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 Relating to asset forfeitures; to establish the
18 exclusive process for asset forfeitures in the state and to
19 repeal Section 13A-8-117, Section 13A-11-37, Article 4 of
20 Chapter 5 of Title 15, and Section 20-2-93, Code of Alabama
21 1975.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Short title.

24 This act shall be known and may be cited as the
25 Alabama Forfeiture Accountability and Integrity Reform (FAIR)
26 Act.

27 Section 2. Statement of purpose.

1 The purpose of this act is to do all of the
2 following:

3 (1) Deter criminal activity by reducing its economic
4 incentives.

5 (2) Increase the pecuniary loss from criminal
6 activity.

7 (3) Protect against the wrongful forfeiture of
8 property.

9 (4) Ensure that criminal forfeiture is the only
10 process allowed in this state.

11 Section 3. Definitions.

12 As used in this act, the following terms shall have
13 the following meanings:

14 (1) ABANDONED PROPERTY. Personal property left by an
15 owner who intentionally relinquishes all rights to its
16 control. The term does not include real property or property
17 that is disclaimed through a roadside waiver of property
18 rights.

19 (2) ACTUAL KNOWLEDGE. Direct and clear awareness of
20 information, a fact, or a condition.

21 (3) CONSTRUCTIVE KNOWLEDGE. Knowledge that is
22 imputed to an individual where the individual would have had
23 actual knowledge but for deliberate steps taken to achieve a
24 state of willful, intentional ignorance of felonious activity.

25 (4) CONTRABAND. Goods that are unlawful to possess,
26 including scheduled drugs without a valid prescription.

1 (5) CONVEYANCE. A device used for transportation.
2 The term includes a motor vehicle, trailer, snowmobile,
3 airplane, and vessel, and any equipment attached to it. The
4 term does not include property that is stolen or taken in
5 violation of the law.

6 (6) INNOCENT OWNER. A bona fide purchaser, creditor,
7 or lienholder of property that is subject to forfeiture, who
8 proves by clear and convincing evidence that he or she is any
9 of the following:

10 a. A person who, at the time of the illegal conduct
11 giving rise to the forfeiture, has a valid claim, lien, or
12 other interest in the property subject to forfeiture.

13 b. A person who acquired an ownership interest in
14 the property subject to forfeiture after the commission of a
15 crime or delinquent act giving rise to the forfeiture.

16 c. A victim of an alleged criminal offense.

17 (7) INSTRUMENTALITY. Property otherwise lawful to
18 possess that is used in the furtherance or commission of an
19 offense of a law subject to forfeiture. The term includes
20 land, buildings, containers, conveyances, equipment,
21 materials, products, tools, computers, computer software,
22 telecommunications devices, firearms, or ammunition.

23 (8) LAW ENFORCEMENT AGENCY. Any non-federal police
24 force, or other local, county, or state agency that has the
25 authority under state law to engage in seizure and forfeiture.

26 (9) LAW SUBJECT TO FORFEITURE. Any act chargeable as
27 a felony offense under state law.

1 (10) PROCEEDS. Money, securities, negotiable
2 instruments, or other means of exchange obtained by the sale
3 of property.

4 Section 4. Criminal Forfeiture; Property Subject to
5 Forfeiture.

6 When a person is convicted of violating a criminal
7 law subject to forfeiture, the court, consistent with this
8 act, may order the person to forfeit all of the following:

9 (1) Proceeds the person derived from the commission
10 of the crime.

11 (2) Property directly traceable to proceeds derived
12 from the commission of the crime.

13 (3) Instrumentalities the person used in the
14 commission of the crime.

15 Section 5. Contraband.

16 No property right exists in contraband. Contraband
17 is subject to seizure and shall be disposed of according to
18 state law. Contraband is not subject to forfeiture under this
19 act.

20 Section 6. Conviction Required; Standard of Proof.

21 (a) Property may be forfeited if the state proves
22 all of the following by clear and convincing evidence:

23 (1) The offense constitutes a state law felony
24 subject to forfeiture.

25 (2) The offense is established by proof of a
26 criminal conviction.

1 (3) The property is forfeitable under Sections 4 and
2 5.

3 (b) Nothing in this section prevents property from
4 being forfeited by plea agreement approved by the presiding
5 criminal court.

6 (c) The court may waive the conviction requirement
7 if the prosecuting authority shows, upon its own motion, by
8 clear and convincing evidence that any of the following
9 occurred:

10 (1) The defendant died.

11 (2) The defendant was deported by the federal
12 government.

13 (3) The defendant is granted immunity or reduced
14 punishment for the commission of a crime subject to forfeiture
15 in exchange for testifying or assisting a law enforcement
16 investigation or prosecution.

17 (4) The defendant fled the jurisdiction after being
18 arrested, charged with a crime that subjects property to
19 forfeiture, and released on bail.

20 (5) The property subject to forfeiture is abandoned
21 property, as determined by the process required by Section
22 15-5-64, Code of Alabama 1975.

23 (d) Notwithstanding the prosecuting authority's
24 motion for a waiver of the conviction requirement, all
25 property remains subject to claims by innocent owners and
26 other third parties with a bona fide claim to the property as
27 provided by this act.

1 Section 7. Substitution of Assets.

2 Upon the state's motion following conviction, the
3 court may order the forfeiture of substitute property owned by
4 the defendant up to the value of unreachable property that is
5 beyond the court's jurisdiction or cannot be located through
6 due diligence only if the state proves by a preponderance of
7 the evidence that the defendant intentionally transferred,
8 sold, or deposited the unreachable property with a third party
9 to avoid forfeiture.

10 Section 8. No Additional Remedies.

11 The state may not seek personal money judgments or
12 other remedies to satisfy a forfeiture award that is not
13 provided for in this act.

14 Section 9. No Joint-and-Several Liability.

15 A defendant is not jointly and severally liable for
16 forfeiture awards owed by other defendants. When ownership is
17 unclear, a court may order each defendant to forfeit property
18 on a pro rata basis or by another means the court finds
19 equitable.

20 Section 10. Seizure of Personal Property with
21 Process.

22 At the request of the state at any time, a court may
23 issue an ex parte preliminary order to attach, seize, or
24 secure personal property for which forfeiture is sought and to
25 provide for its custody, pending the determination of the
26 prosecuting authority's forfeiture request. Application,

1 issuance, execution, and return are subject to the Alabama
2 Rules of Civil Procedure.

3 Section 11. Seizure of Personal Property without
4 Process.

5 (a) Personal property subject to forfeiture may be
6 seized, pending the determination of the prosecuting
7 authority's forfeiture request, at any time, without a court
8 order, under any of the following conditions:

9 (1) The seizure of personal property is incident to
10 a lawful arrest or a search lawfully conducted.

11 (2) The personal property subject to seizure has
12 been the subject of a prior judgment in favor of the state.

13 (3) The state has probable cause to believe that the
14 delay occasioned by the necessity to obtain process would
15 result in the removal or destruction of the personal property
16 and that the personal property is forfeitable under this act.

17 (b) Mere presence or possession of United States
18 currency, a debit card, or a credit card, without other
19 indicia of a crime that subjects the property to forfeiture,
20 is insufficient probable cause for seizure of the United
21 States currency, debit card, or credit card.

22 Section 12. Seizure of Real Property with Process.

23 (a) Real property for which forfeiture is sought
24 shall not be seized without a court order. A court may issue
25 an order to seize or secure real property, pending the
26 determination of the prosecuting authority's forfeiture
27 request, only after proper notice to property owners and an

1 opportunity for a contested hearing to determine the
2 sufficiency of probable cause for the seizure.

3 (b) Nothing in this section prohibits the
4 prosecuting authority from seeking a lis pendens or
5 restraining order to hinder the sale or destruction of the
6 real property.

7 (c) Application, issuance, execution, and return of
8 any order are subject to the Alabama Rules of Civil Procedure.

9 Section 13. Receipt.

10 When property is seized, the law enforcement officer
11 shall give an itemized receipt to the person possessing the
12 property. In the absence of the person possessing the
13 property, the law enforcement officer shall leave a receipt in
14 the place where the property was found, if reasonably
15 possible.

16 Section 14. Title to Property.

17 (a) Title to property subject to forfeiture vests
18 with the state when a court issues a forfeiture judgment and
19 relates back to the time when the state seizes or restrains
20 the property.

21 (b) Title to substituted assets vests when the court
22 issues an order forfeiting substitute assets.

23 (c) Notwithstanding subsections (a) and (b), title
24 to the property is subject to claims by innocent owners, bona
25 fide creditors, lienholders, and other third parties
26 adjudicated under this act.

27 Section 15. Pretrial Replevin Hearing.

1 (a) As used in this section, claimant means a
2 defendant, innocent owner, or other third party with an
3 interest in seized property.

4 (b) Following the seizure of property, a claimant
5 has a right to a pretrial hearing to determine the validity of
6 the seizure.

7 (c) Prior to 60 days before trial of the related
8 criminal offense, the claimant may claim the right to
9 possession of property by motion to the court to issue a writ
10 of replevin.

11 (d) The claimant shall file a motion establishing
12 the validity of the alleged interest in the property.

13 (e) The court shall hear the motion no more than 30
14 days after the motion is filed.

15 (f) The state shall file an answer showing probable
16 cause for the seizure, or cross motions, at least 10 days
17 before the hearing.

18 (g) Either party, by agreement or for good cause,
19 may move the court for one extension of no more than 10 days.
20 The motion may be supported by affidavits or other
21 submissions.

22 (h) The court shall decide the motion for replevin
23 within seven days of the hearing.

24 (i) The court shall issue a writ of replevin if the
25 court finds any of the following:

26 (1) It is likely the final judgment will be that the
27 state must return the property to the claimant.

1 (2) The state has failed to prove the property is
2 reasonably required to be held for evidentiary reasons.

3 (3) The property is the only reasonable means for a
4 defendant to pay for legal representation in the forfeiture or
5 criminal proceeding. The court may order the return of funds
6 or property sufficient to obtain counsel of choice but less
7 than the total amount seized.

8 (j) In lieu of ordering the issuance of the writ,
9 the court may order the state to give security or written
10 assurance for satisfaction of any judgment, including damages,
11 that may be rendered in the action, or order other relief as
12 may be just.

13 Section 16. Discovery.

14 (a) Discovery concerning the forfeiture by a
15 defendant is subject to the Alabama Rules of Criminal
16 Procedure.

17 (b) Discovery concerning the forfeiture by an
18 innocent owner or other third party is subject to the Alabama
19 Rules of Civil Procedure.

20 Section 17. Trial Proceedings.

21 (a) The litigation related to the forfeiture of
22 property shall be held in a single proceeding following the
23 trial of the related alleged offense. The trial judge shall
24 make all findings of fact for any litigation associated with
25 the forfeiture of property of less than ten thousand dollars
26 (\$10,000) in value. Nothing in this act provides a right to a
27 jury trial for any litigation associated with the forfeiture

1 of property of less than ten thousand dollars (\$10,000) in
2 value.

3 (b) Within 30 days of the seizure of property or
4 simultaneously upon filing a related criminal indictment, the
5 state shall file a forfeiture charge that shall include all of
6 the following:

7 (1) A description of the property seized and its
8 approximate value.

9 (2) The date and place of seizure of the property.

10 (3) The name and address of the law enforcement
11 agency making the seizure.

12 (4) The specific legal and factual grounds for the
13 seizure.

14 (5) Whether the property was seized pursuant to an
15 order of seizure, and if the property was seized without an
16 order of seizure, an affidavit from a law enforcement officer
17 stating the legal and factual grounds why an order of seizure
18 was not required.

19 (6) The names of persons known to the state who may
20 claim an interest in the property and the basis for each
21 person's alleged interest.

22 (c) The charging document shall be served upon the
23 defendant, the person from whom the property was seized, the
24 person's attorney of record, and all persons known or
25 reasonably believed to have an interest in the property,
26 including innocent owners and other third parties.

27 Section 18. Proportionality Hearing.

1 (a) At any time following determination of
2 forfeiture by the trier of fact, the defendant may petition
3 the court to determine whether the forfeiture is
4 unconstitutionally excessive under the Constitution of Alabama
5 of 1901 or the United States Constitution.

6 (b) The defendant has the burden of establishing the
7 forfeiture is grossly disproportional to the seriousness of
8 the offense by a preponderance of the evidence at a hearing
9 conducted by the court without a jury.

10 (c) In determining whether the forfeiture of
11 property is unconstitutionally excessive, the court shall
12 consider all relevant factors, including all of the following:

13 (1) The seriousness of the offense and its impact on
14 the community, including the duration of the activity and the
15 harm caused by the defendant.

16 (2) The extent to which the defendant participated
17 in the offense.

18 (3) The extent to which the property was used in
19 committing the offense.

20 (4) The sentence imposed for committing the crime
21 subject to forfeiture.

22 (5) Whether the offense was completed or attempted.

23 (d) In determining the value of the property subject
24 to forfeiture, the court shall consider all relevant factors,
25 including all of the following:

26 (1) The fair market value of the property.

1 (2) The value of the property to the defendant,
2 including hardship to the defendant if the forfeiture is
3 realized and if the forfeiture would deprive the property
4 owner of his or her livelihood.

5 (3) The hardship from the loss of a primary
6 residence, motor vehicle, or other property to the defendant's
7 family members or others if the property is forfeited.

8 (e) The court may not consider the value of the
9 property to the state in determining whether the forfeiture of
10 an instrumentality is constitutionally excessive.

11 Section 19. Secured Interest.

12 (a) Except as otherwise provided in this section,
13 property encumbered by a bona fide security interest is not
14 subject to forfeiture. A person claiming a security interest
15 must establish by a preponderance of the evidence the validity
16 of the interest perfected under Article 9A of Title 7 of the
17 Code of Alabama 1975, or a lease or rental agreement.

18 (b) The prosecuting authority shall summarily return
19 seized property to the person with the bona fide security
20 interest, up to the value of the secured interest.

21 (c) If the person alleges a valid security interest
22 but the state seeks to proceed with the forfeiture against the
23 property, the state shall prove by a preponderance of the
24 evidence that the person had actual knowledge of the
25 underlying crime giving rise to the forfeiture.

26 Section 20. Third Party Claims.

1 (a) Any person, other than the defendant, asserting
2 a legal interest in property which has been seized or
3 restrained, at any time up until 90 days after the criminal
4 conviction, may petition the court for a hearing to adjudicate
5 the validity of the person's alleged interest in the property.
6 The hearing shall be held before the court alone, without a
7 jury.

8 (b) The petition shall be signed by the petitioner
9 under penalty of perjury and shall set forth all of the
10 following:

11 (1) The nature and extent of the petitioner's right,
12 title, or interest in the property.

13 (2) The time and circumstances of the petitioner's
14 acquisition of the right, title, or interest in the property.

15 (3) Any additional facts supporting the petitioner's
16 claim.

17 (4) The relief sought.

18 (c) The hearing on the petition, to the extent
19 practicable and consistent with the interests of justice,
20 shall be held within 60 days of the filing of the petition.
21 The court may consolidate the hearing on the petition with a
22 hearing on any other petition or motion filed by a person
23 other than the defendant under this subsection.

24 (d) At the hearing, the petitioner may testify and
25 present evidence and witnesses on the petitioner's own behalf
26 and cross-examine witnesses who appear at the hearing. The
27 state may present evidence and witnesses in rebuttal and in

1 defense of its claim to the property and cross-examine
2 witnesses who appear at the hearing.

3 (e) A court shall rule on the petition within 14
4 days of the hearing.

5 (f) The petitioner who has an ownership interest in
6 property subject to forfeiture existing at the time the
7 illegal conduct giving rise to forfeiture occurred and who
8 claims to be an innocent owner or other third party with an
9 interest in the property bears the burden of proving by clear
10 and convincing evidence that the petitioner has a legal right,
11 title, or interest in the property seized under this act.

12 (g) If subsection (f) is satisfied and the state
13 seeks to proceed with the forfeiture against the property, the
14 state shall prove by clear and convincing evidence that the
15 petitioner consented to the use of the property with actual or
16 constructive knowledge that it would be or was used for the
17 underlying crime giving rise to the forfeiture.

18 (h) A petitioner who acquired an ownership interest
19 in property subject to forfeiture after the commission of a
20 crime giving rise to the forfeiture and who claims to be an
21 innocent owner or other third party with an interest in the
22 property bears the burden of proving by clear and convincing
23 evidence that the petitioner has a legal right, title, or
24 interest in the property seized under this act.

25 (i) If subsection (h) is satisfied and the state
26 seeks to proceed with the forfeiture against the property, the
27 state shall prove by clear and convincing evidence that at the

1 time the petitioner acquired the property either of the
2 following were true:

3 (1) The petitioner had actual or constructive
4 knowledge that the property was an instrumentality or the
5 proceeds of a felonious act subjecting it to forfeiture.

6 (2) The petitioner was not a bona fide purchaser
7 without notice of any defect in title and for valuable
8 consideration.

9 (j) If the state fails to meet its burden in
10 subsections (g) and (i), the court shall find that the
11 petitioner is an innocent owner and shall order the state to
12 relinquish all claims of title to the property and return the
13 property to the innocent owner within a reasonable period not
14 to exceed five days.

15 (k) The defendant or convicted offender may invoke
16 the right against self-incrimination or the marital privilege
17 during the forfeiture-related stage of the prosecution. The
18 trier of fact at the hearing may draw an adverse inference
19 from the invocation of the right or privilege.

20 Section 21. Appeal.

21 A party to forfeiture litigation, including a
22 criminal defendant, a petitioner seeking innocent owner
23 status, or a petitioner for replevin, may appeal the court's
24 decision regarding the seizure or forfeiture of property under
25 this act. The appeal may be on an interlocutory basis.

26 Section 22. Disposition of Property and Proceeds.

1 (a) At any time when unclaimed property or
2 contraband held for evidentiary purposes is no longer needed
3 for that purpose, the court may order it be delivered to the
4 prosecuting or seizing agency within 30 days, or, in the case
5 of contraband, be destroyed within 30 days.

6 (b) If the forfeiture is granted, the court may
7 order the property be delivered to the prosecuting or seizing
8 agency within 30 days.

9 (c) If the forfeiture is denied, the court must
10 order the property be returned to the person from whom the
11 property was seized within a reasonable period, not to exceed
12 five days.

13 (d) Upon motion, the court may order that a portion
14 of the currency seized or proceeds from the sale of forfeited
15 property be used to pay reasonable non-personnel expenses for
16 the seizure, storage, and maintenance of any forfeited
17 property.

18 (e) (1) The prosecuting or seizing agency shall
19 dispose of all non-currency forfeited property. The sale
20 proceeds and forfeited currency shall be distributed in the
21 following order:

22 a. To pay all outstanding recorded liens on the
23 forfeited property.

24 b. To pay reasonable non-personnel expenses to
25 comply with an order of the court.

26 c. The remaining proceeds from the sale or
27 distribution shall be awarded by the court pursuant to a

1 recommendation by the state on a pro rata share to the
2 participating law enforcement agencies, the prosecuting entity
3 that pursued the action, and as payment of restitution to any
4 victims of the underlying offense.

5 (2) Any proceeds from sales authorized by this
6 section awarded by the court to a county or municipal law
7 enforcement agency shall be deposited into the respective
8 county or municipal general fund and made available to the
9 appropriate law enforcement agency upon requisition of the
10 chief law enforcement official of the agency. Any monies or
11 proceeds authorized by this act and ordered by the court to be
12 distributed to the district attorney shall be deposited into
13 the district attorney's solicitor's fund to be expended for
14 law enforcement purposes.

15 (f) Abandoned property or property seized from an
16 owner who fled the jurisdiction shall be delivered to the
17 State Treasurer. The State Treasurer shall dispose of all such
18 non-currency property in accordance with state law. The sale
19 proceeds and currency shall be deposited into the State
20 General Fund.

21 Section 23. Prohibition on Retaining Property; Sale
22 Restrictions.

23 No law enforcement agency may retain forfeited or
24 abandoned non-currency property for its own use or sell it,
25 directly or indirectly, to any employee of the agency, to a
26 person related to an employee by blood or marriage, or to
27 another law enforcement agency.

1 Section 24. Return of Property, Damages, and Costs.

2 (a) The law enforcement agency that holds the
3 property shall return the property to the owner or other
4 prevailing claimant within a reasonable period of time not to
5 exceed five days after judgment in favor of that person.

6 (b) The law enforcement agency that holds the
7 property is responsible for any damages, storage fees, and
8 related costs applicable to property returned under subsection
9 (a).

10 Section 25. Adoption, Joint Task Forces and Receipt
11 of Payment of Forfeiture Proceeds from the Federal Government.

12 (a) A law enforcement agency shall not refer,
13 transfer, or otherwise relinquish possession of property
14 seized under state law to a federal agency by way of adoption
15 of the seized property or other means by the federal agency
16 for the purpose of the property's forfeiture under the federal
17 Controlled Substances Act.

18 (b) A law enforcement agency or participant in a
19 joint task force with the federal government or other
20 multijurisdictional collaboration with the federal government
21 shall not accept payment of any kind or distribution of
22 forfeiture proceeds or property resulting from a joint task
23 force with the federal government or other multijurisdictional
24 collaboration with the federal government unless the aggregate
25 net equity value of the property or currency forfeited in a
26 case exceeds one hundred thousand dollars (\$100,000),
27 excluding the value of contraband.

1 (c) Nothing in subsection (a) or (b) shall be
2 construed to restrict a law enforcement agency from acting
3 alone or collaborating with a federal agency or other agency
4 to seize contraband or property a law enforcement agent has
5 probable cause to believe is the proceeds or instruments of a
6 crime that subjects the property to forfeiture.

7 (d) Nothing in subsection (a) or (b) shall be
8 construed to prohibit the federal government from seizing
9 property and seeking forfeiture under federal law.

10 Section 26. Reporting.

11 (a) The Attorney General shall establish and
12 maintain a case tracking system and searchable public website
13 that includes the following information about property seized
14 and forfeited under state law and under any agreement with the
15 federal government:

16 (1) Name of the law enforcement agency that seized
17 the property or, if seized by a multijurisdictional task
18 force, the name of the lead agency.

19 (2) Date of the seizure.

20 (3) Type of property seized. Currency, or if
21 property other than currency, a description of property seized
22 including make, model, year, and serial number.

23 (4) Place of seizure: Home, business, or traffic
24 stop; and, if a traffic stop on an interstate or state
25 highway, the direction of the traffic flow: Eastbound,
26 westbound, southbound, or northbound.

27 (5) Estimated value of the seizure.

1 (6) Criminal offense alleged that led to the
2 seizure, including whether the offense is under state or
3 federal law.

4 (7) Crime for which suspect was charged, including
5 whether the crime charged is under state or federal law.

6 (8) Criminal case number and court in which the case
7 was filed, if any.

8 (9) The outcome of the defendant's criminal case, if
9 available. Potential outcomes include the following:

10 a. Charges not filed.

11 b. Charges dropped.

12 c. Acquittal.

13 d. Plea agreement.

14 e. Jury conviction.

15 f. Other.

16 (10) If forfeiture is sought under federal law, the
17 reason the case is not being sought under state law.

18 (11) Forfeiture case number and court in which the
19 case was filed, if available.

20 (12) Estimate of total costs to the agency to do all
21 of the following:

22 a. Store property in impound lots or evidence rooms.

23 b. Pay for law enforcement personnel and
24 prosecutors' time and expenses to litigate forfeiture cases.

25 c. Cost to sell or dispose of forfeited property.

1 (13) If a property owner filed a claim or
2 counterclaim, who by: The suspect, innocent owner, joint
3 owner, or third-party owner.

4 (14) Method of final forfeiture proceeding:
5 Criminal, civil-judicial, or civil-administrative.

6 (15) Date of forfeiture order.

7 (16) Whether there was a forfeiture settlement
8 agreement.

9 (17) Property disposition: Returned to owner,
10 partially returned to owner, sold, destroyed, or retained by a
11 law enforcement agency.

12 (18) Date of property disposition.

13 (19) Value of the property forfeited; or if
14 forfeited under federal law, the amount of proceeds received
15 from the federal government.

16 (b) If forfeiture is sought under federal law,
17 information for subdivisions (13) through (19) of subsection
18 (a) may not be available to be placed on the website.

19 (c) In addition to information required to be
20 published under subsection (a), the Attorney General shall
21 include on the searchable public website all of the following:

22 (1) The total amount of funds expended which
23 resulted from property seized, forfeited, and reported in
24 subsection (a) from each of the following:

25 a. Drug abuse, crime, and gang prevention programs.

26 b. Victim reparations.

1 c. Investigation costs, including witness
2 protection, informant fees, and controlled buys.

3 d. Court costs and attorneys' fees.

4 e. Salaries, overtime, and benefits, as permitted by
5 law.

6 f. Professional outside services, including
7 auditing, court reporting, expert witness fees, outside
8 attorney fees, and membership fees paid to trade associations.

9 g. Travel, meals, entertainment, conferences,
10 training, and continuing education.

11 h. Other operating expenses, including office
12 supplies, postage, and printing.

13 i. Capital expenditures, including vehicles,
14 firearms, equipment, computers, and furniture.

15 j. Other expenditures of forfeiture proceeds.

16 (2) The total value of seized and forfeited property
17 held by the agency at the end of the reporting period.

18 (d) The law enforcement agency that seizes property
19 and the prosecutors who litigate related criminal cases and
20 forfeiture proceedings shall update the Attorney General's
21 website with the information required under subsection (a) at
22 the end of the month following each seizure of property. The
23 chief officer of a multijurisdictional task force may appoint
24 one agency to report its seizures. If an agency has made no
25 seizures during the previous year, a report shall be filed by
26 the Attorney General specifying that the agency did not engage

1 in seizures or forfeitures under this act during the reporting
2 period.

3 (e) Each law enforcement agency shall update the
4 Attorney General's website with the information required under
5 subsection (c) within 30 days after the end of the fiscal
6 year. The chief officer of a multijurisdictional task force
7 may appoint one agency to report its expenditures.

8 (f) (1) The Attorney General, within 120 days after
9 the close of the fiscal year, shall submit to the Speaker of
10 the House of Representatives, President Pro Tempore of the
11 Senate, and Governor a written report that includes all of the
12 following:

13 a. A summary of seizure and forfeiture activity in
14 the state for the preceding fiscal year.

15 b. The type, approximate value, and disposition of
16 the property seized and forfeited.

17 c. The amount of any proceeds received or expended
18 at the state and local levels. The report shall provide a
19 categorized accounting of all proceeds expended.

20 (2) The summary for data on seizures, forfeitures,
21 and expenditures of forfeiture proceeds shall be disaggregated
22 by the agency. The aggregate report shall also be made
23 available on the Attorney General's website.

24 (g) The Attorney General may include in the report
25 required under subsection (f) recommendations to improve
26 statutes, rules, and policies to better ensure that seizure,
27 forfeiture, and expenditures are done and reported in a manner

1 that is fair to crime victims, innocent property owners,
2 secured interest holders, citizens, law enforcement, and
3 taxpayers.

4 (h) If a law enforcement agency fails to file a
5 report within 30 days after it is due and there is no good
6 cause as determined by the Attorney General, the agency shall
7 be subject to a civil fine payable to the State General Fund
8 of five hundred dollars (\$500) or the equivalent of
9 one-quarter of the forfeiture proceeds received by the agency,
10 whichever is greater.

11 (i) The State Auditor shall perform annually a
12 financial audit under the generally accepted government
13 auditing standards (GAGAS) of records related to inventory of
14 seized property and expenditures of forfeiture proceeds. A
15 copy of the final audit report shall be submitted to the
16 Attorney General no later than 90 days after the end of the
17 fiscal year and shall be made public.

18 (j) The Attorney General may recoup its costs under
19 this act by charging a fee to the law enforcement agency
20 filing a report. The agency may use forfeiture proceeds to pay
21 the costs of compiling and reporting data under this act and
22 to pay any fees imposed by the Attorney General.

23 (k) The Attorney General may adopt rules that are
24 necessary to implement and administer this act.

25 (l) The data and reports compiled and prepared under
26 this act are public information under the Alabama Open Records

1 Act, Chapter 12 of Title 36 of the Code of Alabama 1975, and
2 are not exempt from disclosure.

3 (m) This section is effective for the reporting
4 period starting January 1, 2019.

5 Section 27. Repeal of all other inconsistent
6 forfeiture provisions.

7 This act sets out the exclusive process for asset
8 forfeitures in the state and supersedes other provisions in
9 state or local law that are inconsistent with this act. All
10 civil forfeiture provisions of the Code of Alabama 1975, that
11 are inconsistent with this act are repealed. Specifically, the
12 following sections are repealed: Section 20-2-93, Code of
13 Alabama 1975, relating to forfeiture in controlled substance
14 cases; Section 13A-8-117, Code of Alabama 1975, relating to
15 forfeiture of certain computers and software; Article 4,
16 commencing with Section 15-5-60 of Chapter 5 of Title 15 of
17 the Code of Alabama 1975, The Alabama Comprehensive Criminal
18 Proceeds Forfeiture Act; and Section 13A-11-37, Code of
19 Alabama 1975, relating to forfeiture of an eavesdropping
20 device.

21 Section 28. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.