

FIRST REGULAR SESSION

# HOUSE BILL NO. 920

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor),  
CUNNINGHAM (86) AND FLOOK (Co-sponsors).

Read 1<sup>st</sup> time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2103L.02I

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### AN ACT

To repeal sections 513.600, 513.605, 513.607, 513.610, 513.612, 513.615, 513.617, 513.620, 513.623, 513.625, 513.630, 513.635, 513.637, 513.640, 513.645, 513.647, 513.649, 513.651, and 513.653, RSMo, and to enact in lieu thereof twenty-five new sections relating to criminal forfeiture reform, with penalty provisions.

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

Section A. Sections 513.600, 513.605, 513.607, 513.610, 513.612, 513.615, 513.617, 2 513.620, 513.623, 513.625, 513.630, 513.635, 513.637, 513.640, 513.645, 513.647, 513.649, 3 513.651, and 513.653, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, 4 to be known as sections 546.2000, 546.2003, 546.2006, 546.2009, 546.2012, 546.2015, 5 546.2018, 546.2021, 546.2024, 546.2027, 546.2030, 546.2033, 546.2036, 546.2039, 546.2042, 6 546.2045, 546.2048, 546.2051, 546.2054, 546.2057, 546.2060, 546.2063, 546.2066, 546.2069, 7 and 546.2072, to read as follows:

**546.2000. As used in sections 546.2000 to 546.2072, the following terms shall mean:**

2       **(1) "Attorney for the state", any prosecuting or circuit attorney authorized to**  
3 **investigate, commence and prosecute an action under sections 546.2000 to 546.2072;**

4       **(2) "Conveyance", includes any vehicle, trailer, vessel, aircraft or other means of**  
5 **transportation;**

6       **(3) "Interest holder", a secured party within the meaning of the Uniform**  
7 **Commercial Code, a mortgagee, lien creditor, or the beneficiary of a security interest or**  
8 **encumbrance pertaining to an interest in property, whose interest would be perfected**

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.

9 against a good faith purchaser for value. A person who holds property for the benefit of  
10 or as an agent or nominee for another person, or who is not in substantial compliance with  
11 any statute requiring an interest in property to be recorded or reflected in public records  
12 in order to perfect the interest against a good faith purchaser for value, is not an interest  
13 holder;

14 (4) "Omission", the failure to perform an act that is required by law;

15 (5) "Owner", a person, other than an interest holder, who has an interest in  
16 property. A person who holds property for the benefit of or as an agent or nominee for  
17 another person, or who is not in substantial compliance with any statute requiring an  
18 interest in property to be recorded or reflected in public records in order to perfect the  
19 interest against a good faith purchaser for value, is not an owner;

20 (6) "Proceeds", property acquired directly or indirectly from, produced through,  
21 realized through, or caused by an act or omission and includes any property of any kind  
22 without reduction for expenses incurred for acquisition, maintenance, production, or any  
23 other purpose;

24 (7) "Property", anything of value, which includes any interest in property,  
25 including any benefit, privilege, claim, or right with respect to anything of value, whether  
26 real or personal, tangible or intangible;

27 (8) "Regulated interest holder", an interest holder that is a business authorized to  
28 do business in this state and is under the jurisdiction of an appropriate state or federal  
29 regulatory agency or agencies relating to banking, securities, insurance and real estate;

30 (9) "Seizing agency", any department or agency of this state or its political  
31 subdivisions that regularly employs law enforcement officers, and that employs the law  
32 enforcement officer who seizes property for forfeiture, or such other agency as the agency  
33 or department may designate by its chief executive officer or their designee;

34 (10) "Seizure for forfeiture", seizure of property by a law enforcement officer,  
35 including a constructive seizure, accompanied by an assertion by the seizing agency or by  
36 an attorney for the state that the property is seized for forfeiture, in accordance with  
37 section 546.2015.

546.2003. 1. The judicial circuit court where actual or constructive seizure of the  
2 property occurs has jurisdiction under sections 546.2000 to 546.2072 over:

3 (1) All interests in property if the property for which forfeiture is sought is within  
4 this state at the time the action is filed; and

5 (2) The interest of an owner or interest holder in the property if the owner or  
6 interest holder is subject to personal jurisdiction in this state.

7           **2. In addition to the venue provided for under state law or any other provision of**  
8 **law, a proceeding for forfeiture under sections 546.2000 to 546.2072 may be maintained in**  
9 **the judicial circuit in which any part of the property is found or in the judicial circuit in**  
10 **which a civil or criminal action could be maintained against an owner or interest holder**  
11 **for the conduct alleged to give rise to the forfeiture. A claimant or defendant may obtain**  
12 **a change of venue if there exists so great a prejudice against the party that they cannot**  
13 **obtain a fair and impartial trial.**

**546.2006. The following conduct gives rise to forfeiture whether or not there is a**  
2 **prosecution or conviction related to the conduct:**

3           **(1) An act or omission occurring in this state punishable as a felony or**  
4 **misdemeanor;**

5           **(2) An act or omission occurring outside this state, that would be punishable as a**  
6 **felony or misdemeanor in the place of occurrence and would be described in subdivision**  
7 **(1) of this section if the act or omission occurred in this state; or**

8           **(3) An act or omission committed in furtherance of any act or omission described**  
9 **in subdivision (1) of this section and is punishable as a felony or misdemeanor including**  
10 **any inchoate or preparatory offense.**

**546.2009. The following property is subject to seizure and forfeiture:**

2           **(1) All controlled substances in section 195.017, RSMo, raw materials, controlled**  
3 **substance analogs, counterfeit substances, imitation controlled substances, that have been**  
4 **manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this**  
5 **state;**

6           **(2) (a) All property, except as provided in paragraph (b) of this subdivision,**  
7 **including the whole of any lot or tract of land and any appurtenances or improvements to**  
8 **real property that is either:**

9           **a. Furnished or intended to be furnished by any person in an exchange that**  
10 **constitutes conduct giving rise to forfeiture; or**

11           **b. Used or intended to be used in any manner or part to facilitate conduct giving**  
12 **rise to forfeiture;**

13           **(b) If the only conduct giving rise to forfeiture is possession of controlled substances**  
14 **solely for personal consumption:**

15           **a. Real property is not subject to forfeiture; and**

16           **b. Other property subject to forfeiture under subparagraph b. of paragraph (a) of**  
17 **subdivision (2) of this section may be forfeited only under section 546.2039;**

18           **(3) All proceeds of any conduct giving rise to forfeiture;**

19           (4) All weapons possessed, used, or available for use in any manner to facilitate  
20 conduct giving rise to forfeiture;

21           (5) Any interest or security in, claim against, or property or contractual right of  
22 any kind affording a source of control over any enterprise that a person has established,  
23 operated, controlled, conducted, or participated in the conduct of through conduct giving  
24 rise to forfeiture; and

25           (6) Any property of a person up to the value of property either:

26           (a) Described in subdivision (2) of this section that the person owned or possessed  
27 for the purpose of a use described in subdivision (2) of this section; or

28           (b) Described in subdivision (3) of this section and is proceeds of conduct engaged  
29 in by the person or for which the person is criminally responsible.

30

31 Property described in this subdivision may be seized for forfeiture under a constructive  
32 seizure or an actual seizure under section 546.2015. Actual seizure may only be done under  
33 a seizure warrant issued on showings, in addition to the showing of probable cause for the  
34 forfeiture of the subject property, that the subject property is not available for seizure for  
35 reasons described in subsection 1 of section 546.2042, and that the value of the property  
36 to be seized is not greater than the total value of the subject property, or under a  
37 constructive seizure. If property of a defendant up to the total value of all interests in the  
38 subject property is not seized prior to final judgment in an action under this section, the  
39 remaining balance shall be ordered forfeited as a personal judgment against the defendant.

40           (7) Any abandoned or unclaimed property that a law enforcement officer comes  
41 into contact with during the performance of his official duties.

          546.2012. 1. All property, including all interests in property, described in section  
2 546.2009 is subject to forfeiture, except that property is exempt from forfeiture:

3           (1) If the owner or interest holder acquired the property before or during the  
4 conduct giving rise to its forfeiture, and:

5           (a) Did not know and could not reasonably have known of the act or omission or  
6 that it was likely to occur; or

7           (b) Acted reasonably to prevent the conduct giving rise to forfeiture; or

8           (2) If the owner or interest holder acquired the property after the conduct giving  
9 rise to its forfeiture, including acquisition of proceeds of conduct giving rise to forfeiture,  
10 and acquired the property in good faith, for value and did not knowingly take part in an  
11 illegal transaction.

12           **2. Notwithstanding subsection 1 of this section, property is not exempt from**  
13 **forfeiture, even though the owner or interest holder lacked knowledge or reason to know**  
14 **that the conduct giving rise to its forfeiture had occurred or was likely to occur, if:**

15           **(1) The person whose conduct gave rise to its forfeiture had the authority to convey**  
16 **the property of the person claiming the exemption to a good faith purchaser for value at**  
17 **the time of the conduct;**

18           **(2) The owner or interest holder is criminally responsible for the conduct giving**  
19 **rise to its forfeiture, whether or not there is a prosecution or conviction; or**

20           **(3) The owner or interest holder acquired the property with notice of its actual or**  
21 **constructive seizure for forfeiture under section 546.2015, or with reason to believe that it**  
22 **was subject to forfeiture under sections 546.2000 to 546.2072.**

**546.2015. 1. Property may be seized for forfeiture by law enforcement officers**  
2 **upon process issued by any associate or circuit judge. The court may issue a seizure**  
3 **warrant on an affidavit under oath demonstrating that probable cause exists for its**  
4 **forfeiture or that the property has been the subject of a previous final judgment of**  
5 **forfeiture in the courts of any state or of the United States. The court may order that the**  
6 **property be seized on such terms and conditions as are reasonable in the discretion of the**  
7 **court. The order may be made on or in connection with a search warrant.**

8           **2. Property may be seized for forfeiture by law enforcement officers without**  
9 **process on probable cause to believe that the property is subject to forfeiture under**  
10 **sections 546.2000 to 546.2072.**

11           **3. The seizure of inhabited residential real property for forfeiture which is**  
12 **accompanied by removing or excluding its residents shall be done under a pre-seizure**  
13 **adversarial judicial determination of probable cause, except that this determination may**  
14 **be done ex parte when the attorney for the state has demonstrated exigent circumstances.**

15           **4. Property may be seized constructively by:**

16           **(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the**  
17 **property;**

18           **(2) Giving notice under section 546.2021;**

19           **(3) Filing or recording in the public records relating to that type of property notice**  
20 **of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien or a lis pendens.**  
21 **Filings or recordings made under this subsection are not subject to a filing fee or other**  
22 **charge.**

23           **5. The seizing agency, or the attorney for the state, shall make a reasonable effort**  
24 **to provide notice of the seizure to the person from whose possession or control the property**  
25 **was seized. If no person is in possession or control, the seizing agency may attach the notice**

26 to the property or to the place of its seizure or may make a reasonable effort to deliver it  
27 to the owner of the property. The notice shall contain a general description of the property  
28 seized, the date and place of seizure, the name of the seizing agency and the address and  
29 telephone number of the seizing officer or other person or agency from whom information  
30 about the seizure may be obtained.

31 6. A person who acts in good faith and in a reasonable manner to comply with an  
32 order of the court or a request of a law enforcement officer is not liable to any person for  
33 acts done in reasonable compliance with the order or request. In addition, no inference of  
34 guilt may be drawn from the fact that a person refuses a law enforcement officer's request  
35 to deliver the property.

36 7. A possessory lien of a person from whose possession property is seized is not  
37 affected by the seizure.

546.2018 1. Property seized for forfeiture under sections 546.2000 to 546.2072 is  
2 not subject to alienation, conveyance, sequestration, attachment, or a motion or order  
3 under chapter 542, RSMo, relating to the return of property seized as evidence with or  
4 without a search warrant.

5 2. The seizing agency or the attorney for the state may authorize the release of the  
6 seizure for forfeiture on the property if forfeiture or retention of actual custody is  
7 unnecessary.

8 3. The attorney for the state may discontinue forfeiture proceedings and transfer  
9 the action to another state or federal agency or attorney for the state who has initiated  
10 forfeiture proceedings.

11 4. The property is deemed to be in the custody of the circuit court subject only to  
12 the orders and decrees of the court having jurisdiction over the forfeiture proceedings and  
13 to the acts of the seizing agency or the attorney for the state under sections 546.2000 to  
14 546.2072.

15 5. An owner of property seized under sections 546.2000 to 546.2072 may obtain  
16 release of the property by posting with the attorney for the state a surety bond or cash in  
17 an amount equal to the full fair market value of the property as determined by the attorney  
18 for the state. The state may refuse to release the property if:

19 (1) The bond tendered is inadequate; or

20 (2) The property is retained as contraband or as evidence; or

21 (3) It is particularly altered or designed for use in conduct giving rise to forfeiture.

22

23 If a surety bond or cash is posted and the property is forfeited, the court shall forfeit the  
24 surety bond or cash in lieu of the property.

25           **6. If property is seized under sections 546.2000 to 546.2072, the attorney for the**  
26 **state or his designee, subject to any need to retain the property as evidence, may:**

27           **(1) Remove the property to an appropriate place designated by the seizing agency**  
28 **head or his designee;**

29           **(2) Place the property under constructive seizure;**

30           **(3) Remove the property to a storage area for safekeeping or, if the property is a**  
31 **negotiable instrument or money, deposit it in an interest bearing account;**

32           **(4) Provide for another agency or custodian, including an owner, secured party,**  
33 **mortgagee, or lienholder, to take custody of the property and service, maintain and operate**  
34 **it as reasonably necessary to maintain its value, in any appropriate location within the**  
35 **jurisdiction of the court; or**

36           **(5) Require the seizing law enforcement agency to take custody of the property and**  
37 **remove it to an appropriate location for disposition in accordance with law.**

38           **7. As soon as practicable after seizure for forfeiture, the seizing agency shall**  
39 **conduct a written inventory and estimate the value of the property seized.**

40           **8. The court may order property which has been seized for forfeiture sold, leased,**  
41 **rented or operated to satisfy a specified interest of any interest holder, or to preserve the**  
42 **interests of any party on motion of such party. The court may enter orders under this**  
43 **subsection after notice to persons known to have an interest in the property, and an**  
44 **opportunity for a hearing, if the interest holder:**

45           **(1) Has timely filed a proper claim and is a regulated interest holder; or**

46           **(2) Has an interest which the attorney for the state has stipulated is exempt from**  
47 **forfeiture.**

48           **9. A sale may be ordered under subsection 8 of this section when the property is**  
49 **liable to perish, to waste, or to be foreclosed or significantly reduced in value, or when the**  
50 **expenses of maintaining the property are disproportionate to its value. A third party**  
51 **designated by the court shall dispose of the property by commercially reasonable public**  
52 **sale and distribute the proceeds in the following order of priority:**

53           **(1) For the payment of reasonable expenses incurred in connection with the sale or**  
54 **disposal;**

55           **(2) For the satisfaction of exempt interests in the order of their priority; and**

56           **(3) Any balance of the proceeds shall be preserved in the actual or constructive**  
57 **custody of the court, in an interest bearing account, subject to further proceedings under**  
58 **sections 546.2000 to 546.2072.**

**546.2021. 1. Forfeiture proceedings shall be commenced as follows:**

2       **(1) Property seized for forfeiture shall be released on the request of an owner or**  
3 **interest holder to his or her custody, as custodian for the court, pending further**  
4 **proceedings under sections 546.2000 to 546.2072 if the attorney for the state fails:**

5       **(a) To file a notice of pending forfeiture against the property within ninety days**  
6 **after seizure; or**

7       **(b) To file a judicial forfeiture proceeding within ninety days after notice of**  
8 **pending forfeiture of property upon which a proper claim has been timely filed.**

9       **(2) Within thirty days after the effective date of the notice of pending forfeiture, an**  
10 **owner of or interest holder in the property may elect to file with the attorney for the state:**

11       **(a) A claim under section 546.2030; or**

12       **(b) A petition for recognition of exemption under section 546.2030, except that no**  
13 **petition may be filed after the state commences a court action.**

14       **(3) No extension of time for the filing of a claim shall be granted;**

15       **(4) If a petition is timely filed, the attorney for the state may delay filing a judicial**  
16 **forfeiture proceeding for one hundred and eighty days after the notice of pending**  
17 **forfeiture, and the following procedures shall apply:**

18       **(a) The attorney for the state shall provide the seizing agency and the petitioning**  
19 **party with a written recognition of exemption and statement of nonexempt interests**  
20 **relating to any or all interests in the property in response to each petitioning party:**

21       **a. Within sixty days after the effective date of the notice of pending forfeiture if the**  
22 **petitioner is a regulated interest holder. The recognition of exemption shall recognize the**  
23 **interest of the petitioner to the extent of documented outstanding principal plus interest**  
24 **at the contract rate until paid; or**

25       **b. Within one hundred and twenty days after the effective date of the notice of**  
26 **pending forfeiture for all other petitioners.**

27       **(b) An owner or interest holder in any property declared nonexempt may file a**  
28 **claim under section 546.2030 within thirty days after the effective date of the notice of the**  
29 **recognition of exemption and statement of nonexempt interest.**

30       **(c) If no petitioning party timely files a proper claim under subdivision (4) of this**  
31 **subsection, the recognition of exemption and statement of nonexempt interests becomes**  
32 **final, and the attorney for the state shall proceed as provided in sections 546.2045 and**  
33 **546.2048.**

34       **(d) The attorney for the state may elect to proceed herein for judicial forfeiture at**  
35 **any time.**

36 (e) If a judicial forfeiture proceeding follows the application of procedures in this  
37 paragraph:

38 a. No duplicate or repetitive notice is required. If a proper claim has been timely  
39 filed under paragraph (b) of subdivision (4) of this subsection, the claim shall be  
40 determined in a judicial forfeiture proceeding after the commencement of such a  
41 proceeding under sections 546.2036, 546.2039, and 546.2042;

42 b. The proposed recognition of exemption and statement of nonexempt interests  
43 responsive to all petitioning parties who subsequently filed claims are void and will be  
44 regarded as rejected offers to compromise.

45 (5) If no proper petition for recognition of exemption or proper claim is timely  
46 filed, the attorney for the state shall proceed as provided in sections 546.2045 and 546.2048.

47 2. (1) Notice of pending forfeiture, service of an in rem complaint or notice of a  
48 recognition of exemption and statement of nonexempt interests required under sections  
49 546.2000 to 546.2072, shall be given in accordance with one of the following:

50 (a) If the owner's or interest holder's name and current address are known, by  
51 either personal service by any person qualified to serve process or by any law enforcement  
52 officer or by mailing a copy of the notice by certified mail, return receipt requested, to that  
53 address.

54 (b) If the owner's or interest holder's name and address are required by law to be  
55 on record with the county recorder, secretary of state, department of revenue or another  
56 state or federal agency to perfect an interest in the property, and the owner's or interest  
57 holder's current address is not known, by mailing a copy of the notice by certified mail,  
58 return receipt requested, to any address of record with any of the described agencies.

59 (c) If the owner's or interest holder's address is not known and is not on record as  
60 provided in paragraph (d) of subdivision (4) of subsection 1 of this section, or the owner  
61 or interest holder's interest is not known, by publication in one issue of a newspaper of  
62 general circulation in the county in which the seizure occurred;

63 (2) Notice is effective upon the earlier of personal service, publication, or the  
64 mailing of a written notice, except that notice of pending forfeiture of real property is not  
65 effective until it is recorded. Notice of pending forfeiture shall include a description of the  
66 property, the date and place of seizure, the conduct giving rise to forfeiture or the violation  
67 of law alleged, and a summary of procedures and procedural rights applicable to the  
68 forfeiture action.

546.2024. 1. The attorney for the state may file, without a filing fee, a lien for the  
2 forfeiture of property:

3           (1) Upon the initiation of any civil or criminal proceeding relating to conduct giving  
4 rise to forfeiture under sections 546.2000 to 546.2072;

5           (2) Upon seizure for forfeiture; or

6           (3) In connection with a proceeding or seizure for forfeiture in any other state  
7 under a state or federal statute substantially similar to the relevant provisions of sections  
8 546.2000 to 546.2072. The filing constitutes notice to any person claiming an interest in the  
9 seized property or in property owned by the named person.

10           2. The lienor, as soon as practical after filing a lien, shall furnish to any person  
11 named in the lien a notice of the filing of the lien. Failure to furnish notice under this  
12 subsection shall not invalidate or otherwise affect the lien.

13           3. The lien notice shall set forth:

14           (1) The name of the person and, in the discretion of the lienor, any alias, or the  
15 name of any corporation, partnership, trust, or other entity, including nominees, that are  
16 owned entirely or in part, or controlled by the person;

17           (2) The description of the seized property or the criminal or civil proceeding that  
18 has been brought relating to conduct giving rise to forfeiture under sections 546.2000 to  
19 546.2072;

20           (3) The amount claimed by the lienor;

21           (4) The name of the court where the proceeding or action has been brought; and

22           (5) The case number of the proceeding or action if known at the time of filing.

23           4. The notice of forfeiture lien shall be filed in accordance with the provisions of  
24 the laws of this state relating to the type of property that is subject to the lien. The validity  
25 and priority of the forfeiture lien shall be determined in accordance with applicable law  
26 pertaining to liens.

27           5. A lien filed under this subsection applies to the described seized property or to  
28 one named person, any aliases, fictitious names, or other names, including the names of any  
29 corporation, partnership, trust, or other entity, owned entirely or in part, or controlled by  
30 the named person, and any interest in real property owned or controlled by the named  
31 person. A separate forfeiture lien shall be filed for each named person.

32           6. The notice of lien creates, upon filing, a lien in favor of the lienor as it relates to  
33 the seized property or the named person or related entities. The lien secures the amount  
34 of potential liability for civil judgment, and, if applicable, the fair market value of seized  
35 property relating to all proceedings under sections 546.2000 to 546.2072 enforcing the lien.

36           7. The lienor may amend or release, in whole or in part, a lien filed under this  
37 subsection at any time by filing, without a filing fee, an amended lien.

38           **8. Upon entry of judgment in its favor, the state may proceed to execute on the lien**  
39 **as provided by law.**

**546.2027. 1. Except as provided in subsection 2 of this section, a trustee,**  
2 **constructive or otherwise, who has notice that a notice of forfeiture lien, or a notice of**  
3 **pending forfeiture, or a civil forfeiture proceeding has been filed against the property or**  
4 **against any person or entity for whom the person holds title or appears as record owner,**  
5 **shall furnish within fifteen days, to the seizing agency or the attorney for the state:**

6           **(1) The name and address of each person or entity for whom the property is held;**

7           **(2) The description of all other property whose legal title is held for the benefit of**  
8 **the named person; and**

9           **(3) A copy of the applicable trust agreement or other instrument, if any, under**  
10 **which the trustee or other person holds legal title or appears as record owner of the**  
11 **property.**

12           **2. Subsection 1 of this section is inapplicable if:**

13           **(1) A trustee is acting under a recorded subdivision trust agreement or a recorded**  
14 **deed of trust; or**

15           **(2) All of the information is of record in the public records giving notice of liens on**  
16 **that type of property.**

17           **3. A trustee with notice who knowingly fails to comply with the provisions of this**  
18 **subsection shall be guilty of violating such provision and may, upon conviction, be**  
19 **sentenced to imprisonment for not less than two nor more than five years, and shall be**  
20 **fined not less than ten thousand dollars per day for each day compliance was not made.**

21           **4. A trustee with notice who fails to comply with subsection 1 of this section is**  
22 **subject to a civil penalty of three hundred dollars for each day of noncompliance. The**  
23 **court shall enter judgment ordering payment of three hundred dollars for each day of**  
24 **noncompliance from the effective date of the notice until the required information is**  
25 **furnished or the state executes its judgment lien under this section.**

26           **5. To the extent permitted by the Constitution of the United States, the duty to**  
27 **comply with subsection 1 of this section shall not be excused by any privilege or provision**  
28 **of law of this state or any other state or country which authorizes or directs that testimony**  
29 **or records required to be furnished under subsection 1 of this section are privileged or**  
30 **confidential or otherwise may not be disclosed.**

31           **6. A trustee who furnishes information under subsection 1 of this section is immune**  
32 **from civil liability for the release of the information.**

33           **7. An employee of the seizing agency or the attorney for the state who releases the**  
34 **information obtained under subsection 1 of this section, except in the proper discharge of**  
35 **official duties, is guilty of a class A misdemeanor.**

36           **8. If any information furnished under subsection 1 of this section is offered in**  
37 **evidence, the court may seal that portion of the record or may order that the information**  
38 **be disclosed in a designated way.**

39           **9. A judgment or an order of payment entered under this section becomes a**  
40 **judgment lien against the property alleged to be subject to forfeiture.**

**546.2030. 1. Only an owner of or interest holder in property seized for forfeiture**  
2 **may file a claim, and shall do so in the manner provided in this section. The claim shall be**  
3 **mailed to the seizing agency and to the attorney for the state by certified mail, return**  
4 **receipt requested, within thirty days after the effective date of notice of pending forfeiture.**  
5 **No extension of time for the filing of a claim shall be granted.**

6           **2. The attorney for the state may make an opportunity to file a petition for**  
7 **recognition of exemption available by so indicating in the notice of pending forfeiture**  
8 **described in subsection 1 of section 546.2021.**

9           **3. The claim or petition and all supporting documents shall be in affidavit form,**  
10 **signed by the claimant under oath, and sworn to by the affiant before one who has**  
11 **authority to administer the oath, under penalty of perjury and shall set forth:**

12           **(1) The caption of the proceedings and identifying number, if any, as set forth on**  
13 **the notice of pending forfeiture or complaint, the name of the claimant, and the name of**  
14 **the attorney for the state who authorized the notice of pending forfeiture or complaint;**

15           **(2) The address where the claimant will accept mail;**

16           **(3) The nature and extent of the claimant's interest in the property;**

17           **(4) The date, the identity of the transferor, and the circumstances of the claimant's**  
18 **acquisition of the interest in the property;**

19           **(5) The specific provision of sections 546.2000 to 546.2072 relied on in asserting that**  
20 **the property is not subject to forfeiture;**

21           **(6) All essential facts supporting each assertion; and**

22           **(7) The specific relief sought.**

**546.2033. 1. A judicial forfeiture proceeding under sections 546.2000 to 546.2072**  
2 **is subject to the provisions of this section.**

3           **2. The court, before or after the filing of a notice of pending forfeiture or complaint**  
4 **and on application of the attorney for the state, may:**

5           **(1) Enter any restraining order or injunction;**

6           **(2) Require the execution of satisfactory performance bonds;**

7           **(3) Create receiverships;**

8           **(4) Appoint conservators, custodians, appraisers, accountants, or trustees; or**

9           **(5) Take any other action to seize, secure, maintain, or preserve the availability of**  
10 **property subject to forfeiture under sections 546.2000 to 546.2072, including a writ of**  
11 **attachment or a warrant for its seizure.**

12           **3. The court, after five days notice to the attorney for the state, may issue an order**  
13 **to show cause to the seizing agency, for a hearing on the sole issue of whether probable**  
14 **cause for forfeiture of the property then exists if:**

15           **(1) Property is seized for forfeiture or a forfeiture lien is filed without a previous**  
16 **judicial determination of probable cause, order of forfeiture, or a hearing under subsection**  
17 **4 of section 546.2039;**

18           **(2) An owner of or interest holder in the property files an application within ten**  
19 **days after notice of its seizure for forfeiture or lien, or actual knowledge of it, whichever**  
20 **is earlier; and**

21           **(3) The owner of or interest holder in the property complies with the requirements**  
22 **for claims in section 546.2030. The hearing shall be held within thirty days of the order to**  
23 **show cause unless continued for good cause on motion of either party.**

24           **4. If the court finds in a hearing under subsection 3 of this section that there is no**  
25 **probable cause for forfeiture of the property, or if the state elects not to contest the issue,**  
26 **the property shall be released to the custody of the applicant, as custodian for the court,**  
27 **or from the lien pending the outcome of a judicial proceeding under sections 546.2000 to**  
28 **546.2072. If the court finds that probable cause for the forfeiture of the property exists,**  
29 **the court shall not order the property released.**

30           **5. All applications filed within the ten day period prescribed by subsection 3 of this**  
31 **section shall be consolidated for a single hearing relating to each applicant's interest in the**  
32 **property seized for forfeiture.**

33           **6. A person charged with a criminal offense may apply to the court where the**  
34 **forfeiture proceeding is pending for the release of property seized for forfeiture, to pay**  
35 **necessary expenses of the person's criminal defense. The application may be filed at any**  
36 **time before final judgment and shall satisfy the requirements under subsection 3 of section**  
37 **546.2030. The court shall hold a probable cause hearing if the applicant establishes that:**

38           **(1) He has not had an opportunity to participate in a previous adversarial judicial**  
39 **determination of probable cause;**

40           **(2) He has no access to other monies adequate for the payment of criminal defense**  
41 **counsel; and**

42           **(3) The interest in property to be released is not subject to any claim other than the**  
43 **forfeiture.**

44           **7. If the court finds in a hearing under subsection 6 of this section that there is no**  
45 **probable cause for forfeiture of the property, the court shall order the property released**  
46 **under subsection 4 of this section. If the state does not contest the hearing, the court may**  
47 **release a reasonable amount of property for the payment of the applicant's criminal**  
48 **defense costs. Property that has been released by the court and that has been paid for**  
49 **criminal defense services actually rendered is exempt under sections 546.2000 to 546.2072.**

50           **8. A defendant convicted in any criminal proceeding is precluded from later**  
51 **denying the essential allegations of the criminal offense of which the defendant was**  
52 **convicted in any proceeding under this section. For the purposes of this section, a**  
53 **conviction results from a verdict or plea of guilty, including a plea of no contest, nolo**  
54 **contendere or an Alford plea.**

55           **9. In any proceeding under sections 546.2000 to 546.2072, if a claim is based on an**  
56 **exemption provided for in sections 546.2000 to 546.2072, the burden of proving the**  
57 **existence of the exemption is on the claimant, and it is not necessary for the state to negate**  
58 **the exemption in any application or complaint.**

59           **10. In hearings and determinations under this section, the court may receive and**  
60 **consider, in making any determination of probable cause or reasonable cause, all evidence**  
61 **admissible in determining probable cause at a preliminary hearing or by a judge under**  
62 **section 542.276, RSMo, together with inferences there from.**

63           **11. The fact that money or a negotiable instrument was found in close proximity**  
64 **to contraband or an instrumentality of conduct giving rise to forfeiture shall give rise to**  
65 **the rebuttable presumption that the money or negotiable instrument was the proceeds of**  
66 **conduct giving rise to forfeiture or was used or intended to be used to facilitate the**  
67 **conduct.**

68           **12. There shall be a rebuttable presumption that any property of a person is subject**  
69 **to forfeiture under sections 546.2000 to 546.2072 if the state establishes, by the standard**  
70 **of proof applicable to that proceeding, that:**

71           **(1) The person has engaged in conduct giving rise to forfeiture;**

72           **(2) The property was acquired by the person during that period of the conduct**  
73 **giving rise to forfeiture or within a reasonable time after that period; and**

74           **(3) There was no likely source for the property other than the conduct giving rise**  
75 **to forfeiture.**

76           **13. A finding that property is the proceeds of conduct giving rise to forfeiture does**  
77 **not require proof that the property is the proceeds of any particular exchange or**  
78 **transaction.**

79           **14. A person who acquires any property subject to forfeiture is a constructive**  
80 **trustee of the property, and its fruits, for the benefit of the state, to the extent that their**  
81 **interest is not exempt from forfeiture. If property subject to forfeiture has been**  
82 **commingled with other property, the court shall order the forfeiture of the mingled**  
83 **property and of any fruits of the mingled property, to the extent of the property subject**  
84 **to forfeiture, unless an owner or interest holder proves that specified property does not**  
85 **contain property subject to forfeiture, or that their interest in specified property is exempt**  
86 **from forfeiture.**

87           **15. Title to all property declared forfeited under sections 546.2000 to 546.2072 vests**  
88 **in this state on the commission of the conduct giving rise to forfeiture together with the**  
89 **proceeds of the property after that time. Any such property or proceeds subsequently**  
90 **transferred to any person remain subject to forfeiture and thereafter shall be ordered**  
91 **forfeited unless the transferee claims and establishes in a hearing under the provisions of**  
92 **sections 546.2000 to 546.2072 that the transferee's interest is exempt under section**  
93 **546.2012.**

94           **16. An acquittal or dismissal in a criminal proceeding shall not preclude civil**  
95 **proceedings under sections 546.2000 to 546.2072.**

96           **17. For good cause shown, on motion by the attorney for the state, the court may**  
97 **stay discovery against the criminal defendant and against the state in civil forfeiture**  
98 **proceedings during a criminal trial for a related criminal indictment or information**  
99 **alleging the same conduct, after making provision to prevent loss to any party resulting**  
100 **from the delay. Such a stay shall not be available pending an appeal.**

101           **18. Except as otherwise provided by sections 546.2000 to 546.2072, all proceedings**  
102 **hereunder shall be governed by the rules of civil procedure.**

103           **19. An action under sections 546.2000 to 546.2072 shall be consolidated with any**  
104 **other action or proceeding under sections 546.2000 to 546.2072 or to foreclosure or trustee**  
105 **sale proceedings relating to the same property on motion of the attorney for the state, and**  
106 **may be consolidated on motion of an owner or interest holder.**

**546.2036. 1. A judicial in rem forfeiture proceeding may be brought by the**  
2 **attorney for the state in addition to, or in lieu of, civil in personam forfeiture procedures**  
3 **and is also subject to the provisions of this section. If a forfeiture is authorized by sections**  
4 **546.2000 to 546.2072, it shall be ordered by the court in the in rem action.**

5           **2. An action in rem may be brought by the attorney for the state under a notice of**  
6 **pending forfeiture or verified complaint for forfeiture. The state may serve the complaint**  
7 **in the manner provided by subsection 3 of section 546.2021, or as provided by the rules of**  
8 **civil procedure.**

9           **3. Only an owner of or an interest holder in the property who has timely filed a**  
10 **proper claim may file an answer in an action in rem. For the purposes of this section, an**  
11 **owner of or interest holder in property who has filed a claim and answer shall be referred**  
12 **to as a claimant.**

13           **4. The answer shall be signed by the owner or interest holder under penalty of**  
14 **perjury and shall be in accordance with the rules of civil procedure on answers and shall**  
15 **also set forth all of the following:**

16           **(1) The caption of the proceedings and identifying number, if any, as set forth on**  
17 **the notice of pending forfeiture or complaint and the name of the claimant;**

18           **(2) The address where the claimant will accept mail;**

19           **(3) The nature and extent of the claimant's interest in the property;**

20           **(4) The date, the identity of the transferor, and the circumstances of the claimant's**  
21 **acquisition of the interest in the property;**

22           **(5) The specific provision of sections 546.2000 to 546.2072 relied on in asserting that**  
23 **it is not subject to forfeiture;**

24           **(6) All essential facts supporting each assertion; and**

25           **(7) The specific relief sought.**

26           **5. The answer, accompanied by a bond to the court, shall be filed within twenty**  
27 **days after service of the civil in rem complaint. The bond amount shall be the greater of**  
28 **two thousand five hundred dollars or ten percent of the estimated value of the property as**  
29 **alleged in the complaint, or up to a maximum of two hundred fifty thousand dollars. In**  
30 **lieu of a cost bond, a claimant may under penalty of perjury move the court to proceed in**  
31 **forma pauperis. Any funds received by the court as cost bonds shall be placed in an**  
32 **interest-bearing account pending final disposition of the case. The court shall approve**  
33 **sureties upon condition that the claimant shall pay all costs and expenses of the forfeiture**  
34 **proceedings as provided in section 546.2045.**

35           **6. The state and any claimant who has timely answered the complaint may serve**  
36 **discovery requests on any other party at the time of filing its pleadings or at any other time**  
37 **not less than thirty days prior to the hearing. Answers or responses to the requests are due**  
38 **within twenty days of service. Depositions may be taken after the expiration of fifteen days**  
39 **after the filing and service of the complaint. Any party may move for a summary judgment**

40 after service of an answer or responsive pleading but not less than thirty days prior to the  
41 hearing.

42 7. The forfeiture hearing shall be held without a jury and within sixty days after  
43 service of the complaint unless continued for good cause. The attorney for the state shall  
44 have the initial burden of proving the property is subject to forfeiture by a preponderance  
45 of the evidence. If the state proves the property is subject to forfeiture, the claimant has  
46 the burden of proving that the claimant has an interest in the property which is exempt  
47 from forfeiture under sections 546.2000 to 546.2072 by a preponderance of the evidence.

48 8. The court shall order the interest in the property returned or conveyed to the  
49 claimant if the attorney for the state fails to meet the state's burden or the claimant  
50 establishes by a preponderance of the evidence that the claimant has an interest that is  
51 exempt from forfeiture. The court shall order all other property forfeited to this state and  
52 conduct further proceedings under sections 546.2045 and 546.2048.

546.2039. 1. A judicial in personam forfeiture proceeding brought by the attorney  
2 for the state under an in personam civil action alleging conduct giving rise to forfeiture is  
3 also subject to the provisions of this section. If a forfeiture is authorized by sections  
4 546.2000 to 546.2072, it shall be ordered by the court in the in personam action. This  
5 action shall be in addition to or in lieu of in rem forfeiture procedures.

6 2. The court, on application of the attorney for the state, may enter any order  
7 authorized by section 546.2033, or any other appropriate order to protect the state's  
8 interest in property forfeited or subject to forfeiture.

9 3. The court may issue a temporary restraining order on application of the attorney  
10 for the state, if the state demonstrates that:

11 (1) There is probable cause to believe that in the event of a final judgment, the  
12 property involved would be subject to forfeiture under the provisions of sections 546.2000  
13 to 546.2072; and

14 (2) Provision of notice would jeopardize the availability of the property for  
15 forfeiture.

16 4. Notice of the issuance of a temporary restraining order and an opportunity for  
17 a hearing shall be given to persons known to have an interest in the property. A hearing  
18 shall be held at the earliest possible date in accordance with the rules of civil procedure and  
19 shall be limited to the issues of whether:

20 (1) There is a probability that the state will prevail on the issue of forfeiture;

21 (2) The failure to enter the order will result in the property being destroyed,  
22 conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise  
23 made unavailable for forfeiture; and

24           **(3) The need to preserve the availability of property outweighs the hardship on any**  
25 **owner or interest holder against whom the order is to be entered.**

26           **5. On a determination of liability of a person for conduct giving rise to forfeiture**  
27 **under sections 546.2000 to 546.2072, the court shall:**

28           **(1) Enter a judgment of forfeiture of the property found to be subject to forfeiture**  
29 **described in the complaint; and**

30           **(2) Authorize the attorney for the state or his designee or any law enforcement**  
31 **officer to seize all property ordered forfeited which was not previously seized or is not then**  
32 **under seizure.**

33           **6. Except as provided in section 546.2033, no person claiming an interest in**  
34 **property subject to forfeiture under sections 546.2000 to 546.2072 may intervene in a trial**  
35 **or appeal of a criminal action or in an in personam civil action involving the forfeiture of**  
36 **the property.**

37           **7. Following the entry of an in personam forfeiture order, the attorney for the state**  
38 **may proceed with an in rem action to resolve the remaining interests in the property. The**  
39 **following procedures shall apply:**

40           **(1) The attorney for the state may give notice of pending forfeiture, in the manner**  
41 **provided in section 546.2021, to all owners and interest holders who have not previously**  
42 **been given notice.**

43           **(2) An owner of or interest holder in property that has been ordered forfeited and**  
44 **whose claim is not precluded may file a claim as described in section 546.2030 within thirty**  
45 **days after initial notice of pending forfeiture or after notice under subdivision (1) of this**  
46 **subsection, whichever is earlier.**

47           **(3) If the state does not recognize the claimed exemption, the attorney for the state**  
48 **shall file a complaint and the court shall hold an in rem forfeiture hearing as provided for**  
49 **in section 546.2036.**

50           **(4) In accordance with findings made at the hearing, the court may amend the**  
51 **order of forfeiture if it determines that any claimant has established by a preponderance**  
52 **of the evidence that the claimant has an interest in the property which is exempt under the**  
53 **provision of section 546.2012.**

**546.2042. 1. The court shall order the forfeiture of any other property of a person,**  
2 **including a claimant, up to the value of that person's property found by the court to be**  
3 **subject to forfeiture under sections 546.2000 to 546.2072, if any of the person's forfeitable**  
4 **property:**

5           **(1) Cannot be located;**

6           **(2) Has been transferred or conveyed to, sold to, or deposited with a third party;**

7           (3) Is beyond the jurisdiction of the court;

8           (4) Has been substantially diminished in value while not in the actual physical  
9 custody of the court, the seizing agency, the attorney for the state, or their designee;

10          (5) Has been commingled with other property that cannot be divided without  
11 difficulty; or

12          (6) Is subject to any interest of another person which is exempt from forfeiture  
13 under sections 546.2000 to 546.2072.

14          2. (1) The attorney for the state may institute a civil action in circuit court against  
15 any person with notice or actual knowledge who destroys, conveys, encumbers, removes  
16 from the jurisdiction of the court, conceals, or otherwise renders unavailable property  
17 alleged to be subject to forfeiture if:

18           (a) A forfeiture lien or notice of pending forfeiture has been filed and notice given  
19 under section 546.2021; or

20           (b) A complaint alleging conduct giving rise to forfeiture has been filed and notice  
21 given under such section 546.2021 or the rules of civil procedure.

22          (2) The court shall enter a final judgment in an amount equal to the value of the  
23 lien not to exceed the fair market value of the property, or if there is no lien, in an amount  
24 equal to the fair market value of the property, together with reasonable investigative  
25 expenses and attorney fees.

26          (3) If a civil proceeding under sections 546.2000 to 546.2072 is pending in court, the  
27 action shall be heard by that court.

          546.2045. 1. If notice of pending forfeiture is properly served in an action in rem  
2 or in personam in which personal property is seized, and no claim opposing forfeiture is  
3 filed within thirty days of service of such notice, the attorney for the state shall prepare a  
4 written declaration of forfeiture of the subject property to the state and allocate the  
5 property according to the provisions of section 546.2048.

6          2. Within one hundred eighty days of the date of a declaration of forfeiture, an  
7 owner or interest holder in property declared forfeited under subsection 1 of this section  
8 may, petition the court to have the declaration of forfeiture set aside, after making a prima  
9 facie showing that the state failed to serve proper notice as provided by subsection 1 of this  
10 section. Upon said showing the court shall allow the state to demonstrate by a  
11 preponderance of the evidence that notice was properly served. If the state fails to meet  
12 its burden of proof, the court may order the declaration of forfeiture set aside. The state  
13 may then proceed with judicial proceedings under sections 546.2000 to 546.2072.

14          3. Except as provided in subsection 1 of this section, if no proper claims are timely  
15 filed in an action in rem, or if no proper answer is timely filed in response to a complaint,

16 the attorney for the state may apply for an order of forfeiture and allocation of forfeited  
17 property under section 546.2048. Upon a determination by the court that the state's written  
18 application established the court's jurisdiction, the giving of proper notice, and facts  
19 sufficient to show probable cause for forfeiture, the court shall order the property forfeited  
20 to the state.

21 **4. After final disposition of all claims timely filed in an action in rem, or after final**  
22 **judgment and disposition of all claims timely filed in an action in personam, the court shall**  
23 **enter an order that the state has clear title to the forfeited property interest. Title to the**  
24 **forfeited property interest and its proceeds shall be deemed to have vested in the state on**  
25 **the commission of the conduct giving rise to the forfeiture under sections 546.2000 to**  
26 **546.2072.**

27 **5. The court, on application of the attorney for the state, may release or convey**  
28 **forfeited personal property to a regulated interest holder if:**

29 **(1) The attorney for the state, in his discretion, has recognized in writing that the**  
30 **interest holder has an interest that is exempt from forfeiture;**

31 **(2) The interest holder's interest was acquired in the regular course of business as**  
32 **a regulated interest holder;**

33 **(3) The amount of the interest holder's encumbrance is readily determinable and**  
34 **it has been reasonably established by proof made available by the attorney for the state to**  
35 **the court; and**

36 **(4) The encumbrance held by the interest holder seeking possession is the only**  
37 **interest exempted from forfeiture and the order forfeiting the property to the state**  
38 **transferred all of the rights of the owner prior to forfeiture, including rights to redemption,**  
39 **to the state.**

40 **6. After the court's release or conveyance under subsection 3 of this section, the**  
41 **interest holder shall dispose of the property by a commercially reasonable public sale.**  
42 **Within ten days of disposition the interest holder shall tender to the state the amount**  
43 **received at disposition less the amount of the interest holder's encumbrance and reasonable**  
44 **expenses incurred by the interest holder in connection with the sale or disposal. For the**  
45 **purposes of this section "commercially reasonable" shall be a sale or disposal that would**  
46 **be commercially reasonable as defined under the Uniform Commercial Code.**

47 **7. On order of the court or declaration of forfeiture forfeiting the subject property,**  
48 **the state may transfer good and sufficient title to any subsequent purchaser or transferee.**  
49 **The title shall be recognized by all courts and agencies of this state, and any political**  
50 **subdivision. On entry of judgment in favor of a person claiming an interest in the property**  
51 **that is subject to forfeiture proceedings under sections 546.2000 to 546.2072, the court shall**

52 enter an order that the property or interest in property shall be released or delivered  
53 promptly to that person free of liens and encumbrances under sections 546.2000 to  
54 546.2072, and that the person's cost bond shall be discharged.

55 8. Upon motion by the attorney for the state, if it appears after, a hearing that there  
56 was reasonable cause for the seizure for forfeiture or for the filing of the notice of pending  
57 forfeiture or complaint, the court shall find that:

58 (1) Reasonable cause existed, or that any such action was taken under a reasonable  
59 good faith belief that it was proper;

60 (2) The claimant is not entitled to costs or damages; and

61 (3) The person or seizing agency who made the seizure and the attorney for the  
62 state are not liable to suit or judgment for the seizure, suit or prosecution.

63 9. The court shall order a claimant who fails to establish that a substantial portion  
64 of the claimant's interest is exempt from forfeiture under section 546.2012 to pay the  
65 reasonable costs and expenses:

66 (1) Of any claimant who established that his entire interest is exempt from  
67 forfeiture under section 546.2012; and

68 (2) Of the state for the investigation and prosecution of the matter, including  
69 reasonable attorney fees, in connection with that claimant.

546.2048. 1. When property is forfeited under sections 546.2000 to 546.2072 the  
2 attorney for the state may:

3 (1) Upon the written approval of the attorney for the state, destroy or use for  
4 investigative purposes, any illegal or controlled substances or other contraband, after not  
5 less than twenty days after the seizure, provided that materials necessary as evidence shall  
6 be preserved; or

7 (2) Authorize a public or otherwise commercially reasonable sale of that which is  
8 not required by law to be destroyed and which is not harmful to the public. The proceeds  
9 of any sale and any monies forfeited or obtained by judgment or settlement under this  
10 section shall be distributed as provided in subdivision (3) of this subsection.

11 (3) The office of the prosecuting or circuit attorney shall distribute monies in the  
12 following order of priority:

13 (a) The satisfaction of any exempt security interest or lien;

14 (b) For the payment of all proper expenses of the proceedings for forfeiture and  
15 disposition, including but not limited to, expenses of seizure, inventory, appraisal,  
16 maintenance of custody, preservation of availability, advertising, sale and court costs; as  
17 well as the cost for ongoing school safety measures which may include but are not limited  
18 to school safety educational program activities, school resource officers, school protection

19 activities, and drug eradication efforts. The costs contained in this paragraph shall be paid  
20 to the law enforcement entities involved in the seizure and forfeiture, and shall not exceed  
21 fifty percent of the total proceeds of the sale, judgment, or settlement; and

22 (c) The remaining proceeds shall be distributed under Article IX, Section 7 of the  
23 Constitution of the state of Missouri.

24 2. The attorney for the state may require the appropriate administrative agency to  
25 take custody of the property and remove it for disposition in accordance with law, and to  
26 forward controlled substances to the United States Drug Enforcement Administration for  
27 disposition.

546.2051. 1. An attorney for the state may conduct an investigation of any conduct  
2 that gives rise to forfeiture under sections 546.2000 to 546.2072. The attorney for the state  
3 is authorized, before the commencement of any proceeding or action under sections  
4 546.2000 to 546.2072, to subpoena witnesses; compel their attendance; examine them under  
5 oath; and require the production of documentary evidence for inspection, reproducing, or  
6 copying. Except as otherwise provided by this section, the attorney for the state shall  
7 proceed under this subsection with the same powers and limitations, and judicial oversight  
8 and enforcement, and in the manner provided by sections 546.2000 to 546.2072 and by the  
9 rules of civil procedure. Any person compelled to appear under a demand for oral  
10 testimony under this section may be accompanied, represented, and advised by counsel.

11 2. The examination of all witnesses under this section shall be conducted by the  
12 attorney for the state before an officer authorized to administer oaths. The testimony shall  
13 be taken stenographically or by a sound recording device and shall be transcribed or  
14 otherwise preserved. The attorney for the state may exclude from the examination all  
15 persons except the witness, his counsel, the officer before whom the testimony is to be  
16 taken, law enforcement officials, and a stenographer. Prior to oral examination, the person  
17 shall be advised of his right to refuse to answer any questions on the basis of the privilege  
18 against self-incrimination. The examination shall be conducted in a manner consistent  
19 with the rules of civil procedure dealing with the taking of depositions.

20 3. Except as otherwise provided in this section, prior to the filing of a civil or  
21 criminal proceeding or action relating to it, no documentary material, or transcripts, or  
22 oral testimony, in the possession of the attorney for the state shall be available, for  
23 examination by any individual other than a law enforcement official or agent of such  
24 official without the consent of the person who produced the material or transcripts.

25 4. No person shall knowingly remove from any place, conceal, withhold, destroy,  
26 mutilate, alter, or by any other means falsify any documentary material that is the subject  
27 of a subpoena, with intent to avoid, evade, prevent, or obstruct compliance in whole or in

28 part by any person with any duly served subpoena of the attorney for the state under this  
29 section. A violation of this subsection is a class C felony. The attorney for the state shall  
30 investigate and prosecute suspected violations of this subsection.

31 5. Acts or omissions by the attorneys for the state in the course of their duties in the  
32 enforcement of any of the provisions of sections 546.2000 to 546.2072, including provision  
33 of any legal services prior to charging, complaint or seizure, are prosecutorial and shall not  
34 subject the attorneys or their principals to civil liability.

546.2054. 1. If a person is or may be called to produce evidence at a deposition,  
2 hearing or trial under sections 546.2000 to 546.2072 or at an investigation brought by the  
3 attorney for the state under section 546.2051, the circuit court for the judicial circuit in  
4 which the deposition, hearing, trial, or investigation is or may be held shall, upon  
5 certification in writing of a request of the prosecuting or circuit attorney for that judicial  
6 circuit, issue an order, ex parte or after a hearing, requiring the person to produce  
7 evidence, notwithstanding that person's refusal to do so on the basis of the privilege against  
8 self-incrimination.

9 2. The prosecuting or circuit attorney may certify in writing a request for an ex  
10 parte order under subsection 1 of this section if in his or her judgment:

11 (1) The production of the evidence may be necessary to the public interest; and

12 (2) The person has refused or is likely to refuse to produce evidence on the basis of  
13 his or her privilege against self-incrimination.

14 3. A person may not refuse to comply with an order issued under subsection 1 of  
15 this section on the basis of a self incrimination privilege. If the person refuses to comply  
16 with the order after being informed of its existence by the presiding officer, the person may  
17 be compelled or punished by the circuit court issuing an order for civil or criminal  
18 contempt.

19 4. The production of evidence compelled by order issued under subsection 1 of this  
20 section, and any information directly or indirectly derived from it, may not be used against  
21 the person in a subsequent criminal case, except in a prosecution for perjury, false  
22 swearing, or an offense otherwise involving a failure to comply with the order.

546.2057. A civil action under sections 546.2000 to 546.2072 shall be commenced  
2 within seven years after the last conduct giving rise to forfeiture or the cause of action  
3 becomes known or should have become known, excluding any time during which either the  
4 property or defendant is out of the state or in confinement, or during which criminal  
5 proceedings relating to the same conduct are pending.

546.2060. Controlled substances included in section 195.017, RSMo, which are  
2 contraband and any controlled substance whose owners are unknown are summarily

3 forfeited to the state. The court may include in any judgment under sections 546.2000 to  
4 546.2072 an order forfeiting any controlled substance involved in the offense to the extent  
5 of the defendant's interest.

2 546.2063. No person claiming an interest in property subject to forfeiture may  
3 commence or maintain any action against the state concerning the validity of the alleged  
4 interest other than as provided in sections 546.2000 to 546.2072.

2 546.2066. The provisions of sections 546.2000 to 546.2072 shall be liberally  
3 construed to effectuate their remedial purposes. Civil remedies under sections 546.2000  
4 to 546.2072 shall be supplemental and not mutually exclusive. They do not preclude and  
5 are not precluded by any other provision of law.

2 546.2069. 1. The provisions of sections 546.2000 to 546.2072 shall be applied and  
3 construed to effectuate their general purpose to make uniform the law with respect to the  
4 subject of sections 546.2000 to 546.2072 among states enacting similar provisions.

2 2. The attorney general is authorized to enter into reciprocal agreements with the  
3 attorney general or chief prosecuting attorney of any state to effectuate the purposes of  
4 sections 546.2000 to 546.2072.  
5

2 546.2072. If any provision of sections 546.2000 to 546.2072 or the application  
3 thereof to any person or circumstance are held invalid, the invalidity does not affect other  
4 provisions or applications of sections 546.2000 to 546.2072 which can be given effect  
5 without the invalid provision or application, and to this end the provisions of these sections  
6 are severable.

2 [513.600. Sections 513.600 to 513.645 shall be known and may be cited  
3 as the "Criminal Activity Forfeiture Act".]

2 [513.605. As used in sections 513.600 to 513.645, unless the context  
3 clearly indicates otherwise, the following terms mean:

3 (1) (a) "Beneficial interest":

4 a. The interest of a person as a beneficiary under any other trust  
5 arrangement pursuant to which a trustee holds legal or record title to real property  
6 for the benefit of such person; or

7 b. The interest of a person under any other form of express fiduciary  
8 arrangement pursuant to which any other person holds legal or record title to real  
9 property for the benefit of such person;

10 (b) "Beneficial interest" does not include the interest of a stockholder in  
11 a corporation or the interest of a partner in either a general partnership or limited  
12 partnership. A beneficial interest shall be deemed to be located where the real  
13 property owned by the trustee is located;

14 (2) "Civil proceeding", any civil suit commenced by an investigative  
15 agency under any provision of sections 513.600 to 513.645;

- 16 (3) "Criminal activity" is the commission, attempted commission,  
17 conspiracy to commit, or the solicitation, coercion or intimidation of another  
18 person to commit any crime which is chargeable by indictment or information  
19 under the following Missouri laws:
- 20 (a) Chapter 195, RSMo, relating to drug regulations;
  - 21 (b) Chapter 565, RSMo, relating to offenses against the person;
  - 22 (c) Chapter 566, RSMo, relating to sexual offenses;
  - 23 (d) Chapter 568, RSMo, relating to offenses against the family;
  - 24 (e) Chapter 569, RSMo, relating to robbery, arson, burglary and related  
25 offenses;
  - 26 (f) Chapter 570, RSMo, relating to stealing and related offenses;
  - 27 (g) Chapter 567, RSMo, relating to prostitution;
  - 28 (h) Chapter 573, RSMo, relating to pornography and related offenses;
  - 29 (i) Chapter 574, RSMo, relating to offenses against public order;
  - 30 (j) Chapter 575, RSMo, relating to offenses against the administration of  
31 justice;
  - 32 (k) Chapter 491, RSMo, relating to witnesses;
  - 33 (l) Chapter 572, RSMo, relating to gambling;
  - 34 (m) Chapter 311, RSMo, but relating only to felony violations of this  
35 chapter committed by persons not duly licensed by the supervisor of liquor  
36 control;
  - 37 (n) Chapter 571, RSMo, relating to weapons offenses;
  - 38 (o) Chapter 409, RSMo, relating to regulation of securities;
  - 39 (p) Chapter 301, RSMo, relating to registration and licensing of motor  
40 vehicles;
- 41 (4) "Criminal proceeding", any criminal prosecution commenced by an  
42 investigative agency under any criminal law of this state;
- 43 (5) "Investigative agency", the attorney general's office, or the office of  
44 any prosecuting attorney or circuit attorney;
- 45 (6) "Pecuniary value":
- 46 (a) Anything of value in the form of money, a negotiable instrument, a  
47 commercial interest, or anything else the primary significance of which is  
48 economic advantage; or
  - 49 (b) Any other property or service that has a value in excess of one  
50 hundred dollars;
- 51 (7) "Real property", any estate or legal or equitable interest in land  
52 situated in this state or any interest in such real property, including, but not  
53 limited to, any lease or deed of trust upon such real property;
- 54 (8) "Seizing agency", the agency which is the primary employer of the  
55 officer or agent seizing the property, including any agency in which one or more  
56 of the employees acting on behalf of the seizing agency is employed by the state  
57 of Missouri or any political subdivision of this state;

58 (9) "Seizure", the point at which any law enforcement officer or agent  
59 discovers and exercises any control over property that an officer or agent has  
60 reason to believe was used or intended for use in the course of, derived from, or  
61 realized through criminal activity. Seizure includes but is not limited to  
62 preventing anyone found in possession of the property from leaving the scene of  
63 the investigation while in possession of the property;

64 (10) (a) "Trustee":

65 a. Any person who holds legal or record title to real property for which  
66 any other person has a beneficial interest; or

67 b. Any successor trustee or trustees to any of the foregoing persons;

68 (b) "Trustee" does not include the following:

69 a. Any person appointed or acting as a personal representative under  
70 chapter 475, RSMo, or under chapter 473, RSMo;

71 b. Any person appointed or acting as a trustee of any testamentary trust  
72 or as trustee of any indenture of trust under which any bonds are or are to be  
73 issued.]  
74

2 [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,  
3 or realized through criminal activity is subject to civil forfeiture. Civil forfeiture  
4 shall be had by a civil procedure known as a CAFA forfeiture proceeding.

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

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

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

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

22 6. (1) If the petition is filed before seizure, it shall state what property  
23 is sought to be forfeited, that the property is within the jurisdiction of the court,  
24 the grounds for forfeiture, and the names of all persons known to have or claim  
25 an interest in the property. The court shall determine ex parte whether there is  
26 reasonable cause to believe that the property is subject to forfeiture and that

27 notice to those persons having or claiming an interest in the property prior to  
28 seizure would cause the loss or destruction of the property. If the court finds that  
29 reasonable cause does not exist to believe the property is subject to forfeiture, it  
30 shall dismiss the proceeding. If the court finds that reasonable cause does exist  
31 to believe the property is subject to forfeiture but there is not reasonable cause to  
32 believe that prior notice would result in loss or destruction, it shall order service  
33 on all persons known to have or claim an interest in the property prior to a further  
34 hearing on whether a writ of seizure should issue. If the court finds that there is  
35 reasonable cause to believe that the property is subject to forfeiture and to believe  
36 that prior notice would cause loss or destruction, it shall without any further  
37 hearing or notice issue a writ of seizure directing the sheriff of the county or other  
38 authorized law enforcement agency where the property is found to seize it.

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

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

58 8. The prosecuting attorney or attorney general to whom the seizure is  
59 reported shall report annually by January thirty-first for the previous calendar  
60 year all seizures. Such report shall include the date, time, and place of seizure,  
61 the property seized, the estimated value of the property seized, the person or  
62 persons from whom the property was seized, the criminal charges filed, and the  
63 disposition of the seizure, forfeiture and criminal actions. The report shall be  
64 made to the director of the Missouri department of public safety and shall be  
65 considered an open record. The prosecuting attorney or attorney general shall  
66 submit a copy of the report to the state auditor at the time the report is made to  
67 the director of the department of public safety.

68 9. The state auditor shall make an annual report compiling the data  
69 received from law enforcement, prosecuting attorneys and the attorney general,

70 and shall submit the report regarding seizures for the previous calendar year to  
71 the general assembly annually by February twenty-eighth.

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

75

2 [513.610. 1. Any person claiming an interest in the property may become  
3 a party to the action at any time prior to judgment, whether named in the petition  
4 or not. Any party claiming a valid interest in the property shall upon motion be  
5 allowed by the court to take possession of the property upon posting bond with  
6 good and sufficient security in the amount of the property's value conditioned to  
7 pay the value of any interest in the property found to be subject to forfeiture or  
8 the value of any interest of another not subject to forfeiture. Such a party taking  
9 possession shall not remove the property from the jurisdiction of the court except  
10 pursuant to court order.

11 2. The court may, upon such terms and conditions as prescribed by it,  
12 order that the property be sold by an innocent party who holds a lien on or  
13 security interest in the property at any time during the proceedings. Any proceeds  
14 from such sale over and above the amount necessary to satisfy the lien or security  
15 interest shall be paid into court pending final judgment in the forfeiture  
16 proceeding. No such sale shall be ordered, however, unless the obligation upon  
17 which the lien or security interest is based is in default.

18 3. Pending final judgment in the forfeiture proceeding, the court may  
19 make any other disposition of the property as may be provided by the laws of this  
20 state which is in the interest of justice.]

20

2 [513.612. Any party may bring one motion to dismiss at any time and  
3 such motion shall be heard and ruled on within ten days. Any party may demand  
4 a jury trial.]

4

2 [513.615. The interest of an innocent party in the property shall not be  
3 subject to forfeiture. An "innocent party " is one who did not have actual  
4 knowledge that the property was used or intended for use in the course of,  
5 derived from or realized through a criminal activity. Any innocent party shall  
6 have a right or claim to forfeited property or to the proceeds derived therefrom  
7 superior to any right or claim the state or the county has in the same property or  
8 proceeds. To enforce such a claim, the innocent party must intervene in the  
9 forfeiture proceeding prior to its final disposition; except that, with respect to any  
10 property for which the state maintains records of ownership, if the certificate of  
11 title, the official records or other evidence of ownership indicates the existence  
12 of a lien on the seized property or the ownership of the property by someone  
13 other than the defendant, the named lienholder or owner shall be a necessary  
party to the action commenced under this section unless the party has by affidavit

14 released the lien. The lienholder or owner shall have no obligation to intervene  
15 to protect his rights, but the court shall determine the validity of the lien.]  
16

2 [513.617. 1. In the event criminal charges arising from the same activity  
3 giving rise to the CAFA proceeding are filed against any individual claiming an  
4 interest in the property subject to the CAFA proceeding, such CAFA proceeding  
5 shall be stayed by the court until the disposition of the criminal charges. In such  
6 cases, no property shall be forfeited unless the person charged is found guilty of  
7 or pleads guilty to a felony offense substantially related to the forfeiture. The  
8 property of persons arrested, detained or apprehended and not subsequently  
9 charged is not subject to forfeiture for that arrest, detention or apprehension. The  
10 rights of an innocent owner of property are superior to any right or claim of the  
11 state or county, and such rights shall be enforced pursuant to the provisions of  
12 sections 513.610 to 513.620.

13 2. In any case where the court determines that seized property is subject  
14 to forfeiture pursuant to the provisions of section 513.607 but there has not been  
15 a felony conviction, finding of guilt or plea of guilt to support such forfeiture, the  
16 court shall stay the civil forfeiture proceedings and order the release of the  
17 property subject to the following requirements:

18 (1) The person to whom the property is released shall file a bond in an  
19 amount which the court determines to be adequate to secure the property and  
20 which does not exceed the value of the property;

21 (2) The court may impose other conditions that it deems reasonable and  
22 necessary to prevent the property from being made unavailable for disposition by  
23 the court;

24 (3) The bond and other conditions shall terminate at such time as the  
25 released property is no longer subject to forfeiture or upon return of the property  
26 to the confiscating authority.

27 3. No action filed pursuant to sections 513.600 to 513.660 shall be  
28 compromised or otherwise settled without the express approval of the terms of  
29 the settlement by the court in which such action is pending. Nothing in this  
30 section shall prohibit or prevent the parties from contemporaneously resolving  
31 criminal charges and a CAFA proceeding arising from the same activity.  
32 However, seized property shall not be used in bargaining to defer prosecution of  
33 criminal charges, obtain a guilty plea or affect sentencing recommendations, and  
34 the court in which the CAFA proceeding is pending shall not approve any  
35 settlement without first making such a finding. No state or local government  
36 agency, nor any person, may accept any monetary payment or other thing of value  
37 in exchange for the release of property seized for forfeiture or for the settlement  
38 of any criminal charges.

39 4. No state or local government agency may hold property seized for  
40 forfeiture unless a petition for forfeiture has been filed within the time limit  
provided by section 513.607, unless a time extension is granted by order of the

41 circuit court. The court may extend the time for filing a petition for up to ten  
42 days for each order, but may not extend the time for filing for more than thirty  
43 days.]  
44

[513.620. Subject to the requirement of protecting the interest of all  
2 innocent parties, the court may after judgment of forfeiture make any of the  
3 following orders for disposition of the property:

4 (1) Destruction of contraband, the possession of which is illegal;

5 (2) Retention of the property by any innocent party having an interest  
6 therein, upon payment or approval of a plan for payment into court of the value  
7 of any forfeited interest in the property; such a plan may include, in the case of  
8 an innocent party who holds a lien on or security interest in the property, the sale  
9 of the property by said innocent party under such terms and conditions as may be  
10 prescribed by the court and the payment into court of any proceeds from such sale  
11 over and above the amount necessary to satisfy the lien or security interest;

12 (3) Judicial sale of the property;

13 (4) Transfer of the property to any innocent party having an interest  
14 therein equal to or greater than the value of the property; or

15 (5) Any other disposition of the property as may be provided by the laws  
16 of this state which is in the interest of justice and adequately protects innocent  
17 parties.]  
18

[513.623. The clear proceeds of any sale or disposition after satisfaction  
2 of the interest of any innocent party and after payment of the reasonable costs of  
3 the CAFA proceeding, including reasonable storage costs as assessed by the  
4 court, if any, shall be distributed pursuant to section 7 of article IX of the  
5 Constitution of the state of Missouri.]  
6

[513.625. 1. Upon the entry of a final judgment of forfeiture in favor of  
2 the state, the title of the state to the forfeited property shall:

3 (1) In the case of real property or beneficial interest, relate back to the  
4 date of filing of the CAFA lien notice in the official records of the county where  
5 the real property or beneficial trust is located and, if no CAFA lien notice is filed,  
6 then to the date of the filing of any notice of lis pendens under section 527.260,  
7 RSMo, in the official records of the county where the real property or beneficial  
8 interest is located and, if no CAFA lien notice or notice of lis pendens is so filed,  
9 then to the date of recording of the final judgment of forfeiture in the official  
10 records of the county where the real property or beneficial interest is located; and

11 (2) In the case of personal property, relate back to the date the personal  
12 property was seized by the investigating agency.

13 2. If property subject to forfeiture is conveyed, alienated, disposed of, or  
14 otherwise rendered unavailable for forfeiture after the filing of a CAFA lien  
15 notice or after the filing of a forfeiture petition, whichever is earlier, the

16 investigative agency may, on behalf of the state, institute an action in the  
17 appropriate circuit court against the person named in the CAFA lien notice or the  
18 defendant in the civil proceeding and the court shall enter final judgment against  
19 the person named in the CAFA lien notice or the defendant in the civil  
20 proceeding in an amount equal to the fair market value of the property, together  
21 with investigative costs and attorney's fees incurred by the investigative agency  
22 in the action. If a civil proceeding is pending, such action shall be filed only in  
23 the court where such civil proceeding is pending.]  
24

2 [513.630. Notwithstanding any other provision of law, a proceeding  
3 under this act may be commenced up until five years after the conduct terminates  
4 or the cause of action accrues. If a criminal prosecution or civil action is brought  
5 by the state relating to conduct which would constitute criminal activity as  
6 defined in section 513.605, then the running of the period of limitations shall be  
7 suspended during the pendency of such prosecution or action by the state and for  
8 five years thereafter.]

2 [513.635. The application of one civil remedy under any provision of this  
3 act shall not preclude the application of any other remedy. Remedies under this  
4 act are supplemental and not mutually exclusive.]

2 [513.637. 1. Notwithstanding any other provision of law, a valid  
3 judgment rendered by a court of a jurisdiction having a law substantially similar  
4 to sections 513.600 to 513.645 will be recognized and enforced by the courts of  
5 this state to the extent that a judgment rendered by a court of this state pursuant  
6 to sections 513.600 to 513.645 would be enforced in such other jurisdiction.

7 2. The attorney general is hereby authorized to enter into reciprocal  
8 agreements with the attorney general or chief prosecuting attorney of any  
9 jurisdiction having a law substantially similar to sections 513.600 to 513.645 so  
10 as to further the purposes of sections 513.600 to 513.645.]

2 [513.640. 1. Upon the institution of a civil forfeiture proceeding or, if  
3 no civil suit has been instituted, upon the return of an indictment or filing of an  
4 information of a crime which may constitute criminal activity as defined in  
5 section 513.605, the investigative agency then or at any time during the pendency  
6 of the proceeding may file in the official records of any one or more counties a  
7 CAFA lien notice. No filing fee or other charge shall be required as a condition  
8 for filing the CAFA lien notice. The recorder of deeds shall, upon the  
9 presentation of a CAFA lien notice, immediately record it in the official records.

10 2. The CAFA lien notice shall be signed by the attorney general or his  
11 designee or by a prosecuting or circuit attorney or his designee. The notice shall  
12 be in such form as the attorney general prescribes and shall set forth the following  
information:

13 (1) The name of the person against whom the civil proceeding has been  
14 brought. The investigative agency may also name in the CAFA lien notice any  
15 other aliases, names, or fictitious names under which the person may be known.  
16 The investigative agency may also name in the CAFA lien notice any  
17 corporation, partnership, or other entity that is either controlled by or entirely  
18 owned by the person;

19 (2) If known to the investigative agency, the present residence and  
20 business addresses of the person named in the CAFA lien notice and of the other  
21 names set forth in the CAFA lien notice;

22 (3) A reference to the civil proceeding stating that a proceeding under  
23 this act has been brought against the person named in the CAFA lien notice, the  
24 name of the county or counties where the proceeding has been brought, and, if  
25 known to the investigative agency at the time of filing the CAFA lien notice, the  
26 case number of the proceeding;

27 (4) A statement that the notice is being filed pursuant to this act; and

28 (5) The name and address of the investigative agency filing the CAFA  
29 lien notice and the name of the individual signing the CAFA lien notice.

30 3. A CAFA lien notice shall apply only to one person and, to the extent  
31 applicable, any aliases, fictitious names, or other names, including names of  
32 corporations, partnerships, or other entities. A separate CAFA lien notice shall  
33 be filed for any other person against whom the investigative agency desires to file  
34 a CAFA lien notice under this section.

35 4. The investigative agency shall, as soon as practicable after the filing  
36 of each CAFA lien notice, furnish to the person named in the notice either a copy  
37 of the recorded notice or a copy of the notice with a notation thereon of the  
38 county or counties in which the notice has been recorded. The failure of the  
39 investigative agency to so furnish a copy of the notice under this subsection shall  
40 not invalidate or otherwise affect the notice.

41 5. The filing of a CAFA lien notice creates, from the time of its filing, a  
42 lien in favor of the state on the following property of the person named in the  
43 notice and against any other names set forth in the notice:

44 (1) Any real property situated in the county where the notice is filed then  
45 or thereafter owned by the person; and

46 (2) Any beneficial interest situated in the county where the notice is filed  
47 then or thereafter owned by the person.

48 6. The lien shall commence and attach as of the time of filing of the  
49 CAFA lien notice and shall continue thereafter until expiration, termination, or  
50 release. The lien created in favor of the state shall be superior and prior to the  
51 interest of any other person in the real property or beneficial interest if the interest  
52 is acquired subsequent to the filing of the notice.

53 7. In conjunction with any civil proceeding:

54 (1) The investigative agency may file without prior court order in any  
55 county a lis pendens and, in such case, any person acquiring an interest in the

56 subject real property or beneficial interest subsequent to the filing of lis pendens  
57 shall take the interest subject to the civil proceeding and any subsequent  
58 judgment of forfeiture; and

59 (2) If a CAFA lien notice has been filed, the investigative agency may  
60 name as defendants, in addition to the person named in the notice, any persons  
61 acquiring an interest in the real property or beneficial interest subsequent to the  
62 filing of the notice. If a judgment of forfeiture is entered in the proceeding in  
63 favor of the state, the interest of any person in the property that was acquired  
64 subsequent to the filing of the notice shall be subject to the notice and judgment  
65 of forfeiture.

66 8. (1) A trustee who acquires actual knowledge that a CAFA lien notice  
67 or a civil proceeding under sections 513.600 to 513.645 has been filed against  
68 any person for whom he holds legal or record title to real property shall  
69 immediately furnish to the investigative agency the following:

70 (a) The name and address of the beneficiary against whose interest the  
71 CAFA lien notice or the CAFA proceeding has been filed, as known to the  
72 trustee;

73 (b) The name and address, as known to the trustee, of all other persons  
74 for whose benefit the trustee holds title to the real property; and

75 (c) A copy of the trust agreement or other instrument pursuant to which  
76 the trustee holds legal or record title to the real property;

77 (2) Any trustee who fails to comply with the provisions of this subsection  
78 is guilty of a class C misdemeanor.

79 9. Any trustee who conveys title to real property for which a CAFA lien  
80 notice has been filed at the time of the conveyance in the county where the real  
81 property is situated naming a person who, to the actual knowledge of the trustee,  
82 holds a beneficial interest in the trust shall be liable to the state for the greater of:

83 (1) The amount of proceeds received directly by the person named in the  
84 CAFA lien notice as a result of the conveyance;

85 (2) The amount of proceeds received by the trustee as a result of the  
86 conveyance and distributed to the person named in the CAFA lien notice; or

87 (3) The fair market value of the interest of the person named in the  
88 CAFA lien notice in the real property so conveyed; however, if the trustee  
89 conveys the real property and holds the proceeds that would otherwise be paid or  
90 distributed to the beneficiary or at the direction of the beneficiary or his designee,  
91 the trustee's liability shall not exceed the amount of the proceeds so held for so  
92 long as the proceeds are held by the trustee.

93 10. The filing of a CAFA lien notice shall not constitute a lien on the  
94 record title to real property as owned by the trustee except to the extent the  
95 trustee is named in the CAFA lien notice. The investigative agency may bring  
96 a civil proceeding in any circuit court against the trustee to recover from the  
97 trustee the amounts set forth in subsection 9 of this section, and the state shall

98 also be entitled to recover investigative costs and attorney's fees incurred by the  
99 investigative agency.

100 11. The filing of a CAFA lien notice shall not affect the use to which real  
101 property or a beneficial interest owned by the person named in the CAFA lien  
102 notice may be put or the right of the person to receive any avails, rents, or other  
103 proceeds resulting from the use and ownership, but not the sale, of the property  
104 until a judgment of forfeiture is entered.

105 12. (1) The provisions of this section shall not apply to any conveyance  
106 by a trustee pursuant to a court order unless such court order is entered in an  
107 action between the trustee and the beneficiary;

108 (2) Unless the trustee has actual knowledge that a person owning a  
109 beneficial interest in the trust is named in a CAFA lien notice or is otherwise a  
110 defendant in a civil proceeding, the provisions of this section shall not apply to:

111 (a) Any conveyance by a trustee required under the terms of any trust  
112 agreement, which trust agreement is a matter of public record prior to the filing  
113 of any CAFA lien notice; or

114 (b) Any conveyance by a trustee to all of the persons who own a  
115 beneficial interest in the trust.

116 13. All forfeitures or dispositions under this section shall be made with  
117 due provision for the rights of innocent persons.]  
118

2 [513.645. 1. The term of a CAFA lien notice shall be for a period of six  
3 months from the date of filing of the petition. Said lien notice may be renewed  
4 by the investigative agency one time prior to judgment. After judgment in favor  
5 of the investigative agency the CAFA lien notice shall be for a period of six  
6 years. The investigative agency shall be entitled to only one renewal of the  
7 CAFA lien notice after judgment.

8 2. The investigative agency filing the CAFA lien notice may release in  
9 whole or in part any CAFA lien notice or may release any specific real property  
10 or beneficial interest from the CAFA lien notice upon such terms and conditions  
11 as it may determine. Any release of a CAFA lien notice executed by the  
12 investigative agency may be filed in the official records of any county. No charge  
13 or fee shall be imposed for the filing of any release of a CAFA lien notice.

14 3. If no civil proceeding has been instituted by the investigative agency  
15 seeking a forfeiture of any property owned by the person named in the CAFA lien  
16 notice, the acquittal in the criminal proceeding of the person named in the CAFA  
17 lien notice or the dismissal of the criminal proceeding shall terminate the CAFA  
18 lien notice; and, in such case, the filing of the CAFA lien notice shall have no  
19 effect.

20 4. If no civil proceeding is then pending against the person named in a  
21 CAFA lien notice, any person named in a CAFA lien notice may institute an  
action against the investigative agency filing the notice in the county where the

22 notice has been filed seeking a release or extinguishment of the notice; and, in  
23 such case:

24 (1) The court shall, upon the motion of such person, immediately enter  
25 an order setting a date for hearing, which shall be not less than five nor more than  
26 ten days after the suit has been filed. The order, along with a copy of the  
27 complaint, shall be served on the investigative agency within three days after the  
28 institution of the suit. At the hearing, the court shall take evidence on the issue  
29 of whether any real property or beneficial interest owned by such person is  
30 covered by the CAFA lien notice or otherwise subject to forfeiture under the  
31 Missouri CAFA act. If such person shows by the preponderance of the evidence  
32 that the CAFA lien notice is not applicable to him or that any real property or  
33 beneficial interest owned by him is not subject to forfeiture under this act, the  
34 court shall enter a judgment extinguishing the CAFA lien notice or releasing the  
35 real property or beneficial interest from the CAFA lien notice;

36 (2) The court shall immediately enter its order releasing from the CAFA  
37 lien notice any specific real property or beneficial interest if a sale of the real  
38 property or beneficial interest is pending and the filing of the notice prevents the  
39 sale of the property or interest; provided, however, that the proceeds resulting  
40 from the sale of the real property or beneficial interest shall be deposited into the  
41 registry of the court, subject to the further order of the court; and

42 (3) At the hearing set forth in subdivision (1) of this subsection, the court  
43 may release from the CAFA lien notice any real property or beneficial interest  
44 upon the posting by such person of such security as is equal to the value of the  
45 real property or beneficial interest owned by such person.

46 5. In the event a civil proceeding is pending against a person named in  
47 a CAFA lien notice, the court, upon motion by said person, may grant the relief  
48 set forth herein.

49 6. Upon acquittal or dismissal of a criminal action against a person also  
50 named in a CAFA action, the civil action shall be dismissed.]

51

[513.647. 1. No state or local law enforcement agency may transfer any  
2 property seized by the state or local agency to any federal agency for forfeiture  
3 under federal law until the prosecuting attorney and the circuit judge of the  
4 county in which the property was seized first review the seizure and approve the  
5 transfer to a federal agency, regardless of the identity of the seizing agency. The  
6 prosecuting attorney and the circuit judge shall not approve any transfer unless  
7 it reasonably appears the activity giving rise to the investigation or seizure  
8 involves more than one state or unless it is reasonably likely to result in federal  
9 criminal charges being filed, based upon a written statement of intent to prosecute  
10 from the United States attorney with jurisdiction. No transfer shall be made to  
11 a federal agency unless the violation would be a felony under Missouri law or  
12 federal law.

13           2. Prior to transfer, in an ex parte proceeding, the prosecuting attorney  
14 shall file with the court a statement setting forth the facts and circumstances of  
15 the event or occurrence which led to the seizure of the property and the parties  
16 involved, if known. The court shall certify the filing, and notify by mailing to the  
17 last known address of the property owner that his property is subject to being  
18 transferred to the federal government and further notify the property owner of his  
19 right to file a petition stating legitimate grounds for challenging the transfer. If  
20 within ninety-six hours after the filing of the statement by the prosecuting  
21 attorney, the property owner by petition shows by a preponderance of the  
22 evidence that the property should not be transferred to the federal government for  
23 forfeiture, the court shall delay such transfer until a hearing may be held. If the  
24 court orders a delay in transfer, no later than ten days after the filing of a petition  
25 under this section and sections 513.649 and 513.651, a hearing shall be held  
26 unless the court deems, for good cause shown, that a continuance should be  
27 granted. At the hearing, if the prosecutor has proved by a preponderance of the  
28 evidence that the investigation or seizure involved more than one state or that the  
29 nature of the investigation or seizure would be better pursued under the federal  
30 forfeiture statutes, the court shall order that the transfer shall be made.]  
31

2           [513.649. Any property seized by state or local peace or reserve officers  
3 who are detached to, deputized or commissioned by or working in conjunction  
4 with the federal agency shall remain subject to the provisions of this section and  
5 sections 513.647 and 513.651.]

2           [513.651. The moneys acquired by law enforcement agencies pursuant  
3 to this section and sections 513.647 and 513.649 shall be used only by the law  
4 enforcement agency for the investigation or prosecution of criminal activity, the  
5 execution of court orders arising from such activity, the enforcement of  
6 drug-related crimes, training, drug education, and the safety of both the citizens  
7 and law enforcement officers.]

2           [513.653. 1. Law enforcement agencies involved in using the federal  
3 forfeiture system under federal law shall be required at the end of their respective  
4 fiscal year to acquire an independent audit of the federal seizures and the  
5 proceeds received therefrom and provide this audit to their respective governing  
6 body and to the department of public safety. A copy of such audit shall be  
7 provided to the state auditor's office. This audit shall be paid for out of the  
8 proceeds of such federal forfeitures. The department of public safety shall not  
9 issue funds to any law enforcement agency that fails to comply with the  
10 provisions of this section.

11           2. Intentional or knowing failure to comply with the audit requirement  
12 contained in this section shall be a class A misdemeanor, punishable by a fine of  
up to one thousand dollars.]