

HB 920 -- Criminal Forfeitures

Sponsor: Lipke

This bill repeals the civil procedures regarding criminal activity forfeiture actions and establishes new procedures for the seizing of property tied to criminal activity. Any property used or intended to be used in the commission of a crime or the proceeds of any crime will be subject to criminal forfeiture. Property may be subject to forfeiture even though a criminal prosecution is not conducted.

The circuit court where the property seizure occurred has jurisdiction over any seized property. Law enforcement may seize any property subject to forfeiture upon the issuance of a search warrant or when there is probable cause that the property is subject to forfeiture. The seizure of inhabited residential property requires an adversarial judicial determination prior to seizure unless the prosecution can demonstrate exigent circumstances at an ex parte proceeding. Real property will not be subject to forfeiture in prosecutions for possession of controlled substances solely for personal consumption.

The owner of seized property may obtain release of the property upon posting a surety bond equal to the fair market value of the property. The court may order the seized property to be sold, leased, or operated to preserve the interests of any party.

If property subject to forfeiture is lost, transferred to a third party, moved beyond the jurisdiction of the court, commingled with other property, or subject to a legal claim by an innocent party exempt from forfeiture proceedings, the court may order the forfeiture of other property in the property owner's possession.

Forfeiture proceedings must be commenced within seven years of the activity making the property subject to forfeiture. The proceeds of the sale of forfeited property will be distributed in the following manner: satisfaction of any liens upon the property held by innocent parties; payment of all expenses of the forfeiture proceedings, including the expenses of seizure; school safety measures, such as drug eradication efforts, which cannot exceed 50% of the total proceeds of the sale; and the remainder to the schools in the county.

The bill includes procedures to allow innocent parties who have a legal claim to the property to protect their interests in the property.