

House Bill 233

Georgia Uniform Forfeiture Procedure Act

This legislation re-writes Georgia law regarding how forfeitures and "drug" money are seized, allocated and utilized. Under current law, property, money and other things of value linked to certain crimes (e.g., those related to drugs and organized crime) may be seized and a forfeiture action may be commenced by the district attorney. Depending upon the amount of assets, the court may order that the property be sold and distributed or the district attorney may institute a nonjudicial proceeding.

According to this bill, the time that law enforcement officers have to notify the district attorney's office is increased from twenty to thirty days. A new provision requires law enforcement to provide an inventory and estimated value of the property or risk having the property released to the owner or interest holder. Within sixty days, any money seized must go to the superior court clerk to be deposited in an interest-bearing account in a financial institution with a branch located in the county. The accrued interest will be distributed with the principal.

In the case of judicial forfeitures (i.e., through the superior court), the proceeds of the sale of property are paid into the registry of the court. Once the costs and expenses are paid, the court will order the pro rata distribution of the remaining funds to the law enforcement agencies and multi-jurisdictional task forces in accordance with the role that each played in the seizure of the property. Current law limits the amount that state law enforcement agencies can receive to 25%. Under this bill, there is no cap on the amount that state law enforcement agencies may receive. The district attorney's office is still entitled to up to 10% of the forfeited property but the county governing authority will no longer be required to approve the district attorney's use of the funds.

The sheriff's office or police department's pro rata share will be paid directly to the law enforcement agency. A copy of the distribution order will be provided to the board of commissioners (or other county governing authority). The bill continues the requirement that law enforcement agencies and multi-jurisdictional task forces receiving forfeiture property provide an annual report to the board of commissioners (or other county governing authority) and district attorney that lists the property received each fiscal year and explains how the property was used when the sheriff's office, police department or multijurisdictional task force makes its budget request to the county. The report is required to be on a form prepared by the Administrative Office of the Courts. If a sheriff's office, police department or multijurisdictional task force fails to provide the annual report or otherwise misuses forfeiture property, they will be unable to receive any forfeiture property for two years.

The bill retains the provisions that forfeiture money cannot be more than one-third of a law enforcement agency's budget. Forfeiture funds in excess of this amount may be used for indigent defense, drug treatment, mental health treatment, rehabilitation, prevention or education relating to problems created by drug and substance abuse, and victim-witness assistance programs.

As with current law, county commissioners cannot use forfeiture money to supplant law enforcement budgets. Law enforcement agencies may only use forfeiture money for "official law enforcement purposes," such as law enforcement equipment, training and investigative expenses. It may not be used to pay law enforcement salaries or bonuses.

This bill also prohibits a sheriff from expending any forfeiture funds if he is leaving office (not running or lost election) except for expenses for his or her office.

For More Information or Questions Contact:

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