

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1619

6 By: Worthen

7 COMMITTEE SUBSTITUTE

8 An Act relating to asset forfeiture proceedings;
9 amending 21 O.S. 2021, Section 1738, which relates to
10 the seizure and forfeiture of property used in
11 certain unlawful offenses; authorizing the
12 publication of notices on certain websites; amending
13 21 O.S. 2021, Section 2002, which relates to the
14 seizure and forfeiture of property used in unlawful
15 financial transactions; authorizing the publication
16 of notices on certain websites; amending 63 O.S.
17 2021, Section 2-506, which relates to the seizure and
18 forfeiture of property used in violations of the
19 Uniform Controlled Dangerous Substances Act;
20 authorizing the publication of notices on certain
21 websites; and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1738, is
24 amended to read as follows:

25 Section 1738. A. 1. Any commissioned peace officer of this
26 state is authorized to seize any equipment, vehicle, airplane,
27 vessel or any other conveyance that is used in the commission of any
28 armed robbery offense defined in Section 801 of this title, used to

1 facilitate the intentional discharge of any kind of firearm in
2 violation of Section 652 of this title, used in violation of the
3 Trademark Anti-Counterfeiting Act, used in the attempt or commission
4 of any act of burglary in the first or second degree, motor vehicle
5 theft, unauthorized use of a vehicle, obliteration of distinguishing
6 numbers on vehicles or criminal possession of vehicles with altered,
7 removed or obliterated numbers as defined by Sections 1431, 1435,
8 1716, 1719 and 1720 of this title or Sections 4-104 and 4-107 of
9 Title 47 of the Oklahoma Statutes, used in the commission of any
10 arson offense defined in Section 1401, 1402, 1403, 1404 or 1405 of
11 this title, used in any manner to facilitate or participate in the
12 commission of any human trafficking offense in violation of Section
13 748 of this title, or used by any defendant when such vehicle or
14 other conveyance is used in any manner by a prostitute, pimp or
15 panderer to facilitate or participate in the commission of any
16 prostitution offense in violation of Sections 1028, 1029 or 1030 of
17 this title; provided, however, that the vehicle or conveyance of a
18 customer or anyone merely procuring the services of a prostitute
19 shall not be included.

20 2. No conveyance used by a person as a common carrier in the
21 transaction of business as a common carrier shall be forfeited under
22 the provisions of this section unless it shall appear that the owner
23 or other person in charge of such conveyance was a consenting party
24

1 or privy to the unlawful use of the conveyance in violation of this
2 section.

3 3. No conveyance shall be forfeited under the provisions of
4 this section by reason of any act or omission established by the
5 owner thereof to have been committed or omitted without the
6 knowledge or consent of such owner, and if the act is committed by
7 any person other than such owner, the owner shall establish further
8 that the conveyance was unlawfully in the possession of a person
9 other than the owner in violation of the criminal laws of the United
10 States or of any state.

11 B. In addition to the property described in subsection A of
12 this section, the following property is also subject to forfeiture
13 pursuant to this section:

14 1. Property used in the commission of theft of livestock or in
15 any manner to facilitate the theft of livestock;

16 2. The proceeds gained from the commission of theft of
17 livestock;

18 3. Personal property acquired with proceeds gained from the
19 commission of theft of livestock;

20 4. All conveyances, including aircraft, vehicles or vessels,
21 and horses or dogs which are used to transport or in any manner to
22 facilitate the transportation for the purpose of the commission of
23 theft of livestock;

24

1 5. Any items having a counterfeit mark and all property that is
2 owned by or registered to the defendant that is employed or used in
3 connection with any violation of the Trademark Anti-Counterfeiting
4 Act;

5 6. Any weapon possessed, used or available for use in any
6 manner during the commission of a felony within the State of
7 Oklahoma, or any firearm that is possessed by a convicted felon;

8 7. Any police scanner used in violation of Section 1214 of this
9 title;

10 8. Any computer and its components and peripherals, including
11 but not limited to the central processing unit, monitor, keyboard,
12 printers, scanners, software, and hardware, when it is used in the
13 commission of any crime in this state;

14 9. All property used in the commission of, or in any manner to
15 facilitate, a violation of Section 1040.12a of this title;

16 10. All conveyances, including aircraft, vehicles or vessels,
17 monies, coins and currency, or other instrumentality used or
18 intended to be used, in any manner or part, to commit a violation of
19 paragraph 1 of subsection A of Section 1021 of this title, where the
20 victim of the crime is a minor child, subsection B of Section 1021
21 of this title, Section 1021.2 of this title, paragraph 1 of
22 subsection A of Section 1111 of this title, or paragraphs 2 and 3 of
23 subsection A of Section 1123 of this title;

24

1 11. All conveyances, including aircraft, vehicles or vessels,
2 monies, coins and currency, or other instrumentality used in any
3 manner or part, to commit any violation of the provisions set forth
4 in Section 748 of this title;

5 12. Any and all property used in any manner or part to
6 facilitate, participate or further the commission of a human
7 trafficking offense in violation of Section 748 of this title, and
8 all property, including monies, real estate, or any other tangible
9 assets or property of or derived from or used by a prostitute, pimp
10 or panderer in any manner or part to facilitate, participate or
11 further the commission of any prostitution offense in violation of
12 Sections 1028, 1029 or 1030 of this title; provided, however, any
13 monies, real estate or any other tangible asset or property of a
14 customer or anyone merely procuring the services of a prostitute
15 shall not be included; and

16 13. Any vehicle, airplane, vessel, or parts of a vehicle whose
17 numbers have been removed, altered or obliterated so as to prevent
18 determination of the true identity or ownership of said property and
19 parts of vehicles which probable cause indicates are stolen but
20 whose true ownership cannot be determined.

21 C. Property described in subsection A or B of this section may
22 be held as evidence until a forfeiture has been declared or a
23 release ordered. Forfeiture actions under this section may be
24 brought by the district attorney in the proper county of venue as

1 petitioner; provided, in the event the district attorney elects not
2 to file such action, or fails to file such action within ninety (90)
3 days of the date of the seizure of such equipment, the property
4 shall be returned to the owner.

5 D. Notice of seizure and intended forfeiture proceeding shall
6 be filed in the office of the clerk of the district court for the
7 county wherein such property is seized and shall be given all owners
8 and parties in interest.

9 E. Notice shall be given according to one of the following
10 methods:

11 1. Upon each owner or party in interest whose right, title, or
12 interest is of record in the Oklahoma Tax Commission or with the
13 county clerk for filings under the Uniform Commercial Code, served
14 in the manner of service of process in civil cases prescribed by
15 Section 2004 of Title 12 of the Oklahoma Statutes;

16 2. Upon each owner or party in interest whose name and address
17 is known, served in the manner of service of process in civil cases
18 prescribed by Section 2004 of Title 12 of the Oklahoma Statutes; or

19 3. Upon all other owners, whose addresses are unknown, but who
20 are believed to have an interest in the property by one publication
21 in a newspaper of general circulation in the county and on a website
22 of the state or a political subdivision of the state where the
23 seizure was made for a period of not less than twenty (20) days.
24

1 F. Within sixty (60) days after the mailing or publication of
2 the notice, the owner of the property and any other party in
3 interest or claimant may file a verified answer and claim to the
4 property described in the notice of seizure and of the intended
5 forfeiture proceeding.

6 G. If at the end of sixty (60) days after the notice has been
7 mailed or published there is no verified answer on file, the court
8 shall hear evidence upon the fact of the unlawful use and may order
9 the property forfeited to the state, if such fact is proven.

10 H. If a verified answer is filed, the forfeiture proceeding
11 shall be set for hearing.

12 I. At the hearing the petitioner shall prove by clear and
13 convincing evidence that property was used in the attempt or
14 commission of an act specified in subsection A of this section or is
15 property described in subsection B of this section with knowledge by
16 the owner of the property.

17 J. The claimant of any right, title, or interest in the
18 property may prove the lien, mortgage, or conditional sales contract
19 to be bona fide and that the right, title, or interest created by
20 the document was created without any knowledge or reason to believe
21 that the property was being, or was to be, used for the purpose
22 charged.

23 K. In the event of such proof, the court may order the property
24 released to the bona fide or innocent owner, lien holder, mortgagee,

1 or vendor if the amount due such person is equal to, or in excess
2 of, the value of the property as of the date of the seizure, it
3 being the intention of this section to forfeit only the right,
4 title, or interest of the purchaser, except for items bearing a
5 counterfeit mark or used exclusively to manufacture a counterfeit
6 mark.

7 L. If the amount due to such person is less than the value of
8 the property, or if no bona fide claim is established, the property
9 may be forfeited to the state and may be sold pursuant to judgment
10 of the court, as on sale upon execution, and as provided in Section
11 2-508 of Title 63 of the Oklahoma Statutes, except as otherwise
12 provided for by law and for property bearing a counterfeit mark
13 which shall be destroyed.

14 M. Property taken or detained pursuant to this section shall
15 not be repleviable, but shall be deemed to be in the custody of the
16 petitioner or in the custody of the law enforcement agency as
17 provided in the Trademark Anti-Counterfeiting Act. Except for
18 property required to be destroyed pursuant to the Trademark Anti-
19 Counterfeiting Act, the petitioner shall release said property to
20 the owner of the property if it is determined that the owner had no
21 knowledge of the illegal use of the property or if there is
22 insufficient evidence to sustain the burden of showing illegal use
23 of such property. If the owner of the property stipulates to the
24 forfeiture and waives the hearing, the petitioner may determine if

1 the value of the property is equal to or less than the outstanding
2 lien. If such lien exceeds the value of the property, the property
3 may be released to the lien holder. Property which has not been
4 released by the petitioner shall be subject to the orders and
5 decrees of the court or the official having jurisdiction thereof.

6 N. The petitioner, or the law enforcement agency holding
7 property pursuant to the Trademark Anti-Counterfeiting Act, shall
8 not be held civilly liable for having custody of the seized property
9 or proceeding with a forfeiture action as provided for in this
10 section.

11 O. Attorney fees shall not be assessed against the state or the
12 petitioner for any actions or proceeding pursuant to Section 1701 et
13 seq. of this title.

14 P. The proceeds of the sale of any property shall be
15 distributed as follows, in the order indicated:

16 1. To the bona fide or innocent purchaser, conditional sales
17 vendor, or mortgagee of the property, if any, up to the amount of
18 such person's interest in the property, when the court declaring the
19 forfeiture orders a distribution to such person;

20 2. To the payment of the actual reasonable expenses of
21 preserving the property;

22 3. To the victim of the crime to compensate said victim for any
23 loss incurred as a result of the act for which such property was
24 forfeited; and

1 4. The balance to a revolving fund in the office of the county
2 treasurer of the county wherein the property was seized, to be
3 distributed as follows: one-third (1/3) to the investigating law
4 enforcement agency; one-third (1/3) of said fund to be used and
5 maintained as a revolving fund by the district attorney to be used
6 to defray any lawful expenses of the office of the district
7 attorney; and one-third (1/3) to go to the jail maintenance fund,
8 with a yearly accounting to the board of county commissioners in
9 whose county the fund is established. If the petitioner is not the
10 district attorney, then the one-third (1/3) which would have been
11 designated to that office shall be distributed to the petitioner.
12 Monies distributed to the jail maintenance fund shall be used to pay
13 costs for the storage of such property if such property is ordered
14 released to a bona fide or innocent owner, lien holder, mortgagee,
15 or vendor and if such funds are available in said fund.

16 Q. If the court finds that the property was not used in the
17 attempt or commission of an act specified in subsection A of this
18 section and was not property subject to forfeiture pursuant to
19 subsection B of this section and is not property bearing a
20 counterfeit mark, the court shall order the property released to the
21 owner as the right, title, or interest appears on record in the Tax
22 Commission as of the seizure.

23 R. No vehicle, airplane, or vessel used by a person as a common
24 carrier in the transaction of business as a common carrier shall be

1 forfeited pursuant to the provisions of this section unless it shall
2 be proven that the owner or other person in charge of such
3 conveyance was a consenting party or privy to the attempt or
4 commission of an act specified in subsection A or B of this section.
5 No property shall be forfeited pursuant to the provisions of this
6 section by reason of any act or omission established by the owner
7 thereof to have been committed or omitted without the knowledge or
8 consent of such owner, and by any person other than such owner while
9 such property was unlawfully in the possession of a person other
10 than the owner in violation of the criminal laws of the United
11 States or of any state.

12 S. Whenever any property is forfeited pursuant to this section,
13 the district court having jurisdiction of the proceeding may order
14 that the forfeited property may be retained for its official use by
15 the state, county, or municipal law enforcement agency which seized
16 the property.

17 SECTION 2. AMENDATORY 21 O.S. 2021, Section 2002, is
18 amended to read as follows:

19 Section 2002. A. Any commissioned peace officer of this state
20 is authorized to seize any currency, negotiable instrument, monetary
21 instrument, equipment or property used or involved in, used to
22 facilitate, delivered from or traceable to a violation of Section
23 2001 of this title. The seized item may be held as evidence until a
24 forfeiture has been declared or a release ordered. Forfeiture

1 actions under this section may be brought by the district attorney
2 or Attorney General in the proper county of venue as petitioner;
3 provided, in the event the district attorney or Attorney General
4 elects not to file such action, or fails to file such action within
5 ninety (90) days of the date of the seizure of the item, the item
6 shall be returned to the owner.

7 B. Notice of seizure and intended forfeiture proceeding shall
8 be filed in the office of the clerk of the district court for the
9 county wherein the item is seized and shall be given all owners and
10 parties in interest.

11 C. Notice shall be given according to one of the following
12 methods:

13 1. Upon each owner, lienholder, or party in interest whose name
14 and address is known, served in the manner of service of process in
15 civil cases prescribed by Section 2004 of Title 12 of the Oklahoma
16 Statutes; or

17 2. Upon all other owners, whose addresses are unknown, but who
18 are believed to have an interest in the property by one publication
19 in a newspaper of general circulation in the county and on a website
20 of the state or a political subdivision of the state where the
21 seizure was made for a period of not less than twenty (20) days.

22 D. Within sixty (60) days after the mailing or publication of
23 the notice, the owner of the property and any other party in
24 interest or claimant may file a verified answer and claim to the

1 item described in the notice of seizure and of the intended
2 forfeiture proceeding.

3 E. If at the end of sixty (60) days after the notice has been
4 mailed or published there is no verified answer on file, the court
5 shall hear evidence upon the fact of the unlawful use and may order
6 the item forfeited to the state, if such fact is proven.

7 F. If a verified answer is filed, the forfeiture proceeding
8 shall be set for hearing.

9 G. Proceedings under this section shall be special proceedings.

10 H. At the hearing the petitioner shall prove by a preponderance
11 of the evidence that property was used in the attempt or commission
12 of an act specified in subsection A of this section with knowledge
13 by the owner of the item.

14 I. The claimant of any right, title, or interest in the item
15 may prove the lien, mortgage, or conditional sales contract to be
16 bona fide and that the right, title, or interest created by the item
17 was created without any knowledge or reason to believe that the item
18 was being, or was to be, used for the purpose charged.

19 J. In the event of such proof, the court may order the item
20 released to the bona fide or innocent owner, lienholder, mortgagee,
21 or vendor if the amount due such person is equal to, or in excess
22 of, the value of the item as of the date of the seizure, it being
23 the intention of this section to forfeit only the right, title, or
24 interest of the purchaser.

1 K. If the amount due to such person is less than the value of
2 the item, or if no bona fide claim is established, the item may be
3 forfeited to the state and may be sold pursuant to judgment of the
4 court, as on sale upon execution, and as provided in Section 2-508
5 of Title 63 of the Oklahoma Statutes, except as otherwise provided
6 for by law.

7 L. A seized item taken or detained pursuant to this section
8 shall not be repleviable, but shall be deemed to be in the custody
9 of the petitioner or in the custody of the law enforcement agency.
10 The petitioner shall release the seized item to the owner of the
11 item if it is determined that the owner had no knowledge of the
12 illegal use of the item or if there is insufficient evidence to
13 sustain the burden of showing illegal use of the item. If the owner
14 of the property stipulates to the forfeiture and waives the hearing,
15 the petitioner may determine if the value of the item is equal to or
16 less than the outstanding lien. If such lien exceeds the value of
17 the item, the item may be released to the lienholder. A seized item
18 which has not been released by the petitioner shall be subject to
19 the orders and decrees of the court or the official having
20 jurisdiction thereof.

21 M. Attorney fees shall not be assessed against the state or the
22 petitioner for any actions or proceeding pursuant to this section.

23 N. The proceeds of the sale of any property shall be
24 distributed as follows, in the order indicated:

1 1. To the bona fide or innocent purchaser, conditional sales
2 vendor, or mortgagee of the item, if any, up to the amount of the
3 interest of that person in the property, when the court declaring
4 the forfeiture orders a distribution to such person;

5 2. To the payment of the actual reasonable expenses of
6 preserving the item;

7 3. To the victim of the crime to compensate the victim for any
8 loss incurred as a result of the act for which the item was
9 forfeited; and

10 4. The balance to a revolving fund in the office of the county
11 treasurer of the county wherein the property was seized, to be
12 distributed as follows: one-half (1/2) to the investigating law
13 enforcement agency and one-half (1/2) to the district attorney to be
14 used to defray any lawful expenses of the office of the district
15 attorney. If the petitioner is not the district attorney, then the
16 one-half (1/2) which would have been designated to that office shall
17 be distributed to the petitioner.

18 O. If the court finds that the item was not used in the attempt
19 or commission of an act specified in subsection A of this section
20 and was not an item subject to forfeiture pursuant to subsection B
21 of this section, the court shall order the item released to the
22 owner as the right, title, or interest as determined by the court.

23 P. No vehicle, airplane, or vessel used by a person as a common
24 carrier in the transaction of business as a common carrier shall be

1 forfeited pursuant to the provisions of this section unless it shall
2 be proven that the owner or other person in charge of such
3 conveyance was a consenting party or privy to the attempt or
4 commission of an act specified in subsection A or B of this section.
5 No item shall be forfeited pursuant to the provisions of this
6 section by reason of any act or omission established by the owner
7 thereof to have been committed or omitted without the knowledge or
8 consent of such owner, and by any person other than such owner while
9 the item was unlawfully in the possession of a person other than the
10 owner in violation of the criminal laws of the United States or of
11 any state.

12 Q. Whenever any item is forfeited pursuant to this section, the
13 district court having jurisdiction of the proceeding may order that
14 the forfeited item may be retained for its official use by the
15 state, county, or municipal law enforcement agency which seized the
16 item.

17 SECTION 3. AMENDATORY 63 O.S. 2021, Section 2-506, is
18 amended to read as follows:

19 Section 2-506. A. Any peace officer of this state shall seize
20 the following property:

21 1. Any property described in subsection A of Section 2-503 of
22 this title. Such property shall be held as evidence until a
23 forfeiture has been declared or release ordered, except for property
24 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503

1 of this title, or in the case of money, coins, and currency,
2 deposited as provided in subsection E of Section 2-503 of this
3 title; provided, any money, coins and currency taken or detained
4 pursuant to this section may be deposited in an interest-bearing
5 account by or at the direction of the district attorney in the
6 office of the county treasurer if the district attorney determines
7 the currency is not to be held as evidence. All interest earned on
8 such monies shall be returned to the claimant or forfeited with the
9 money, coins and currency which was taken or detained as provided by
10 law;

11 2. Any property described in subsection B of Section 2-503 of
12 this title; or

13 3. Any property described in subsection C of Section 2-503 of
14 this title.

15 B. Notice of seizure and intended forfeiture proceeding shall
16 be filed in the office of the clerk of the district court for the
17 county wherein such property is seized and shall be given all owners
18 and parties in interest. Notwithstanding any other provision of
19 law, no filing fees shall be assessed by the court clerk for the
20 filing of any forfeiture action.

21 C. Notice shall be given by the agency seeking forfeiture
22 according to one of the following methods:

23 1. Upon each owner or party in interest whose right, title or
24 interest is of record in the Tax Commission, by mailing a copy of

1 the notice by certified mail to the address as given upon the
2 records of the Tax Commission;

3 2. Upon each owner or party in interest whose name and address
4 is known to the attorney in the office of the agency prosecuting the
5 action to recover unpaid fines, by mailing a copy of the notice by
6 registered mail to the last-known address; or

7 3. Upon all other owners or interested parties, whose addresses
8 are unknown, but who are believed to have an interest in the
9 property, by one publication in a newspaper of general circulation
10 in the county and on a website of the state or a political
11 subdivision of the state where the seizure was made for a period of
12 not less than twenty (20) days.

13 D. Within forty-five (45) days after the mailing or publication
14 of the notice, the owner of the property and any other party in
15 interest or claimant may file a verified answer and claim to the
16 property described in the notice of seizure and of the intended
17 forfeiture proceeding.

18 E. If at the end of forty-five (45) days after the notice has
19 been mailed or published there is no verified answer on file, the
20 court shall hear evidence upon the fact of the unlawful use and
21 shall order the property forfeited to the state, if such fact is
22 proved. Except as otherwise provided for in Section 2-503 of this
23 title, any such property shall be forfeited to the state and sold

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1 under judgment of the court pursuant to the provisions of Section 2-
2 508 of this title.

3 F. If a verified answer is filed, the forfeiture proceeding
4 shall be set for hearing.

5 G. At a hearing in a proceeding against property described in
6 paragraphs 3 through 9 of subsection A or subsections B and C of
7 Section 2-503 of this title, the requirements set forth in said
8 paragraph or subsection, respectively, shall be satisfied by the
9 state by a preponderance of the evidence.

10 H. The claimant of any right, title, or interest in the
11 property may prove a lien, mortgage, or conditional sales contract
12 to be a bona fide or innocent ownership interest and that such
13 right, title, or interest was created without any knowledge or
14 reason to believe that the property was being, or was to be, used
15 for the purpose charged.

16 I. In the event of such proof, the court shall order the
17 property released to the bona fide or innocent owner, lien holder,
18 mortgagee or vendor if the amount due him is equal to, or in excess
19 of, the value of the property as of the date of the seizure, it
20 being the intention of this section to forfeit only the right, title
21 or interest of the purchaser.

22 J. If the amount due to such person is less than the value of
23 the property, or if no bona fide claim is established, the property
24 shall be forfeited to the state and sold under judgment of the

1 court, as provided for in Section 2-508 of this title, except as
2 otherwise provided for in Section 2-503 of this title.

3 K. Property taken or detained under this section shall not be
4 repleviable, but shall be deemed to be in the custody of the office
5 of the district attorney of the county wherein the property was
6 seized, subject only to the orders and decrees of the court or the
7 official having jurisdiction thereof; said official shall maintain a
8 true and accurate inventory and record of all such property seized
9 under the provisions of this section. The provisions of this
10 subsection shall not apply to property taken or detained by the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
12 Department of Public Safety, the Oklahoma State Bureau of
13 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
14 the Department of Corrections or the Office of the Attorney General.
15 Property taken or detained by the Oklahoma State Bureau of Narcotics
16 and Dangerous Drugs Control, the Department of Public Safety, the
17 Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws
18 Enforcement Commission, the Department of Corrections or the Office
19 of the Attorney General shall be subject to the provisions of
20 subsections E and F of Section 2-503 of this title.

21 L. The proceeds of the sale of any property not taken or
22 detained by the Oklahoma State Bureau of Narcotics and Dangerous
23 Drugs Control, the Department of Public Safety, the Oklahoma State
24 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement

1 Commission, the Department of Corrections or the Office of the
2 Attorney General shall be distributed as follows, in the order
3 indicated:

4 1. To the bona fide or innocent purchaser, conditional sales
5 vendor or mortgagee of the property, if any, up to the amount of his
6 or her interest in the property, when the court declaring the
7 forfeiture orders a distribution to such person;

8 2. To the payment of the actual expenses of preserving the
9 property and legitimate costs related to the civil forfeiture
10 proceedings. For purposes of this paragraph, the term "legitimate
11 costs" shall not include court costs associated with any civil
12 forfeiture proceeding; and

13 3. The balance to a revolving fund in the office of the county
14 treasurer of the county wherein the property was seized, said fund
15 to be used as a revolving fund solely for enforcement of controlled
16 dangerous substances laws, drug abuse prevention and drug abuse
17 education, and maintained by the district attorney in his or her
18 discretion for those purposes with a yearly accounting to the board
19 of county commissioners in whose county the fund is established and
20 to the District Attorneys Council; provided, one hundred percent
21 (100%) of the balance of the proceeds of such sale of property
22 forfeited due to nonpayment of a fine imposed pursuant to the
23 provisions of Section 2-415 of this title shall be apportioned as
24 provided in Section 2-416 of this title. The revolving fund shall

1 be audited by the State Auditor and Inspector at least every two (2)
2 years in the manner provided in Section 171 of Title 19 of the
3 Oklahoma Statutes. Said audit shall include, but not be limited to,
4 a compliance audit. A district attorney may enter into agreements
5 with municipal, tribal, county or state agencies to return to such
6 an agency a percentage of proceeds of the sale of any property
7 seized by the agency and forfeited under the provisions of this
8 section. The District Attorneys Council shall adopt guidelines
9 which ensure that such agencies receive a reasonable percentage of
10 such proceeds, considering the relative contribution of each agency
11 to the drug enforcement and prosecution operations relating to the
12 seizure. In formulating said guidelines, the District Attorneys
13 Council shall examine federal guidelines on asset distribution and
14 use said guidelines as a basis for establishing guidelines for this
15 state. The Attorney General is hereby authorized to mediate
16 disputes between district attorneys and such agencies concerning the
17 application of said guidelines in particular instances. Any agency
18 that receives proceeds from an asset distribution shall maintain a
19 true and accurate record of all such assets.

20 M. Whenever any vehicle, airplane or vessel is forfeited under
21 the Uniform Controlled Dangerous Substances Act, the district court
22 of jurisdiction may order that the vehicle, airplane or vessel
23 seized may be retained by the state, county or city law enforcement
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1 agency which seized the vehicle, airplane or vessel for its official
2 use.

3 N. If the court finds that the state failed to satisfy the
4 required showing provided for in subsection G of this section, the
5 court shall order the property released to the owner or owners.

6 O. Except as provided for in subsection Q of this section, a
7 bona fide or innocent owner, lien holder, mortgagee or vendor that
8 recovers property pursuant to this section shall not be liable for
9 storage fees.

10 P. Except as provided for in subsection Q of this section,
11 storage fees shall be paid by the agency which is processing the
12 seizure and forfeiture from funds generated by seizure and
13 forfeiture actions.

14 Q. The bona fide or innocent owner, lien holder, mortgagee or
15 vendor shall reclaim subject seized property within thirty (30) days
16 of written notice from the seizing agency. If such person fails to
17 reclaim the property within the thirty-day time period, then storage
18 fees may be assessed against their secured interest.

19 R. 1. At any hearing held relevant to this section, a report
20 of the findings of the laboratory of the Oklahoma State Bureau of
21 Investigation, the medical examiner's report of investigation or
22 autopsy report, or a laboratory report from a forensic laboratory
23 operated by the State of Oklahoma or any political subdivision
24 thereof, which has been made available to the accused by the office

1 of the district attorney or other party to the forfeiture at least
2 five (5) days prior to the hearing, with reference to all or part of
3 the evidence submitted, when certified as correct by the persons
4 making the report shall be received as evidence of the facts and
5 findings stated, if relevant and otherwise admissible in evidence.
6 If such report is deemed relevant by the forfeiture applicant or the
7 respondent, the court shall admit such report without the testimony
8 of the person making the report, unless the court, pursuant to this
9 subsection, orders such person to appear.

10 2. When any alleged controlled dangerous substance has been
11 submitted to the laboratory of the OSBI for analysis, and such
12 analysis shows that the submitted material is a controlled dangerous
13 substance, the distribution of which constitutes a felony under the
14 laws of this state, no portion of such substance shall be released
15 to any other person or laboratory except to the criminal justice
16 agency originally submitting the substance to the OSBI for analysis,
17 absent an order of a district court. The defendant shall
18 additionally be required to submit to the court a procedure for
19 transfer and analysis of the subject material to ensure the
20 integrity of the sample and to prevent the material from being used
21 in any illegal manner.

22 3. The court, upon motion of either party, shall order the
23 attendance of any person preparing a report submitted as evidence in
24 the hearing when it appears there is a substantial likelihood that

1 material evidence not contained in said report may be produced by
2 the testimony of any person having prepared a report. The hearing
3 shall be held and, if sustained, an order issued not less than five
4 (5) days prior to the time when the testimony shall be required.

5 4. If within five (5) days prior to the hearing or during a
6 hearing, a motion is made pursuant to this section requiring a
7 person having prepared a report to testify, the court may hear a
8 report or other evidence but shall continue the hearing until such
9 time notice of the motion and hearing is given to the person making
10 the report, the motion is heard, and, if sustained, the testimony
11 ordered can be given.

12 S. In any forfeiture proceeding under this chapter in which the
13 defendant or claimant prevails, the court may order the plaintiff
14 processing the seizure and forfeiture to pay from funds generated by
15 seizure and forfeiture actions:

16 1. Reasonable attorney fees and other litigation costs
17 reasonably incurred by the defendant or claimant directly related to
18 the claim on which the defendant or claimant prevailed;

19 2. Postjudgment interest; and

20 3. In cases involving currency or other negotiable instruments:

21 a. interest actually paid to the state from the date of
22 seizure or arrest of the property that resulted from
23 the investment of the property in an interest-bearing
24 account or instrument, and

1 b. an imputed amount of interest that such currency,
2 instruments, or proceeds would have earned at the rate
3 applicable to the thirty-day Treasury Bill, for any
4 period during which no interest was paid, not
5 including any period when the property reasonably was
6 in use as evidence in an official proceeding or in
7 conducting scientific tests for the purpose of
8 collecting evidence, commencing fifteen (15) days
9 after the property was seized by a law enforcement
10 agency or was turned over to a law enforcement agency
11 by a federal law enforcement authority.

12 SECTION 4. This act shall become effective November 1, 2023.

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14 59-1-7809 MJ 02/28/23
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