

## CHAPTER 307

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**CRIMINAL LAW AND PROCEDURE**

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## HOUSE BILL 18-1020

BY REPRESENTATIVE(S) Herod, Bridges, Buckner, Coleman, Danielson, Foote, Hamner, Hooton, Kennedy, Kraft-Tharp, Lontine, Melton, Michaelson Jenet, Pettersen, Roberts, Salazar, Singer, Winter, Young, Duran;  
also SENATOR(S) Kagan and Gardner, Guzman, Tate.

**AN ACT**

**CONCERNING CIVIL FORFEITURE REFORM, AND, IN CONNECTION THEREWITH, CHANGING THE ENTITY REQUIRED TO REPORT ON FORFEITURES, EXPANDING THE SCOPE OF THE FORFEITURES TO BE REPORTED, ESTABLISHING GRANT PROGRAMS, CHANGING THE DISBURSEMENT OF NET FORFEITURE PROCEEDS, AND MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 16-13-701, **amend** (2)(c), (3)(c), (3)(d), (4)(a) introductory portion, (4)(b), (4)(c), (5)(a) introductory portion, (5)(a)(I), (5)(b) introductory portion, (5)(b)(II), (6)(a), (6)(b), (7)(a), (7)(b), and (7)(c); and **add** (3)(e) as follows:

**16-13-701. Reports related to seizures and forfeitures - legislative declaration - definitions.** (2) As used in this section, unless the context otherwise requires:

~~(c) "Seizing agency" has the same meaning as defined in section 16-13-301 (2.7). "REPORTING AGENCY" MEANS:~~

(I) ANY STATE OR LOCAL GOVERNMENT ENTITY THAT EMPLOYS A PERSON, OTHER THAN A JUDGE OR MAGISTRATE, WHO IS AUTHORIZED TO EFFECTUATE A FORFEITURE OF REAL OR PERSONAL PROPERTY, PURSUANT TO:

- (A) PART 3 OF THIS ARTICLE 13, ABATEMENT OF PUBLIC NUISANCE;
- (B) PART 5 OF THIS ARTICLE 13, "COLORADO CONTRABAND FORFEITURE ACT";
- (C) PART 6 OF THIS ARTICLE 13, RECEIPT OF FEDERALLY FORFEITED PROPERTY; OR

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(D) SECTIONS 18-17-105 AND 18-17-106 OF THE "COLORADO ORGANIZED CRIME CONTROL ACT"; OR

(II) THE OFFICE OF A DISTRICT ATTORNEY; OR

(III) ANY LOCAL GOVERNMENTAL ENTITY CHARGED WITH ENFORCEMENT OF LOCAL LAWS OR ORDINANCES GOVERNING PUBLIC NUISANCES WITHIN ITS LOCAL JURISDICTION THAT OBTAINS PROCEEDS AS A RESULT OF A SEIZURE AND FORFEITURE PURSUANT TO SUCH LAWS OR ORDINANCES.

(3) This section applies to property seized under the following:

(c) Part 6 of this article 13, receipt of federally forfeited property; ~~and~~

(d) Sections 18-17-105 and 18-17-106 of the "Colorado Organized Crime Control Act"; AND

(e) ANY LOCAL PUBLIC NUISANCE LAW OR ORDINANCE.

(4) (a) The executive director shall establish, maintain, and amend as necessary and post on the department's website a biannual reporting form for use by ~~seizing~~ REPORTING agencies to report the information required by subsection (5) of this section. Each ~~seizing~~ REPORTING agency that received any forfeiture proceeds through ~~either~~ a state, ~~or~~ federal, OR LOCAL forfeiture process within the reporting period shall complete a form on the department's website for that reporting period. In creating the form, the executive director shall consider the input from the following:

(b) If a ~~seizing~~ REPORTING agency has not received any forfeiture proceeds during a reporting period, it shall submit a report indicating that no forfeiture proceeds were received.

(c) On or before December 31, 2017, the executive director shall provide access to the uniform report form developed pursuant to subsection (4)(a) of this section for ~~seizing~~ REPORTING agencies to file or update information as required by this section.

(5) Based upon the information received on the forms submitted pursuant to subsection (4) of this section, the department shall establish and maintain a searchable, public access database that includes the following, if known at the time of reporting:

(a) Information from each case in which ~~an~~ A REPORTING agency received any forfeiture proceeds specifying:

(I) The name of the ~~seizing~~ REPORTING agency and, if seized by a multijurisdictional task force, the name of the lead agency;

(b) Information from each ~~seizing~~ REPORTING agency on the use of forfeiture proceeds reported pursuant to this section including:

(II) The total value of seized and forfeited property held by the ~~seizing~~ REPORTING agency at the end of the reporting period.

(6) The department shall also post on the website a summary of information received pursuant to subsection (4) of this section that, to the extent available for the reporting period, describes:

(a) The total number of forfeiture actions initiated or administered by each ~~seizing~~ REPORTING agency;

(b) The total number of federal judicial or administrative forfeiture actions initiated by a multijurisdictional task force including a federal agency or referred by a ~~seizing~~ REPORTING agency and accepted by the federal government for forfeiture under federal law;

(7) (a) Each ~~seizing~~ REPORTING agency, including any district attorney or other prosecutor, that receives or expends forfeiture-related money or property shall submit a report with all the information required pursuant to subsection (5) of this section that is known to the agency at the time of the report on the form developed pursuant to subsection (4)(a) of this section. Commencing July 1, 2017, for the reporting period between July 1 and December 31 of each year, the ~~seizing~~ REPORTING agency shall file the report by June 1 of the following calendar year. For the reporting period between January 1 and June 30, the ~~seizing~~ REPORTING agency shall file the report by December 1 of that calendar year. If a ~~seizing~~ REPORTING agency has previously filed a report, but for the reporting period it has not received or expended any forfeiture proceeds, it shall submit a report indicating that fact.

(b) Notwithstanding the provisions of this section, if the reporting of any information required by subsection (5) of this section is likely to disclose the identity of a confidential source; disclose confidential investigative or prosecution material that could endanger the life or physical safety of any person; disclose the existence of a confidential surveillance or investigation; or disclose techniques or procedures for law enforcement procedures, investigation, or prosecutions, the ~~seizing~~ REPORTING agency is not required to include such information in the report developed pursuant to subsection (4)(a) of this section. The executive director shall include in the form developed pursuant to subsection (4)(a) of this section a box for a ~~seizing~~ REPORTING agency to check if it is not disclosing information pursuant to this subsection (7)(b).

(c) If a ~~seizing~~ REPORTING agency fails to file a report required by subsection (7)(a) of this section within thirty days after the date the report is due, the executive director shall send notice of the failure to the ~~seizing~~ REPORTING agency. If the report:

(I) Is filed within forty-five days after the notice of failure is sent, the ~~seizing~~ REPORTING agency shall pay a civil fine of five hundred dollars; or

(II) Is not filed within forty-five days after the notice of failure is sent, the ~~seizing~~ REPORTING agency shall pay a civil fine of the greater of five hundred dollars or an amount equal to fifty percent of the forfeiture proceeds received by the ~~seizing~~ REPORTING agency during the reporting period.

**SECTION 2.** In Colorado Revised Statutes, **add** 24-33.5-522 as follows:

**24-33.5-522. Law enforcement assistance grant program - reports.**

(1) (a) THERE IS CREATED IN THE DIVISION THE LAW ENFORCEMENT ASSISTANCE GRANT PROGRAM, REFERRED TO IN THIS SECTION AS THE "GRANT PROGRAM", TO AWARD GRANTS TO SEIZING AGENCIES, AS DEFINED IN SECTION 16-13-301 (2.7), TO REIMBURSE THEM FOR MONEY THAT THE AGENCY WOULD HAVE RECEIVED EXCEPT FOR SECTION 16-13-306.5 OR 16-13-504.5. THE DIVISION SHALL ADMINISTER THE GRANT PROGRAM PURSUANT TO THIS SECTION. SUBJECT TO AVAILABLE APPROPRIATIONS, THE DIVISION SHALL MAKE GRANT PAYMENTS FROM MONEY APPROPRIATED TO THE DIVISION BY THE GENERAL ASSEMBLY FOR THE PROGRAM.

(b) THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, SHALL:

(I) DEVELOP POLICIES AND PROCEDURES:

(A) FOR SEIZING AGENCIES TO APPLY FOR GRANTS UP TO THE AMOUNT OF MONEY THAT THE AGENCY CAN ESTABLISH THAT IT WOULD HAVE RECEIVED EXCEPT FOR SECTION 16-13-306.5 OR 16-13-504.5;

(B) RELATED TO HOW MONEY IS DISBURSED TO SEIZING AGENCIES;

(C) RELATED TO HOW MONEY IS ALLOCATED AMONG SEIZING AGENCIES;

(D) TO ENSURE THAT GRANT MONEY IS ONLY USED FOR OPERATIONS AND INVESTIGATIONS, TRAINING AND EDUCATION, EQUIPMENT AND SUPPLIES, JOINT LAW ENFORCEMENT AND PUBLIC SAFETY OPERATIONS, SUPPORT OF COMMUNITY-BASED PROGRAMS, OR ANY OTHER PURPOSE THAT WOULD HAVE BEEN PERMISSIBLE UNDER FEDERAL EQUITABLE SHARING GUIDELINES; AND

(E) TO ENSURE THAT GRANT MONEY BE USED ONLY TO SUPPLEMENT AND NOT SUPPLANT MONEY RECEIVED BY THE SEIZING AGENCY FROM OTHER SOURCES.

(II) REVIEW APPLICATIONS FOR GRANTS FROM SEIZING AGENCIES; AND

(III) SELECT SEIZING AGENCIES TO RECEIVE GRANTS AND THE AMOUNT OF THE GRANTS.

(c) ANY UNEXPENDED AND UNENCUMBERED MONEY FROM AN APPROPRIATION MADE FOR THE PURPOSES OF THIS SECTION REMAINS AVAILABLE FOR EXPENDITURE BY THE DIVISION IN THE NEXT FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

(d) ON OR BEFORE AUGUST 1, 2019, AND EACH AUGUST 1 THEREAFTER, EACH LOCAL LAW ENFORCEMENT AGENCY THAT RECEIVES A GRANT SHALL PROVIDE A FINAL REPORT TO THE DIVISION DESCRIBING HOW THE GRANT FUNDS WERE UTILIZED. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), ON OR BEFORE OCTOBER 1, 2019, AND EACH OCTOBER 1 THEREAFTER, THE DIVISION SHALL SUBMIT A SUMMARY OF THE REPORTS TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY SUCCESSOR COMMITTEES.

**SECTION 3.** In Colorado Revised Statutes, **add** 24-32-124 as follows:

**24-32-124. Law enforcement community services grant program - committee - policies and procedures - fund - rules - report - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMMITTEE" MEANS THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM COMMITTEE ESTABLISHED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION.

(b) "DIVISION" MEANS THE DIVISION OF LOCAL GOVERNMENT CREATED PURSUANT TO SECTION 24-32-103.

(c) "ELIGIBLE RECIPIENT" MEANS A LAW ENFORCEMENT AGENCY OR A GROUP OF COUNTY OR MUNICIPAL ENTITIES OR COMMUNITY ORGANIZATIONS, SO LONG AS ONE OF THE AGENCIES OR ENTITIES IS A LAW ENFORCEMENT AGENCY.

(d) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS.

(e) "LAW ENFORCEMENT AGENCY" MEANS A COUNTY SHERIFF'S OFFICE, MUNICIPAL POLICE FORCE, THE COLORADO STATE PATROL, OR THE COLORADO BUREAU OF INVESTIGATION.

(f) "PROGRAM" MEANS THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM CREATED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(2)(a) THERE IS CREATED IN THE DIVISION THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM TO PROVIDE GRANTS TO LAW ENFORCEMENT AGENCIES, LOCAL GOVERNMENT ENTITIES, AND COMMUNITY ORGANIZATIONS TO IMPROVE SERVICES TO THE COMMUNITIES THROUGH COMMUNITY POLICING AND OUTREACH; DRUG INTERVENTION, PREVENTION, TREATMENT, AND RECOVERY; TECHNOLOGY; TRAINING; AND OTHER COMMUNITY SERVICES.

(b) THE DIVISION SHALL ADMINISTER THE PROGRAM AND, SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL AWARD GRANTS AS PROVIDED IN THIS SECTION. SUBJECT TO AVAILABLE APPROPRIATIONS, GRANTS SHALL BE PAID OUT OF THE FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(c) THE EXECUTIVE DIRECTOR SHALL DEVELOP SUCH POLICIES AND PROCEDURES AS ARE REQUIRED IN THIS SECTION AND SUCH ADDITIONAL POLICIES AND PROCEDURES AS MAY BE NECESSARY TO IMPLEMENT THE PROGRAM. AT A MINIMUM, THE POLICIES AND PROCEDURES MUST SPECIFY THE TIME FRAMES FOR APPLYING FOR GRANTS, THE FORM OF THE GRANT APPLICATION, THE TIME FRAMES FOR DISTRIBUTING GRANT MONEY, AND CRITERIA TO BE USED IN AWARDING AND DENYING GRANTS. THE EXECUTIVE DIRECTOR SHALL DETERMINE THE RECIPIENTS OF GRANTS AND THE AMOUNT OF EACH GRANT.

(3)(a) THERE IS CREATED IN THE DIVISION THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM COMMITTEE TO MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR ON THE POLICIES AND PROCEDURES DEVELOPED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, REVIEW GRANT APPLICATIONS, AND RECOMMEND WHICH GRANTS SHOULD BE APPROVED. THE COMMITTEE CONSISTS OF

THE FOLLOWING MEMBERS:

(I) A REPRESENTATIVE OF THE DEPARTMENT OF LOCAL AFFAIRS APPOINTED BY THE EXECUTIVE DIRECTOR WHO SHALL CHAIR THE COMMITTEE;

(II) A REPRESENTATIVE OF THE DEPARTMENT OF PUBLIC SAFETY APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY;

(III) A REPRESENTATIVE OF THE DEPARTMENT OF LAW APPOINTED BY THE ATTORNEY GENERAL;

(IV) THE FOLLOWING PERSONS APPOINTED BY THE GOVERNOR:

(A) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF DISTRICT ATTORNEYS;

(B) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF COUNTY SHERIFFS;

(C) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF CHIEFS OF POLICE;

(D) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF LAW ENFORCEMENT OFFICERS;

(E) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF COUNTIES;

(F) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF MUNICIPALITIES;

(G) A REPRESENTATIVE OF A DRUG TREATMENT PROVIDER;

(H) A REPRESENTATIVE OF A NONPROFIT ORGANIZATION THAT ADVOCATES FOR CIVIL LIBERTIES; AND

(I) FOUR ADDITIONAL MEMBERS WHO ARE NOT MEMBERS OF ANY OF THE ENTITIES DESCRIBED IN SUBSECTIONS (2)(b)(IV)(A) TO (2)(b)(IV)(H) OF THIS SECTION, BUT WHO REPRESENT COMMUNITY ORGANIZATIONS THAT PROVIDE SERVICES TO THE COMMUNITY AND REPRESENT THE DIVERSE GEOGRAPHIC AREAS AND THE ETHNIC AND RACIAL DIVERSITY AND GENDER BALANCE WITHIN THE STATE;

(V) A MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(VI) A MEMBER OF THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

(b) THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (3)(a)(IV) OF THIS SECTION SERVE TERMS OF FOUR YEARS; EXCEPT THAT THE MEMBERS FIRST APPOINTED PURSUANT TO SUBSECTIONS (3)(a)(IV)(A), (3)(a)(IV)(C), (3)(a)(IV)(E), AND (3)(a)(IV)(G) SHALL SERVE TERMS OF TWO YEARS; AND THE MEMBERS FIRST APPOINTED PURSUANT TO SUBSECTIONS (3)(a)(IV)(B), (3)(a)(IV)(D), (3)(a)(IV)(F), AND (3)(a)(IV)(H) SHALL SERVE TERMS OF THREE YEARS.

(c) EXCEPT FOR THE LEGISLATIVE MEMBERS, MEMBERS OF THE COMMITTEE DO

NOT RECEIVE COMPENSATION OR REIMBURSEMENT FOR EXPENSES INCURRED FOR SERVING ON THE COMMITTEE.

(4) TO RECEIVE A GRANT, AN ELIGIBLE RECIPIENT MUST SUBMIT AN APPLICATION TO THE DIVISION IN ACCORDANCE WITH POLICIES AND PROCEDURES DEVELOPED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION.

(5) (a) THE DIVISION MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. THE DIVISION SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM FUND CREATED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION.

(b) THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND PURSUANT TO SECTION 16-13-311, ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND, AND ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE DIVISION. SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE DIVISION MAY ONLY EXPEND MONEY FROM THE FUND FOR THE GRANTS AWARDED PURSUANT TO THIS SECTION AND FOR UP TO FIVE PERCENT OF THE MONEY IN THE FUND FOR THE DIRECT AND INDIRECT COSTS INCURRED IN ADMINISTERING THE PROGRAM. ANY UNEXPENDED AND UNENCUMBERED MONEY FROM AN APPROPRIATION MADE FOR THE PURPOSES OF THIS SECTION REMAINS AVAILABLE FOR EXPENDITURE BY THE DIVISION IN THE NEXT FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

(c) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(6) ON AND AFTER DECEMBER 1, 2019, THE DEPARTMENT OF LOCAL AFFAIRS SHALL INCLUDE A SUMMARIZED REPORT OF THE ACTIVITIES OF THE PROGRAM IN THE DEPARTMENT'S ANNUAL PRESENTATION TO THE COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORTING REQUIREMENTS SET FORTH IN THIS SECTION CONTINUE INDEFINITELY.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DIVISION IS NOT REQUIRED TO IMPLEMENT THE PROGRAM UNTIL SUFFICIENT FUNDS ARE RECEIVED IN THE FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

**SECTION 4.** In Colorado Revised Statutes, 16-13-311, **amend** (3)(a) introductory portion and (3)(a)(VII) as follows:

**16-13-311. Disposition of seized personal property.** (3) (a) If the prosecution prevails in the forfeiture action, the court shall order the property forfeited. Such order ~~shall perfect~~ PERFECTS the state's right and interest in and title to such property and ~~shall relate~~ RELATES back to the date when title to the property vested in the state pursuant to section 16-13-316. Except as otherwise provided in subsection

(3)(c) of this section, the court shall also order such property to be sold at a public sale by the law enforcement agency in possession of the property in the manner provided for sales on execution, or in another commercially reasonable manner. Property forfeited pursuant to this section or proceeds therefrom ~~shall~~ MUST be distributed or applied in the following order:

(VII) The balance shall be delivered, upon order of the court, as follows:

(A) Fifty percent to the general fund of the governmental body or bodies with budgetary authority over the seizing agency for public safety purposes or, if the seizing agency was a multijurisdictional task force, fifty percent to be distributed in accordance with the appropriate intergovernmental agreement; ~~and~~

(B) ~~The remaining amount~~ TWENTY-FIVE PERCENT to the managed service organization contracting with the office of behavioral health in the department of human services serving the judicial district where the forfeiture proceeding was prosecuted to fund detoxification and substance use disorder treatment. Money appropriated to the managed service organization must be in addition to, and not be used to supplant, other funding appropriated to the office of behavioral health; ~~AND~~

(C) TWENTY-FIVE PERCENT TO THE LAW ENFORCEMENT COMMUNITY SERVICES GRANT PROGRAM FUND, CREATED PURSUANT TO SECTION 24-32-124 (5).

**SECTION 5. Appropriation.** For the 2018-19 state fiscal year, \$1,487,821 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the marijuana tax cash fund created in section 39-28.8-501 (1), C.R.S., and is based on an assumption that the division will require an additional 0.8 FTE. To implement this act, the division may use this appropriation for the law enforcement assistance grant program.

**SECTION 6. Act subject to petition - effective date - applicability.** (1) This act takes effect September 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 4 of this act applies to court orders entered on and after the applicable effective date of this act.

Approved: May 29, 2018