

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 24-0464.01 Jerry Barry x4341

HOUSE BILL 24-1023

HOUSE SPONSORSHIP

DeGraaf,

SENATE SPONSORSHIP

Baisley,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CIVIL FORFEITURES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes the following changes to forfeiture actions:

- A forfeiture order must not be entered unless:
 - The civil complaint is filed within 90 days after the property is seized; and
 - The plaintiff establishes that the seized property is an instrumentality of, or proceeds derived directly from, the crime for which the owner is convicted;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- When feasible, the court hearing the criminal proceeding also hears the civil forfeiture action;
- All proceedings in the forfeiture action are stayed until a criminal conviction is obtained;
- Any party to a forfeiture action may appeal an order concerning disposition of seized property except the defendant in the criminal action, who may only appeal after the final judgment;
- A forfeiture order must not be entered until there is a criminal conviction, unless a specified exception is met;
- Any person with an interest in the seized property may request a prompt post-seizure hearing within 14 days after the seizure; and
- 25% of the proceeds of a forfeiture are deposited in a new forfeiture defense fund created in the bill rather than the law enforcement community services grant program fund.

The bill also authorizes the judge in a forfeiture proceeding to appoint an attorney to represent an indigent owner of an interest in seized property. Fees and costs of the appointed attorney may be charged against other parties to the proceeding or may come from the new forfeiture defense fund if a party is indigent.

The bill prohibits a Colorado law enforcement agency from transferring seized property to a federal agency for forfeiture unless the Colorado law enforcement agency is part of a joint task force with the federal government, and then only if the seized property includes at least \$50,000 in U.S. currency.

The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-13-307, **amend**
3 (1.5), (1.6), and (3.5); **repeal** (1.7)(a), (1.7)(b), (1.7)(c), and (1.7)(d); and
4 **add** (1.7)(g) as follows:

5 **16-13-307. Jurisdiction - venue - parties - process.** (1.5) (a) ~~No~~
6 A judgment of forfeiture of property in any forfeiture proceeding ~~shall~~
7 MUST NOT be entered unless: ~~and until~~

8 (I) EXCEPT AS PROVIDED IN SUBSECTION (3.5) OF THIS SECTION,
9 THE PLAINTIFF FILES A CIVIL COMPLAINT AGAINST THE PROPERTY WITHIN
10 NINETY DAYS AFTER THE SEIZURE OF THE PROPERTY;

1 (II) An owner of the property is convicted of an offense listed in
2 section 16-13-301 or 16-13-303, or a lesser included offense of an
3 eligible offense if the conviction is the result of a negotiated guilty plea;
4 AND

5 (III) THE PLAINTIFF IN THE FORFEITURE ACTION ESTABLISHES BY
6 A PREPONDERANCE OF THE EVIDENCE THAT THE SEIZED PROPERTY IS AN
7 INSTRUMENTALITY OF, OR PROCEEDS DERIVED DIRECTLY FROM, THE CRIME
8 FOR WHICH THE OWNER IS CONVICTED.

9 (b) (I) Nothing in this section ~~shall be construed to require~~
10 REQUIRES the conviction to be obtained in the same jurisdiction as the
11 jurisdiction in which the forfeiture action is brought. WHEN FEASIBLE, THE
12 COURT THAT HAS JURISDICTION IN THE ASSOCIATED CRIMINAL MATTER
13 MUST HAVE JURISDICTION IN THE CIVIL FORFEITURE ACTION. TO THE
14 EXTENT REASONABLY POSSIBLE, THE SAME JUDGE MUST:

15 (A) BE ASSIGNED RESPONSIBILITY FOR BOTH THE CRIMINAL
16 PROSECUTION AND CIVIL FORFEITURE ACTION; AND

17 (B) COORDINATE HEARINGS ON BOTH THE CRIMINAL PROSECUTION
18 AND THE CIVIL FORFEITURE ACTION AS REQUIRED IN THE INTEREST OF
19 JUSTICE.

20 (II) IF THE FORFEITURE ACTION IS NOT ASSIGNED TO THE SAME
21 COURT AS THE CRIMINAL PROSECUTION, THE PROPERTY OWNER MAY MOVE
22 THE COURT TO TRANSFER THE FORFEITURE ACTION TO THE COURT HEARING
23 THE CRIMINAL PROSECUTION. THE JUDGE MUST GRANT THE MOTION TO
24 TRANSFER THE FORFEITURE ACTION IF THE COURT DETERMINES TRANSFER
25 IS FOR THE CONVENIENCE OF PARTIES AND WITNESSES OR IN THE INTEREST
26 OF JUSTICE.

27 (c) (I) ~~In the event criminal charges arising from the same activity~~

1 ~~giving rise to the forfeiture proceedings are filed against any individual~~
2 ~~claiming an interest in the property subject to the forfeiture proceeding,~~
3 ~~the trial and discovery phases of the forfeiture proceeding shall be stayed~~
4 ~~by the court until the disposition of the criminal charges.~~ UNTIL NINETY
5 DAYS AFTER A CRIMINAL CONVICTION IS OBTAINED:

6 (A) ALL PROCEEDINGS IN THE FORFEITURE ACTION ARE STAYED;

7 (B) A DEFENDANT IN THE FORFEITURE ACTION MAY FILE AN
8 ANSWER OR OTHER RESPONSIVE PLEADING; AND

9 (C) A COURT SHALL NOT ENTER A DEFAULT AGAINST A DEFENDANT
10 IN THE FORFEITURE ACTION FOR FAILURE TO FILE AN ANSWER OR
11 RESPONSIVE PLEADING OR RESPOND TO DISCOVERY REQUESTS.

12 (II) A DEFENDANT IN THE FORFEITURE ACTION MAY WAIVE ANY
13 INTEREST IN ANY SEIZED PROPERTY BY GIVING NOTICE TO THE COURT AT
14 ANY TIME.

15 (III) (A) A PARTY TO A FORFEITURE PROCEEDING, OTHER THAN THE
16 DEFENDANT IN THE CRIMINAL PROSECUTION, MAY APPEAL THE COURT'S
17 ORDER CONCERNING THE DISPOSITION OF THE SEIZED PROPERTY UPON THE
18 ISSUANCE OF THE ORDER PURSUANT TO THE COLORADO APPELLATE RULES.

19 (B) THE DEFENDANT IN THE CRIMINAL PROSECUTION MAY APPEAL
20 THE COURT'S DECISION REGARDING THE SEIZURE OR FORFEITURE OF
21 PROPERTY AFTER THE FINAL JUDGMENT IN THE FORFEITURE PROCEEDING
22 IS ENTERED.

23 (IV) ~~A stay shall not be maintained during an appeal or~~
24 ~~post-conviction proceeding challenging a criminal conviction.~~ Nothing in
25 this section ~~shall be construed to prohibit or prevent~~ PROHIBITS OR
26 PREVENTS THE PARTIES from contemporaneously resolving criminal
27 charges and a forfeiture proceeding arising from the same activity.

1 (1.6) Upon acquittal or dismissal of a criminal action against a
2 person named in a forfeiture action related to the criminal action, unless
3 the forfeiture action was brought pursuant to ~~one or more of paragraphs~~
4 ~~(a) to (f) of subsection (1.7)~~ SUBSECTION (1.7)(e), (1.7)(f), OR (1.7)(g) of
5 this section, the forfeiture claim ~~shall~~ MUST be dismissed and the seized
6 property ~~shall be returned as respects the subject matter property or~~
7 ~~interest therein of that person~~ OR THE PERSON'S INTEREST IN THE SEIZED
8 PROPERTY RETURNED, if the case has been adjudicated as to all other
9 claims, interests, and owners, unless possession of the property is illegal.
10 If the forfeiture action is dismissed or judgment is entered in favor of the
11 claimant, the claimant ~~shall not be~~ IS NOT subject to any monetary charges
12 by the state for storage of the property or expenses incurred in the
13 preservation of the property, unless at the time of dismissal the plaintiff
14 shows that those expenses would have been incurred to prevent waste of
15 the property even if it had not been seized.

16 (1.7) Notwithstanding the provisions of subsection (1.5) of this
17 section:

18 (a) ~~(1) A person shall lack standing for and shall be disallowed~~
19 ~~from pursuit of a claim or defense in a civil forfeiture action upon a~~
20 ~~finding that a warrant or other process has been issued for the~~
21 ~~apprehension of the person, and, in order to avoid criminal prosecution,~~
22 ~~the person:~~

23 (A) ~~Purposely leaves the state; or~~

24 (B) ~~Declines to enter or reenter the state to submit to its~~
25 ~~jurisdiction; or~~

26 (C) ~~Otherwise evades the jurisdiction of the court in which a~~
27 ~~criminal case is pending against the person or from which a warrant has~~

1 ~~been issued, by failing to appear in court or surrender on a warrant; and~~

2 ~~(D) Is not known to be confined or held in custody in any other~~
3 ~~jurisdiction within the United States for commission of criminal conduct~~
4 ~~in that jurisdiction.~~

5 ~~(H) If a person lacks standing pursuant to this paragraph (a), the~~
6 ~~forfeiture action may proceed and a judgment of forfeiture may be entered~~
7 ~~without a criminal conviction of an owner, upon motion and notice as~~
8 ~~provided in the rules of civil procedure.~~

9 ~~(b) If, following notice to all persons known to have an interest,~~
10 ~~or who have asserted an interest in the property subject to forfeiture, an~~
11 ~~owner fails to file an answer or other appropriate pleading with the court~~
12 ~~claiming an interest in the subject matter property, or no person~~
13 ~~establishes standing to contest the forfeiture action pursuant to section~~
14 ~~16-13-303 (5), a forfeiture action may proceed and a judgment of~~
15 ~~forfeiture may be entered without a criminal conviction of an owner.~~

16 ~~(c) If the plaintiff proves by clear and convincing evidence that~~
17 ~~the property was instrumental in the commission of an offense listed in~~
18 ~~section 16-13-303 (1) or that the property is traceable proceeds of the~~
19 ~~offense or related criminal activity by a nonowner and the plaintiff proves~~
20 ~~by clear and convincing evidence that an owner is not an innocent owner~~
21 ~~pursuant to section 16-13-303 (5.2)(a), a judgment of forfeiture may be~~
22 ~~entered without a criminal conviction of an owner.~~

23 ~~(d) If an owner of the property who was involved in the public~~
24 ~~nuisance act or conduct giving rise to the claim of forfeiture subsequently~~
25 ~~dies, and was not an innocent owner pursuant to section 16-13-303~~
26 ~~(5.2)(a), a judgment of forfeiture may be entered without a criminal~~
27 ~~conviction of an owner.~~

1 (g) THE COURT MAY GRANT TITLE TO THE SEIZED PROPERTY TO THE
2 PLAINTIFF IN THE FORFEITURE ACTION IF THE PROSECUTING AUTHORITY
3 FILES A MOTION NO FEWER THAN NINETY DAYS AFTER SEIZURE AND SHOWS
4 BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT, BEFORE
5 CONVICTION:

6 (I) ABANDONED THE PROPERTY;

7 (II) FLED THE JURISDICTION;

8 (III) WAS DEPORTED BY THE UNITED STATES GOVERNMENT; OR

9 (IV) DIED.

10 (3.5) An action brought pursuant to this part 3 regarding a class
11 1 public nuisance ~~shall~~ MUST be filed within sixty-three days following
12 the seizure of the property pursuant to section 16-13-315. The plaintiff
13 may file the complaint after the expiration of sixty-three days from the
14 date of seizure BUT NO MORE THAN NINETY DAYS AFTER THE SEIZURE only
15 if the complaint is accompanied by a written petition for late filing. ~~Such~~
16 THE petition for late filing ~~shall~~ MUST demonstrate good cause for the late
17 filing of the complaint. The sixty-three-day time limitation established by
18 this subsection (3.5) ~~shall~~ DOES not apply ~~where~~ WHEN the seizure of the
19 property occurred pursuant to a warrant authorizing such seizure or
20 otherwise under any statute or rule of criminal procedure, if the property
21 is held as evidence in a pending criminal investigation or in a pending
22 criminal case. THE COURT MAY IMPOSE REASONABLE CONDITIONS ON THE
23 RETURN OF THE SEIZED PROPERTY, INCLUDING THE USE OF PHOTOGRAPHIC
24 EVIDENCE TO PRESERVE THE PROPERTY FOR LATER USE AS EVIDENCE IN A
25 CRIMINAL PROSECUTION.

26 **SECTION 2.** In Colorado Revised Statutes, **add** 16-13-307.5 as
27 follows:

1 **16-13-307.5. Prompt post-seizure hearing.** (1) FOLLOWING
2 SEIZURE, A DEFENDANT OR ANY OTHER PERSON WITH AN INTEREST IN THE
3 PROPERTY HAS A RIGHT TO A PROMPT POST-SEIZURE HEARING. THE
4 DEFENDANT OR A PERSON WITH AN INTEREST IN THE PROPERTY MAY
5 PETITION FOR A HEARING FOURTEEN DAYS AFTER THE SEIZURE IN:

6 (a) THE CIVIL COURT IF THE STATE HAS FILED A CIVIL COMPLAINT
7 IN A FORFEITURE ACTION AGAINST THE PROPERTY; OR

8 (b) THE CRIMINAL COURT WHERE THE ASSOCIATED CRIMINAL
9 ACTION IS BEING PROSECUTED IF THE STATE HAS NOT FILED A CIVIL
10 COMPLAINT IN CIVIL COURT AT THE TIME OF THE PETITION.

11 (2) UPON MOTION BY ANY PARTY AND AT THE COURT'S
12 DISCRETION, THE COURT MAY HOLD A PROMPT POST-SEIZURE HEARING:

13 (a) AS A SEPARATE HEARING; OR

14 (b) AT THE SAME TIME AS A PROBABLE-CAUSE DETERMINATION, A
15 POST-ARRAIGNMENT HEARING, A SUPPRESSION HEARING, AN OMNIBUS
16 HEARING, OR OTHER PRETRIAL HEARING.

17 (3) A PARTY, BY AGREEMENT OR FOR GOOD CAUSE, MAY MOVE FOR
18 ONE EXTENSION OF THE HEARING DATE. ANY MOTION MAY BE SUPPORTED
19 BY AFFIDAVITS OR OTHER SUBMISSIONS.

20 (4) THE COURT SHALL ORDER THE RETURN OF PROPERTY IF IT FINDS
21 BY A PREPONDERANCE OF THE EVIDENCE THAT:

22 (a) THE SEIZURE WAS INVALID;

23 (b) A CRIMINAL CHARGE HAS NOT BEEN FILED AND NO EXTENSION
24 OF THE FILING PERIOD IS AVAILABLE; OR

25 (c) THE CLAIMANT IS AN INNOCENT OWNER OR VALID LIENHOLDER.

26 (5) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE
27 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE

1 SEIZED PROPERTY, INCLUDING THE USE OF PHOTOGRAPHIC EVIDENCE TO
2 PRESERVE THE PROPERTY FOR LATER USE AS EVIDENCE IN A CRIMINAL
3 PROSECUTION.

4 (6) THIS SECTION DOES NOT APPLY TO THE RETURN OF
5 CONTRABAND ARTICLES, AS DEFINED IN SECTION 16-13-502.

6 **SECTION 3.** In Colorado Revised Statutes, 16-13-311, **amend**
7 (3)(a) introductory portion; **repeal** (3)(a)(VII)(C); and **add** (3)(a)(VII)(D)
8 as follows:

9 **16-13-311. Disposition of seized personal property.** (3) (a) If
10 the prosecution prevails in the forfeiture action, the court shall order the
11 property forfeited. ~~Such~~ THE order perfects the state's right and interest
12 in and title to such property and relates back to the date when title to the
13 property vested in the state pursuant to section 16-13-316. Except as
14 otherwise provided in subsection (3)(c) of this section, the court shall also
15 order ~~such~~ THE property to be sold at a public sale by the law enforcement
16 agency in possession of the property in the manner provided for sales on
17 execution, or in another commercially reasonable manner. Property
18 forfeited pursuant to this section or proceeds therefrom must be
19 distributed or applied in the following order:

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

22 (C) ~~Twenty-five percent to the law enforcement community~~
23 ~~services grant program fund, created pursuant to section 24-32-124 (5).~~

24 (D) TWENTY-FIVE PERCENT TO THE FORFEITURE DEFENSE FUND,
25 CREATED PURSUANT TO SECTION 16-13-318.

26 **SECTION 4.** In Colorado Revised Statutes, **add** 16-13-318 as
27 follows:

1 **16-13-318. Indigent parties - appointed attorneys - forfeiture**
2 **defense fund - created - definitions.** (1) AS USED IN THIS SECTION,
3 UNLESS THE CONTEXT OTHERWISE REQUIRES:

4 (a) "ADMINISTRATOR" MEANS THE STATE COURT ADMINISTRATOR,
5 APPOINTED PURSUANT TO SECTION 13-3-101.

6 (b) "FUND" MEANS THE FORFEITURE DEFENSE FUND ESTABLISHED
7 IN SUBSECTION (3) OF THIS SECTION.

8 (c) "INDIGENT" MEANS A PERSON WHO MEETS THE CRITERIA
9 APPLIED BY THE STATE PUBLIC DEFENDER PURSUANT TO SECTION 21-1-130
10 (3) FOR REPRESENTATION OF A CRIMINAL DEFENDANT.

11 (2) (a) THE COURT MAY, UPON THE MOTION OF ANY PARTY OR
12 UPON ITS OWN MOTION, APPOINT AN ATTORNEY, IN GOOD STANDING AND
13 LICENSED TO PRACTICE LAW IN THE STATE OF COLORADO, TO REPRESENT
14 EACH INDIGENT PERSON WHOSE PROPERTY IS SEIZED PURSUANT TO THIS
15 PART 3 OR PART 5 OF THIS ARTICLE 13 OR ARTICLE 17 OF TITLE 18.

16 (b) THE COURT MAY ENTER AN ORDER AGAINST ANY OR ALL OF THE
17 PARTIES IN THE FORFEITURE ACTION FOR COSTS, ATTORNEY FEES, AND
18 DISBURSEMENTS INCURRED BY AN ATTORNEY APPOINTED PURSUANT TO
19 SUBSECTION (2)(a) OF THIS SECTION; EXCEPT THAT, IF A PARTY IS
20 DETERMINED TO BE INDIGENT, THE ADMINISTRATOR SHALL PAY THE COSTS,
21 FEES, AND DISBURSEMENTS FROM THE FUND.

22 (3) (a) THE FORFEITURE DEFENSE FUND IS CREATED IN THE STATE
23 TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND
24 PURSUANT TO SECTION 16-13-311 (3)(a)(VII)(D) AND ANY OTHER MONEY
25 THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE
26 FUND.

27 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND

1 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
2 FUND TO THE FUND.

3 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
4 ADMINISTRATOR FOR THE PURPOSE OF REPRESENTING INDIGENT CLIENTS
5 IN MATTERS PURSUANT TO THIS PART 3 OR PART 5 OF THIS ARTICLE 13 OF
6 OR ARTICLE 17 OF TITLE 18.

7 **SECTION 5.** In Colorado Revised Statutes, 16-13-505, **amend**
8 (1.5) and (1.6); **repeal** (1.7)(a), (1.7)(b), (1.7)(c), and (1.7)(d); and **add**
9 (1.7)(g) as follows:

10 **16-13-505. Forfeiture proceedings.** (1.5) (a) ~~No~~ A judgment of
11 forfeiture of property in any forfeiture proceeding ~~shall~~ MUST NOT be
12 entered unless: ~~and until~~

13 (I) THE PLAINTIFF FILES A CIVIL COMPLAINT AGAINST THE
14 PROPERTY WITHIN NINETY DAYS AFTER THE SEIZURE OF THE PROPERTY;

15 (II) An owner of the property is convicted of an offense involving
16 the conduct listed in section 16-13-503 or a lesser included offense of an
17 eligible offense if the conviction is the result of a negotiated guilty plea;
18 AND

19 (III) THE PLAINTIFF IN THE FORFEITURE ACTION ESTABLISHES BY
20 A PREPONDERANCE OF THE EVIDENCE THAT THE SEIZED PROPERTY IS AN
21 INSTRUMENTALITY OF, OR PROCEEDS DERIVED DIRECTLY FROM, THE CRIME
22 FOR WHICH THE OWNER IS CONVICTED.

23 (b) (I) Nothing in this section ~~shall be construed to require~~
24 REQUIRES the conviction to be obtained in the same jurisdiction as the
25 jurisdiction in which the forfeiture action is brought. WHEN FEASIBLE,
26 THE COURT THAT HAS JURISDICTION IN THE ASSOCIATED CRIMINAL MATTER
27 MUST HAVE JURISDICTION IN THE CIVIL FORFEITURE ACTION. TO THE

1 EXTENT REASONABLY POSSIBLE, THE SAME JUDGE MUST:

2 (A) BE ASSIGNED RESPONSIBILITY FOR BOTH THE CRIMINAL
3 PROSECUTION AND CIVIL FORFEITURE ACTION; AND

4 (B) COORDINATE HEARINGS ON BOTH THE CRIMINAL PROSECUTION
5 AND THE CIVIL FORFEITURE ACTION AS REQUIRED IN THE INTEREST OF
6 JUSTICE.

7 (II) IF THE FORFEITURE ACTION IS NOT ASSIGNED TO THE SAME
8 COURT AS THE CRIMINAL PROSECUTION, THE PROPERTY OWNER MAY MOVE
9 THE COURT TO TRANSFER THE FORFEITURE ACTION TO THE COURT HEARING
10 THE CRIMINAL PROSECUTION. THE JUDGE MUST GRANT THE MOTION TO
11 TRANSFER THE FORFEITURE ACTION IF THE COURT DETERMINES TRANSFER
12 IS FOR THE CONVENIENCE OF PARTIES AND WITNESSES OR IN THE INTEREST
13 OF JUSTICE.

14 (c) (I) ~~In the event criminal charges arising from the same activity~~
15 ~~giving rise to the forfeiture proceedings are filed against any individual~~
16 ~~claiming an interest in the property subject to the forfeiture proceeding,~~
17 ~~the trial and discovery phases of the forfeiture proceeding shall be stayed~~
18 ~~by the court until the disposition of the criminal charges.~~ UNTIL NINETY
19 DAYS AFTER A CRIMINAL CONVICTION IS OBTAINED:

20 (A) ALL PROCEEDINGS IN THE FORFEITURE ACTION ARE STAYED;

21 (B) A DEFENDANT IN THE FORFEITURE ACTION MAY FILE AN
22 ANSWER OR OTHER RESPONSIVE PLEADING; AND

23 (C) A COURT SHALL NOT ENTER A DEFAULT AGAINST A DEFENDANT
24 IN THE FORFEITURE ACTION FOR FAILURE TO FILE AN ANSWER OR
25 RESPONSIVE PLEADING OR RESPOND TO DISCOVERY REQUESTS.

26 (II) A DEFENDANT IN THE FORFEITURE ACTION MAY WAIVE ANY
27 INTEREST IN ANY SEIZED PROPERTY BY GIVING NOTICE TO THE COURT AT

1 ANY TIME.

2 (III) (A) A PARTY TO A FORFEITURE PROCEEDING, OTHER THAN THE
3 DEFENDANT IN THE CRIMINAL PROSECUTION, MAY APPEAL THE COURT'S
4 ORDER CONCERNING THE DISPOSITION OF THE SEIZED PROPERTY UPON THE
5 ISSUANCE OF THE ORDER PURSUANT TO THE COLORADO APPELLATE RULES.

6 (B) THE DEFENDANT IN THE CRIMINAL PROSECUTION MAY APPEAL
7 THE COURT'S DECISION REGARDING THE SEIZURE OR FORFEITURE OF
8 PROPERTY AFTER THE FINAL JUDGMENT IN THE FORFEITURE PROCEEDING
9 IS ENTERED.

10 (IV) ~~A stay shall not be maintained during an appeal or~~
11 ~~post-conviction proceeding challenging a criminal conviction.~~ Nothing in
12 this section ~~shall be construed to prohibit or prevent~~ PROHIBITS OR
13 PREVENTS the parties from contemporaneously resolving criminal charges
14 and a forfeiture proceeding arising from the same activity.

15 (1.6) Upon acquittal or dismissal of a criminal action against a
16 person named in a forfeiture action related to the criminal action, unless
17 the forfeiture action was brought pursuant to ~~one or more of paragraphs~~
18 ~~(a) to (f) of subsection (1.7)~~ SUBSECTION (1.7)(e), (1.7)(f), OR (1.7)(g) of
19 this section, the forfeiture claim ~~shall~~ MUST be dismissed and the seized
20 property ~~shall be returned as respects the subject matter property~~ or THE
21 PERSON'S interest ~~therein of that person~~ IN THE SEIZED PROPERTY
22 RETURNED, if the case has been adjudicated as to all other claims,
23 interests, and owners, unless possession of the property is illegal. If the
24 forfeiture action is dismissed or judgment is entered in favor of the
25 claimant, the claimant ~~shall not be~~ IS NOT subject to any monetary charges
26 by the state for storage of the property or expenses incurred in the
27 preservation of the property, unless at the time of dismissal the plaintiff

1 shows that those expenses would have been incurred to prevent waste of
2 the property even if it had not been seized.

3 (1.7) Notwithstanding the provisions of subsection (1.5) of this
4 section:

5 (a) ~~(I) A person shall lack standing for and shall be disallowed~~
6 ~~from pursuit of a claim or defense in a civil forfeiture action upon a~~
7 ~~finding that a warrant or other process has been issued for the~~
8 ~~apprehension of the person, and, in order to avoid criminal prosecution,~~
9 ~~the person:~~

10 ~~(A) Purposely leaves the state; or~~

11 ~~(B) Declines to enter or reenter the state to submit to its~~
12 ~~jurisdiction; or~~

13 ~~(C) Otherwise evades the jurisdiction of the court in which a~~
14 ~~criminal case is pending against the person or from which a warrant has~~
15 ~~been issued, by failing to appear in court or surrender on the warrant; and~~

16 ~~(D) Is not known to be confined or held in custody in any other~~
17 ~~jurisdiction within the United States for commission of criminal conduct~~
18 ~~in that jurisdiction.~~

19 ~~(H) If a person lacks standing pursuant to this paragraph (a), the~~
20 ~~forfeiture action may proceed and a judgment of forfeiture may be entered~~
21 ~~without a criminal conviction of an owner, upon motion and notice as~~
22 ~~provided in the rules of civil procedure.~~

23 (b) If, following notice to all persons known to have an interest or
24 who have asserted an interest in the property subject to forfeiture, an
25 owner fails to file an answer or other appropriate response with the court
26 claiming an interest in the subject matter property, or no person
27 establishes standing to contest the forfeiture action pursuant to section

1 ~~16-13-504 (2), a forfeiture action may proceed and a judgment of~~
2 ~~forfeiture may be entered without a criminal conviction of an owner.~~

3 (c) ~~If the plaintiff proves by clear and convincing evidence that~~
4 ~~the property was instrumental in the commission of an offense listed in~~
5 ~~section 16-13-503 (1) or that the property is traceable proceeds of the~~
6 ~~offense or related criminal activity by a nonowner and the plaintiff proves~~
7 ~~by clear and convincing evidence that an owner is not an innocent owner~~
8 ~~pursuant to section 16-13-504 (2.2), a judgment of forfeiture may be~~
9 ~~entered without a criminal conviction of an owner.~~

10 (d) ~~If an owner of the property who was involved in the public~~
11 ~~nuisance act or conduct giving rise to the claim of forfeiture subsequently~~
12 ~~dies, and was not an innocent owner pursuant to section 16-13-504 (2.2),~~
13 ~~a judgment of forfeiture may be entered without a criminal conviction of~~
14 ~~an owner.~~

15 (g) THE COURT MAY GRANT TITLE TO THE SEIZED PROPERTY TO THE
16 PLAINTIFF IN THE FORFEITURE ACTION IF THE PROSECUTING AUTHORITY
17 FILES A MOTION NO FEWER THAN NINETY DAYS AFTER SEIZURE AND SHOWS
18 BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT, BEFORE
19 CONVICTION:

- 20 (I) ABANDONED THE PROPERTY;
21 (II) FLED THE JURISDICTION;
22 (III) WAS DEPORTED BY THE UNITED STATES GOVERNMENT; OR
23 (IV) DIED.

24 **SECTION 6.** In Colorado Revised Statutes, **add** 16-13-505.5 as
25 follows:

26 **16-13-505.5. Prompt post-seizure hearing.** (1) FOLLOWING
27 SEIZURE, A DEFENDANT OR ANY OTHER PERSON WITH AN INTEREST IN THE

1 PROPERTY HAS A RIGHT TO A PROMPT POST-SEIZURE HEARING. THE
2 DEFENDANT OR A PERSON WITH AN INTEREST IN THE PROPERTY MAY
3 PETITION FOR A HEARING FOURTEEN DAYS AFTER THE SEIZURE IN:

4 (a) THE CIVIL COURT IF THE STATE HAS FILED A CIVIL COMPLAINT
5 IN A FORFEITURE ACTION AGAINST THE PROPERTY; OR

6 (b) THE CRIMINAL COURT WHERE THE ASSOCIATED CRIMINAL
7 ACTION IS BEING PROSECUTED IF THE STATE HAS NOT FILED A CIVIL
8 COMPLAINT IN CIVIL COURT AT THE TIME OF THE PETITION.

9 (2) UPON MOTION BY ANY PARTY AND AT THE COURT'S
10 DISCRETION, THE COURT MAY HOLD A PROMPT POST-SEIZURE HEARING:

11 (a) AS A SEPARATE HEARING; OR

12 (b) AT THE SAME TIME AS A PROBABLE-CAUSE DETERMINATION, A
13 POST-ARRAIGNMENT HEARING, A SUPPRESSION HEARING, AN OMNIBUS
14 HEARING, OR OTHER PRETRIAL HEARING.

15 (3) A PARTY, BY AGREEMENT OR FOR GOOD CAUSE, MAY MOVE FOR
16 ONE EXTENSION OF THE HEARING DATE. ANY MOTION MAY BE SUPPORTED
17 BY AFFIDAVITS OR OTHER SUBMISSIONS.

18 (4) THE COURT SHALL ORDER THE RETURN OF SEIZED PROPERTY IF
19 IT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT:

20 (a) THE SEIZURE WAS INVALID;

21 (b) A CRIMINAL CHARGE HAS NOT BEEN FILED AND NO EXTENSION
22 OF THE FILING PERIOD IS AVAILABLE; OR

23 (c) THE CLAIMANT IS AN INNOCENT OWNER OR VALID LIENHOLDER.

24 (5) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE
25 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE
26 SEIZED PROPERTY, INCLUDING THE USE OF PHOTOGRAPHIC EVIDENCE TO
27 PRESERVE THE PROPERTY FOR LATER USE AS EVIDENCE IN A CRIMINAL

1 PROSECUTION.

2 (6) THIS SECTION DOES NOT APPLY TO THE RETURN OF
3 CONTRABAND ARTICLES, AS DEFINED IN SECTION 16-13-502.

4 **SECTION 7.** In Colorado Revised Statutes, **repeal and reenact,**
5 **with amendments,** part 6 of article 13 of title 16 as follows:

6 PART 6

7 FEDERAL SEIZURES AND JOINT TASK FORCES

8 **16-13-601. Prohibition on federal adoption.** (1) A STATE OR
9 LOCAL LAW ENFORCEMENT AGENCY SHALL NOT TRANSFER OR OFFER FOR
10 ADOPTION PROPERTY SEIZED UNDER STATE LAW TO A FEDERAL AGENCY
11 FOR THE PURPOSE OF FORFEITURE UNDER 18 U.S.C. CHAPTER 46 OR OTHER
12 FEDERAL LAW.

13 (2) SUBSECTION (1) OF THIS SECTION ONLY APPLIES TO A SEIZURE
14 BY A STATE OR LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO THE
15 AGENCY'S AUTHORITY UNDER STATE LAW AND WITHOUT INVOLVEMENT OF
16 THE FEDERAL GOVERNMENT IN THE SEIZURE. SUBSECTION (1) OF THIS
17 SECTION DOES NOT LIMIT A STATE OR LOCAL LAW ENFORCEMENT AGENCY
18 FROM PARTICIPATING IN A JOINT TASK FORCE WITH THE FEDERAL
19 GOVERNMENT.

20 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS PROHIBITED
21 FROM ACCEPTING PAYMENT OF ANY KIND OR DISTRIBUTION OF FORFEITURE
22 PROCEEDS FROM THE FEDERAL GOVERNMENT IF THE STATE OR LOCAL LAW
23 ENFORCEMENT AGENCY VIOLATES SUBSECTION (1) OF THIS SECTION. IF THE
24 LOCAL LAW ENFORCEMENT AGENCY VIOLATES SUBSECTION (1) OF THIS
25 SECTION, ALL FORFEITURE PROCEEDS OWING TO THE LAW ENFORCEMENT
26 AGENCY MUST BE TRANSFERRED TO THE GENERAL FUND.

27 **16-13-602. State and federal joint task forces.** (1) EXCEPT AS

1 ALLOWED BY SUBSECTION (2) OF THIS SECTION, A JOINT TASK FORCE OF A
2 STATE OR LOCAL LAW ENFORCEMENT AGENCY AND A FEDERAL AGENCY
3 SHALL TRANSFER SEIZED PROPERTY TO THE PROSECUTING AUTHORITY FOR
4 FORFEITURE PURSUANT TO THIS ARTICLE 13.

5 (2) A JOINT TASK FORCE OF A STATE OR LOCAL LAW ENFORCEMENT
6 AGENCY AND A FEDERAL AGENCY MAY TRANSFER SEIZED PROPERTY TO
7 THE UNITED STATES DEPARTMENT OF JUSTICE FOR FORFEITURE UNDER
8 FEDERAL LAW IF THE SEIZED PROPERTY INCLUDES UNITED STATES
9 CURRENCY IN AN AMOUNT THAT IS EQUAL TO OR EXCEEDS FIFTY
10 THOUSAND DOLLARS.

11 (3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY IS PROHIBITED
12 FROM ACCEPTING PAYMENT OR DISTRIBUTION OF ANY KIND FROM THE
13 FEDERAL GOVERNMENT IF THE FEDERAL GOVERNMENT REQUIRES THAT
14 SEIZED PROPERTY THAT INCLUDES UNITED STATES CURRENCY IN AN
15 AMOUNT LESS THAN FIFTY THOUSAND DOLLARS AS ESTABLISHED IN
16 SUBSECTION (2) OF THIS SECTION BE TRANSFERRED TO THE FEDERAL
17 GOVERNMENT FOR FORFEITURE UNDER FEDERAL LAW.

18 (4) NOTHING IN SUBSECTION (1) OR (2) OF THIS SECTION PROHIBITS
19 THE FEDERAL GOVERNMENT, ACTING ALONE, FROM SEIZING PROPERTY AND
20 SEEKING FORFEITURE OF PROPERTY UNDER FEDERAL LAW.

21 (5) THE ATTORNEY GENERAL SHALL CONSULT WITH THE UNITED
22 STATES ATTORNEY FOR THE DISTRICT OF COLORADO AND ESTABLISH
23 GUIDELINES FOR JOINT TASK FORCES AND MULTIJURISDICTIONAL
24 COLLABORATION. THE GUIDELINES MUST:

25 (a) BE CONSISTENT WITH STATE LAW TO AVOID, WHEN POSSIBLE,
26 THE CIRCUMVENTION OF STATE FORFEITURE LAW; AND

27 (b) ENSURE THAT ACTIVITIES BY STATE LAW ENFORCEMENT

1 OFFICERS ARE CONDUCTED IN COMPLIANCE WITH THE UNITED STATES
2 DEPARTMENT OF JUSTICE'S POLICIES.

3 **SECTION 8.** In Colorado Revised Statutes, 24-32-124, **amend**
4 (5)(b) as follows:

5 **24-32-124. Law enforcement community services grant**
6 **program - committee - policies and procedures - fund - rules - report**
7 **- definitions.** (5) (b) The law enforcement community services grant
8 program fund is created in the state treasury. The fund consists of ~~money~~
9 ~~transferred to the fund pursuant to section 16-13-311~~; any other money
10 that the general assembly may appropriate or transfer to the fund, and any
11 gifts, grants, or donations received by the division. Subject to annual
12 appropriation by the general assembly, the division may only expend
13 money from the fund for the grants awarded pursuant to this section and
14 for up to five percent of the money in the fund for the direct and indirect
15 costs incurred in administering the program. Any unexpended and
16 unencumbered money from an appropriation made for the purposes of
17 this section remains available for expenditure by the division in the next
18 fiscal year without further appropriation.

19 **SECTION 9.** In Colorado Revised Statutes, 28-3-1303, **amend**
20 (2) as follows:

21 **28-3-1303. Drug interdiction and enforcement plan -**
22 **requirements.** (2) Notwithstanding any other provision of law, when
23 participating in operations pursuant to the drug interdiction and
24 enforcement plan required by this part 13, the National Guard ~~shall be~~ IS
25 considered a law enforcement agency of the state for purposes of
26 accepting, receiving, disposing of, and expending the property and
27 proceeds from any property forfeited to the federal government and

1 allocated to the National Guard pursuant to ~~section 16-13-601, C.R.S.~~
2 SECTION 16-13-602.

3 **SECTION 10.** In Colorado Revised Statutes, **amend** 28-3-1305
4 as follows:

5 **28-3-1305. Department of military and veterans affairs**
6 **counterdrug program federal forfeiture fund - creation.** Any ~~moneys~~
7 MONEY accepted by the adjutant general pursuant to ~~section 16-13-601,~~
8 ~~C.R.S., shall~~ SECTION 16-13-602 MUST be transmitted to the state
9 treasurer, who shall credit the ~~same~~ MONEY to the department of military
10 and veterans affairs counterdrug program federal forfeiture fund, which
11 fund is ~~hereby~~ created in the state treasury and referred to in this section
12 as the "fund". All interest and income derived from the investment and
13 deposit of ~~moneys~~ MONEY in the fund ~~shall be~~ IS credited to the fund. Any
14 unexpended and unencumbered ~~moneys~~ MONEY remaining in the fund at
15 the end of a fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall not be~~
16 IS NOT credited or transferred to the general fund or another fund. ~~Moneys~~
17 MONEY in the fund ~~shall be~~ IS continuously appropriated to the
18 department for use by the adjutant general in compliance with state and
19 federal law.

20 **SECTION 11. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect September 1, 2024; except that,
22 if a referendum petition is filed pursuant to section 1 (3) of article V of
23 the state constitution against this act or an item, section, or part of this act
24 within the ninety-day period after final adjournment of the general
25 assembly, then the act, item, section, or part will not take effect unless
26 approved by the people at the general election to be held in November
27 2024 and, in such case, will take effect January 1, 2025, or on the date of

1 the official declaration of the vote thereon by the governor, whichever is
2 later.

3 (2) This act applies to seizures made on or after the applicable
4 effective date of this act.