

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0608.01 Jerry Barry x4341

HOUSE BILL 23-1086

HOUSE SPONSORSHIP

DeGraaf, Bradley, Soper

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ENACTMENT OF THE "DUE PROCESS ASSET FORFEITURE**
102 **ACT", AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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 replaces existing statutes on public abatement and instead enacts provisions concerning criminal forfeiture. The bill:

- Limits forfeiture so it can occur only when a defendant is convicted of a crime of unlawful distribution, manufacturing, dispensing, or selling a controlled

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.

- substance;
- Specifies that a forfeiture proceeding is not a separate civil proceeding but part of a defendant's criminal proceeding;
- Specifies when personal property may be seized with or without process;
- Establishes duties and procedures when property is seized;
- Establishes court procedures for various parties;
- Allows for the disposition of seized assets and proceeds consistent with prior law; and
- Establishes limitations on seizures involving the federal government.

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

2 **SECTION 1. Short title.** The short title of this act is the "Due
3 Process Asset Forfeiture Act".

4 **SECTION 2.** In Colorado Revised Statutes, 16-13-701, **amend**
5 (5)(a)(V)(B) and (5)(a)(VIII)(D) as follows:

6 **16-13-701. Reports related to seizures and forfeitures -**
7 **legislative declaration - definitions.** (5) Based upon the information
8 received on the forms submitted pursuant to subsection (4) of this section,
9 the department shall establish and maintain a searchable, public access
10 database that includes the following, if known at the time of reporting:

11 (a) Information from each case in which a reporting agency
12 received any forfeiture proceeds specifying:

13 (V) The type of property seized;

14 (B) If property other than currency, any make OR model ~~or serial~~
15 ~~number~~ related to the property and the estimated VALUE AND net equity
16 of the property;

17 (VIII) Information relating to any forfeiture proceeding including:

18 (D) ~~If any owner was determined by the court to be an innocent~~
19 ~~owner~~ THE OUTCOME OF THE FORFEITURE PROCEEDING, INCLUDING

1 WHETHER THE PROPERTY OWNER DEFAULTED IN THE FORFEITURE
2 LITIGATION; THE COURT DETERMINED THE PROPERTY OWNER WAS AN
3 INNOCENT OWNER; OR THE PROPERTY WAS FORFEITED BY COURT ORDER,
4 SETTLEMENT, OR PART OF A PLEA AGREEMENT;

5 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
6 year, \$22,549 is appropriated to the department of local affairs. This
7 appropriation is from the general fund. To implement this act, the
8 department may use this appropriation for the purchase of information
9 technology services.

10 (2) For the 2023-24 state fiscal year, \$22,549 is appropriated to
11 the office of the governor for use by the office of information technology.
12 This appropriation is from reappropriated funds received from the
13 department of local affairs under subsection (1) of this section and is
14 based on the assumption that the office will require an additional 0.2
15 FTE. To implement this act, the office may use this appropriation to
16 provide information technology services for the department of local
17 affairs.

18 **SECTION 4. Act subject to petition - effective date -**
19 **applicability.** (1) This act takes effect September 1, 2023; except that,
20 if a referendum petition is filed pursuant to section 1 (3) of article V of
21 the state constitution against this act or an item, section, or part of this act
22 within the ninety-day period after final adjournment of the general
23 assembly, then the act, item, section, or part will not take effect unless
24 approved by the people at the general election to be held in November
25 2024 and, in such case, will take effect January 1, 2025, or on the date of
26 the official declaration of the vote thereon by the governor, whichever is
27 later.

- 1 (2) This act applies to seizures on or after the applicable effective
- 2 date of this act.