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H.382

Introduced by Representative Rachelson of Burlington

Referred to Committee on

Date:

Subject: Criminal procedure; forfeiture

Statement of purpose of bill as introduced: This bill proposes to limit judicial forfeiture to circumstances in which a person is convicted of the underlying offense and to deposit all proceeds from the sale of forfeited property, after offset, into the General Fund.

An act relating to limiting the circumstances in which an asset is subject to judicial forfeiture

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 4243 is amended to read:

§ 4243. JUDICIAL FORFEITURE PROCEDURE

(a) Conviction ~~or agreement~~ required. An asset is subject to forfeiture by judicial determination under section 4241 of this title and 13 V.S.A. § 364 if:

~~(1)~~ a person is convicted of the criminal offense related to the action for forfeiture; ~~or~~

1 ~~(2) a person enters into an agreement with the prosecutor under which~~
2 ~~he or she is not charged with a criminal offense related to the action for~~
3 ~~forfeiture.~~

4 * * *

5 Sec. 2. 18 V.S.A. § 4247 is amended to read:

6 § 4247. DISPOSITION OF PROPERTY

7 (a) Whenever property is forfeited and delivered to the State Treasurer
8 under this subchapter, the State Treasurer shall, ~~no sooner~~ not earlier than 90
9 days of the date the property is delivered, sell the property at a public sale held
10 under 27 V.S.A. chapter 13.

11 (b) The proceeds from the sale of forfeited property shall be used first to
12 offset any costs of selling the property, and then, after any liens on the property
13 have been paid in full, applied to payment of seizure, storage, and forfeiture
14 expenses, including animal care expenses related to the underlying violation.

15 Remaining proceeds shall be ~~distributed as follows:~~

16 ~~(1)(A) Forty five percent shall be distributed among:~~

17 ~~(i) the Office of the Attorney General;~~

18 ~~(ii) the Department of State's Attorneys and Sheriffs; and~~

19 ~~(iii) State and local law enforcement agencies.~~

20 ~~(B) The Governor's Criminal Justice and Substance Abuse Cabinet is~~
21 ~~authorized to determine the allocations among the groups listed in subdivision~~

1 ~~(A) of this subdivision (1), and may only reimburse the prosecutor and law~~
2 ~~enforcement agencies that participated in the enforcement effort resulting in~~
3 ~~the forfeiture for expenses incurred, including actual expenses for involved~~
4 ~~personnel. The proceeds shall be held by the Treasurer until the Cabinet~~
5 ~~notifies the Treasurer of the allocation determinations, at which time the~~
6 ~~Treasurer shall forward the allocated amounts to the appropriate agency's~~
7 ~~operating funds.~~

8 ~~(2) The remaining 55 percent shall be deposited in the General Fund.~~

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on passage.