

Senate proposal of amendment

H. 533

An act relating to converting civil forfeiture of property in drug-related prosecutions into a criminal process

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. DRUG-RELATED PROPERTY SEIZURE AND FORFEITURE; WORKING GROUP; REPORT

(a) Creation. There is created the Property Seizure and Forfeiture Working Group to study Vermont's use of property seizure and forfeiture processes under federal and State law for drug-related offenses.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Chief Judge of the Vermont Superior Court or designee;

(2) the Attorney General or designee;

(3) the State Treasurer or designee;

(4) the Defender General or designee;

(5) the Commissioner of Public Safety or designee;

(6) the Executive Director of the Department of State's Attorney and Sheriffs or designee;

(7) the President of the Vermont Sheriffs' Association or designee; and

(8) the Center for Justice Reform at Vermont Law School.

(c) Powers and duties. The Working Group shall study how Vermont law enforcement used federal and State law to seize and forfeit property in drug-related offenses since 2015. In particular, the study shall examine:

(1) the date, type, quantity, value, and location of any seized property;

(2) the number of State property seizures resulting in federal adoption;

(3) forfeiture actions commenced using the State and federal processes, including the date of commencement, type of forfeiture process used, and why the specific forfeiture process was selected;

(4) drug offenses related to any State and federal forfeiture actions, including the date the offense is charged and date of final judgment, plea agreement, or other agreement disposing of the matter;

(5) whether innocent owners, lienholders, or other interested parties aggrieved by a seizure or forfeiture intervened or otherwise participated in any

State and federal forfeiture actions;

(6) the outcomes of State and federal forfeiture actions, including the dates of disposition and whether property was forfeited, returned, or otherwise disposed;

(7) how and when the proceeds of forfeited property were distributed using the State and federal processes, including the share of proceeds received by any law enforcement agencies and prosecutors' offices;

(8) how any proceeds were used by law enforcement agencies and prosecutors' offices;

(9) any problems, impediments, or issues with the State process, including impacts on the State court system if it is expanded; and

(10) any complaints concerning abuse of the State and federal processes by law enforcement agencies or prosecutors' offices.

(d) Report. On or before December 15, 2022, the Working Group shall submit a written report in the form of proposed legislation to the Joint Legislative Justice Oversight Committee, the Senate Committee on Judiciary, and the House Committee on Judiciary.

(e) Meetings.

(1) The Chief Judge of the Vermont Superior Court or designee shall call the first meeting of the Working Group to occur on or before July 15, 2022.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall cease to exist on January 31, 2023.

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

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the State Treasurer under this subchapter, the State Treasurer shall, ~~no~~ not sooner than 90 days ~~of~~ after the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter ~~13~~ 18, subchapter 7.

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

* * *

(B) ~~The Governor's Criminal Justice and Substance Abuse Cabinet Agency of Administration~~ is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1); and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the ~~Cabinet~~ Agency notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency's operating funds.

* * *

Sec. 3. REPEAL

18 V.S.A. § 4247(b)(1)(B) is repealed on July 1, 2024.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that after passage the title of the bill be amended to read:

An act relating to forfeited property disposition and a study assessing civil and criminal seizure and forfeiture of property in drug-related offenses.