- 1 Introduced by House Committee on Judiciary
- 2 Referred to Committee on
- 3 Date:
- 4 Subject: Criminal procedure; judicial forfeiture; disposition of property
- 5 Statement of purpose of bill as introduced: This bill proposes to limit judicial
- 6 forfeiture proceedings to circumstances in which the person is convicted of the
- 7 underlying criminal offense; deposit all proceeds from the sale of forfeited
- 8 property, after offset, into the General Fund; direct the Treasurer to report
- 9 annually to the General Assembly with comprehensive data regarding
- 10 instances of civil asset seizure and forfeiture in this State by law enforcement;
- 11 and direct the Joint Legislative Justice Oversight Committee to study the issue
- 12 of civil forfeiture during the 2021 legislative interim.
- An act relating to limiting the circumstances under which an asset is subjectto judicial forfeiture
- 15 It is hereby enacted by the General Assembly of the State of Vermont:
- 16 Sec. 1. 18 V.S.A. § 4243 is amended to read:
- 17 § 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	(1) a person is convicted of the criminal offense related to the action for
2	forfeiture ; or
3	(2) a person enters into an agreement with the prosecutor under which
4	he or she is not charged with a criminal offense related to the action for
5	forfeiture.
6	* * *
7	Sec. 2. 18 V.S.A. § 4247 is amended to read:
8	§ 4247. DISPOSITION OF PROPERTY
9	(a) Whenever property is forfeited and delivered to the State Treasurer
10	under this subchapter, the State Treasurer shall, no sooner not earlier than
11	90 days of after the date the property is delivered, sell the property at a public
12	sale held under 27 V.S.A. chapter 13.
13	(b) The proceeds from the sale of forfeited property shall be used first to
14	offset any costs of selling the property, and then, after any liens on the property
15	have been paid in full, applied to payment of seizure, storage, and forfeiture
16	expenses, including animal care expenses related to the underlying violation.
17	Remaining proceeds shall be distributed as follows:
18	(1)(A) Forty five percent shall be distributed among:
19	(i) the Office of the Attorney General;
20	(ii) the Department of State's Attorneys and Sheriffs; and
21	(iii) State and local law enforcement agencies.

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1	(B) The Governor's Criminal Justice and Substance Abuse Cabinet is
2	authorized to determine the allocations among the groups listed in subdivision
3	(A) of this subdivision (1), and may only reimburse the prosecutor and law
4	enforcement agencies that participated in the enforcement effort resulting in
5	the forfeiture for expenses incurred, including actual expenses for involved
6	personnel. The proceeds shall be held by the Treasurer until the Cabinet
7	notifies the Treasurer of the allocation determinations, at which time the
8	Treasurer shall forward the allocated amounts to the appropriate agency's
9	operating funds.
10	(2) The remaining 55 percent shall be deposited in the General Fund
11	split between the Vermont Criminal Justice Council and the Victims
12	Compensation Fund established pursuant to 13 V.S.A. § 5359.
13	Sec. 3. 32 V.S.A. § 110a is added to read:
14	<u>§ 110a. ASSET FORFEITURE ANNUAL REPORT</u>
15	(a) Annually, on or before February 1, the Treasurer shall report to the
16	General Assembly data regarding the number of unique instances of civil asset
17	forfeiture in Vermont by law enforcement, the type of property forfeited, the
18	disposition of the property or proceeds from the sale of the property, and, if
19	discernable, how the property or proceeds are subsequently used by the
20	receiving entity.

1	(b) Upon request and in a timely manner, all law enforcement agencies and
2	other State agencies or departments shall provide the Treasurer with the
3	information required by subsection (a) of this section. The Treasurer shall
4	specify in its annual report pursuant to this section any agencies or departments
5	that fail to comply with this subsection.
6	Sec. 4. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
7	FORFEITURE STUDY; RECOMMENDATION
8	(a) During the 2021 legislative interim, the Joint Legislative Justice
9	Oversight Committee shall review the exiting civil forfeiture statutes and the
10	Institute for Justice "Criminal Forfeiture Process Act" and consider whether:
11	(1) to replace the civil forfeiture process with a criminal forfeiture
12	process that is a part of the trial for the related crime;
13	(2) to exempt property with a low value from being subject to seizure or
14	the forfeiture process;
15	(3) to provide for the return of the property if the property is the only (3)
16	reasonable means for the defendant to pay for the defendant's legal
17	representation, unless the prosecuting attorney establishes that the property is
18	the instrumentality of or represents the proceeds derived directly from the
19	crime for which the defendant is charged;
20	(4) to exempt property encumbered by a security interest from forfeiture
21	eligibility;

1	(5) to develop standards and guidelines regarding federal adoption of
2	forfeiture cases;
3	(6) the current distribution of proceeds from the sale of forfeited
4	property ensures proceeds after actual costs are used to fund law enforcement
5	training and victims' compensation; and
6	(7) the civil forfeiture process in Vermont ensures due process for
7	defendants, achieves fairness in disbursements, and protects innocent property
8	owners from loss.
9	(b) The Committee shall develop any recommendations as a result of its
10	work pursuant to subsection (a) of this section into draft legislation for
11	introduction in the 2022 legislative session.
12	Sec. 5. EFFECTIVE DATE
13	This act shall take effect on passage.