

Civil Asset Forfeiture; Kansas Asset Seizure and Forfeiture Repository; HB 2459

HB 2459 creates and amends law related to civil asset forfeiture.

Creation of Kansas Asset Seizure and Forfeiture Repository and Related Reporting Requirements

The bill creates a new section within the Kansas Standard Asset Seizure and Forfeiture Act (SASFA) requiring the Kansas Bureau of Investigation (KBI) to establish, on or before July 1, 2019, the Kansas Asset Seizure and Forfeiture Repository (Repository), which will gather information concerning each seizure for forfeiture made by a seizing agency pursuant to SASFA. The information gathered will include, but not be limited to:

- The name of the seizing agency or name of the lead agency if part of a multi-jurisdictional task force and any applicable agency or district court case numbers for the seizure;
- The county where and date and time the seizure occurred, a description of the initiating law enforcement activity leading to the seizure, and the specific location where the seizure occurred;
- Descriptions of the type of property and contraband seized and the estimated values of the property and contraband;
- Whether criminal charges were filed for an offense related to the forfeiture and court and case number information of such charges;
- A description of the final disposition of the forfeiture action, including any claim or exemption asserted under SASFA;
- Whether the forfeiture was transferred to the federal government for disposition;
- Total cost of the forfeiture action, including attorney fees; and
- Total amount of proceeds from the forfeiture action, specifying the amount received by the seizing agency and the amount received by any other agency or person.

The bill requires the KBI to maintain the Repository and an associated public website and requires the KBI to promulgate rules and regulations before July 1, 2019, to implement the new section.

On and after July 1, 2019, each seizing agency must report the specified information concerning each seizure for forfeiture to the Repository, with the prosecuting attorney submitting information to the seizing agency within 30 days after the final disposition of the forfeiture, and

the seizing agency submitting the required information to the Repository within 60 days after the final disposition of the forfeiture.

On or before February 1 of each year, beginning in 2020, each law enforcement agency (agency) must annually compile and submit a forfeiture fund report to the Repository. If the agency is a state agency, the report must include the agency's state forfeiture fund balance on January 1 and December 31 of the preceding calendar year and the total amount of the deposits and a listing, by category, of expenditures during the preceding calendar year. If the agency is a city or county agency, the report must include the agency's special law enforcement trust fund balance on January 1 and December 31 of the preceding calendar year and the total amount of deposits and a listing, by category, of expenditures during the preceding calendar year.

The reports for each agency must separate and account for deposits and expenditures from proceeds from forfeiture credited to the agency's fund pursuant to the SASFA section governing disposition of forfeited property, deposits and expenditures from proceeds from forfeiture actions under federal law, and amounts held by the agency related to pending forfeiture actions under SASFA.

On March 1 of each year, beginning in 2020, the KBI must determine whether each agency's financial report matches the agency's seizing report. If the agency has not submitted the required financial report, or if the agency's financial report does not substantially match the agency's seizing report, the KBI must notify the agency of the difference in reports. If the agency does not correct the reporting error within 30 days, the KBI must send the agency and the county or district attorney for the county where the agency is located a certified letter notifying the agency it is out of compliance. Upon receipt of the letter, no forfeiture proceedings may be filed on property seized by the agency. Once the agency has achieved compliance with the reporting requirements, the KBI must send the agency and the county or district attorney a certified letter notifying the agency it is in compliance and forfeiture proceeding filings may continue under SASFA. Each year, on or before April 15, the KBI must report to the Legislature any agencies in the state that have failed to come into compliance with the reporting requirements for the agencies' funds.

The bill amends the Kansas Open Records Act to provide, except for requests of summary data compiled from information submitted by multiple agencies or as otherwise provided by law, requests for records submitted to the Repository shall be directed to the agency from which the records originated.

Disposition of Forfeited Property

The statute governing disposition of forfeited property is amended to specify an exclusive list of 12 special, additional law enforcement purposes for which proceeds from forfeiture may be used. The bill requires moneys in the funds containing forfeiture proceeds to be separated and accounted for in a manner that allows accurate tracking and reporting of deposits and expenditures of proceeds from forfeiture credited to the fund, proceeds from pending forfeiture actions under SASFA, and proceeds from forfeiture actions under federal law.

Continuing reporting requirements are moved within this section and a sunset date for these requirements of July 1, 2019, is added in light of the bill's new reporting requirements.