

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1499

H.P. 1109

House of Representatives, April 14, 2021

**An Act To Improve Accountability in Asset Seizure and Forfeiture
Reporting**

Received by the Clerk of the House on April 12, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ANDREWS of Paris.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **CONCEPT DRAFT**

3 **SUMMARY**

4 This bill is a concept draft pursuant to Joint Rule 208.

5 This bill would enact the Seizure and Forfeiture Reporting Act, which is model
6 legislation to provide "legislators with the information necessary for basic oversight of law
7 enforcement agencies that seize and forfeit property under state and federal laws"; the
8 verbatim, unedited text of that model legislation follows.

9 1. Purpose. Under state and federal forfeiture laws, state law enforcement agencies can
10 seize money and other property, have it sold and use forfeiture proceeds to fund agency
11 budgets. It is the responsibility of state legislators to monitor seizures and forfeitures. This
12 bill provides legislators with the information necessary for basic oversight of law
13 enforcement agencies that seize and forfeit property under state and federal laws.

14 2. Definition of law enforcement agency. "Law enforcement agency" means any police
15 force, multijurisdictional task force, prosecuting authority, fire department, or other
16 municipal, county or state agency that (a) has authority under state law or (b) collaborates
17 with a federal agency under federal law to seize or forfeit property.

18 3. This chapter is applicable to property seized and forfeited under the following sections
19 in the state criminal code:

20 (1) Section _____

21 (2) Section _____

22 (3) Section _____

23 (4) Any other section in the state criminal code that authorizes a law enforcement
24 agency to seize property that is used in the commission of a criminal offense.

25 4. The Centralized Reporting Authority shall establish and maintain a case tracking system
26 and searchable public website that includes the following information about property seized
27 and forfeited under state law and under any agreement with the federal government. It
28 shall assign the responsibility to report each element to relevant agencies. If forfeiture is
29 sought under federal law, answers to questions 12-22 may not be available readily and may
30 be skipped.

31 (1) Name of the law enforcement agency that seized the property or, if seized by a
32 multijurisdictional task force, the name of the lead agency;

33 (2) Date of the seizure;

34 (3) Type of property seized. Currency or, if property other than currency, a description
35 of property seized including make, model, and year;

36 (4) Place of seizure: home, business or traffic stop; and, if a traffic stop on an interstate
37 or state highway, the direction of the traffic flow: eastbound, westbound, southbound
38 or northbound;

39 (5) Estimated value of the seizure;

- 1 (6) Criminal offense alleged that led to the seizure (include whether under state or
2 federal law);
- 3 (7) Crime for which suspect was charged (include whether under state or federal law);
- 4 (8) Criminal case number and court in which the case was filed;
- 5 (9) The outcome of suspect's criminal case: no charge was filed, charges dropped,
6 acquittal, plea agreement, jury conviction or other;
- 7 (10) Whether forfeiture is sought under federal law: (yes or no),
- 8 (11) If forfeiture is sought under federal law, did a joint state-federal task force make
9 the seizure of property? (yes or no);
- 10 (12) If forfeiture is sought under federal law, did a federal government adopt the
11 seizure that a state or municipal agency made without a federal agency's involvement
12 in the seizure? (yes or no);
- 13 (13) Forfeiture case number and court in which the case was filed;
- 14 (14) If a property owner filed a claim or counterclaim, who by: the suspect, innocent
15 owner, joint owner or third-party owner;
- 16 (15) Method of final forfeiture proceeding: criminal, civil-judicial or civil-
17 administrative;
- 18 (16) Date of forfeiture order;
- 19 (17) Whether there was a forfeiture settlement agreement: (yes or no);
- 20 (18) Property disposition: returned to owner, partially returned to owner, sold,
21 destroyed, retained by a law enforcement agency, or pending disposition;
- 22 (19) Date of property disposition;
- 23 (20) Total value of property forfeited under state law including currency, proceeds
24 from sale of non-currency property and distributions received from the federal
25 government (excluding the value of contraband);
- 26 (21) Market value of property forfeited under state law that was retained, destroyed or
27 donated (excluding the value of contraband).
- 28 (22) Estimate of total costs to the agency (a) to store property in impound lots or
29 evidence rooms, (b) to pay for law enforcement personnel and prosecutors' time and
30 expenses to litigate forfeiture cases and (c) cost to sell or dispose of forfeited property;
- 31 (23) Amount of the attorney fees awarded to property owners; and
- 32 (24) If any property was retained by a law enforcement agency, the purpose for which
33 it is used.
- 34 5. The Centralized Reporting Authority shall also establish and maintain a searchable public
35 website that includes:
 - 36 (a) The total amount of funds expended, in each of the following ten categories, which resulted
37 from property seized, forfeited and reported in paragraph 4:
 - 38 (1) Drug abuse, crime and gang prevention and other community programs;
 - 39 (2) Victim reparations;

- 1 (3) Investigation costs, including controlled buys, forensics, informant fees and
2 witness protection;
- 3 (4) Expenses related to seized property including storage, maintenance, repairs and
4 return of property;
- 5 (5) Expenses related to forfeiture litigation including court fees and expenses related
6 to auditing, discovery, court reporters, printing, postage, filing, witness, outside
7 counsel, and attorneys fee awarded to opposing counsel;
- 8 (6) Government personnel costs, including salaries, overtime and benefits, as
9 permitted by law;
- 10 (7) Government travel and training including conferences, continuing education,
11 entertainment, and meals;
- 12 (8) Government administrative and operating expenses including office supplies,
13 postage, printing, utilities and repairs and maintenance of vehicles and other
14 equipment; and
- 15 (9) Government capital expenditures including appliances, canines, computers,
16 equipment, firearms, furniture and vehicles; and
- 17 (10) An itemized list of other expenditures of forfeiture proceeds, including payments
18 to trade associations and lobbyists, and transfer to other agencies.
- 19 (b) The total value of seized and forfeited property held by the agency at the end of the
20 reporting period.
- 21 6. The law enforcement agency that seizes property and prosecutors that litigate related
22 criminal cases and forfeiture proceedings shall update the Centralized Reporting Authority's
23 website with the information required under paragraph 4 at the end of the month following each
24 seizure of property. The commander of a multijurisdictional task force may appoint one agency
25 to report its seizures. If an agency has made no seizures during the previous year, a null report
26 shall be filed by the agency specifying that it did not engage in seizures or forfeitures under
27 this title during the reporting period.
- 28 7. The law enforcement agency that expends forfeiture-related proceeds shall update the
29 Centralized Reporting Authority's website with the information required under paragraph 5
30 within 30 days after the end of the fiscal year. The commander of a multijurisdictional task
31 force may appoint one agency to report its expenditures.
- 32 8. The Centralized Reporting Authority, 120 days after the close of the fiscal year, shall submit
33 to the Speaker of the House of Representatives, President of the Senate, Attorney General and
34 Governor a written report summarizing activity in the state, for the preceding fiscal year, the
35 type, approximate value, and disposition of the property seized and the amount of any proceeds
36 received or expended at the state and local levels. The report shall provide a categorized
37 accounting of all proceeds expended. Summary data on seizures, forfeitures and expenditures
38 of forfeiture proceeds shall be disaggregated by agency. The aggregate report shall also be
39 made available on the Centralized Reporting Authority's website.
- 40 9. Centralized Reporting Authority may include in its aggregate report required by paragraph
41 8 recommendations to improve statutes, rules and policies to better ensure that seizure,
42 forfeiture and expenditures are done and reported in a manner that is fair to crime victims,
43 innocent property owners, secured interest holders, citizens, law enforcement and taxpayers.

- 1 10. If a law enforcement agency fails to file a report within 30 days after it is due and there is
2 no good cause as determined by the Centralized Reporting Authority, the agency or department
3 shall be subject to a civil fine payable to the General Revenue Fund of \$500 or the equivalent
4 of one-quarter of the forfeiture proceeds received by the agency, whichever is greater. In
5 addition, the Centralized Reporting Authority shall make no expenditures from the forfeiture
6 fund for the benefit of the agency until the report is filed.
- 7 11. The State Auditor shall perform annually a financial audit under the generally accepted
8 government auditing standards (GAGAS) of records submitted to the Centralized Reporting
9 Authority related to inventory of seized property and expenditures of forfeiture proceeds. A
10 copy of the final audit report shall be submitted to the Centralized Reporting Authority no later
11 than 90 days after the end of the fiscal year and shall be made public.
- 12 12. The Centralized Reporting Authority may recoup its costs under this chapter by charging
13 a fee to the law enforcement agency filing a report. The agency may use forfeiture proceeds to
14 pay the costs of compiling and reporting data under this chapter, and to pay any fees imposed
15 by the Centralized Reporting Authority.
- 16 13. The Centralized Reporting Authority may adopt rules necessary to implement this chapter.
- 17 14. The data and reports compiled and prepared under this chapter are public information under
18 the state's Open Records Act/Freedom of Information Act section _____. They are not
19 exempted from disclosure by section_____.