

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0305.02 Owen Hatch x2698

HOUSE BILL 26-1250

---

HOUSE SPONSORSHIP

DeGraaf and Bacon,

SENATE SPONSORSHIP

(None),

---

House Committees  
Judiciary

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING PROCEDURES RELATING TO STATE ACTION RESULTING IN  
102 THE RELINQUISHMENT OF PRIVATE PROPERTY, AND, IN  
103 CONNECTION THEREWITH, MAKING AN APPROPRIATION.

---

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill clarifies an existing requirement for the criminal conviction of an owner by requiring that one or more criminal charges must be brought as a prerequisite to any nuisance abatement or forfeiture proceeding.

Existing law provides an exception to the conviction requirement

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

that no criminal conviction is necessary if the plaintiff proves its case by clear and convincing evidence. The bill repeals this exception, while retaining other various exceptions that allow forfeiture actions to proceed against the interest of a claimant.

The bill establishes a right to forfeiture defense counsel and creates a procedure for the appointment of forfeiture defense counsel in nuisance abatement and forfeiture proceedings. The bill creates a forfeiture counsel defense fund, in the care of the state court administrator, to pay for appointed forfeiture defense counsel who are authorized to represent persons against whom a nuisance abatement or forfeiture proceeding has been filed in connection with criminal charges. The bill transfers \$1.1 million from the law enforcement community services grant program fund to the forfeiture counsel defense fund.

The bill alters the disposition of property and proceeds ordered forfeited in a nuisance abatement or forfeiture action. Currently, forfeited property and proceeds are applied first toward restitution and cost recovery for a list of stakeholders, and 50% of the remainder is granted to the local governmental body with authority over the seizing agency, 25% of the remainder is granted to the local behavioral health administrative services organization, and 25% of the remainder is granted to the law enforcement community services grant program fund. The bill amends the disposition of the remainder so that 50% is granted to the local governmental body with authority over the seizing agency, 25% is granted to the forfeiture counsel defense fund, and 25% is granted to the law enforcement community services grant program fund.

The bill appropriates \$1.1 million to the judicial department from the forfeiture counsel defense fund.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 16-13-302, **amend**  
3 (2) introductory portion and (2)(f); and **repeal** (2)(e) as follows:

4           **16-13-302. Public nuisances - policy.**

5           (2) It is also the policy of the general assembly that asset forfeiture  
6 pursuant to this part 3 ~~shall be~~ IS carried out pursuant to the following:

7           ~~(e) Each seizing agency retaining forfeited property for official~~  
8 ~~law enforcement use shall ensure that the property is subject to controls~~  
9 ~~consistent with controls which are applicable to property acquired through~~  
10 ~~the normal appropriations process.~~

1 (f) Each seizing agency ~~which receives forfeiture proceeds~~ shall  
2 conform with reporting, audit, and disposition procedures enumerated in  
3 this ~~article~~ ARTICLE 13.

4 **SECTION 2.** In Colorado Revised Statutes, 16-13-307, **amend**  
5 (1.5), (1.6), (1.7) introductory portion, (1.7)(a)(II), (1.7)(b), (1.7)(d),  
6 (1.7)(e), (1.7)(f), and (5); and **repeal** (1.7)(c) as follows:

7 **16-13-307. Jurisdiction - venue - parties - process.**

8 (1.5) ~~No~~ A COURT SHALL NOT ENTER judgment of forfeiture of  
9 property in any forfeiture proceeding ~~shall be entered~~ unless and until an  
10 owner of the property is convicted of an offense listed in section  
11 16-13-301 or 16-13-303, or a lesser included offense of an eligible  
12 offense if the conviction is the result of a negotiated guilty plea. Nothing  
13 in this section ~~shall be construed to require~~ REQUIRES the conviction to be  
14 obtained in the same jurisdiction as the jurisdiction in which the forfeiture  
15 action is brought. ~~In the event~~ ONE OR MORE criminal charges MUST BE  
16 FILED arising from the ~~same~~ activity giving rise to the forfeiture,  
17 ~~proceedings are filed against any individual claiming an interest in the~~  
18 ~~property subject to the forfeiture proceeding, the trial and discovery~~  
19 ~~phases of the forfeiture proceeding shall be stayed by the court~~ AND THE  
20 COURT SHALL STAY THE FORFEITURE PROCEEDING until the disposition of  
21 the criminal charges. ~~A~~ THE stay ~~shall not~~ MUST be maintained during an  
22 appeal or post-conviction proceeding challenging a criminal conviction.  
23 Nothing in this section ~~shall be construed to prohibit or prevent~~ PROHIBITS  
24 OR PREVENTS the parties from contemporaneously resolving criminal  
25 charges and a forfeiture proceeding arising from the same activity.

26 (1.6) Upon acquittal or dismissal of a criminal action against a  
27 person named in a forfeiture action related to the criminal action; ~~unless~~

1 ~~the forfeiture action was brought pursuant to one or more of paragraphs~~  
2 ~~(a) to (f) of subsection (1.7)~~ EXCEPT THAT, IF A PROVISION OF SUBSECTION  
3 (1.7) of this section APPLIES, the forfeiture claim shall be dismissed and  
4 the seized property shall be returned as respects the subject matter  
5 property or interest ~~therein~~ of that person, if the case has been adjudicated  
6 as to all other claims, interests, and owners, unless possession of the  
7 property is illegal. If the forfeiture action is dismissed or judgment is  
8 entered in favor of the claimant, the claimant ~~shall not be~~ IS NOT subject  
9 to any monetary charges by the state for storage of the property or  
10 expenses incurred in the preservation of the property, unless at the time  
11 of dismissal the plaintiff shows that those expenses would have been  
12 incurred to prevent waste of the property even if it had not been seized.

13 (1.7) Notwithstanding ~~the provisions of~~ subsection (1.5) of this  
14 section:

15 (a) (II) If a person lacks standing pursuant to this ~~paragraph (a)~~  
16 SUBSECTION (1.7)(a), the forfeiture action may proceed AGAINST THE  
17 PERSON'S INTEREST IN THE PROPERTY, and a judgment of forfeiture may  
18 be entered without a THE PERSON'S criminal conviction, ~~of an owner,~~ upon  
19 motion and notice as provided in the rules of civil procedure.

20 (b) If, following THE DISPOSITION OF THE CRIMINAL CASE AND  
21 notice to all persons known to have an interest, or who have asserted an  
22 interest in the property subject to forfeiture, ~~an~~ NO owner ~~fails to file~~  
23 FILES an answer or other appropriate pleading with the court claiming an  
24 interest in the subject matter property, or no person establishes standing  
25 to contest the forfeiture action pursuant to section 16-13-303 (5), a  
26 forfeiture action may proceed and a judgment of forfeiture may be entered  
27 without a criminal conviction of an owner.

1 (c) ~~If the plaintiff proves by clear and convincing evidence that~~  
2 ~~the property was instrumental in the commission of an offense listed in~~  
3 ~~section 16-13-303 (1) or that the property is traceable proceeds of the~~  
4 ~~offense or related criminal activity by a nonowner and the plaintiff proves~~  
5 ~~by clear and convincing evidence that an owner is not an innocent owner~~  
6 ~~pursuant to section 16-13-303 (5.2)(a), a judgment of forfeiture may be~~  
7 ~~entered without a criminal conviction of an owner.~~

8 (d) If an owner of the property who was involved in the public  
9 nuisance act or conduct giving rise to the claim of forfeiture subsequently  
10 dies, THE FORFEITURE ACTION MAY PROCEED AGAINST THE OWNER'S  
11 INTEREST IN THE PROPERTY, and IF THE PLAINTIFF PROVES THAT THE  
12 DECEASED OWNER was not an innocent owner pursuant to section  
13 16-13-303 (5.2)(a), a judgment of forfeiture may be entered without a THE  
14 OWNER'S criminal conviction. ~~of an owner.~~

15 (e) If an owner received a deferred judgment, deferred sentence,  
16 or participated in a diversion program, or in the case of a juvenile a  
17 deferred adjudication or deferred sentence or participated in a diversion  
18 program for the offense, THE FORFEITURE ACTION MAY PROCEED AGAINST  
19 THE OWNER'S INTEREST IN THE PROPERTY, AND a judgment of forfeiture  
20 may be entered without a criminal conviction.

21 (f) A defendant or claimant ~~shall be~~ IS permitted to waive the  
22 requirement of a criminal conviction in order to settle a forfeiture action  
23 AS TO THE DEFENDANT'S OR CLAIMANT'S INTEREST IN THE PROPERTY.

24 (5) An action to abate a public nuisance, other than a class 4  
25 public nuisance, and any action in which a temporary restraining order,  
26 temporary writ of injunction, or preliminary injunction is requested, ~~shall~~  
27 MUST be commenced by the filing of a complaint, which ~~shall~~ MUST be

1 verified or supported by affidavit. A summons ~~shall~~ MUST be issued and  
2 served as in civil cases; except that a copy of the complaint, ~~and~~ copies  
3 of any orders issued by the court at the time of filing, ~~shall~~ AND NOTICE  
4 OF THE RIGHT TO FORFEITURE DEFENSE COUNSEL PURSUANT TO SECTION  
5 16-13-318 MUST be served with the summons.

6 **SECTION 3.** In Colorado Revised Statutes, 16-13-311, **amend**  
7 (3)(a) introductory portion, (3)(a)(VII)(B), (5), and (6) as follows:

8 **16-13-311. Disposition of seized personal property.**

9 (3) (a) If the prosecution prevails in the forfeiture action, the court  
10 shall order the property forfeited. ~~Such~~ THE COURT'S order perfects the  
11 state's right and interest in and title to ~~such~~ THE property and relates back  
12 to the date when title to the property vested in the state pursuant to section  
13 16-13-316. Except as otherwise provided in subsection (3)(c) of this  
14 section, the court shall also order ~~such~~ THE property to be sold at a public  
15 sale by the law enforcement agency in possession of the property in the  
16 manner provided for sales on execution, or in another commercially  
17 reasonable manner. Property forfeited pursuant to this section or proceeds  
18 therefrom must be distributed or applied in the following order:

19 (VII) The balance must be delivered, upon order of the court, as  
20 follows:

21 (B) Twenty-five percent to the ~~behavioral health administrative~~  
22 ~~services organization contracting with the behavioral health~~  
23 ~~administration in the department of human services serving the judicial~~  
24 ~~district where the forfeiture proceeding was prosecuted to fund~~  
25 ~~detoxification and substance use disorder treatment. Money appropriated~~  
26 ~~to the behavioral health administrative services organization must be in~~  
27 ~~addition to, and not be used to supplant, other funding appropriated to the~~

1 ~~behavioral health administration~~ FORFEITURE DEFENSE COUNSEL FUND,  
2 CREATED IN SECTION 16-13-318 (3); and

3 (5) If more than one seizing agency was substantially involved in  
4 effecting the forfeiture, the agencies shall enter into a stipulation with  
5 regard to costs incurred by the agencies. ~~and the percentage of any~~  
6 ~~remaining proceeds to be deposited for the benefit of the agencies or any~~  
7 ~~property to be directly forfeited for use of such agencies.~~ Upon the filing  
8 by ~~such~~ THE agencies of ~~such~~ THE stipulation with the court, the court  
9 shall order the ~~proceeds or property so distributed~~ COSTS BE REIMBURSED.  
10 If the agencies are unable to reach an agreement, the court shall take  
11 testimony and equitably ~~distribute~~ REIMBURSE the ~~proceeds~~ COSTS.

12 (6) The state shall issue a certificate of title for a vehicle to the  
13 purchaser ~~or seizing agency if said~~ THE vehicle is acquired pursuant to  
14 this part 3.

15 **SECTION 4.** In Colorado Revised Statutes, 16-13-314, **amend**  
16 (4) as follows:

17 **16-13-314. Disposition of forfeited real property.**

18 (4) If more than one seizing agency was substantially involved in  
19 effecting the forfeiture, the agencies shall enter into a stipulation with  
20 regard to costs incurred by the agencies. ~~and the percentage of any~~  
21 ~~remaining proceeds to be deposited for the benefit of the agencies.~~ Upon  
22 the filing by ~~such~~ THE agencies of ~~such~~ THE stipulation with the court, the  
23 court shall order the ~~proceeds so distributed~~ COSTS BE REIMBURSED. If the  
24 agencies are unable to reach an agreement, the court shall take testimony  
25 and equitably ~~distribute~~ REIMBURSE the ~~proceeds~~ COSTS.

26 **SECTION 5.** In Colorado Revised Statutes, 16-13-316, **amend**  
27 (2) as follows:

1           **16-13-316. Prior liens not subject to forfeiture - vesting of title.**

2           (2) Title to real or personal property subject to forfeiture pursuant  
3 to ~~the provisions of this section shall vest in the state and the seizing~~  
4 ~~agency~~ at the earliest of:

5           (a) For currency, the time of the commission of the public  
6 nuisance act;

7           (b) The time of the physical seizure of said property, except for  
8 real property;

9           (c) The time of filing of a notice of seizure, as provided in  
10 subsection (3) of this section;

11           (d) The time of the filing of a notice of lis pendens on real  
12 property; or

13           (e) The time of the issuance of court process for seizure of  
14 property, as against anyone with prior actual notice. ~~thereof.~~

15           **SECTION 6.** In Colorado Revised Statutes, **add** 16-13-318 as  
16 follows:

17           **16-13-318. Forfeiture defense counsel - right to counsel - fund**  
18 **- definitions.**

19           (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
20 REQUIRES:

21           (a) "ADMINISTRATOR" MEANS THE STATE COURT ADMINISTRATOR  
22 APPOINTED PURSUANT TO SECTION 13-3-101.

23           (b) "FORFEITURE DEFENDANT" MEANS A PERSON WHO CLAIMS AN  
24 INTEREST IN PROPERTY SUBJECT TO A FORFEITURE PROCEEDING, AND  
25 AGAINST WHOM A CRIMINAL CHARGE RELATING TO THE FORFEITURE  
26 PROCEEDING HAS BEEN FILED.

27           (c) "FORFEITURE DEFENSE COUNSEL" MEANS AN ATTORNEY

1 APPOINTED IN A FORFEITURE PROCEEDING TO REPRESENT A FORFEITURE  
2 DEFENDANT'S INTEREST IN THE PROPERTY SUBJECT TO FORFEITURE.

3 (d) "FORFEITURE PROCEEDING" MEANS AN ACTION TO ABATE A  
4 PUBLIC NUISANCE PURSUANT TO THIS PART 3, OR AN ACTION FOR  
5 FORFEITURE DESCRIBED IN PART 5 OF THIS ARTICLE 13.

6 (e) "FUND" MEANS THE FORFEITURE DEFENSE COUNSEL FUND  
7 ESTABLISHED IN SUBSECTION (3) OF THIS SECTION.

8 (2) (a) A FORFEITURE DEFENDANT HAS A RIGHT TO BE  
9 REPRESENTED BY COUNSEL IN A FORFEITURE PROCEEDING.

10 (b) UPON A FORFEITURE DEFENDANT'S REQUEST, THE COURT SHALL  
11 APPOINT FORFEITURE DEFENSE COUNSEL TO REPRESENT THE FORFEITURE  
12 DEFENDANT AND SHALL CONTINUE THE FORFEITURE PROCEEDING FOR  
13 TWENTY-ONE DAYS OR MORE AFTER THE FORFEITURE DEFENSE COUNSEL  
14 BEGINS REPRESENTATION UNLESS THE FORFEITURE DEFENSE COUNSEL  
15 WAIVES THE CONTINUANCE. AT ANY TIME BEFORE THE CONTINUANCE  
16 ENDS, THE FORFEITURE DEFENDANT IS ALLOWED TO FILE AN INITIAL OR  
17 AMENDED ANSWER OR OTHER APPROPRIATE PLEADING TO THE COMPLAINT  
18 OR PETITION.

19 (c) A FORFEITURE DEFENDANT MAY CHOOSE TO APPOINT PRIVATE  
20 COUNSEL FOR A FORFEITURE PROCEEDING, OR MAY CHOOSE TO REPRESENT  
21 THEMSELF.

22 (d) THE COURT SHALL NOTIFY THE ADMINISTRATOR OF ANY  
23 APPOINTMENT OF FORFEITURE DEFENSE COUNSEL, AND THE  
24 ADMINISTRATOR SHALL PAY, FROM THE FUND, THE FORFEITURE DEFENSE  
25 COUNSEL AN AMOUNT NOT TO EXCEED THREE THOUSAND FIVE HUNDRED  
26 DOLLARS FOR REPRESENTING THE FORFEITURE DEFENDANT IN A  
27 FORFEITURE PROCEEDING, UNLESS THE COURT FINDS GOOD CAUSE FOR A

1 HIGHER PAYMENT. IF THE COURT FINDS GOOD CAUSE FOR A HIGHER  
2 PAYMENT, THE COURT SHALL NOTIFY THE ADMINISTRATOR, WHO SHALL  
3 PAY THE FORFEITURE DEFENSE COUNSEL THE AMOUNT IN THE  
4 NOTIFICATION.

5 (e) NOTHING IN THIS SECTION PREVENTS FORFEITURE DEFENSE  
6 COUNSEL FROM WITHDRAWING REPRESENTATION IN ACCORDANCE WITH  
7 THE COLORADO RULES OF PROFESSIONAL CONDUCT. IF A FORFEITURE  
8 DEFENSE COUNSEL WITHDRAWS REPRESENTATION, THE COURT MAY  
9 APPOINT ANOTHER FORFEITURE DEFENSE COUNSEL IF IT FINDS THE  
10 INTEREST OF JUSTICE REQUIRES ANOTHER APPOINTMENT.

11 (f) IF A FORFEITURE DEFENDANT IS REPRESENTED BY FORFEITURE  
12 DEFENSE COUNSEL AND PREVAILS IN THE FORFEITURE PROCEEDING, THE  
13 COURT SHALL ORDER THE PLAINTIFF TO REIMBURSE THE FORFEITURE  
14 COUNSEL DEFENSE FUND IN THE AMOUNT OF THE PAYMENT MADE TO THE  
15 FORFEITURE DEFENSE COUNSEL PURSUANT TO SUBSECTION (2)(d) OF THIS  
16 SECTION. IF A FORFEITURE DEFENDANT IS REPRESENTED BY PRIVATE  
17 COUNSEL AND PREVAILS IN THE FORFEITURE PROCEEDING, THE COURT  
18 SHALL ORDER THE PLAINTIFF TO REIMBURSE PRIVATE COUNSEL FOR  
19 REASONABLE ATTORNEY FEES INCURRED DEFENDING THE FORFEITURE  
20 PROCEEDING.

21 (3) (a) THE FORFEITURE DEFENSE COUNSEL FUND IS CREATED IN  
22 THE STATE TREASURY.

23 (b) THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND  
24 PURSUANT TO SECTIONS 16-13-311 AND 24-32-124 (8) AND ANY OTHER  
25 MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER  
26 TO THE FUND. THE ADMINISTRATOR MAY SEEK, ACCEPT, AND EXPEND  
27 GIFTS, GRANTS, OR DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR

1 THE PURPOSES OF THIS SECTION. THE ADMINISTRATOR SHALL TRANSMIT  
2 ALL MONEY RECEIVED FROM GIFTS, GRANTS, OR DONATIONS TO THE STATE  
3 TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND. SUBJECT TO  
4 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE  
5 ADMINISTRATOR MAY EXPEND ANY STATE MONEY FROM THE FUND TO  
6 MAKE PAYMENTS TO FORFEITURE DEFENSE COUNSEL AND FOR DIRECT AND  
7 INDIRECT COSTS ASSOCIATED WITH ADMINISTERING THIS SECTION. THE  
8 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED  
9 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE  
10 FUND.

11 **SECTION 7.** In Colorado Revised Statutes, 16-13-501.5, **amend**  
12 (2)(e); and **repeal** (2)(d) as follows:

13 **16-13-501.5. Legislative declaration.**

14 (2) It is also the policy of the general assembly that asset forfeiture  
15 pursuant to this part 5 shall be carried out pursuant to the following:

16 ~~(d) Each seizing agency retaining forfeited property for official~~  
17 ~~law enforcement use shall ensure that the property is subject to controls~~  
18 ~~consistent with controls which are applicable to property acquired through~~  
19 ~~the normal appropriations process.~~

20 (e) Each seizing agency ~~which receives forfeiture proceeds~~ shall  
21 conform with reporting, audit, and disposition procedures enumerated in  
22 this ~~article~~ ARTICLE 13.

23 **SECTION 8.** In Colorado Revised Statutes, 16-13-505, **amend**  
24 (1.5), (1.6), (1.7)(a)(II), (1.7)(b), (1.7)(d), (1.7)(e), (1.7)(f), and (3)  
25 introductory portion; **repeal** (1.7)(c); and **add** (3)(g) as follows:

26 **16-13-505. Forfeiture proceedings.**

27 (1.5) ~~No~~ A COURT SHALL NOT ENTER judgment of forfeiture of

1 property in any forfeiture proceeding ~~shall be entered~~ unless and until an  
2 owner of the property is convicted of an offense involving the conduct  
3 listed in section 16-13-503, or a lesser included offense of an eligible  
4 offense if the conviction is the result of a negotiated guilty plea. Nothing  
5 in this section ~~shall be construed to require~~ REQUIRES the conviction to be  
6 obtained in the same jurisdiction as the jurisdiction in which the forfeiture  
7 action is brought. ~~In the event~~ ONE OR MORE criminal charges MUST BE  
8 FILED arising from the ~~same~~ activity giving rise to the forfeiture,  
9 ~~proceedings are filed against any individual claiming an interest in the~~  
10 ~~property subject to the forfeiture proceeding, the trial and discovery~~  
11 ~~phases of the forfeiture proceeding shall be stayed by the court~~ AND THE  
12 COURT SHALL STAY THE FORFEITURE PROCEEDING until the disposition of  
13 the criminal charges. ~~A~~ THE stay ~~shall not~~ MUST be maintained during an  
14 appeal or post-conviction proceeding challenging a criminal conviction.  
15 Nothing in this section ~~shall be construed to prohibit or prevent~~ PROHIBITS  
16 OR PREVENTS the parties from contemporaneously resolving criminal  
17 charges and a forfeiture proceeding arising from the same activity.

18 (1.6) Upon acquittal or dismissal of a criminal action against a  
19 person named in a forfeiture action related to the criminal action; ~~unless~~  
20 ~~the forfeiture action was brought pursuant to one or more of paragraphs~~  
21 ~~(a) to (f) of subsection (1.7)~~ EXCEPT THAT, IF A PROVISION OF SUBSECTION  
22 (1.7) of this section APPLIES, the forfeiture claim shall be dismissed and  
23 the seized property shall be returned as respects the subject matter  
24 property or interest ~~therein~~ of that person, if the case has been adjudicated  
25 as to all other claims, interests, and owners, unless possession of the  
26 property is illegal. If the forfeiture action is dismissed or judgment is  
27 entered in favor of the claimant, the claimant ~~shall not be~~ IS NOT subject

1 to any monetary charges by the state for storage of the property or  
2 expenses incurred in the preservation of the property, unless at the time  
3 of dismissal the plaintiff shows that those expenses would have been  
4 incurred to prevent waste of the property even if it had not been seized.

5 (1.7) Notwithstanding ~~the provisions of~~ subsection (1.5) of this  
6 section:

7 (a) (II) If a person lacks standing pursuant to this ~~paragraph (a)~~  
8 SUBSECTION (1.7)(a), the forfeiture action may proceed AGAINST THE  
9 PERSON'S INTEREST IN THE PROPERTY and a judgment of forfeiture may be  
10 entered without a THE PERSON'S criminal conviction, ~~of an owner~~, upon  
11 motion and notice as provided in the rules of civil procedure.

12 (b) If, following THE DISPOSITION OF THE CRIMINAL CASE AND  
13 notice to all persons known to have an interest or who have asserted an  
14 interest in the property subject to forfeiture, ~~an NO owner fails to file~~  
15 FILES an answer or other appropriate response with the court claiming an  
16 interest in the subject matter property, or no person establishes standing  
17 to contest the forfeiture action pursuant to section 16-13-504 (2), a  
18 forfeiture action may proceed and a judgment of forfeiture may be entered  
19 without a criminal conviction of an owner.

20 (c) ~~If the plaintiff proves by clear and convincing evidence that~~  
21 ~~the property was instrumental in the commission of an offense listed in~~  
22 ~~section 16-13-503 (1) or that the property is traceable proceeds of the~~  
23 ~~offense or related criminal activity by a nonowner and the plaintiff proves~~  
24 ~~by clear and convincing evidence that an owner is not an innocent owner~~  
25 ~~pursuant to section 16-13-504 (2.2), a judgment of forfeiture may be~~  
26 ~~entered without a criminal conviction of an owner.~~

27 (d) If an owner of the property who was involved in the public

1 nuisance act or conduct giving rise to the claim of forfeiture subsequently  
2 dies, THE FORFEITURE ACTION MAY PROCEED AGAINST THE OWNER'S  
3 INTEREST IN THE PROPERTY, and IF THE PLAINTIFF PROVES THAT THE  
4 DECEASED OWNER was not an innocent owner pursuant to section  
5 16-13-504 (2.2), a judgment of forfeiture may be entered without a THE  
6 OWNER'S criminal conviction. ~~of an owner.~~

7 (e) If an owner received a deferred judgment, deferred sentence,  
8 or participated in a diversion program, or in the case of a juvenile a  
9 deferred adjudication or deferred sentence or participated in a diversion  
10 program for the offense, THE FORFEITURE ACTION MAY PROCEED AGAINST  
11 THE OWNER'S INTEREST IN THE PROPERTY, AND a judgment of forfeiture  
12 may be entered without a criminal conviction.

13 (f) A defendant or claimant ~~shall be~~ IS permitted to waive the  
14 requirement of a criminal conviction in order to settle a forfeiture action  
15 AS TO THE DEFENDANT'S OR CLAIMANT'S INTEREST IN THE PROPERTY.

16 (3) The citation specified in ~~paragraph (b) of subsection (2)~~  
17 SUBSECTION (2)(b) of this section ~~shall~~ MUST:

18 (g) ADVISE THE DEFENDANT OF THE RIGHT TO FORFEITURE  
19 DEFENSE COUNSEL PURSUANT TO SECTION 16-13-318.

20 **SECTION 9.** In Colorado Revised Statutes, 16-13-506, **amend**  
21 (4); and **repeal** (4.5) as follows:

22 **16-13-506. Final order - disposition of property.**

23 (4) If more than one seizing agency was substantially involved in  
24 effecting the forfeiture, the agencies shall enter into a stipulation with  
25 regard to costs incurred by the agencies ~~and the percentage of any~~  
26 ~~remaining proceeds which shall be deposited for the benefit of the~~  
27 ~~agencies~~; and, upon filing ~~such~~ THE stipulation with the court, the court

1 shall order the ~~proceeds so distributed~~ COSTS BE REIMBURSED. If the  
2 agencies are unable to reach an agreement, the court shall take testimony  
3 and equitably ~~distribute~~ REIMBURSE the ~~proceeds~~ COSTS according to the  
4 ~~formula set out in subsection (1) of this section~~ DISTRIBUTION ORDER  
5 DESCRIBED IN SECTION 16-13-311 (3)(a).

6 (4.5) ~~If the court finds that a vehicle or personal property forfeited~~  
7 ~~pursuant to this part 5 can be used for law enforcement purposes by a~~  
8 ~~seizing agency, the court shall order that the vehicle or personal property~~  
9 ~~be delivered to the agency instead of sold. If more than one seizing~~  
10 ~~agency was substantially involved in effecting the forfeiture, the priority~~  
11 ~~for receiving such vehicle or personal property shall be established by~~  
12 ~~stipulation pursuant to subsection (4) of this section.~~

13 **SECTION 10.** In Colorado Revised Statutes, 16-13-701, **amend**  
14 (1)(a), (1)(b), (1)(c), (2)(c)(II), (4)(a) introductory portion, (4)(b),  
15 (5)(a)(VIII)(L), (5)(b) introductory portion, (6)(b), (6)(c), (7)(a),  
16 (7)(c)(II), (8)(a) introductory portion, (8)(a)(II), and (8)(a)(III); and  
17 **repeal** (2)(c)(III), (5)(a)(VIII)(H), and (6)(d) as follows:

18 **16-13-701. Reports related to seizures and forfeitures -**  
19 **legislative declaration - definitions.**

20 (1) The general assembly finds that:

21 (a) Under state and federal forfeiture laws and subject to the due  
22 process provisions provided in both state and federal law as applicable,  
23 state and local law enforcement agencies are authorized to seize money  
24 and other property ~~and to use forfeiture proceeds as permitted~~ and  
25 expressly limited by both operation of state and federal law and  
26 applicable asset forfeiture policies and guidelines;

27 (b) It is the responsibility of state legislators to monitor seizures

1 by law enforcement agencies AND forfeiture litigation by prosecutors; ~~and~~  
2 ~~their expenditures of forfeited proceeds when such money is received by~~  
3 ~~a law enforcement agency or prosecutor's office; and~~

4 (c) This section provides legislators and the public with the  
5 information necessary for basic oversight of law enforcement agencies  
6 and prosecutors' offices that seize property AND obtain COST AWARDS  
7 FROM the proceeds of such seizures through the asset forfeiture process.  
8 ~~and expend the proceeds of such forfeitures under both state and federal~~  
9 ~~laws.~~

10 (2) As used in this section, unless the context otherwise requires:

11 (c) "Reporting agency" means:

12 (II) The office of a district attorney. ~~or~~

13 (III) ~~Any local governmental entity charged with enforcement of~~  
14 ~~local laws or ordinances governing public nuisances within its local~~  
15 ~~jurisdiction that obtains proceeds as a result of a seizure and forfeiture~~  
16 ~~pursuant to such laws or ordinances.~~

17 (4) (a) The executive director shall establish, maintain, and amend  
18 as necessary and post on the department's website a biannual reporting  
19 form for use by reporting agencies to report the information required by  
20 subsection (5) of this section. Each reporting agency that ~~received~~  
21 ~~PARTICIPATED IN any forfeiture proceeds through a state, federal, or local~~  
22 ~~forfeiture process within the reporting period shall complete a form on the~~  
23 ~~department's website for that reporting period. In creating the form, the~~  
24 ~~executive director shall consider the input from the following:~~

25 (b) If a reporting agency has not ~~received any~~ PARTICIPATED IN A  
26 forfeiture ~~proceeds~~ PROCESS during a reporting period, it shall submit a  
27 report indicating that ~~no forfeiture proceeds were received~~ IT HAS NOT

1 PARTICIPATED IN A FORFEITURE PROCEEDING.

2 (5) Based upon the information received on the forms submitted  
3 pursuant to subsection (4) of this section, the department shall establish  
4 and maintain a searchable, public access database that includes the  
5 following, if known at the time of reporting:

6 (a) Information from each case in which a reporting agency  
7 received any forfeiture proceeds specifying:

8 (VIII) Information relating to any forfeiture proceeding including:

9 (H) ~~If any property was retained by a state or local agency, the~~  
10 ~~purpose for which it was used;~~

11 (L) The amount of any ~~proceeds received by~~ COSTS AWARDED TO  
12 the reporting agency; and

13 (b) Information from each reporting agency on the use of  
14 forfeiture proceeds reported pursuant to this section IN PREVIOUS YEARS  
15 including:

16 (6) The department shall also post on the website a summary of  
17 information received pursuant to subsection (4) of this section that, to the  
18 extent available for the reporting period, describes:

19 (b) The total number of federal judicial or administrative  
20 forfeiture actions initiated by a multijurisdictional task force including a  
21 federal agency or referred by a reporting agency and accepted by the  
22 federal government for forfeiture under federal law; AND

23 (c) The type of assets seized and the total value of the ~~net~~  
24 ~~proceeds received~~ PROPERTY FORFEITED in all reported forfeitures. ~~and~~

25 (d) ~~The recipients of any forfeiture proceeds including the amount~~  
26 ~~received by each and the date of receipt.~~

27 (7) (a) Each reporting agency, including ~~any~~ A district attorney or

1 other prosecutor, that receives ~~or expends forfeiture-related money or~~  
2 ~~property~~ AN AWARD OF COSTS IN A FORFEITURE ACTION shall submit a  
3 report with all the information required pursuant to subsection (5) of this  
4 section that is known to the agency at the time of the report on the form  
5 developed pursuant to subsection (4)(a) of this section. ~~Commencing July~~  
6 ~~1, 2017,~~ For the reporting period between July 1 and December 31 of  
7 each year, the reporting agency shall file the report by June 1 of the  
8 following calendar year. For the reporting period between January 1 and  
9 June 30, the reporting agency shall file the report by December 1 of that  
10 calendar year. If a reporting agency has previously filed a report, but for  
11 the reporting period it has not received ~~or expended any~~ AN AWARD OF  
12 COSTS IN A forfeiture ~~proceeds~~ ACTION, it shall submit a report indicating  
13 that fact.

14 (c) If a reporting agency fails to file a report required by  
15 subsection (7)(a) of this section within thirty days after the date the report  
16 is due, the executive director shall send notice of the failure to the  
17 reporting agency. If the report:

18 (II) Is not filed within forty-five days after the notice of failure is  
19 sent, the reporting agency shall pay a civil fine of the greater of five  
20 hundred dollars or an amount equal to fifty percent of the forfeiture  
21 ~~proceeds received by~~ COSTS AWARDED TO the reporting agency during the  
22 reporting period.

23 (8) (a) ~~Not later than December 31, 2019, and~~ Each December 31,  
24 ~~thereafter,~~ the executive director shall submit a report summarizing  
25 seizure and forfeiture activity in the state for the prior fiscal year to the  
26 governor; the attorney general; and the judiciary committees of the senate  
27 and the house of representatives, or any successor committees. The report

1 must also be posted on the division's website. The report must include:

2 (II) The amount of any forfeiture proceeds received by the state;  
3 ~~and any subdivision of the state;~~ and

4 (III) A categorized accounting of all forfeiture proceeds expended  
5 by the state. ~~and any subdivision of the state.~~

6 **SECTION 11.** In Colorado Revised Statutes, 16-13-702, **add** (7)  
7 as follows:

8 **16-13-702. Disposition of forfeited property.**

9 (7) (a) THIS SECTION APPLIES TO THE EXPENDITURE OF PROCEEDS  
10 FORFEITED TO THE SEIZING AGENCY PURSUANT TO SECTION 16-13-311  
11 (3)(a) AS IT EXISTED BEFORE JULY 1, 2026.

12 (b) AFTER JULY 1, 2026, A SEIZING AGENCY IS PROHIBITED FROM  
13 RECEIVING ANY PROCEEDS FROM A FORFEITURE ACTION EXCEPT AS  
14 PROVIDED IN SECTION 16-13-311 (3)(a)(IV) AND (3)(a)(V).

15 **SECTION 12.** In Colorado Revised Statutes, 24-32-124, **amend**  
16 (5)(b); and **add** (8) as follows:

17 **24-32-124. Law enforcement community services grant**  
18 **program - committee - policies and procedures - fund - rules - report**  
19 **- definitions.**

20 (5) (b) The law enforcement community services grant program  
21 fund is created in the state treasury. The fund consists of money  
22 transferred to the fund pursuant to section 16-13-311, AS IT EXISTED  
23 BEFORE JULY 1, 2026, any other money that the general assembly may  
24 appropriate or transfer to the fund, and any gifts, grants, or donations  
25 received by the division. Subject to annual appropriation by the general  
26 assembly, the division may only expend money from the fund for the  
27 grants awarded pursuant to this section and for up to five percent of the

1 money in the fund for the direct and indirect costs incurred in  
2 administering the program. Any unexpended and unencumbered money  
3 from an appropriation made for the purposes of this section remains  
4 available for expenditure by the division in the next fiscal year without  
5 further appropriation.

6 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO  
7 THE CONTRARY, ON JULY 1, 2026, THE STATE TREASURER SHALL TRANSFER  
8 ONE MILLION DOLLARS FROM THE LAW ENFORCEMENT COMMUNITY  
9 SERVICES GRANT PROGRAM FUND TO THE FORFEITURE DEFENSE COUNSEL  
10 FUND CREATED IN SECTION 16-13-318.

11 **SECTION 13.** In Colorado Revised Statutes, 13-3-101, **add** (18)  
12 as follows:

13 **13-3-101. State court administrator - duties - report -**  
14 **definitions - repeal.**

15 (18) THE STATE COURT ADMINISTRATOR SHALL MAKE GRANTS  
16 FROM THE FORFEITURE COUNSEL DEFENSE FUND CREATED IN SECTION  
17 16-13-318.

18 **SECTION 14. Appropriation.** For the 2025-26 state fiscal year,  
19 \$1,100,000 is appropriated to the judicial department. This appropriation  
20 is from the forfeiture defense counsel fund created in section 16-13-318,  
21 C.R.S. To implement this act, the state court administrator may use this  
22 appropriation for the purposes of administering section 16-13-318, C.R.S.

23 **SECTION 15. Effective date - applicability.** This act takes  
24 effect July 1, 2026, and applies to forfeiture actions commenced on or  
25 after said date.

26 **SECTION 16. Safety clause.** The general assembly finds,  
27 determines, and declares that this act is necessary for the immediate

1 preservation of the public peace, health, or safety or for appropriations for  
2 the support and maintenance of the departments of the state and state  
3 institutions.