

SENATE BILL No. 137

By Committee on Federal and State Affairs

1-31

1 AN ACT concerning the Kansas standard asset seizure and forfeiture act;
2 relating to the disposition of forfeited property; authorizing the sale or
3 transfer of forfeited firearms to a licensed federal firearms dealer;
4 amending K.S.A. 2024 Supp. 60-4117 and repealing the existing
5 section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2024 Supp. 60-4117 is hereby amended to read as
9 follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments
10 thereto: (a) When property is forfeited under this act, the law enforcement
11 agency may:

12 (1) Retain such property for official use or transfer the custody or
13 ownership to any local or state agency, subject to any lien preserved by the
14 court;

15 (2) transfer the custody or ownership to any federal agency if
16 authorized pursuant to K.S.A. 60-4107, and amendments thereto;

17 (3) destroy or use for investigative or training purposes, any illegal or
18 controlled substances and equipment or other contraband, provided that
19 materials necessary as evidence shall be preserved;

20 (4) sell property which is not required by law to be destroyed and
21 which is not harmful to the public:

22 (A) All property, except real property, designated by the seizing
23 agency to be sold shall be sold at public sale to the highest bidder for cash
24 without appraisal. The seizing agency shall first cause notice of the sale to
25 be made by publication at least once in an official county newspaper as
26 defined by K.S.A. 64-101, and amendments thereto. Such notice shall
27 include the time, place, and conditions of the sale and description of the
28 property to be sold. Nothing in this subsection shall prevent a state agency
29 from using the state surplus property system and such system's procedures
30 shall be sufficient to meet the requirements of this subsection.

31 (B) Real property may be sold pursuant to subsection (a)(3)(A), or
32 the seizing agency may contract with a real estate company, licensed in
33 this state, to list, advertise and sell such real property in a commercially
34 reasonable manner.

35 (C) No employee or public official of any agency involved in the
36 investigation, seizure or forfeiture of seized property may purchase or

1 attempt to purchase such property; or

2 (5) salvage the property, subject to any lien preserved by the court.

3 (b) When firearms are forfeited under this act, the firearms, in the
4 discretion of the seizing agency, shall be destroyed, used within the seizing
5 agency for official purposes, traded to another law enforcement agency for
6 use within such agency, *sold or transferred to a properly licensed federal*
7 *firearms dealer* or given to the Kansas bureau of investigation for law
8 enforcement, testing, comparison or destruction by the Kansas bureau of
9 investigation forensic laboratory.

10 (c) The proceeds of any sale shall be distributed in the following
11 order of priority:

12 (1) For satisfaction of any court preserved security interest or lien, or
13 in the case of a violation, as defined by K.S.A. 60-4104(i), and
14 amendments thereto, the proceeds shall be remitted to the state treasurer in
15 accordance with the provisions of K.S.A. 75-4215, and amendments
16 thereto. Upon receipt of such remittance, the state treasurer shall deposit
17 the entire amount into the state treasury to the credit of the medicaid fraud
18 reimbursement fund;

19 (2) thereafter, for payment of all proper expenses of the proceedings
20 for forfeiture and disposition, including expenses of seizure, inventory,
21 appraisal, maintenance of custody, preservation of availability, advertising,
22 service of process, sale and court costs;

23 (3) reasonable attorney fees:

24 (A) If the plaintiff's attorney is a county or district attorney, an
25 assistant, or another governmental agency's attorney, fees shall not exceed
26 15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in
27 an uncontested forfeiture nor 20% of the total proceeds, less the amounts
28 of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be
29 deposited in the county or city treasury and credited to the special
30 prosecutor's trust fund. Moneys in such fund shall not be considered a
31 source of revenue to meet normal operating expenditures, including salary
32 enhancement. Such fund shall be expended by the county or district
33 attorney, or other governmental agency's attorney through the normal
34 county or city appropriation system and shall be used for such additional
35 law enforcement and prosecutorial purposes as the county or district
36 attorney or other governmental agency's attorney deems appropriate,
37 including educational purposes. All moneys derived from past or pending
38 forfeitures shall be expended pursuant to this act. The board of county
39 commissioners shall provide adequate funding to the county or district
40 attorney's office to enable such office to enforce this act. Neither future
41 forfeitures nor the proceeds therefrom shall be used in planning or
42 adopting a county or district attorney's budget;

43 (B) if the plaintiff's attorney is the attorney general and the conduct

1 and offense giving rise to forfeiture is pursuant to K.S.A. 60-4104(i), and
2 amendments thereto, fees shall not exceed 15% of the total proceeds, less
3 the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor
4 20% of the total proceeds, less the amounts of subsection (c)(1) and (2) in
5 a contested forfeiture. Such fees shall be remitted to the state treasurer in
6 accordance with the provisions of K.S.A. 75-4215, and amendments
7 thereto. Upon receipt of each such remittance, the state treasurer shall
8 deposit the entire amount in the state treasury to the credit of the medicaid
9 fraud prosecution revolving fund. Moneys paid into the medicaid fraud
10 prosecution revolving fund pursuant to this subsection shall be
11 appropriated to the attorney general for use by the attorney general in the
12 investigation and prosecution of medicaid fraud and abuse; or

13 (C) if the plaintiff's attorney is a private attorney, such reasonable fees
14 shall be negotiated by the employing law enforcement agency;

15 (4) repayment of law enforcement funds expended in purchasing of
16 contraband or controlled substances, subject to any interagency agreement.

17 (d) Any proceeds remaining shall be credited as follows, subject to
18 any interagency agreement:

19 (1) If the law enforcement agency is a state agency, the entire amount
20 shall be deposited in the state treasury and credited to such agency's state
21 forfeiture fund. There is hereby established in the state treasury the
22 following state funds: Kansas bureau of investigation state forfeiture fund,
23 Kansas attorney general's state medicaid fraud forfeiture fund, Kansas
24 highway patrol state forfeiture fund, Kansas department of corrections
25 state forfeiture fund and Kansas national guard counter drug state
26 forfeiture fund. Expenditures from the Kansas bureau of investigation state
27 forfeiture fund shall be made upon warrants of the director of accounts and
28 reports issued pursuant to vouchers approved by the attorney general or by
29 a person or persons designated by the attorney general. Expenditures from
30 the Kansas attorney general's state medicaid fraud forfeiture fund shall be
31 made upon warrants of the director of accounts and reports issued pursuant
32 to vouchers approved by the attorney general or by a person or persons
33 designated by the attorney general. Expenditures from the Kansas highway
34 patrol state forfeiture fund shall be made upon warrants of the director of
35 accounts and reports issued pursuant to vouchers approved by the
36 superintendent of the highway patrol or by a person or persons designated
37 by the superintendent. Expenditures from the Kansas department of
38 corrections state forfeiture fund shall be made upon warrants of the
39 director of accounts and reports issued pursuant to vouchers approved by
40 the secretary of the department of corrections or by a person or persons
41 designated by the secretary. Expenditures from the Kansas national guard
42 counter drug state forfeiture fund shall be made upon warrants of the
43 director of accounts and reports issued pursuant to vouchers approved by

1 the adjutant general of Kansas or by a person or persons designated by the
2 adjutant general.

3 (2) If the law enforcement agency is a city or county agency, the
4 entire amount shall be deposited in such city or county treasury and
5 credited to a special law enforcement trust fund.

6 (e) (1) Moneys in the Kansas bureau of investigation state forfeiture
7 fund, Kansas highway patrol state forfeiture fund, Kansas department of
8 corrections state forfeiture fund, the special law enforcement trust funds
9 and the Kansas national guard counter drug state forfeiture fund shall not
10 be considered a source of revenue to meet normal operating expenses.
11 Such funds shall be expended by the agencies or departments through the
12 normal city, county or state appropriation system and shall be used for
13 such special, additional law enforcement purposes specified in subsection
14 (e)(2) as the law enforcement agency head deems appropriate. Neither
15 future forfeitures nor the proceeds from such forfeitures shall be used in
16 planning or adopting a law enforcement agency's budget.

17 (2) Moneys in the funds described in subsection (e)(1) shall be used
18 only for the following special, additional law enforcement purposes:

19 (A) The support of investigations and operations that further the law
20 enforcement agency's goals or missions;

21 (B) the training of investigators, prosecutors and sworn and non-
22 sworn law enforcement personnel in any area that is necessary to perform
23 official law enforcement duties;

24 (C) the costs associated with the purchase, lease, construction,
25 expansion, improvement or operation of law enforcement or detention
26 facilities used or managed by the recipient agency;

27 (D) the costs associated with the purchase, lease, maintenance or
28 operation of law enforcement equipment for use by law enforcement
29 personnel that supports law enforcement activities;

30 (E) the costs associated with the purchase of multi-use equipment and
31 operations used by both law enforcement and non-law enforcement
32 personnel;

33 (F) the costs associated with a contract for a specific service that
34 supports or enhances law enforcement;

35 (G) the costs associated with travel and transportation to perform or
36 in support of law enforcement duties and activities;

37 (H) the costs associated with the purchase of plaques and certificates
38 for law enforcement personnel in recognition of a law enforcement
39 achievement, activity or training;

40 (I) the costs associated with conducting awareness programs by law
41 enforcement agencies;

42 (J) the costs associated with paying a state or local law enforcement
43 agency's matching contribution or share in a state or federal grant program

1 for items other than salaries;

2 (K) cash transfers from one state or local law enforcement agency to
3 another in support of the law enforcement agency's goals or missions;

4 (L) transfers from a state or local law enforcement agency to a state,
5 county or local governmental agency or community non-profit
6 organization in support of the law enforcement agency's goals or missions;
7 and

8 (M) payment of attorney fees, litigation costs and interest ordered by
9 a court pursuant to K.S.A. 60-4116, and amendments thereto.

10 (3) Moneys in the funds described in subsection (e)(1) shall be
11 separated and accounted for in a manner that allows accurate tracking and
12 reporting of deposits and expenditures of the following categories of
13 money:

14 (A) Proceeds from forfeiture credited to the fund pursuant to this
15 section;

16 (B) proceeds from pending forfeiture actions under this act; and

17 (C) proceeds from forfeiture actions under federal law.

18 (f) Moneys in the Kansas attorney general's medicaid fraud forfeiture
19 fund shall defray costs of the attorney general in connection with the
20 duties of investigating and prosecuting medicaid fraud and abuse.

21 Sec. 2. K.S.A. 2024 Supp. 60-4117 is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.