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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 932.701, Florida
Statutes, is amended to read:

932.701 Short title; definitions.—

(1) Sections 932.701-932.7061 ~~932.706~~ shall be known and
may be cited as the "Florida Contraband Forfeiture Act."

Section 2. Subsection (11) of section 932.704, Florida



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11 Statutes, is amended to read:

12 932.704 Forfeiture proceedings.—

13 (11) (a) The Department of Law Enforcement, in consultation
14 with the Florida Sheriffs Association and the Florida Police
15 Chiefs Association, shall develop guidelines and training
16 procedures to be used by state and local law enforcement
17 agencies and state attorneys in implementing the Florida
18 Contraband Forfeiture Act. Each state or local law enforcement
19 agency that seizes property for the purpose of forfeiture shall
20 periodically review seizures of assets made by the agency's law
21 enforcement officers, settlements, and forfeiture proceedings
22 initiated by the agency, to determine whether such seizures,
23 settlements, and forfeitures comply with the Florida Contraband
24 Forfeiture Act and the guidelines adopted under this subsection.
25 Such review must occur at least annually. If the review suggests
26 deficiencies, the state or local law enforcement agency shall
27 promptly move to ensure the agency's compliance with this act.

28 (b) The determination of whether an agency will file a
29 civil forfeiture action must be the sole responsibility of the
30 head of the agency or his or her designee.

31 (c) ~~(b)~~ The determination of whether to seize currency must
32 be made by supervisory personnel. The agency's legal counsel
33 must be notified as soon as possible.

34 (d) The employment, salary, promotion, or other
35 compensation of any law enforcement officer may not depend on
36 obtaining a quota of seizures.

37 (e) A seizing agency must ensure, through the use of
38 written policies, procedures, and training, compliance with all
39 applicable legal requirements regarding seizing, maintaining,



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40 and forfeiting property under this act.

41 (f) When property is seized for forfeiture, the probable
42 cause supporting the seizure must be promptly reviewed by
43 supervisory personnel. The seizing agency's legal counsel must
44 be notified as soon as possible of all seizures and conduct a
45 review to determine whether there is legal sufficiency to
46 proceed with a forfeiture action.

47 (g) Each seizing agency must have written policies and
48 procedures promoting, when there is no other legitimate basis
49 for holding seized property, the prompt release of such property
50 as may be required by the act or by agency determination. To
51 help assure that property is not wrongfully held after seizure,
52 every law enforcement agency must have written policies and
53 procedures ensuring that all asserted claims of interest in
54 seized property are promptly reviewed for potential validity.

55 (h) The settlement of any forfeiture action must be
56 consistent with the mandates of this act and in compliance with
57 agency policy or directives.

58 (i) Law enforcement agency personnel involved in the
59 seizure of property for forfeiture shall receive basic training
60 and continuing education as required by this act. Each agency
61 shall maintain records demonstrating every law enforcement
62 officer's compliance with these training requirements. A portion
63 of such training must address the legal aspects of forfeiture,
64 including, but not limited to, search and seizure and other
65 constitutional considerations.

66 Section 3. Section 932.7061, Florida Statutes, is created
67 to read:

68 932.7061 Each state or local law enforcement agency that



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69 seizes property for the purpose of forfeiture must complete an
70 annual report indicating whether that agency has received or
71 forfeited property under this act. The report, to be submitted
72 on a form designed by the law enforcement agency, must, at a
73 minimum, specify the type of property, its approximate value,
74 the court case number, the type of offense for which the
75 property was seized, disposition of the property, and the dollar
76 amount of the proceeds received or expended in seizing the
77 property. This report must be kept on file with the seizing
78 agency for public access.

79 Section 4. Paragraph (a) of subsection (9) of section
80 322.34, Florida Statutes, is amended to read:

81 322.34 Driving while license suspended, revoked, canceled,
82 or disqualified.—

83 (9) (a) A motor vehicle that is driven by a person under the
84 influence of alcohol or drugs in violation of s. 316.193 is
85 subject to seizure and forfeiture under ss. 932.701-932.7061
86 ~~932.706~~ and is subject to liens for recovering, towing, or
87 storing vehicles under s. 713.78 if, at the time of the offense,
88 the person's driver license is suspended, revoked, or canceled
89 as a result of a prior conviction for driving under the
90 influence.

91 Section 5. Subsection (4) of section 323.001, Florida
92 Statutes, is amended to read:

93 323.001 Wrecker operator storage facilities; vehicle
94 holds.—

95 (4) The requirements for a written hold apply when the
96 following conditions are present:

97 (a) The officer has probable cause to believe the vehicle



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98 should be seized and forfeited under the Florida Contraband
99 Forfeiture Act, ss. 932.701-932.7061 ~~932.706~~;

100 (b) The officer has probable cause to believe the vehicle
101 should be seized and forfeited under chapter 379;

102 (c) The officer has probable cause to believe the vehicle
103 was used as the means of committing a crime;

104 (d) The officer has probable cause to believe that the
105 vehicle is itself evidence that tends to show that a crime has
106 been committed or that the vehicle contains evidence, which
107 cannot readily be removed, which tends to show that a crime has
108 been committed;

109 (e) The officer has probable cause to believe the vehicle
110 was involved in a traffic accident resulting in death or
111 personal injury and should be sealed for investigation and
112 collection of evidence by a vehicular homicide investigator;

113 (f) The vehicle is impounded or immobilized pursuant to s.
114 316.193 or s. 322.34; or

115 (g) The officer is complying with a court order.

116 Section 6. Paragraph (b) of subsection (3) of section
117 328.07, Florida Statutes, is amended to read:

118 328.07 Hull identification number required.-

119 (3)

120 (b) If any of the hull identification numbers required by
121 the United States Coast Guard for a vessel manufactured after
122 October 31, 1972, do not exist or have been altered, removed,
123 destroyed, covered, or defaced or the real identity of the
124 vessel cannot be determined, the vessel may be seized as
125 contraband property by a law enforcement agency or the division,
126 and shall be subject to forfeiture pursuant to ss. 932.701-



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127 932.7061 ~~932.706~~. Such vessel may not be sold or operated on the
128 waters of the state unless the division receives a request from
129 a law enforcement agency providing adequate documentation or is
130 directed by written order of a court of competent jurisdiction
131 to issue to the vessel a replacement hull identification number
132 which shall thereafter be used for identification purposes. No
133 vessel shall be forfeited under the Florida Contraband
134 Forfeiture Act when the owner unknowingly, inadvertently, or
135 neglectfully altered, removed, destroyed, covered, or defaced
136 the vessel hull identification number.

137 Section 7. Paragraph (c) of subsection (2) of section
138 817.625, Florida Statutes, is amended to read:

139 817.625 Use of scanning device or reencoder to defraud;
140 penalties.—

141 (2)

142 (c) Any person who violates subparagraph (a)1. or
143 subparagraph (a)2. shall also be subject to the provisions of
144 ss. ~~932.701-932.7061~~ 932.7061 ~~932.706~~.

145 Section 8. For the purpose of incorporating the amendment
146 made by this act to section 932.704, Florida Statutes, in a
147 reference thereto, section 27.3451, Florida Statutes, is
148 reenacted to read:

149 27.3451 State Attorney's Forfeiture and Investigative
150 Support Trust Fund.—There is created for each of the several
151 state attorneys a trust fund to be known as the State Attorney's
152 Forfeiture and Investigative Support Trust Fund. Revenues
153 received by a state attorney as a result of forfeiture
154 proceedings, as provided under s. 932.704, shall be deposited in
155 such trust fund and shall be used, when authorized by



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156 appropriation or action of the Executive Office of the Governor
157 pursuant to s. 216.181(11), for the investigation of crime,
158 prosecution of criminals, or other law enforcement purposes.

159 Section 9. For the purpose of incorporating the amendment
160 made by this act to section 932.704, Florida Statutes, in a
161 reference thereto, section 874.08, Florida Statutes, is
162 reenacted to read:

163 874.08 Criminal gang activity and recruitment; forfeiture.—
164 All profits, proceeds, and instrumentalities of criminal gang
165 activity and all property used or intended or attempted to be
166 used to facilitate the criminal activity of any criminal gang or
167 of any criminal gang member; and all profits, proceeds, and
168 instrumentalities of criminal gang recruitment and all property
169 used or intended or attempted to be used to facilitate criminal
170 gang recruitment are subject to seizure and forfeiture under the
171 Florida Contraband Forfeiture Act, s. 932.704.

172 Section 10. This act shall take effect July 1, 2015.

173 ===== T I T L E A M E N D M E N T =====

174 And the title is amended as follows:

175 Delete everything before the enacting clause
176 and insert:

177 A bill to be entitled
178 An act relating to contraband forfeiture; amending s.
179 932.701, F.S.; conforming a cross-reference to changes
180 made by the act; amending s. 932.704, F.S.; requiring
181 each state or local law enforcement agency that seizes
182 property for the purpose of forfeiture to perform a
183 specified periodic review at least annually;
184 prohibiting certain compensation or benefit to any law



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185 enforcement officer from being dependent upon
186 attaining a quota of seizures; requiring a seizing
187 agency to have certain written policies, procedures,
188 and training to comply with specified legal
189 requirements; requiring the probable cause for seizure
190 to be promptly reviewed by supervisory personnel;
191 requiring the seizing agency's legal counsel to be
192 timely notified and conduct a specified review;
193 requiring each seizing agency to have specified
194 written policies and procedures for the prompt release
195 of seized property under certain circumstances;
196 requiring that settlement of any forfeiture actions be
197 consistent with certain mandates and with the seizing
198 agency's policy or directives; requiring specified
199 training and maintenance of records for such training;
200 creating s. 932.7061, F.S.; requiring each state or
201 local law enforcement agency that seizes property for
202 the purpose of forfeiture to complete an annual
203 report; requiring certain information to be included
204 in the annual report; requiring the report to be kept
205 on file with the seizing agency for public access;
206 amending ss. 322.34, 323.001, 328.07, and 817.625,
207 F.S.; conforming cross-references; reenacting ss.
208 27.3451 and 874.08, F.S., relating to the State
209 Attorney's Forfeiture and Investigative Support Trust
210 Fund, and criminal gang activity, recruitment, and
211 forfeiture, respectively, to incorporate the amendment
212 made to s. 932.704, F.S., in references thereto;
213 providing an effective date.