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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/15/2016	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Hutson) 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 932.701-932.7062 ~~932.706~~ shall be known and  
may be cited as the "Florida Contraband Forfeiture Act."

Section 2. Subsection (1) of section 932.703, Florida



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11 Statutes, is amended to read:

12 932.703 Forfeiture of contraband article; exceptions.—

13 (1) (a) Any contraband article, vessel, motor vehicle,  
14 aircraft, other personal property, or real property used in  
15 violation of ~~any provision of~~ the Florida Contraband Forfeiture  
16 Act, or in, upon, or by means of which any violation of the  
17 Florida Contraband Forfeiture Act has taken or is taking place,  
18 may be seized and shall be forfeited subject to ~~the provisions~~  
19 ~~of~~ the Florida Contraband Forfeiture Act.

20 (b) Notwithstanding any other provision of the Florida  
21 Contraband Forfeiture Act, except ~~the provisions of~~ paragraph  
22 (a), contraband articles set forth in s. 932.701(2)(a)7. used in  
23 violation of ~~any provision of~~ the Florida Contraband Forfeiture  
24 Act, or in, upon, or by means of which any violation of the  
25 Florida Contraband Forfeiture Act has taken or is taking place,  
26 shall be seized and shall be forfeited subject to ~~the provisions~~  
27 ~~of~~ the Florida Contraband Forfeiture Act.

28 (c) At the time of seizure or entry of a restraining order,  
29 the state acquires provisional title to the seized property. A  
30 forfeiture under the Florida Contraband Forfeiture Act is not  
31 final, and title or other indicia of ownership, other than  
32 provisional title, do not pass to the state or jurisdiction  
33 seeking forfeiture until the owner of the seized property is  
34 prosecuted and convicted of a criminal act that renders the  
35 property a contraband article. If, after 3 months, the seizing  
36 agency cannot find the owner of the seized property after a  
37 diligent effort, the seized property is deemed a contraband  
38 article and forfeited subject to s. 932.704. However, if the  
39 seizing agency finds the owner, the seizing agency shall return



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40 the property to the owner within 5 days after:

41 1. The court finding that the owner had a bona fide  
42 security interest;

43 2. The court finding that the owner was an innocent owner;

44 3. The acquittal or dismissal of the owner of the criminal  
45 charge that was the basis of the forfeiture proceedings; or

46 4. The disposal of the criminal charge that was the basis  
47 of the forfeiture proceedings by nolle prosequi. The seizing  
48 agency is responsible for any damage, storage fee, and related  
49 cost applicable to the property ~~All rights to, interest in, and~~  
50 ~~title to contraband articles used in violation of s. 932.702~~  
51 ~~shall immediately vest in the seizing law enforcement agency~~  
52 ~~upon seizure.~~

53 (d) The seizing agency may not use the seized property for  
54 any purpose until the rights to, interest in, and title to the  
55 seized property are perfected in accordance with the Florida  
56 Contraband Forfeiture Act. This section does not prohibit use or  
57 operation necessary for reasonable maintenance of seized  
58 property. Reasonable efforts shall be made to maintain seized  
59 property in such a manner as to minimize loss of value.

60 Section 3. Subsections (7) and (11) of section 932.704,  
61 Florida Statutes, are amended to read:

62 932.704 Forfeiture proceedings.—

63 (7) Once property is seized pursuant to the Florida  
64 Contraband Forfeiture Act, regardless of whether the civil  
65 complaint has been filed, all settlements must be personally  
66 approved by the head of the law enforcement agency making the  
67 seizure. If the agency head is unavailable and a delay would  
68 adversely affect the settlement, approval may be given by a



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69 subordinate of the agency head who is designated to grant such  
70 authority. When the claimant and the seizing law enforcement  
71 agency agree to settle the forfeiture action after the civil  
72 complaint has been filed and before ~~prior to~~ the conclusion of  
73 the forfeiture proceeding, the settlement agreement shall be  
74 reviewed, unless such review is waived by the claimant in  
75 writing, by the court or a mediator or arbitrator agreed upon by  
76 the claimant and the seizing law enforcement agency. If the  
77 claimant is unrepresented, the settlement agreement must include  
78 a provision that the claimant has freely and voluntarily agreed  
79 to enter into the settlement without benefit of counsel.

80 (11) (a) The Department of Law Enforcement, in consultation  
81 with the Florida Sheriffs Association and the Florida Police  
82 Chiefs Association, shall develop guidelines and training  
83 procedures to be used by state and local law enforcement  
84 agencies and state attorneys in implementing the Florida  
85 Contraband Forfeiture Act. At least annually, each state or  
86 local law enforcement agency that seizes property for the  
87 purpose of forfeiture shall ~~periodically~~ review such seizures ~~of~~  
88 ~~assets made by the agency's law enforcement officers,~~ any  
89 settlements, and any forfeiture proceedings initiated by the law  
90 enforcement agency, ~~to determine whether they such seizures,~~  
91 ~~settlements, and forfeitures~~ comply with the Florida Contraband  
92 Forfeiture Act and the guidelines adopted under this subsection.  
93 If the review suggests deficiencies, the state or local law  
94 enforcement agency shall promptly take action to comply with the  
95 Florida Contraband Forfeiture Act.

96 (b) The determination as to ~~of~~ whether an agency will file  
97 a civil forfeiture action is ~~must be~~ the sole responsibility of



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98 the head of the agency or his or her designee.

99 (c) ~~(b)~~ The determination as to ~~of~~ whether to seize currency  
100 must be made by supervisory personnel. The agency's legal  
101 counsel must be notified as soon as possible after a  
102 determination is made.

103 (d) The employment, salary, promotion, or other  
104 compensation of any law enforcement officer may not be dependent  
105 on the ability of the officer to meet a quota for seizures.

106 (e) A seizing agency shall adopt and implement written  
107 policies, procedures, and training to ensure compliance with all  
108 applicable legal requirements regarding seizing, maintaining,  
109 and forfeiting property under the Florida Contraband Forfeiture  
110 Act.

111 (f) When property is seized for forfeiture, the probable  
112 cause supporting the seizure must be promptly reviewed by  
113 supervisory personnel. The seizing agency's legal counsel must  
114 be notified as soon as possible of all seizures and shall  
115 conduct a review to determine whether there is legal sufficiency  
116 to proceed with a forfeiture action.

117 (g) Each seizing agency shall adopt and implement written  
118 policies and procedures promoting the prompt release of seized  
119 property as may be required by the act or by agency  
120 determination when there is no legitimate basis for holding  
121 seized property. To help ensure that property is not wrongfully  
122 held after seizure, each law enforcement agency must adopt  
123 written policies and procedures ensuring that all asserted  
124 claims of interest in seized property are promptly reviewed for  
125 potential validity.

126 (h) The settlement of any forfeiture action must be



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127 consistent with the Florida Contraband Forfeiture Act and the  
128 agency's policy.

129 (i) Law enforcement agency personnel involved in the  
130 seizure of property for forfeiture shall receive basic training  
131 and continuing education as required by the Florida Contraband  
132 Forfeiture Act. Each agency shall maintain records demonstrating  
133 each law enforcement officer's compliance with this requirement.  
134 Among other things, the training must address the legal aspects  
135 of forfeiture, including, but not limited to, search and seizure  
136 and other constitutional considerations.

137 Section 4. Paragraph (c) of subsection (5) of section  
138 932.7055, Florida Statutes, is amended to read:

139 932.7055 Disposition of liens and forfeited property.—

140 (5)

141 (c) An agency or organization, other than the seizing  
142 agency, that wishes to receive such funds shall apply to the  
143 sheriff or chief of police for an appropriation and its  
144 application shall be accompanied by a written certification that  
145 the moneys will be used for an authorized purpose. Such requests  
146 for expenditures shall include a statement describing  
147 anticipated recurring costs for the agency for subsequent fiscal  
148 years. An agency or organization that receives money pursuant to  
149 this subsection shall provide an accounting for such moneys and  
150 shall furnish the same reports as an agency of the county or  
151 municipality that receives public funds. Such funds may be  
152 expended in accordance with the following procedures:

153 1. Such funds may be used only for school resource officer,  
154 crime prevention, safe neighborhood, drug abuse education, or  
155 drug prevention programs or such other law enforcement purposes



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156 as the board of county commissioners or governing body of the  
157 municipality deems appropriate.

158 2. Such funds shall not be a source of revenue to meet  
159 normal operating needs of the law enforcement agency.

160 3. ~~After July 1, 1992, and during every fiscal year~~  
161 ~~thereafter,~~ Any local law enforcement agency that acquires at  
162 least \$15,000 pursuant to the Florida Contraband Forfeiture Act  
163 within a fiscal year must expend or donate no less than 25 ~~15~~  
164 percent of such proceeds for the support or operation of any  
165 drug treatment, drug abuse education, drug prevention, crime  
166 prevention, safe neighborhood, or school resource officer  
167 program or programs ~~program(s)~~. The local law enforcement agency  
168 has the discretion to determine which program or programs  
169 ~~program(s)~~ will receive the designated proceeds.

170  
171 Notwithstanding the drug abuse education, drug treatment, drug  
172 prevention, crime prevention, safe neighborhood, or school  
173 resource officer minimum expenditures or donations, the sheriff  
174 and the board of county commissioners or the chief of police and  
175 the governing body of the municipality may agree to expend or  
176 donate such funds over a period of years if the expenditure or  
177 donation of such minimum amount in any given fiscal year would  
178 exceed the needs of the county or municipality for such program  
179 or programs ~~program(s)~~. ~~Nothing in this section precludes~~ The  
180 minimum requirement for expenditure or donation of forfeiture  
181 proceeds in excess of the minimum amounts established in this  
182 subparagraph does not preclude expenditures or donations in  
183 excess of that amount herein.

184 Section 5. Section 932.7061, Florida Statutes, is created



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185 to read:

186 932.7061 Reporting seized property for forfeiture.-

187 (1) Every law enforcement agency shall submit an annual  
188 report to the Department of Law Enforcement indicating whether  
189 the agency has seized or forfeited property under the Florida  
190 Contraband Forfeiture Act. A law enforcement agency receiving or  
191 expending forfeited property or proceeds from the sale of  
192 forfeited property in accordance with the Florida Contraband  
193 Forfeiture Act shall submit a completed annual report by October  
194 10 documenting the receipts and expenditures. The report shall  
195 be submitted in an electronic form, maintained by the Department  
196 of Law Enforcement in consultation with the Office of Program  
197 Policy Analysis and Government Accountability, to the entity  
198 that has budgetary authority over such agency and to the  
199 Department of Law Enforcement. The annual report must, at a  
200 minimum, specify the type, approximate value, court case number,  
201 type of offense, disposition of property received, and amount of  
202 any proceeds received or expended.

203 (2) The Department of Law Enforcement shall submit an  
204 annual report to the Office of Program Policy Analysis and  
205 Government Accountability compiling the information and data in  
206 the annual reports submitted by the law enforcement agencies.  
207 The annual report shall also contain a list of law enforcement  
208 agencies that have failed to meet the reporting requirements and  
209 a summary of any action taken against the noncomplying agency by  
210 the office of Chief Financial Officer.

211 (3) Neither the law enforcement agency nor the entity  
212 having budgetary control over the law enforcement agency shall  
213 anticipate future forfeitures or proceeds therefrom in the





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214 adoption and approval of the budget for the law enforcement  
215 agency.

216 Section 6. Section 932.7062, Florida Statutes, is created  
217 to read:

218 932.7062 Penalty for noncompliance with reporting  
219 requirements.—A seizing agency that fails to comply with the  
220 reporting requirements in s. 932.7061 is subject to a civil fine  
221 of \$5,000 payable to the General Revenue Fund. However, such  
222 agency is not subject to the fine if, within 60 days after  
223 receipt of written notification from the Department of Law  
224 Enforcement of noncompliance with the reporting requirements of  
225 the Florida Contraband Forfeiture Act, the agency substantially  
226 complies with those requirements. The Department of Law  
227 Enforcement shall submit any substantial noncompliance to the  
228 office of Chief Financial Officer, which shall be responsible  
229 for the enforcement of this section.

230 Section 7. Paragraphs (a) and (c) of subsection (9) of  
231 section 322.34, Florida Statutes, are amended to read:

232 322.34 Driving while license suspended, revoked, canceled,  
233 or disqualified.—

234 (9) (a) A motor vehicle that is driven by a person under the  
235 influence of alcohol or drugs in violation of s. 316.193 is  
236 subject to seizure and forfeiture under ss. 932.701-932.7062  
237 ~~932.706~~ and is subject to liens for recovering, towing, or  
238 storing vehicles under s. 713.78 if, at the time of the offense,  
239 the person's driver license is suspended, revoked, or canceled  
240 as a result of a prior conviction for driving under the  
241 influence.

242 (c) Notwithstanding ~~s. 932.703(1)(c)~~ or s. 932.7055, when



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243 the seizing agency obtains a final judgment granting forfeiture  
244 of the motor vehicle under this section, 30 percent of the net  
245 proceeds from the sale of the motor vehicle shall be retained by  
246 the seizing law enforcement agency and 70 percent shall be  
247 deposited in the General Revenue Fund for use by regional  
248 workforce boards in providing transportation services for  
249 participants of the welfare transition program. In a forfeiture  
250 proceeding under this section, the court may consider the extent  
251 that the family of the owner has other public or private means  
252 of transportation.

253 Section 8. Subsection (4) of section 323.001, Florida  
254 Statutes, is amended to read:

255 323.001 Wrecker operator storage facilities; vehicle  
256 holds.—

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

259 (a) The officer has probable cause to believe the vehicle  
260 should be seized and forfeited under the Florida Contraband  
261 Forfeiture Act, ss. 932.701-932.7062 ~~932.706~~;

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

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

266 (d) The officer has probable cause to believe that the  
267 vehicle is itself evidence that tends to show that a crime has  
268 been committed or that the vehicle contains evidence, which  
269 cannot readily be removed, which tends to show that a crime has  
270 been committed;

271 (e) The officer has probable cause to believe the vehicle



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272 was involved in a traffic accident resulting in death or  
273 personal injury and should be sealed for investigation and  
274 collection of evidence by a vehicular homicide investigator;

275 (f) The vehicle is impounded or immobilized pursuant to s.  
276 316.193 or s. 322.34; or

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

278 Section 9. Paragraph (b) of subsection (3) of section  
279 328.07, Florida Statutes, is amended to read:

280 328.07 Hull identification number required.—

281 (3)

282 (b) If any of the hull identification numbers required by  
283 the United States Coast Guard for a vessel manufactured after  
284 October 31, 1972, do not exist or have been altered, removed,  
285 destroyed, covered, or defaced or the real identity of the  
286 vessel cannot be determined, the vessel may be seized as  
287 contraband property by a law enforcement agency or the division,  
288 and shall be subject to forfeiture pursuant to ss. 932.701-  
289 932.7062 ~~932.706~~. Such vessel may not be sold or operated on the  
290 waters of the state unless the division receives a request from  
291 a law enforcement agency providing adequate documentation or is  
292 directed by written order of a court of competent jurisdiction  
293 to issue to the vessel a replacement hull identification number  
294 which shall thereafter be used for identification purposes. No  
295 vessel shall be forfeited under the Florida Contraband  
296 Forfeiture Act when the owner unknowingly, inadvertently, or  
297 neglectfully altered, removed, destroyed, covered, or defaced  
298 the vessel hull identification number.

299 Section 10. Paragraph (c) of subsection (2) of section  
300 817.625, Florida Statutes, is amended to read:



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301           817.625 Use of scanning device or reencoder to defraud;  
302 penalties.—

303           (2)

304           (c) Any person who violates subparagraph (a)1. or  
305 subparagraph (a)2. shall also be subject to the provisions of  
306 ss. ~~932.701-932.7062~~ 932.706.

307           Section 11. For the purpose of incorporating the amendment  
308 made by this act to section 932.703, Florida Statutes, in a  
309 reference thereto, paragraph (e) of subsection (6) of section  
310 403.413, Florida Statutes, is reenacted to read:

311           403.413 Florida Litter Law.—

312           (6) PENALTIES; ENFORCEMENT.—

313           (e) A motor vehicle, vessel, aircraft, container, crane,  
314 winch, or machine used to dump litter that exceeds 500 pounds in  
315 weight or 100 cubic feet in volume is declared contraband and is  
316 subject to forfeiture in the same manner as provided in ss.  
317 932.703 and 932.704.

318           Section 12. For the purpose of incorporating the amendment  
319 made by this act to section 932.704, Florida Statutes, in a  
320 reference thereto, section 27.3451, Florida Statutes, is  
321 reenacted to read:

322           27.3451 State Attorney's Forfeiture and Investigative  
323 Support Trust Fund.—There is created for each of the several  
324 state attorneys a trust fund to be known as the State Attorney's  
325 Forfeiture and Investigative Support Trust Fund. Revenues  
326 received by a state attorney as a result of forfeiture  
327 proceedings, as provided under s. 932.704, shall be deposited in  
328 such trust fund and shall be used, when authorized by  
329 appropriation or action of the Executive Office of the Governor



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330 pursuant to s. 216.181(11), for the investigation of crime,  
331 prosecution of criminals, or other law enforcement purposes.

332 Section 13. For the purpose of incorporating the amendment  
333 made by this act to section 932.704, Florida Statutes, in a  
334 reference thereto, section 874.08, Florida Statutes, is  
335 reenacted to read:

336 874.08 Criminal gang activity and recruitment; forfeiture.-  
337 All profits, proceeds, and instrumentalities of criminal gang  
338 activity and all property used or intended or attempted to be  
339 used to facilitate the criminal activity of any criminal gang or  
340 of any criminal gang member; and all profits, proceeds, and  
341 instrumentalities of criminal gang recruitment and all property  
342 used or intended or attempted to be used to facilitate criminal  
343 gang recruitment are subject to seizure and forfeiture under the  
344 Florida Contraband Forfeiture Act, s. 932.704.

345 Section 14. This act shall take effect July 1, 2016.

346

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

348 And the title is amended as follows:

349 Delete everything before the enacting clause  
350 and insert:

351 A bill to be entitled  
352 An act relating to contraband forfeiture; amending s.  
353 932.701, F.S.; revising the applicability of a short  
354 title; amending s. 932.703, F.S.; providing for the  
355 acquisition of the provisional title of seized  
356 property under certain circumstances; prohibiting a  
357 forfeiture under the Florida Contraband Forfeiture Act  
358 from being final until the owner of the seized



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359 property is prosecuted and convicted of a criminal act  
360 that renders the property a contraband article;  
361 providing that the property is deemed a contraband  
362 article and forfeited subject to forfeiture  
363 proceedings under certain circumstances; specifying  
364 circumstances under which the seizing law enforcement  
365 agency must return the property to the owner; deleting  
366 a provision vesting rights, interests, and title to  
367 contraband articles in the seizing law enforcement  
368 agency; amending s. 932.704, F.S.; requiring that  
369 specified persons approve a settlement once property  
370 has been seized; specifying when a settlement  
371 agreement must be reviewed; requiring each state or  
372 local law enforcement agency that seizes property for  
373 the purpose of forfeiture to perform a specified  
374 review at least annually; prohibiting certain  
375 compensation or benefit to any law enforcement officer  
376 from being dependent upon attaining a quota of  
377 seizures; requiring a seizing agency to adopt certain  
378 written policies, procedures, and training to ensure  
379 compliance; requiring that supervisory personnel  
380 review seizures to determine whether probable cause  
381 existed; requiring prompt notification of the seizing  
382 agency's legal counsel after a determination is made  
383 regarding seizure; requiring that the legal counsel  
384 conduct a specified review; requiring each seizing  
385 agency to adopt and implement specified written  
386 policies and procedures for the prompt release of  
387 seized property under certain circumstances; requiring



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388 that the settlement of forfeiture actions be  
389 consistent with certain mandates and with the seizing  
390 agency's policy; requiring specified training and the  
391 maintenance of related records; amending s. 932.7055,  
392 F.S.; increasing the minimum amount of forfeiture  
393 proceeds that certain law enforcement agencies must  
394 donate to certain programs; creating s. 932.7061,  
395 F.S.; requiring each state or local law enforcement  
396 agency that seizes property for the purpose of  
397 forfeiture to complete an annual report; requiring  
398 certain information to be included in the annual  
399 report; requiring the Department of Law Enforcement to  
400 make an annual report to the Office of Program Policy  
401 Analysis and Government Accountability compiling the  
402 information; prohibiting a law enforcement agency and  
403 an entity having budgetary control over the law  
404 enforcement agency from anticipating proceeds from  
405 forfeitures in their budgeting processes; creating s.  
406 932.7062, F.S.; providing a monetary penalty for  
407 seizing agencies that fail to comply with reporting  
408 requirements; providing an exception; providing for  
409 enforcement; amending s. 322.24, F.S.; conforming  
410 cross-references; conforming a provision to changes  
411 made by the act; amending ss. 323.001, 328.07, and  
412 817.625, F.S.; conforming cross-references; reenacting  
413 s. 403.413(6)(e), F.S., relating to forfeiture under  
414 the Florida Litter Law, to incorporate the amendment  
415 made to s. 932.703, F.S., in a reference thereto;  
416 reenacting ss. 27.3451 and 874.08, F.S., relating to



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417 the State Attorney's Forfeiture and Investigative  
418 Support Trust Fund, and criminal gang activity,  
419 recruitment, and forfeiture, respectively, to  
420 incorporate the amendment made to s. 932.704, F.S., in  
421 references thereto; providing an effective date.