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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
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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 932.701-932.7062 ~~932.706~~ shall be known and
may be cited as the "Florida Contraband Forfeiture Act."

Section 2. Subsections (7) and (11) of section 932.704,



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11 Florida Statutes, are amended to read:
12 932.704 Forfeiture proceedings.—
13 (7) Once property is seized pursuant to the Florida
14 Contraband Forfeiture Act, regardless of whether the civil
15 complaint has been filed, all settlements must be personally
16 approved by the head of the law enforcement agency making the
17 seizure. If the agency head is unavailable and a delay would
18 adversely affect the settlement, approval may be given by a
19 subordinate of the agency head who is designated to grant such
20 authority. When the claimant and the seizing law enforcement
21 agency agree to settle the forfeiture action after the civil
22 complaint has been filed and before ~~prior to~~ the conclusion of
23 the forfeiture proceeding, the settlement agreement shall be
24 reviewed, unless such review is waived by the claimant in
25 writing, by the court or a mediator or arbitrator agreed upon by
26 the claimant and the seizing law enforcement agency. If the
27 claimant is unrepresented, the settlement agreement must include
28 a provision that the claimant has freely and voluntarily agreed
29 to enter into the settlement without benefit of counsel.
30 (11) (a) The Department of Law Enforcement, in consultation
31 with the Florida Sheriffs Association and the Florida Police
32 Chiefs Association, shall develop guidelines and training
33 procedures to be used by state and local law enforcement
34 agencies and state attorneys in implementing the Florida
35 Contraband Forfeiture Act. At least annually, each state or
36 local law enforcement agency that seizes property for the
37 purpose of forfeiture shall ~~periodically~~ review such seizures ~~of~~
38 ~~assets made by the agency's law enforcement officers,~~ any
39 settlements, and any forfeiture proceedings initiated by the law



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40 enforcement agency, to determine whether they such seizures,
41 settlements, and forfeitures comply with the Florida Contraband
42 Forfeiture Act and the guidelines adopted under this subsection.
43 If the review suggests deficiencies, the state or local law
44 enforcement agency shall promptly take action to comply with the
45 Florida Contraband Forfeiture Act.

46 (b) The determination as to ~~of~~ whether an agency will file
47 a civil forfeiture action is ~~must be~~ the sole responsibility of
48 the head of the agency or his or her designee.

49 (c) ~~(b)~~ The determination as to ~~of~~ whether to seize currency
50 must be made by supervisory personnel. The agency's legal
51 counsel must be notified as soon as possible after a
52 determination is made.

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

56 (e) A seizing agency shall adopt and implement written
57 policies, procedures, and training to ensure compliance with all
58 applicable legal requirements regarding seizing, maintaining,
59 and forfeiting property under the Florida Contraband Forfeiture
60 Act.

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

67 (g) Each seizing agency shall adopt and implement written
68 policies and procedures promoting the prompt release of seized



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69 property as may be required by the act or by agency
70 determination when there is no legitimate basis for holding
71 seized property. To help assure that property is not wrongfully
72 held after seizure, each law enforcement agency must adopt
73 written policies and procedures ensuring that all asserted
74 claims of interest in seized property are promptly reviewed for
75 potential validity.

76 (h) The settlement of any forfeiture action must be
77 consistent with the Florida Contraband Forfeiture Act and the
78 agency's policy.

79 (i) Law enforcement agency personnel involved in the
80 seizure of property for forfeiture shall receive basic training
81 and continuing education as required by the Florida Contraband
82 Forfeiture Act. Each agency shall maintain records demonstrating
83 each law enforcement officer's compliance with this requirement.
84 Among other things, the training must address the legal aspects
85 of forfeiture, including, but not limited to, search and seizure
86 and other constitutional considerations.

87 Section 3. Paragraph (c) of subsection (5) of section
88 932.7055, Florida Statutes, is amended to read:

89 932.7055 Disposition of liens and forfeited property.—

90 (5)

91 (c) An agency or organization, other than the seizing
92 agency, that wishes to receive such funds shall apply to the
93 sheriff or chief of police for an appropriation and its
94 application shall be accompanied by a written certification that
95 the moneys will be used for an authorized purpose. Such requests
96 for expenditures shall include a statement describing
97 anticipated recurring costs for the agency for subsequent fiscal



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98 years. An agency or organization that receives money pursuant to
99 this subsection shall provide an accounting for such moneys and
100 shall furnish the same reports as an agency of the county or
101 municipality that receives public funds. Such funds may be
102 expended in accordance with the following procedures:

103 1. Such funds may be used only for school resource officer,
104 crime prevention, safe neighborhood, drug abuse education, or
105 drug prevention programs or such other law enforcement purposes
106 as the board of county commissioners or governing body of the
107 municipality deems appropriate.

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

110 3. ~~After July 1, 1992, and during every fiscal year~~
111 ~~thereafter,~~ Any local law enforcement agency that acquires at
112 least \$15,000 pursuant to the Florida Contraband Forfeiture Act
113 within a fiscal year must expend or donate no less than 25 ~~15~~
114 percent of such proceeds for the support or operation of any
115 drug treatment, drug abuse education, drug prevention, crime
116 prevention, safe neighborhood, or school resource officer
117 program or programs ~~program(s)~~. The local law enforcement agency
118 has the discretion to determine which program or programs
119 ~~program(s)~~ will receive the designated proceeds.

120
121 Notwithstanding the drug abuse education, drug treatment, drug
122 prevention, crime prevention, safe neighborhood, or school
123 resource officer minimum expenditures or donations, the sheriff
124 and the board of county commissioners or the chief of police and
125 the governing body of the municipality may agree to expend or
126 donate such funds over a period of years if the expenditure or



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127 donation of such minimum amount in any given fiscal year would
128 exceed the needs of the county or municipality for such program
129 or programs ~~program(s)~~. ~~Nothing in this section precludes~~ The
130 minimum requirement for expenditure or donation of forfeiture
131 proceeds in excess of the minimum amounts established in this
132 subparagraph does not preclude expenditures or donations in
133 excess of that amount herein.

134 Section 4. Section 932.7061, Florida Statutes, is created
135 to read:

136 932.7061 Reporting seized property for forfeiture.-

137 (1) Every law enforcement agency shall submit an annual
138 report to the Department of Law Enforcement indicating whether
139 the agency has seized or forfeited property under the Florida
140 Contraband Forfeiture Act. A law enforcement agency receiving or
141 expending forfeited property or proceeds from the sale of
142 forfeited property in accordance with the Florida Contraband
143 Forfeiture Act shall submit a completed annual report by October
144 10 documenting the receipts and expenditures. The report shall
145 be submitted in an electronic form, maintained by the Department
146 of Law Enforcement in consultation with the Office of Program
147 Policy Analysis and Government Accountability, to the entity
148 that has budgetary authority over such agency and to the
149 Department of Law Enforcement. The annual report must, at a
150 minimum, specify the type, approximate value, court case number,
151 type of offense, disposition of property received, and amount of
152 any proceeds received or expended.

153 (2) The Department of Law Enforcement shall submit an
154 annual report to the Office of Program Policy Analysis and
155 Government Accountability compiling the information and data in



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156 the annual reports submitted by the law enforcement agencies.
157 The annual report shall also contain a list of law enforcement
158 agencies that have failed to meet the reporting requirements and
159 a summary of any action taken against the noncomplying agency by
160 the office of Chief Financial Officer.

161 (3) Neither the law enforcement agency nor the entity
162 having budgetary control over the law enforcement agency shall
163 anticipate future forfeitures or proceeds therefrom in the
164 adoption and approval of the budget for the law enforcement
165 agency.

166 Section 5. Section 932.7062, Florida Statutes, is created
167 to read:

168 932.7062 Penalty for noncompliance with reporting
169 requirements.—A seizing agency that fails to comply with the
170 reporting requirements in s. 932.7061 is subject to a civil fine
171 of \$5,000 payable to the General Revenue Fund. However, such
172 agency is not subject to the fine if, within 60 days after
173 receipt of written notification from the Department of Law
174 Enforcement of noncompliance with the reporting requirements of
175 the Florida Contraband Forfeiture Act, the agency substantially
176 complies with those requirements. The Department of Law
177 Enforcement shall submit any substantial noncompliance to the
178 office of Chief Financial Officer, which shall be responsible
179 for the enforcement of this section.

180 Section 6. Paragraph (a) of subsection (9) of section
181 322.34, Florida Statutes, is amended to read:

182 322.34 Driving while license suspended, revoked, canceled,
183 or disqualified.—

184 (9) (a) A motor vehicle that is driven by a person under the



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185 influence of alcohol or drugs in violation of s. 316.193 is
186 subject to seizure and forfeiture under ss. 932.701-932.7062
187 ~~932.706~~ and is subject to liens for recovering, towing, or
188 storing vehicles under s. 713.78 if, at the time of the offense,
189 the person's driver license is suspended, revoked, or canceled
190 as a result of a prior conviction for driving under the
191 influence.

192 Section 7. Subsection (4) of section 323.001, Florida
193 Statutes, is amended to read:

194 323.001 Wrecker operator storage facilities; vehicle
195 holds.-

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

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

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

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

205 (d) The officer has probable cause to believe that the
206 vehicle is itself evidence that tends to show that a crime has
207 been committed or that the vehicle contains evidence, which
208 cannot readily be removed, which tends to show that a crime has
209 been committed;

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



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214 (f) The vehicle is impounded or immobilized pursuant to s.
215 316.193 or s. 322.34; or

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

217 Section 8. Paragraph (b) of subsection (3) of section
218 328.07, Florida Statutes, is amended to read:

219 328.07 Hull identification number required.—

220 (3)

221 (b) If any of the hull identification numbers required by
222 the United States Coast Guard for a vessel manufactured after
223 October 31, 1972, do not exist or have been altered, removed,
224 destroyed, covered, or defaced or the real identity of the
225 vessel cannot be determined, the vessel may be seized as
226 contraband property by a law enforcement agency or the division,
227 and shall be subject to forfeiture pursuant to ss. 932.701-
228 932.7062 ~~932.706~~. Such vessel may not be sold or operated on the
229 waters of the state unless the division receives a request from
230 a law enforcement agency providing adequate documentation or is
231 directed by written order of a court of competent jurisdiction
232 to issue to the vessel a replacement hull identification number
233 which shall thereafter be used for identification purposes. No
234 vessel shall be forfeited under the Florida Contraband
235 Forfeiture Act when the owner unknowingly, inadvertently, or
236 neglectfully altered, removed, destroyed, covered, or defaced
237 the vessel hull identification number.

238 Section 9. Paragraph (c) of subsection (2) of section
239 817.625, Florida Statutes, is amended to read:

240 817.625 Use of scanning device or reencoder to defraud;
241 penalties.—

242 (2)



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

246 Section 10. For the purpose of incorporating the amendment
247 made by this act to section 932.704, Florida Statutes, in a
248 reference thereto, section 27.3451, Florida Statutes, is
249 reenacted to read:

250 27.3451 State Attorney's Forfeiture and Investigative
251 Support Trust Fund.—There is created for each of the several
252 state attorneys a trust fund to be known as the State Attorney's
253 Forfeiture and Investigative Support Trust Fund. Revenues
254 received by a state attorney as a result of forfeiture
255 proceedings, as provided under s. 932.704, shall be deposited in
256 such trust fund and shall be used, when authorized by
257 appropriation or action of the Executive Office of the Governor
258 pursuant to s. 216.181(11), for the investigation of crime,
259 prosecution of criminals, or other law enforcement purposes.

260 Section 11. For the purpose of incorporating the amendment
261 made by this act to section 932.704, Florida Statutes, in a
262 reference thereto, section 874.08, Florida Statutes, is
263 reenacted to read:

264 874.08 Criminal gang activity and recruitment; forfeiture.—
265 All profits, proceeds, and instrumentalities of criminal gang
266 activity and all property used or intended or attempted to be
267 used to facilitate the criminal activity of any criminal gang or
268 of any criminal gang member; and all profits, proceeds, and
269 instrumentalities of criminal gang recruitment and all property
270 used or intended or attempted to be used to facilitate criminal
271 gang recruitment are subject to seizure and forfeiture under the



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272 Florida Contraband Forfeiture Act, s. 932.704.

273 Section 12. This act shall take effect July 1, 2016.

274

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

276 And the title is amended as follows:

277 Delete everything before the enacting clause

278 and insert:

279 A bill to be entitled

280 An act relating to contraband forfeiture; amending s.
281 932.701, F.S.; revising the applicability of a short
282 title; amending s. 932.704, F.S.; requiring that
283 specified persons approve a settlement once property
284 has been seized; specifying when a settlement
285 agreement must be reviewed; requiring each state or
286 local law enforcement agency that seizes property for
287 the purpose of forfeiture to perform a specified
288 review at least annually; prohibiting certain
289 compensation or benefit to any law enforcement officer
290 from being dependent upon attaining a quota of
291 seizures; requiring a seizing agency to adopt certain
292 written policies, procedures, and training to ensure
293 compliance; requiring that supervisory personnel
294 review seizures to determine whether probable cause
295 existed; requiring prompt notification of the seizing
296 agency's legal counsel after a determination is made
297 regarding seizure; requiring that the legal counsel
298 conduct a specified review; requiring each seizing
299 agency to adopt and implement specified written
300 policies and procedures for the prompt release of



301 seized property under certain circumstances; requiring
302 that the settlement of forfeiture actions be
303 consistent with certain mandates and with the seizing
304 agency's policy; requiring specified training and the
305 maintenance of related records; amending s. 932.7055,
306 F.S.; increasing the minimum amount of forfeiture
307 proceeds that certain law enforcement agencies must
308 donate to certain programs; creating s. 932.7061,
309 F.S.; requiring each state or local law enforcement
310 agency that seizes property for the purpose of
311 forfeiture to complete an annual report; requiring
312 certain information to be included in the annual
313 report; requiring the Department of Law Enforcement to
314 make an annual report to the Office of Program Policy
315 Analysis and Government Accountability compiling the
316 information; prohibiting a law enforcement agency and
317 an entity having budgetary control over the law
318 enforcement agency from anticipating proceeds from
319 forfeitures in their budgeting processes; creating s.
320 932.7062, F.S.; providing a monetary penalty for
321 seizing agencies that fail to comply with reporting
322 requirements; providing an exception; providing for
323 enforcement; amending ss. 322.34, 323.001, 328.07, and
324 817.625, F.S.; conforming cross-references; reenacting
325 ss. 27.3451 and 874.08, F.S., relating to the State
326 Attorney's Forfeiture and Investigative Support Trust
327 Fund, and criminal gang activity, recruitment, and
328 forfeiture, respectively, to incorporate the amendment
329 made to s. 932.704, F.S., in references thereto;



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providing an effective date.