

HOUSE BILL No. 2648

By Committee on Judiciary

2-8

1 AN ACT concerning seizure and forfeiture of property; relating to property
2 seized by law enforcement officers; offenses giving rise to forfeiture
3 under the Kansas standard asset seizure and forfeiture act; requiring a
4 criminal conviction; remitting proceeds to the state general fund;
5 removing provision making motor vehicles with altered vehicle
6 identification numbers contraband; amending K.S.A. 2021 Supp. 8-116,
7 22-2512, 60-4104, 60-4105, 60-4106, 60-4107, 60-4112, 60-4113, 60-
8 4117 and 60-4127 and repealing the existing sections.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2021 Supp. 8-116 is hereby amended to read as
12 follows: 8-116. (a) It is unlawful to sell, barter or exchange any motor
13 vehicle, trailer or semitrailer, the original vehicle identification number of
14 which has been destroyed, removed, altered or defaced, except as
15 contemplated by K.S.A. 8-116a, and amendments thereto, when no part of
16 the motor vehicle, trailer or semitrailer has been stolen and a vehicle
17 identification number has been assigned to the motor vehicle according to
18 law. Violation of this subsection-(a) is a severity level 10, nonperson
19 felony.

20 (b) It is unlawful to knowingly own or have the custody or possession
21 of a motor vehicle, trailer or semitrailer, the original vehicle identification
22 number of which has been destroyed, removed, altered or defaced, except
23 as contemplated by K.S.A. 8-116a, and amendments thereto, when no part
24 of the motor vehicle, trailer or semitrailer has been stolen and a vehicle
25 identification number has been assigned to the motor vehicle according to
26 law. Violation of this subsection-(b) is a class C misdemeanor.

27 (c) Any person who shall destroy, remove, alter or deface any vehicle
28 identification number, except as contemplated by K.S.A. 8-116a, and
29 amendments thereto, when no part of the motor vehicle, trailer or
30 semitrailer has been stolen, is guilty of a severity level 10, nonperson
31 felony.

32 (d) Every law enforcement officer in this state having knowledge of a
33 motor vehicle, trailer or semitrailer, the vehicle identification number of
34 which has been destroyed, removed, altered or defaced, shall seize and
35 take possession of such motor vehicle, trailer or semitrailer.

36 (e) ~~Every motor vehicle, trailer or semitrailer, the vehicle~~

1 ~~identification number of which has been destroyed, removed, altered or~~
2 ~~defaced, which has been seized under this section is an article of~~
3 ~~contraband and the provisions of K.S.A. 22-2512, and amendments~~
4 ~~thereto, shall apply.~~

5 (f) No law enforcement agency or employee of such agency acting
6 within the scope of employment shall be liable for damages resulting from
7 the adoption or enforcement of any policy adopted under this section.

8 Sec. 2. K.S.A. 2021 Supp. 22-2512 is hereby amended to read as
9 follows: 22-2512. (a) Property seized under a search warrant or validly
10 seized without a warrant shall be safely kept by the officer seizing the
11 same unless otherwise directed by the magistrate, and shall be so kept as
12 long as necessary for the purpose of being produced as evidence on any
13 trial. The property seized may not be taken from the officer having it in
14 custody so long as it is or may be required as evidence in any trial. *If no*
15 *criminal charges are filed or prosecution is declined, the property shall be*
16 *returned to such property's rightful owner or disposed of in accordance*
17 *with this section.* The officer seizing the property shall give a receipt to the
18 person detained or arrested particularly describing each article of property
19 being held and shall file a copy of such receipt with the magistrate before
20 whom the person detained or arrested is taken. Where seized property is no
21 longer required as evidence in the prosecution of any indictment or
22 information, the court which has jurisdiction of such property may transfer
23 the same to the jurisdiction of any other court, including courts of another
24 state or federal courts, where it is shown to the satisfaction of the court that
25 such property is required as evidence in any prosecution in such other
26 court.

27 (b) (1) Notwithstanding the provisions of subsection (a) and with the
28 approval of the affected court, any law enforcement officer who seizes
29 hazardous materials as evidence related to a criminal investigation may
30 collect representative samples of such hazardous materials, and lawfully
31 destroy or dispose of, or direct another person to lawfully destroy or
32 dispose of the remaining quantity of such hazardous materials.

33 (2) In any prosecution, representative samples of hazardous materials
34 accompanied by photographs, videotapes, laboratory analysis reports or
35 other means used to verify and document the identity and quantity of the
36 material shall be deemed competent evidence of such hazardous materials
37 and shall be admissible in any proceeding, hearing or trial as if such
38 materials had been introduced as evidence.

39 (3) As used in this section, the term "hazardous materials" means any
40 substance which is capable of posing an unreasonable risk to health, safety
41 and property. It shall include any substance which by its nature is
42 explosive, flammable, corrosive, poisonous, radioactive, a biological
43 hazard or a material which may cause spontaneous combustion. It shall

1 include, but not be limited to, substances listed in the table of hazardous
2 materials contained in the code of federal regulations title 49 and national
3 fire protection association's fire protection guide on hazardous materials.

4 (4) The provisions of this subsection shall not apply to ammunition
5 and components thereof.

6 (c) When property seized is no longer required as evidence, it shall be
7 disposed of as follows:

8 (1) Property stolen, embezzled, obtained by false pretenses, or
9 otherwise obtained unlawfully from the rightful owner thereof shall be
10 restored to the owner;

11 (2) money shall be restored to the owner unless it was contained in a
12 slot machine or otherwise used in unlawful gambling or lotteries, in which
13 case it shall be forfeited, and shall be paid to the state treasurer pursuant to
14 K.S.A. 20-2801, and amendments thereto;

15 (3) property ~~which~~ *that* is unclaimed or the ownership of which is
16 unknown shall be sold at public auction to be held by the sheriff and the
17 proceeds, less the cost of sale and any storage charges incurred in
18 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-
19 2801, and amendments thereto;

20 (4) articles of contraband shall be destroyed, except that any such
21 articles the disposition of which is otherwise provided by law shall be
22 dealt with as so provided and any such articles the disposition of which is
23 not otherwise provided by law and which may be capable of innocent use
24 may in the discretion of the court be sold and the proceeds disposed of as
25 provided in subsection (c)(3);

26 (5) explosives, bombs and like devices, ~~which~~ *that* have been used in
27 the commission of crime; may be returned to the rightful owner, or in the
28 discretion of the court having jurisdiction of the property, destroyed or
29 forfeited to the Kansas bureau of investigation;

30 (6) (A) except as provided in subsections (c)(6)(B) and (d), any
31 weapon or ammunition, in the discretion of the court having jurisdiction of
32 the property, shall be:

33 (i) Forfeited to the law enforcement agency seizing the weapon for
34 use within such agency, for sale to a properly licensed federal firearms
35 dealer, for trading to a properly licensed federal firearms dealer for other
36 new or used firearms or accessories for use within such agency or for
37 trading to another law enforcement agency for that agency's use;

38 (ii) forfeited to the Kansas bureau of investigation for law
39 enforcement, testing or comparison by the Kansas bureau of investigation
40 forensic laboratory;

41 (iii) forfeited to a county regional forensic science center, or other
42 county forensic laboratory for testing, comparison or other forensic
43 science purposes; or

1 (iv) forfeited to the Kansas department of wildlife, parks and tourism
 2 for use pursuant to the conditions set forth in K.S.A. 32-1047, and
 3 amendments thereto.

4 (B) Except as provided in subsection (d), any weapon which cannot
 5 be forfeited pursuant to subsection (c)(6)(A) due to the condition of the
 6 weapon, and any weapon which was used in the commission of a felony as
 7 described in K.S.A. 2021 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or
 8 21-5405, and amendments thereto, shall be destroyed.

9 (7) controlled substances forfeited for violations of K.S.A. 2021
 10 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt
 11 with as provided under K.S.A. 60-4101 through 60-4126, and amendments
 12 thereto;

13 (8) unless otherwise provided by law, all other property shall be
 14 disposed of in such manner as the court in its sound discretion shall direct.

15 (d) If a weapon is seized from an individual and the individual is not
 16 convicted of or adjudicated as a juvenile offender for the violation for
 17 which the weapon was seized, then within 30 days after the declination or
 18 conclusion of prosecution of the case against the individual, including any
 19 period of appeal, the law enforcement agency that seized the weapon shall
 20 verify that the weapon is not stolen, and upon such verification shall notify
 21 the person from whom it was seized that the weapon may be retrieved.
 22 Such notification shall include the location where such weapon may be
 23 retrieved.

24 (e) If weapons are sold as authorized by subsection (c)(6)(A), the
 25 proceeds of the sale shall be credited to the asset seizure and forfeiture
 26 fund of the seizing agency.

27 (f) For purposes of this section, the term "weapon" means a weapon
 28 described in K.S.A. 2021 Supp. 21-6301, and amendments thereto.

29 Sec. 3. K.S.A. 2021 Supp. 60-4104 is hereby amended to read as
 30 follows: 60-4104. ~~Conduct and~~ (a) *Except as provided in subsection (b),*
 31 offenses giving rise to forfeiture under this act, ~~whether or not there is a~~
 32 ~~prosecution or~~ *only after a conviction related to the offense, are:*

33 ~~(a)(1)~~ (a)(1) All offenses ~~which~~ *that* statutorily and specifically authorize
 34 forfeiture;

35 ~~(b)(2)~~ (b)(2) violations involving controlled substances, as described in
 36 K.S.A. 2021 Supp. 21-5701 through 21-5717, and amendments thereto;

37 ~~(e)(3)~~ (e)(3) theft, as defined in K.S.A. 2021 Supp. 21-5801, and
 38 amendments thereto;

39 ~~(d)(4)~~ (d)(4) criminal discharge of a firearm, as defined in K.S.A. 2021
 40 Supp. 21-6308(a)(1) and (a)(2), and amendments thereto;

41 ~~(e)(5)~~ (e)(5) gambling, as defined in K.S.A. 2021 Supp. 21-6404, and
 42 amendments thereto, and commercial gambling, as defined in K.S.A. 2021
 43 Supp. 21-6406(a)(1), and amendments thereto;

- 1 ~~(f)~~(6) counterfeiting, as defined in K.S.A. 2021 Supp. 21-5825, and
2 amendments thereto;
- 3 ~~(g)~~(7) unlawful possession or use of a scanning device or reencoder,
4 as described in K.S.A. 2021 Supp. 21-6108, and amendments thereto;
- 5 ~~(h)~~(8) medicaid fraud, as described in K.S.A. 2021 Supp. 21-5925
6 through 21-5934, and amendments thereto;
- 7 ~~(i)~~—an act or omission occurring outside this state, which would be a
8 violation in the place of occurrence and would be described in this section
9 if the act occurred in this state, whether or not it is prosecuted in any state;
- 10 ~~(j)~~—an act or omission committed in furtherance of any act or omission
11 described in this section including any inchoate or preparatory offense,
12 whether or not there is a prosecution or conviction related to the act or
13 omission;
- 14 ~~(k)~~ any solicitation or conspiracy to commit any act or omission
15 described in this section, whether or not there is a prosecution or
16 conviction related to the act or omission;
- 17 ~~(l)~~(9) terrorism, as defined in K.S.A. 2021 Supp. 21-5421, and
18 amendments thereto, illegal use of weapons of mass destruction, as
19 defined in K.S.A. 2021 Supp. 21-5422, and amendments thereto, and
20 furtherance of terrorism or illegal use of weapons of mass destruction, as
21 described in K.S.A. 2021 Supp. 21-5423, and amendments thereto;
- 22 ~~(m)~~(10) unlawful conduct of dog fighting and unlawful possession of
23 dog fighting paraphernalia, as defined in K.S.A. 2021 Supp. 21-6414(a)
24 and (b), and amendments thereto;
- 25 ~~(n)~~(11) unlawful conduct of cockfighting and unlawful possession of
26 cockfighting paraphernalia, as defined in K.S.A. 2021 Supp. 21-6417(a)
27 and (b), and amendments thereto;
- 28 ~~(o)~~(12) selling sexual relations, as defined in K.S.A. 2021 Supp. 21-
29 6419, and amendments thereto, promoting the sale of sexual relations, as
30 defined in K.S.A. 2021 Supp. 21-6420, and amendments thereto, and
31 buying sexual relations, as defined in K.S.A. 2021 Supp. 21-6421, and
32 amendments thereto;
- 33 ~~(p)~~(13) human trafficking and aggravated human trafficking, as
34 defined in K.S.A. 2021 Supp. 21-5426, and amendments thereto;
- 35 ~~(q)~~(14) violations of the banking code, as described in K.S.A. 9-2012,
36 and amendments thereto;
- 37 ~~(r)~~(15) mistreatment of a dependent adult, as defined in K.S.A. 2021
38 Supp. 21-5417, and amendments thereto;
- 39 ~~(s)~~(16) giving a worthless check, as defined in K.S.A. 2021 Supp. 21-
40 5821, and amendments thereto;
- 41 ~~(t)~~(17) forgery, as defined in K.S.A. 2021 Supp. 21-5823, and
42 amendments thereto;
- 43 ~~(u)~~(18) making false information, as defined in K.S.A. 2021 Supp.

1 21-5824, and amendments thereto;
 2 ~~(v)~~(19) criminal use of a financial card, as defined in K.S.A. 2021
 3 Supp. 21-5828, and amendments thereto;
 4 ~~(w)~~(20) unlawful acts concerning computers, as described in K.S.A.
 5 2021 Supp. 21-5839, and amendments thereto;
 6 ~~(x)~~(21) identity theft and identity fraud, as defined in K.S.A. 2021
 7 Supp. 21-6107(a) and (b), and amendments thereto;
 8 ~~(y)~~(22) electronic solicitation, as defined in K.S.A. 2021 Supp. 21-
 9 5509, and amendments thereto;
 10 ~~(z)~~(23) felony violations of fleeing or attempting to elude a police
 11 officer, as described in K.S.A. 8-1568, and amendments thereto;
 12 ~~(aa)~~(24) commercial sexual exploitation of a child, as defined in
 13 K.S.A. 2021 Supp. 21-6422, and amendments thereto;
 14 ~~(bb)~~(25) violations of the Kansas racketeer influenced and corrupt
 15 organization act, as described in K.S.A. 2021 Supp. 21-6329, and
 16 amendments thereto;
 17 ~~(cc)~~(26) indecent solicitation of a child and aggravated indecent
 18 solicitation of a child, as defined in K.S.A. 2021 Supp. 21-5508, and
 19 amendments thereto;
 20 ~~(dd)~~(27) sexual exploitation of a child, as defined in K.S.A. 2021
 21 Supp. 21-5510, and amendments thereto; and
 22 ~~(ee)~~(28) violation of a consumer protection order as defined in K.S.A.
 23 2021 Supp. 21-6423, and amendments thereto.
 24 *(b) A conviction for an offense giving rise to forfeiture shall not be*
 25 *required when property is forfeited pursuant to:*
 26 *(1) A plea agreement; or*
 27 *(2) an agreement for a grant of immunity or reduced punishment in*
 28 *exchange for testifying or assisting a law enforcement investigation or*
 29 *prosecution.*
 30 Sec. 4. K.S.A. 2021 Supp. 60-4105 is hereby amended to read as
 31 follows: 60-4105. The following property is subject to forfeiture:
 32 (a) Property described in a statute authorizing forfeiture;
 33 (b) except as otherwise provided by law, all property, of every kind,
 34 including, but not limited to, cash and negotiable instruments and the
 35 whole of any lot or tract of land and any appurtenances or improvements
 36 to real property that is either:
 37 (1) Furnished or intended to be furnished by any person in an
 38 exchange that constitutes ~~conduct~~ *an offense* giving rise to forfeiture; or
 39 (2) used or intended to be used in any manner to facilitate ~~conduct~~ *an*
 40 *offense* giving rise to forfeiture, including, but not limited to, any
 41 electronic device, computer, computer system, computer network or any
 42 software or data owned by the defendant which is used during the
 43 commission of an offense listed in K.S.A. 60-4104, and amendments

1 thereto;

2 (c) all proceeds of ~~any conduct~~ *an offense* giving rise to forfeiture;

3 (d) all property of every kind, including, but not limited to, cash and
 4 negotiable instruments derived from or realized through any proceeds
 5 which were obtained directly or indirectly from the commission of an
 6 offense listed in K.S.A. 60-4104, and amendments thereto;

7 (e) all weapons possessed, used, or available for use in any manner to
 8 facilitate ~~conduct~~ *an offense* giving rise to forfeiture;

9 (f) ownership or interest in real property that is a homestead, to the
 10 extent the homestead was acquired with proceeds from conduct giving rise
 11 to forfeiture;

12 (g) contraband, which shall be seized and summarily forfeited to the
 13 state without regard to the procedures set forth in this act;

14 (h) all controlled substances, raw materials, controlled substance
 15 analogs, counterfeit substances; or imitation controlled substances that
 16 have been manufactured, distributed, dispensed, possessed; or acquired in
 17 violation of the laws of this state; and

18 (i) any items bearing a counterfeit mark.

19 Sec. 5. K.S.A. 2021 Supp. 60-4106 is hereby amended to read as
 20 follows: 60-4106. (a) All property, including all interests in property,
 21 described in K.S.A. 60-4105, and amendments thereto, is subject to
 22 forfeiture subject to all mortgages, deeds of trust, financing statements or
 23 security agreements properly of record prior to the forfeiture held by an
 24 interest holder except that property specifically exempted hereunder:

25 (1) No real property or conveyance, or an interest therein, may be
 26 forfeited under this act unless the offense or conduct giving rise to
 27 forfeiture constitutes a felony.

28 (2) No conveyance used by any person as a common carrier in the
 29 transaction of business as a common carrier is subject to forfeiture under
 30 this act unless the owner or other person in charge of the conveyance is a
 31 consenting party or privy to ~~a violation of this act~~ *the offense giving rise to*
 32 *forfeiture*.

33 (3) No property is subject to forfeiture under this act if the owner or
 34 interest holder acquired the property before or during the ~~conduct~~
 35 *commission of the offense* giving rise to the property's forfeiture, and such
 36 owner or interest holder:

37 (A) Did not know and could not have reasonably known of the act or
 38 omission or that it was likely to occur; or

39 (B) acted reasonably to prevent the ~~conduct~~ *offense* giving rise to
 40 forfeiture.

41 (4) No property is subject to forfeiture if the owner or interest holder
 42 acquired the property after the ~~conduct~~ *commission of the offense* giving
 43 rise to the property's forfeiture, including acquisition of proceeds of

1 ~~conduct~~ *an offense* giving rise to forfeiture, and such owner or interest
2 holder:

3 (A) Acquired the property in good faith, for value; and

4 (B) was not knowingly taking part in an illegal transaction.

5 (5) (A) An interest in property acquired in good faith by an attorney
6 as reasonable payment or to secure payment for legal services in a criminal
7 matter relating to violations of this act or for the reimbursement of
8 reasonable expenses related to the legal services is exempt from forfeiture
9 unless before the interest was acquired the attorney knew of a judicial
10 determination of probable cause that the property is subject to forfeiture.

11 (B) The state bears the burden of proving that an exemption claimed
12 under this section is not applicable. Evidence made available by the
13 compelled disclosure of confidential communications between an attorney
14 and a client other than nonprivileged information relating to attorney fees,
15 is not admissible to satisfy the state's burden of proof.

16 (b) Notwithstanding subsection (a), property is not exempt from
17 forfeiture, even though the owner or interest holder lacked knowledge or
18 reason to know that the conduct giving rise to property's forfeiture had
19 occurred or was likely to occur, if the:

20 (1) Person whose ~~conduct~~ *offense* gave rise to the property's forfeiture
21 had authority to convey the property of the person claiming the exemption
22 to a good faith purchaser for value at the time of the ~~conduct~~ *offense*;

23 (2) owner or interest holder is ~~criminally responsible for the conduct~~
24 *convicted of the offense* giving rise to the property's forfeiture, ~~whether or~~
25 ~~not there is a prosecution or conviction~~; or

26 (3) owner or interest holder acquired the property with notice of the
27 property's actual or constructive seizure for forfeiture under this act; or
28 with reason to believe that the property was subject to forfeiture under this
29 act.

30 (c) Prior to final judgment in a judicial forfeiture proceeding, a court
31 shall limit the scope of a proposed forfeiture to the extent the court finds
32 the effect of the forfeiture is grossly disproportionate to the nature and
33 severity of the owner's conduct, including, but not limited to, a
34 consideration of any of the following factors:

35 (1) The gain received or expected to be received by an owner from
36 ~~such conduct that allows forfeiture~~;

37 (2) the value of the property subject to forfeiture;

38 (3) the extent to which the property actually facilitated the ~~criminal~~
39 ~~conduct~~ *offense giving rise to forfeiture*;

40 (4) the nature and extent of the owner's knowledge of the role of
41 others in the ~~conduct~~ *offense* that allows forfeiture of the property and
42 efforts of the owner to prevent the ~~conduct~~ *such offense*; and

43 (5) the totality of the circumstances regarding the investigation.

1 Sec. 6. K.S.A. 2021 Supp. 60-4107 is hereby amended to read as
2 follows: 60-4107. (a) Property may be seized for forfeiture by a law
3 enforcement officer upon process issued by the district court. The court
4 may issue a seizure warrant on an affidavit under oath demonstrating that
5 probable cause exists for the property's forfeiture or that the property has
6 been the subject of a previous final judgment of forfeiture in the courts of
7 any state or of the United States. The court may order that the property be
8 seized on such terms and conditions as are reasonable in the discretion of
9 the court. The order may be made on or in connection with a search
10 warrant. All real property is to be seized constructively or pursuant to a
11 pre-seizure adversarial judicial determination of probable cause, except
12 that this determination may be done ex parte when the attorney for the
13 state has demonstrated exigent circumstances to the court.

14 (b) Property may be seized for forfeiture by a law enforcement officer
15 without process on probable cause to believe the property is subject to
16 forfeiture under this act.

17 (c) Property may be seized constructively by:

18 (1) Posting notice of seizure for forfeiture or notice of pending
19 forfeiture on the property.

20 (2) Giving notice pursuant to K.S.A. 60-4109, and amendments
21 thereto.

22 (3) Filing or recording in the public records relating to that type of
23 property notice of seizure for forfeiture, notice of pending forfeiture, a
24 forfeiture lien or a lis pendens. Filings or recordings made pursuant to this
25 act are not subject to a filing fee or other charge, except that court costs
26 may be assessed and, if assessed, shall include the amount of the docket
27 fee prescribed by K.S.A. 60-2001, and amendments thereto, and any
28 additional court costs accrued in the action.

29 (d) The seizing agency shall make reasonable effort to provide notice
30 of the seizure to the person from whose possession or control the property
31 was seized and any interest holder of record within 30 days of seizing the
32 property. If no person is in possession or control, the seizing agency may
33 attach the notice to the property or to the place of the property's seizure or
34 may make a reasonable effort to deliver the notice to the owner of the
35 property. The notice shall contain a general description of the property
36 seized, the date and place of seizure, the name of the seizing agency and
37 the address and telephone number of the seizing officer or other person or
38 agency from whom information about the seizure may be obtained.

39 (e) A person who acts in good faith and in a reasonable manner to
40 comply with an order of the court or a request of a law enforcement officer
41 is not liable to any person on account of acts done in reasonable
42 compliance with the order or request. No liability may attach from the fact
43 that a person declines a law enforcement officer's request to deliver

1 property.

2 (f) A possessory lien of a person from whose possession property is
3 seized is not affected by the seizure.

4 (g) When property is seized for forfeiture under this act, the seizing
5 agency shall, within 45 days of such seizure, forward to the county or
6 district attorney in whose jurisdiction the seizure occurred, a written
7 request for forfeiture which shall include a statement of facts and
8 circumstances of the seizure, the estimated value of the property, the
9 owner and lienholder of the property, the amount of any lien, and a
10 summary of the facts relied on for forfeiture.

11 (h) Upon receipt of a written request for forfeiture from a local law
12 enforcement agency, the county or district attorney shall accept or decline
13 the request within 14 days. If the county or district attorney declines such
14 request, or fails to answer, the seizing agency may:

15 (1) Request a state law enforcement agency that enforces this act to
16 adopt the forfeiture; or

17 (2) engage an attorney, approved by the county or district attorney, to
18 represent the agency in the forfeiture proceeding, but in no event shall the
19 county or district attorney approve an attorney with whom the county or
20 district attorney has a financial interest, either directly or indirectly.

21 (i) Upon receipt of a written request for forfeiture from a state law
22 enforcement agency, the county or district attorney shall accept or decline
23 the request within 14 days. If the county or district attorney declines such
24 request, or fails to answer, the seizing agency may engage an assistant
25 attorney general or other attorney approved by the attorney general to
26 represent the agency in the forfeiture proceeding, but in no event shall the
27 attorney general approve an attorney with whom the attorney general has a
28 financial interest, either directly or indirectly.

29 (j) A county or district attorney or the attorney general shall not
30 request or receive any referral fee or personal financial benefit, either
31 directly or indirectly, in any proceeding conducted under this act.

32 (k) Nothing in this act shall prevent the attorney general, an employee
33 of the attorney general or an authorized representative of the attorney
34 general from conducting forfeiture proceedings under this act.

35 (l) Nothing in this act shall prevent a seizing agency from requesting
36 federal adoption of a seizure. It shall not be necessary to obtain any order
37 pursuant to K.S.A. 22-2512, and amendments thereto, to release any seized
38 property to a federal agency if the county or district attorney approves of
39 such transfer.

40 (m) Nothing in this act shall prevent a seizing agency, or the
41 plaintiff's attorney on behalf of the seizing agency, from settling any
42 alleged forfeiture claim against property before or during forfeiture
43 proceedings. Such settlement shall be in writing and shall be approved, if a

1 local agency, by the county or district attorney or, if a state agency, by the
2 attorney general's office and a district court judge. No hearing or other
3 proceeding shall be necessary. The records of settlements occurring prior
4 to commencement of judicial forfeiture proceedings in the district court
5 shall be retained by the county or district attorney for not less than five
6 years.

7 (n) Settlements under this act shall not be conditioned upon any
8 disposition of criminal charges.

9 (o) *When property is seized for forfeiture under this act, the seizing*
10 *agency shall not request or induce any person who asserts ownership or*
11 *possession of or any lawful right to the property to waive such interest in*
12 *such property until forfeiture proceedings are commenced pursuant to*
13 *K.S.A. 60-4109, and amendments thereto.*

14 Sec. 7. K.S.A. 2021 Supp. 60-4112 is hereby amended to read as
15 follows: 60-4112. (a) A judicial forfeiture proceeding under this act is
16 subject to the provisions of this section.

17 (b) The court, on application of the plaintiff's attorney, may enter any
18 restraining order or injunction, require the execution of satisfactory
19 performance bonds, create receiverships, appoint conservators, custodians,
20 appraisers, accountants or trustees, or take any other action to seize,
21 secure, maintain or preserve the availability of property subject to
22 forfeiture under this act, including a writ of attachment or a warrant for
23 such property's seizure, whether before or after the filing of a notice of
24 pending forfeiture or complaint.

25 (c) If property is seized for forfeiture or a forfeiture lien is filed
26 without a previous judicial determination of probable cause or order of
27 forfeiture or a hearing under K.S.A. 60-4114(c), and amendments thereto,
28 the court, on an application filed by an owner of or interest holder in the
29 property within 14 days after notice of the property's seizure for forfeiture
30 or lien, or actual knowledge of it, whichever is earlier, and after complying
31 with the requirements for claims in K.S.A. 60-4109, and amendments
32 thereto, after seven days' notice to the plaintiff's attorney, may issue an
33 order to show cause to the seizing agency, for a hearing on the sole issue
34 of whether probable cause for forfeiture of the property then exists. The
35 hearing shall be held within 30 days of the order to show cause unless
36 continued for good cause on motion of either party. If the court finds that
37 there is no probable cause for forfeiture of the property, or if the seizing
38 agency elects not to contest the issue, the property shall be released to the
39 custody of the applicant, as custodian for the court, or from the lien
40 pending the outcome of a judicial proceeding pursuant to this act. If the
41 court finds that probable cause for the forfeiture of the property exists, the
42 court shall not order the property released.

43 (d) All applications filed within the 14-day period prescribed by

1 subsection (c) shall be consolidated for a single hearing relating to each
2 applicant's interest in the property seized for forfeiture.

3 (e) A person charged with a criminal offense may apply at any time
4 before final judgment to the court where the forfeiture proceeding is
5 pending for the release of property seized for forfeiture, that is necessary
6 for the defense of the person's criminal charge. The application shall
7 satisfy the requirements under K.S.A. 60-4111(b), and amendments
8 thereto. The court shall hold a probable cause hearing if the applicant
9 establishes that:

10 (1) The person has not had an opportunity to participate in a previous
11 adversarial judicial determination of probable cause;

12 (2) the person has no access to other moneys adequate for the
13 payment of criminal counsel; and

14 (3) the interest in property to be released is not subject to any claim
15 other than the forfeiture.

16 (f) If the court finds that there is no probable cause for forfeiture of
17 the property, the court shall order the property released pursuant to
18 subsection (c). If the seizing agency does not contest the hearing, the court
19 may release a reasonable amount of property for the payment of the
20 applicant's criminal defense costs. Property that has been released by the
21 court and that has been paid for criminal defense services actually
22 rendered is exempt under this act.

23 (g) A defendant convicted in any criminal proceeding is precluded
24 from later denying the elements of the criminal offense of which the
25 defendant was convicted in any proceeding pursuant to this section. For
26 the purposes of this section, a conviction results from a verdict or plea of
27 guilty, including a plea of no contest or nolo contendere.

28 (h) (1) *At any time following seizure pursuant to this act, the person*
29 *from whose possession or control the property was seized may petition the*
30 *court to determine whether such forfeiture is unconstitutionally excessive.*

31 (2) *The plaintiff's attorney has the burden of establishing that the*
32 *forfeiture is proportional to the seriousness of the offense giving rise to the*
33 *forfeiture beyond a reasonable doubt at a hearing conducted by the court*
34 *without a jury. Such hearing may be a component of the associated trial*
35 *and not a separate hearing.*

36 (3) *In determining whether the forfeiture is unconstitutionally*
37 *excessive, the court may consider all relevant factors, including, but not*
38 *limited to:*

39 (A) *The seriousness of the offense;*

40 (B) *the extent to which the person whose possession or control of the*
41 *property was seized participated in the offense;*

42 (C) *the extent to which the property was used in committing the*
43 *offense;*

1 (D) *the sentence imposed for committing the offense giving rise to*
2 *forfeiture;*

3 (E) *the punitive nature of the forfeiture; and*

4 (F) *the fair market value of the property compared to the property*
5 *owner's net worth.*

6 (i) In any proceeding under this act, if a claim is based on any
7 exemption provided for in this act, the burden of proving the existence of
8 the exemption is on the claimant, and is not necessary for the seizing
9 agency or plaintiff's attorney to negate the exemption in any application or
10 complaint.

11 ~~(j)~~(j) In hearings and determinations pursuant to this section, the court
12 may receive and consider, in making any determination of probable cause
13 or reasonable cause, all evidence admissible in determining probable cause
14 at a preliminary hearing or in the issuance of a search warrant, together
15 with inferences therefrom.

16 ~~(k)~~(k) The totality of the circumstances shall determine if the property
17 of a person is subject to forfeiture under this act. Factors that may be
18 considered include, but are not limited to, the following:

19 (1) The person has engaged in conduct giving rise to forfeiture;

20 (2) the property was acquired by the person during that period of the
21 conduct giving rise to forfeiture or within a reasonable time after the
22 period;

23 (3) there was no likely source for the property other than the conduct
24 giving rise to forfeiture; and

25 (4) the proximity to contraband or an instrumentality giving rise to
26 forfeiture.

27 ~~(l)~~(l) A finding that property is the proceeds of conduct giving rise to
28 forfeiture does not require proof the property is the proceeds of any
29 particular exchange or transaction.

30 ~~(m)~~(m) A person who acquires any property subject to forfeiture is a
31 constructive trustee of the property, and such property's fruits, for the
32 benefit of the seizing agency, to the extent that such agency's interest is not
33 exempt from forfeiture. If property subject to forfeiture has been
34 commingled with other property, the court shall order the forfeiture of the
35 mingled property and of any fruits of the mingled property, to the extent of
36 the property subject to forfeiture, unless an owner or interest holder proves
37 that specified property does not contain property subject to forfeiture, or
38 that such owner's or interest holder's interest in specified property is
39 exempt from forfeiture.

40 ~~(n)~~(n) All property declared forfeited under this act vests in the law
41 enforcement agency seeking forfeiture on the date of commission of the
42 conduct giving rise to forfeiture together with the proceeds of the property
43 after that time. Any such property or proceeds subsequently transferred to

1 any person remain subject to forfeiture and thereafter shall be ordered
2 forfeited unless the transferee acquired the property in good faith, for
3 value, and was not knowingly taking part in an illegal transaction, and the
4 transferee's interest is exempt under K.S.A. 60-4106, and amendments
5 thereto.

6 ~~(n) An acquittal or dismissal in a criminal proceeding shall not~~
7 ~~preclude civil proceedings under this act, nor give rise to any presumption~~
8 ~~adverse or contrary to any fact alleged by the seizing agency.~~

9 ~~(o)(p)~~ On motion, the court shall stay discovery against the criminal
10 defendant and against the seizing agency in civil proceedings during a
11 related criminal proceeding alleging the same conduct, after making
12 provision to prevent loss to any party resulting from the delay. Such a stay
13 shall not be available pending any appeal by a defendant.

14 ~~(p)(q)~~ Except as otherwise provided by this act, all proceedings
15 hereunder shall be governed by the rules of civil procedure pursuant to
16 K.S.A. 60-101 et seq., and amendments thereto.

17 ~~(q)(r)~~ An action pursuant to this act shall be consolidated with any
18 other action or proceeding pursuant to this act or to such other foreclosure
19 or trustee sale proceedings relating to the same property on motion of the
20 plaintiff's attorney, and may be consolidated on motion of an owner or
21 interest holder.

22 Sec. 8. K.S.A. 2021 Supp. 60-4113 is hereby amended to read as
23 follows: 60-4113. (a) A judicial in rem forfeiture proceeding brought by
24 the plaintiff's attorney pursuant to a notice of pending forfeiture or verified
25 petition for forfeiture is also subject to the provisions of this section. If a
26 forfeiture is authorized by this act, it shall be ordered by the court in the in
27 rem action.

28 (b) An action in rem may be brought by the plaintiff's attorney in
29 addition to, or in lieu of, civil in personam forfeiture procedures. The
30 seizing agency may serve the complaint in the manner provided by K.S.A.
31 60-4109(a)(3), and amendments thereto, or as provided by the rules of
32 civil procedure.

33 (c) Only an owner of or an interest holder in the property who has
34 timely filed a proper claim may file an answer in an action in rem. For the
35 purposes of this section, an owner of or interest holder in property who has
36 filed a claim and answer shall be referred to as a claimant.

37 (d) The answer shall be signed by the claimant under penalty of
38 perjury, K.S.A. 2021 Supp. 21-5903, and amendments thereto, shall
39 otherwise be in accordance with the rules of civil procedure on answers
40 and shall also set forth the following:

41 (1) The caption of the proceedings and identifying number, if any, as
42 set forth on the notice of pending forfeiture or complaint and the name of
43 the claimant;

- 1 (2) the address where the claimant will accept mail;
- 2 (3) the nature and extent of the claimant's interest in the property; and
- 3 (4) a detailed description of when and how the claimant obtained an
- 4 interest in the property.

5 (e) Substantial compliance with subsection (d) shall be deemed
6 sufficient.

7 (f) It is permissible to assert the right against self-incrimination in an
8 answer. If a claimant asserts the right, the court, in the court's discretion,
9 may draw an adverse inference from the assertion against the claimant.
10 The adverse inference shall not, by itself, be the basis of a judgment
11 against the claimant.

12 (g) The answer shall be filed within 21 days after service of the civil
13 in rem complaint.

14 (h) The issue shall be determined by the court alone. The plaintiff's
15 attorney shall have the initial burden of proving the interest in the property
16 is subject to forfeiture ~~by a preponderance of the evidence~~ *beyond a*
17 *reasonable doubt*. If the state proves the interest in the property is subject
18 to forfeiture, the claimant has the burden of showing by a preponderance
19 of the evidence that the claimant has an interest in the property which is
20 not subject to forfeiture.

21 (i) If the plaintiff's attorney fails to meet the burden of proof for
22 forfeiture, or a claimant establishes by a preponderance of the evidence
23 that the claimant has an interest that is exempt under the provisions of
24 K.S.A. 60-4106, and amendments thereto, the court shall order the interest
25 in the property returned or conveyed to the claimant. The court shall order
26 all other property forfeited to the seizing agency and conduct further
27 proceedings pursuant to K.S.A. 60-4116 and 60-4117, and amendments
28 thereto.

29 Sec. 9. K.S.A. 2021 Supp. 60-4117 is hereby amended to read as
30 follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments
31 thereto: (a) When property is forfeited under this act, the law enforcement
32 agency may:

33 (1) Retain such property for official use or transfer the custody or
34 ownership to any local; ~~or state or federal~~ agency, subject to any lien
35 preserved by the court;

36 (2) *transfer the custody or ownership to any federal agency if the*
37 *property was seized and forfeited pursuant to federal law;*

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

41 ~~(3)~~(4) sell property which is not required by law to be destroyed and
42 which is not harmful to the public:

43 (A) All property, except real property, designated by the seizing

1 agency to be sold shall be sold at public sale to the highest bidder for cash
2 without appraisal. The seizing agency shall first cause notice of the sale to
3 be made by publication at least once in an official county newspaper as
4 defined by K.S.A. 64-101, and amendments thereto. Such notice shall
5 include the time, place, and conditions of the sale and description of the
6 property to be sold. Nothing in this subsection shall prevent a state agency
7 from using the state surplus property system and such system's procedures
8 shall be sufficient to meet the requirements of this subsection.

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

13 (C) No employee or public official of any agency involved in the
14 investigation, seizure or forfeiture of seized property may purchase or
15 attempt to purchase such property; or

16 ~~(4)~~(5) salvage the property, subject to any lien preserved by the court.

17 (b) When firearms are forfeited under this act, the firearms in the
18 discretion of the seizing agency, shall be destroyed, used within the seizing
19 agency for official purposes, traded to another law enforcement agency for
20 use within such agency or given to the Kansas bureau of investigation for
21 law enforcement, testing, comparison or destruction by the Kansas bureau
22 of investigation forensic laboratory.

23 (c) The proceeds of any sale shall be ~~distributed in the following~~
24 ~~order of priority:~~

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

32 ~~(2) thereafter, for payment of all proper expenses of the proceedings~~
33 ~~for forfeiture and disposition, including expenses of seizure, inventory,~~
34 ~~appraisal, maintenance of custody, preservation of availability, advertising,~~
35 ~~service of process, sale and court costs;~~

36 ~~(3) reasonable attorney fees:~~

37 ~~(A) If the plaintiff's attorney is a county or district attorney, an~~
38 ~~assistant, or another governmental agency's attorney, fees shall not exceed~~
39 ~~15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in~~
40 ~~an uncontested forfeiture nor 20% of the total proceeds, less the amounts~~
41 ~~of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be~~
42 ~~deposited in the county or city treasury and credited to the special~~
43 ~~prosecutor's trust fund. Moneys in such fund shall not be considered a~~

1 source of revenue to meet normal operating expenditures, including salary
2 enhancement. Such fund shall be expended by the county or district
3 attorney, or other governmental agency's attorney through the normal
4 county or city appropriation system and shall be used for such additional
5 law enforcement and prosecutorial purposes as the county or district
6 attorney or other governmental agency's attorney deems appropriate,
7 including educational purposes. All moneys derived from past or pending
8 forfeitures shall be expended pursuant to this act. The board of county
9 commissioners shall provide adequate funding to the county or district
10 attorney's office to enable such office to enforce this act. Neither future
11 forfeitures nor the proceeds therefrom shall be used in planning or
12 adopting a county or district attorney's budget;

13 (B) if the plaintiff's attorney is the attorney general and the conduct
14 and offense giving rise to forfeiture is pursuant to K.S.A. 60-4104(i), and
15 amendments thereto, fees shall not exceed 15% of the total proceeds, less
16 the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor
17 20% of the total proceeds, less the amounts of subsection (c)(1) and (2) in
18 a contested forfeiture. Such fees shall be remitted to the state treasurer in
19 accordance with the provisions of K.S.A. 75-4215, and amendments
20 thereto. Upon receipt of each such remittance, the state treasurer shall
21 deposit the entire amount in the state treasury to the credit of the medicaid
22 fraud prosecution revolving fund. Moneys paid into the medicaid fraud
23 prosecution revolving fund pursuant to this subsection shall be
24 appropriated to the attorney general for use by the attorney general in the
25 investigation and prosecution of medicaid fraud and abuse; or

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

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

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

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

1 made upon warrants of the director of accounts and reports issued pursuant
2 to vouchers approved by the attorney general or by a person or persons
3 designated by the attorney general. Expenditures from the Kansas highway
4 patrol state forfeiture fund shall be made upon warrants of the director of
5 accounts and reports issued pursuant to vouchers approved by the
6 superintendent of the highway patrol or by a person or persons designated
7 by the superintendent. Expenditures from the Kansas department of
8 corrections state forfeiture fund shall be made upon warrants of the
9 director of accounts and reports issued pursuant to vouchers approved by
10 the secretary of the department of corrections or by a person or persons
11 designated by the secretary. Expenditures from the Kansas national guard
12 counter drug state forfeiture fund shall be made upon warrants of the
13 director of accounts and reports issued pursuant to vouchers approved by
14 the adjutant general of Kansas or by a person or persons designated by the
15 adjutant general.

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

19 (e) (1) Moneys in the Kansas bureau of investigation state forfeiture
20 fund, Kansas highway patrol state forfeiture fund, Kansas department of
21 corrections state forfeiture fund, the special law enforcement trust funds
22 and the Kansas national guard counter drug state forfeiture fund shall not
23 be considered a source of revenue to meet normal operating expenses.
24 Such funds shall be expended by the agencies or departments through the
25 normal city, county or state appropriation system and shall be used for
26 such special, additional law enforcement purposes specified in subsection
27 (e)(2) as the law enforcement agency head deems appropriate. Neither
28 future forfeitures nor the proceeds from such forfeitures shall be used in
29 planning or adopting a law enforcement agency's budget.

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

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

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

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

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

43 (E) the costs associated with the purchase of multi-use equipment and

1 operations used by both law enforcement and non-law enforcement
2 personnel;

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

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

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

10 (I) the costs associated with conducting awareness programs by law
11 enforcement agencies;

12 (J) the costs associated with paying a state or local law enforcement
13 agency's matching contribution or share in a state or federal grant program
14 for items other than salaries;

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

17 (L) transfers from a state or local law enforcement agency to a state,
18 county or local governmental agency or community non-profit
19 organization in support of the law enforcement agency's goals or missions.

20 (3) Moneys in the funds described in subsection (c)(1) shall be
21 separated and accounted for in a manner that allows accurate tracking and
22 reporting of deposits and expenditures of the following categories of
23 money:

24 (A) Proceeds from forfeiture credited to the fund pursuant to this
25 section;

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

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

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

31 (g) (1) If the law enforcement agency is a state agency, such agency
32 shall compile and submit a forfeiture fund report to the legislature on or
33 before February 1 of each year. Such report shall include, but not be
34 limited to: (A) The fund balance on December 1; and (B) the deposits and
35 expenditures for the previous 12-month period ending December 1.

36 (2) If the law enforcement agency is a city or county agency, such
37 agency shall compile and submit annually a special law enforcement trust
38 fund report to the entity that has budgetary authority over such agency and
39 such report shall specify, for such period, the type and approximate value
40 of the forfeited property received, the amount of any forfeiture proceeds
41 received and how any of those proceeds were expended.

42 (3) The provisions of this subsection shall expire on July 1, 2019
43 *remitted to the state treasurer in accordance with the provisions of K.S.A.*

1 75-4215, and amendments thereto. Upon receipt of each such remittance,
2 the state treasurer shall deposit the entire amount in the state treasury to
3 the credit of the state general fund.

4 Sec. 10. K.S.A. 2021 Supp. 60-4127 is hereby amended to read as
5 follows: 60-4127. (a) ~~On or before July 1, 2019,~~ The Kansas bureau of
6 investigation shall establish the Kansas asset seizure and forfeiture
7 repository. The repository shall gather information concerning each seizure
8 for forfeiture made by a seizing agency pursuant to the Kansas standard
9 asset seizure and forfeiture act including, but not limited to, the following:

10 (1) The name of the seizing agency or the name of the lead agency if
11 part of a multi-jurisdictional task force;

12 (2) the county where the seizure occurred;

13 (3) the date and time the seizure occurred;

14 (4) any applicable agency or district court case numbers for the
15 seizure;

16 (5) a description of the initiating law enforcement activity leading to
17 the seizure;

18 (6) a description of the specific location where the seizure occurred;

19 (7) ~~the conduct or~~ offense giving rise to the forfeiture;

20 (8) a description of the type of property seized and the estimated
21 value;

22 (9) a description of the type of contraband seized and the estimated
23 value;

24 (10) ~~whether~~ the date criminal charges were filed for an offense
25 related to the forfeiture ~~and, if so,~~ the court and case number information
26 for the criminal charges *and the date of conviction*;

27 (11) a description of the final disposition of the forfeiture action,
28 including a description of the disposition of any claim or exemption
29 asserted under this act;

30 (12) whether the forfeiture was transferred to the federal government
31 for disposition;

32 (13) the total cost of the forfeiture action, including attorney fees; and

33 (14) the total amount of proceeds from the forfeiture action,
34 specifying the amount ~~received by the seizing agency and the amount~~
35 ~~received by any other agency or person remitted to the treasurer for~~
36 *deposit into the state general fund.*

37 (b) ~~On and after July 1, 2019,~~ The Kansas bureau of investigation
38 shall maintain the repository and an associated public website. ~~On or~~
39 ~~before July 1, 2019,~~ The Kansas bureau of investigation shall promulgate
40 rules and regulations to implement this section.

41 (c) ~~On and after July 1, 2019,~~ Each seizing agency shall report
42 information concerning each seizure for forfeiture to the Kansas asset
43 seizure and forfeiture repository as required by this section and the rules

1 and regulations promulgated pursuant to this section. The prosecuting
2 attorney shall submit information concerning each forfeiture action to the
3 seizing agency within 30 days after the final disposition of the forfeiture.
4 The seizing agency shall submit the required information to the repository
5 within 60 days after the final disposition of the forfeiture.

6 ~~(d) On or before February 1, 2020, and annually on or before~~
7 ~~February 1 thereafter, each law enforcement agency shall compile and~~
8 ~~submit a forfeiture fund report to the Kansas asset seizure and forfeiture~~
9 ~~repository as required by this section and the rules and regulations~~
10 ~~promulgated pursuant to this section.~~

11 (1) If the law enforcement agency is a state agency, the report shall
12 include, but not be limited to:

13 (A) The agency's state forfeiture fund balance on January 1 and
14 December 31 of the preceding calendar year; and

15 (B) the total amount of the deposits and a listing, by category, of
16 expenditures from January 1 through December 31 of the preceding
17 calendar year.

18 (2) If the law enforcement agency is a city or county agency, the
19 report shall include, but not be limited to:

20 (A) The agency's special law enforcement trust fund balance on
21 January 1 and December 31 of the preceding calendar year; and

22 (B) the total amount of the deposits and a listing, by category, of
23 expenditures from January 1 through December 31 of the preceding
24 calendar year.

25 (3) The report shall separate and account for:

26 (A) Deposits and expenditures from proceeds from forfeiture credited
27 to the fund pursuant to K.S.A. 60-4117, and amendments thereto;

28 (B) deposits and expenditures from proceeds from forfeiture actions
29 under federal law; and

30 (C) amounts held by the agency related to pending forfeiture actions
31 under the Kansas standard asset seizure and forfeiture act.

32 (e) On March 1, 2020, and annually on March 1 thereafter, the
33 Kansas bureau of investigation shall determine whether each agency's
34 financial report matches the agency's seizing report. If the Kansas bureau
35 of investigation determines that an agency's financial report does not
36 substantially match that agency's seizing report or the agency has not
37 submitted a financial report, the Kansas bureau of investigation shall
38 notify such agency of the difference in reports. Such agency shall correct
39 the reporting error within 30 days. If the reporting error is not corrected
40 within 30 days, the Kansas bureau of investigation shall send such law
41 enforcement agency, and the county or district attorney for the county in
42 which such law enforcement agency is located, a certified letter notifying
43 such agency that it is out of compliance. Upon receipt of such letter, no

1 ~~forfeiture proceedings shall be filed on property seized by such law~~
2 ~~enforcement agency. When such law enforcement agency has achieved~~
3 ~~compliance with the reporting requirements, the bureau shall send such~~
4 ~~law enforcement agency, and the county or district attorney for the county~~
5 ~~in which such law enforcement agency is located, a certified letter~~
6 ~~notifying such agency that it is in compliance and forfeiture proceeding~~
7 ~~filings may continue pursuant to this act. Annually, on or before April 15,~~
8 ~~the Kansas bureau of investigation shall report to the legislature any law~~
9 ~~enforcement agencies in the state that have failed to come into compliance~~
10 ~~with the reporting requirements in subsection (d).~~

11 Sec. 11. K.S.A. 2021 Supp. 8-116, 22-2512, 60-4104, 60-4105, 60-
12 4106, 60-4107, 60-4112, 60-4113, 60-4117 and 60-4127 are hereby
13 repealed.

14 Sec. 12. This act shall take effect and be in force from and after its
15 publication in the statute book.