Forfeiture Reporting Act
Model Legislation
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100.01 **Purpose.** Under state and federal forfeiture laws, state law enforcement agencies can seize money, vehicles, and other property, have them sold and use the proceeds to fund agency budgets. It is the responsibility of state legislators to monitor forfeiture. This bill provides legislators with the information necessary for basic oversight of members of the executive branch—law enforcement agencies—who seize and forfeit private property under state and federal forfeiture laws.

100.02 **Definition of law enforcement agency.** “Law enforcement agency” means any police force, multijurisdictional task force, fire department, or other local, county or state agency that (a) has the authority under state law or (b) operates in cooperation with a federal agency under federal law to engage in seizure and forfeiture.

100.03 **Reporting requirement.** (a) On an annual basis, each law enforcement agency shall report the following information about each individual seizure and forfeiture completed by the agency under (i) state forfeiture law and (ii) federal forfeiture law:

(1) Data on seizures and forfeitures including the following:

   A. Date that currency, vehicles, houses or other types of property were seized;

   B. Type of property seized, including year, make and model, as applicable;

   C. Type of alleged crime associated with the seizure of the property;
D. Outcome of related criminal action, such as whether (i) no charges were brought, (ii) a plea bargain was reached, (iii) a conviction was obtained or (iv) an acquittal was issued;

E. Type of forfeiture procedure: criminal forfeiture or civil forfeiture;

F. Type of civil forfeiture: administrative, judicial or other;

G. Venue of forfeiture case: administrative agency, small-claims court, civil court, criminal court or other;

H. Whether property owner was represented by an attorney in the forfeiture case;

I. Market value of the property seized;

J. Gross amount received from the forfeiture;

K. Total administrative and other expenses deducted as part of the forfeiture process;

L. Net amount received from the forfeiture;

M. Disposition of property following seizure, such as whether the property was (i) returned to the owner, (ii) destroyed, (iii) sold after forfeiture or (iv) retained after forfeiture;

N. Date of the aforementioned disposition of property; and

O. Whether the forfeiture resulted from an adoptive seizure. (yes or no)
   (i) An adoptive seizure occurs when 100 percent of the pre-seizure activity and related investigations are performed by the state or local seizing agency before a request is made to the federal government for adoption. There must be a state violation and a federal basis for forfeiture in order for the seizure to be an adoptive seizure.

   (ii) A seizure resulting from a joint investigation or task force case is not an adoptive seizure. [Note to drafter: This definition is based on the federal government’s definition in IRS code 9.7.2.7.3]

(2) Data on expenditures of forfeiture funds by law enforcement agencies including the following: [Note to drafter: expenditures prohibited by state law should be deleted from this enumeration.]

A. Crime, gang and substance-abuse prevention programs;
B. Witness protection and victim reparations;

C. Informant fees and buy money;

D. Regular-time salaries, overtime pay and employee benefits of prosecutors;

E. Regular-time salaries, overtime pay and employee benefits of law enforcement agency personnel other than prosecutors;

F. Professional or outside services, including services related to auditing, court reporting, expert witnesses and other court costs;

G. Travel, meals and entertainment;

H. Training and conferences;

I. Other operating expenses including supplies;

J. Vehicles purchased;

K. Canines, firearms and equipment, such as tactical gear;

L. Capital expenditures, such as furniture, computers and office equipment; and

M. Other uses of forfeiture proceeds.

(b) The State Reporting Agency [Note to drafter: insert name of appropriate state agency] may require information not specified in this section also be reported.

(c) Each law enforcement agency shall file with the State Reporting Agency (or other state agency) the report required under section (a) for the law enforcement agency and the corresponding prosecutor’s office. The law enforcement agency shall file separate reports for forfeitures completed under state forfeiture law and federal forfeiture law. A null report shall be filed by a law enforcement agency that did not engage in seizures or forfeitures during the reporting period.

100.04 Standard form, data entry and aggregate report. (a) The State Reporting Agency (or other state agency) shall develop a standard form, process and deadlines for electronic data entry for annual submission of forfeiture data by law enforcement agencies. The State Reporting Agency (or other state agency) shall compile the submissions and issue an aggregate report of all forfeitures in the state.

(b) By [Note to drafter: insert a date] ________ of each year, the State Reporting Agency (or other state agency) shall make available on its website the reports submitted by law enforcement agencies and its aggregate report. It shall distribute printed copies of its aggregate report to legislators, other government officials and the public upon request.
100.05 **Recommendations.** The State Reporting Agency shall include in its aggregate report recommendations to the legislature to improve forfeiture statutes to better ensure that forfeiture proceedings are reported and handled in a manner that is fair to crime victims, innocent property owners, secured interest holders, citizens and taxpayers.

100.06 **Penalty for failure to report.** The State Reporting Agency shall include in its aggregate report information on law enforcement agencies not in compliance with this chapter. It shall order the State to withhold payment of any funds to those agencies until compliance is achieved.

100.07 **Use of forfeiture proceeds to pay reporting costs.** The State Reporting Agency (or other state agency) may recoup its costs by charging a fee to law enforcement agencies that engage in seizures or forfeitures during the reporting period. Each law enforcement agency may use forfeiture proceeds to pay the cost of compiling and reporting data under this chapter, including any fee imposed by the State Reporting Agency (or other state agency).

100.08 **Public disclosure.** The data and reports compiled and prepared under this chapter about completed forfeitures are public information under the state’s Government Data Practices Act/Freedom of Information Act section _____. They are not exempted from disclosure by section______.

100.09 **Severability clause.**

100.10 **Repealer clause.**

100.11 **Effective date.**