

HOUSE BILL No. 5305

November 15, 1989, Introduced by Rep. Perry Bullard and referred to the Committee on Judiciary.

A bill to amend the title of Act No. 236 of the Public Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws; to add chapter 46; and to repeal certain parts of the act on a specific date.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 236 of the Public Acts of
2 1961, as amended, being sections 600.101 to 600.9947 of the
3 Michigan Compiled Laws, is amended and chapter 46 is added to
4 read as follows:

TITLE

5
6 An act to revise and consolidate the statutes relating to
7 the organization and jurisdiction of the courts of this state;
8 the powers and duties of ~~such~~ THOSE courts, and of the judges

1 and other officers thereof; the forms and attributes of civil
2 claims and actions; the time within which civil actions and pro-
3 ceedings may be brought in ~~said~~ THE courts; pleading, evidence,
4 practice, and procedure in civil and criminal actions and pro-
5 ceedings in ~~said~~ THE courts; to provide remedies and penalties
6 for the violation of certain provisions of this act; ~~and~~ to
7 repeal all acts and parts of acts inconsistent with, or contra-
8 vening any of the provisions of this act; AND TO REPEAL CERTAIN
9 PARTS OF THIS ACT ON SPECIFIC DATES.

10

CHAPTER 46

11 SEC. 4601. FOR THE PURPOSES OF THIS CHAPTER, THE WORDS AND
12 PHRASES DEFINED IN SECTIONS 4602 AND 4603 HAVE THE MEANINGS
13 ASCRIBED TO THEM IN THOSE SECTIONS.

14 SEC. 4602. (1) "BENEFICIAL INTEREST" MEANS ANY OF THE
15 FOLLOWING:

16 (A) THE INTEREST OF A PERSON AS A BENEFICIARY UNDER A TRUST,
17 IN WHICH THE TRUSTEE OF THE TRUST HOLDS LEGAL OR RECORD TITLE OF
18 THE PERSONAL OR REAL PROPERTY.

19 (B) THE INTEREST OF A PERSON OR A BENEFICIARY UNDER ANY
20 OTHER TRUST ARRANGEMENT UNDER WHICH ANY OTHER PERSON HOLDS LEGAL
21 OR RECORD TITLE TO PERSONAL OR REAL PROPERTY FOR THE BENEFIT OF
22 THE PERSON.

23 (C) THE INTEREST OF A PERSON UNDER ANY FORM OF EXPRESS FIDU-
24 CIARY ARRANGEMENT UNDER WHICH ANY OTHER PERSON HOLDS LEGAL OR
25 RECORD TITLE TO PERSONAL OR REAL PROPERTY FOR THE BENEFIT OF THE
26 PERSON.

1 (2) "CONTROL" MEANS THE POSSESSION OF A SUFFICIENT INTEREST
2 TO PERMIT SUBSTANTIAL DIRECTION OVER THE AFFAIRS OF AN
3 ENTERPRISE.

4 (3) "CRIMINAL SYNDICATE" MEANS A GROUP OF 2 OR MORE PERSONS
5 OR ENTERPRISES ENGAGING OR HAVING THE PURPOSE OF ENGAGING ON A
6 CONTINUING BASIS IN CONDUCT THAT CONSTITUTES A PATTERN OF RACKETEERING
7 ACTIVITY.

8 (4) "ENTERPRISE" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP,
9 PARTNERSHIP, CORPORATION, TRUST, TRADE UNION, ASSOCIATION, GOVERNMENTAL
10 UNIT, OR OTHER LEGAL ENTITY OR A GROUP OF PERSONS ASSOCIATED IN FACT
11 ALTHOUGH NOT A LEGAL ENTITY.

12 (5) "LAWFUL CLAIMANT" MEANS THE OWNER OR LIENHOLDER OF
13 RECORD TITLE OF PROPERTY.

14 SEC. 4603. (1) "PATTERN OF RACKETEERING ACTIVITY" MEANS NOT
15 LESS THAN 3 INCIDENTS OF RACKETEERING THAT HAVE THE SAME OR A
16 SIMILAR INTENT, RESULT, ACCOMPLICE, VICTIM, OR METHOD OF COMMISSION
17 OR THAT ARE OTHERWISE INTERRELATED BY DISTINGUISHING CHARACTERISTICS,
18 AND ARE NOT ISOLATED INCIDENTS, IF AT LEAST 1 OF THE
19 INCIDENTS OCCURRED AFTER THE EFFECTIVE DATE OF THIS SECTION AND
20 THE LAST OF THE INCIDENTS OCCURRED WITHIN THE APPROPRIATE STATUTE
21 OF LIMITATIONS EXCLUDING ANY PERIODS OF IMPRISONMENT.

22 (2) "PERSON" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP, PARTNERSHIP,
23 COOPERATIVE, ASSOCIATION, CORPORATION, PERSONAL REPRESENTATIVE,
24 RECEIVER, TRUSTEE, ASSIGNEE, OR OTHER LEGAL OR ILLEGAL
25 ENTITY.

1 (3) "PROCEEDS" MEANS ANY PROPERTY OBTAINED THROUGH THE
2 COMMISSION OF THE CRIME, INCLUDING ANY APPRECIATION IN THE VALUE
3 OF THE PROPERTY.

4 (4) "PROSECUTING AGENCY" MEANS THE ATTORNEY GENERAL OF THIS
5 STATE, OR HIS OR HER DESIGNEE.

6 (5) "RACKETEERING" MEANS THE COMMISSION, THE ATTEMPTED COM-
7 MISSION, CONSPIRING TO COMMIT, OR AIDING OR ABETTING, SOLICITING,
8 COERCING, OR INTIMIDATING A PERSON TO COMMIT AN OFFENSE FOR
9 FINANCIAL GAIN THAT IS CHARGEABLE OR INDICTABLE UNDER 1 OR MORE
10 OF THE FOLLOWING LAWS OF THIS STATE:

11 (A) ARSON, AS DEFINED IN SECTION 72, 73, OR 75 OF THE
12 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
13 BEING SECTIONS 750.72, 750.73, AND 750.75 OF THE MICHIGAN
14 COMPILED LAWS.

15 (B) BRIBERY AND RELATED OFFENSES, AS DEFINED IN SECTION 117,
16 118, 119, 120A, 121, 124, OR 125 OF ACT NO. 328 OF THE PUBLIC
17 ACTS OF 1931, BEING SECTIONS 750.117, 750.118, 750.119, 750.120A,
18 750.121, 750.124, AND 750.125 OF THE MICHIGAN COMPILED LAWS.

19 (C) CHILD PORNOGRAPHY, AS DEFINED IN SECTION 145C(2) OR (3)
20 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.145C
21 OF THE MICHIGAN COMPILED LAWS.

22 (D) A CRIME INVOLVING EXPLOSIVES, AS DEFINED IN SECTION 204,
23 204A, 205, 205A, 206, 207, 208, 210, 211, OR 211A OF ACT NO. 328
24 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.204, 750.204A,
25 750.205, 750.205A, 750.206, 750.207, 750.208, 750.210, 750.211,
26 AND 750.211A OF THE MICHIGAN COMPILED LAWS.

1 (E) DEALING IN STOLEN PROPERTY, AS DEFINED IN SECTION 535 OR
2 535A(2) OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
3 750.535 AND 750.535A OF THE MICHIGAN COMPILED LAWS, IF THE VALUE
4 OF THE PROPERTY EXCEEDS \$100,000.00.

5 (F) MANUFACTURE, DELIVERY, OR POSSESSION WITH INTENT TO MAN-
6 UFACTURE OR DELIVER A CONTROLLED SUBSTANCE, A PRESCRIPTION FORM,
7 OR A COUNTERFEIT PRESCRIPTION FORM IN VIOLATION OF SECTION 7401
8 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
9 1978, BEING SECTION 333.7401 OF THE MICHIGAN COMPILED LAWS.

10 (G) EXTORTION, AS DEFINED IN SECTION 213 OF ACT NO. 328 OF
11 THE PUBLIC ACTS OF 1931, BEING SECTION 750.213 OF THE MICHIGAN
12 COMPILED LAWS.

13 (H) FELONIOUS DISPOSAL OF HAZARDOUS WASTE, AS DEFINED IN
14 SECTION 48(3) OF THE HAZARDOUS WASTE MANAGEMENT ACT, ACT NO. 64
15 OF THE PUBLIC ACTS OF 1979, BEING SECTION 299.548 OF THE MICHIGAN
16 COMPILED LAWS.

17 (I) FRAUD, AS DEFINED IN SECTION 254 OR 257 OF THE MICHIGAN
18 VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
19 SECTIONS 257.254 AND 257.257 OF THE MICHIGAN COMPILED LAWS;
20 SECTION 3(1), (2), OR (3), 4, 5, 6, OR 7(1) OR (2) OF THE MEDI-
21 CAID FALSE CLAIM ACT, ACT NO. 72 OF THE PUBLIC ACTS OF 1977,
22 BEING SECTIONS 400.603, 400.604, 400.605, 400.606, AND 400.607 OF
23 THE MICHIGAN COMPILED LAWS; SECTION 101, 102(A), 404, OR 409 OF
24 THE UNIFORM SECURITIES ACT, ACT NO. 265 OF THE PUBLIC ACTS OF
25 1964, BEING SECTIONS 451.501, 451.502, 451.804, AND 451.809 OF
26 THE MICHIGAN COMPILED LAWS; SECTION 27 OF THE LAND SALES ACT, ACT
27 NO. 286 OF THE PUBLIC ACTS OF 1972, BEING SECTION 565.827 OF THE

1 MICHIGAN COMPILED LAWS; SECTION 218, 271, 272, OR 415(2) OF ACT
2 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.218,
3 750.271, 750.272, AND 750.415 OF THE MICHIGAN COMPILED LAWS;
4 SECTION 4 OR 6 OF ACT NO. 53 OF THE PUBLIC ACTS OF 1979, BEING
5 SECTIONS 752.794 AND 752.796 OF THE MICHIGAN COMPILED LAWS; OR
6 SECTION 4 OR 5 OF THE HEALTH CARE FALSE CLAIM ACT, ACT NO. 323 OF
7 THE PUBLIC ACTS OF 1984, BEING SECTIONS 752.1004 AND 752.1005 OF
8 THE MICHIGAN COMPILED LAW; IF THE VIOLATION INVOLVES \$100,000.00
9 OR MORE.

10 (J) GAMBLING, AS DEFINED IN SECTION 303 OF ACT NO. 328 OF
11 THE PUBLIC ACTS OF 1931, BEING SECTION 750.303 OF THE MICHIGAN
12 COMPILED LAWS, INVOLVING \$50,000.00 OR MORE.

13 (K) KIDNAPPING, AS DEFINED IN SECTION 349 OF ACT NO. 328 OF
14 THE PUBLIC ACTS OF 1931, BEING SECTION 750.349 OF THE MICHIGAN
15 COMPILED LAWS.

16 (L) MANUFACTURE, SALE, OR TRAFFICKING IN UNLICENSED ALCOHOL
17 OR ALCOHOLIC LIQUOR, AS DEFINED IN SECTION 3 OR 32 OF THE
18 MICHIGAN LIQUOR CONTROL ACT, ACT NO. 8 OF THE PUBLIC ACTS OF THE
19 EXTRA SESSION OF 1933, BEING SECTIONS 436.3 AND 436.32 OF THE
20 MICHIGAN COMPILED LAWS, IF THE VIOLATION INVOLVES \$100,000.00 OR
21 MORE.

22 (M) MURDER, SOLICITATION TO MURDER, OR CONSPIRACY TO COMMIT
23 MURDER, AS DEFINED IN SECTIONS 157A, 157B, 316, OR 317 OF ACT
24 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.157A,
25 750.157B, 750.316, AND 750.317 OF THE MICHIGAN COMPILED LAWS.

26 (N) AN INTERFERENCE WITH THE ORDERLY ADMINISTRATION OF THE
27 LAW, INCLUDING THE WILLFUL OR CORRUPT HAMPERING OR OBSTRUCTING

1 OF, OR INTERFERING WITH, A PROPER AND LEGITIMATE CRIMINAL
2 INVESTIGATION, OR ANY OFFENSE INDICTABLE UNDER SECTION 505 OF ACT
3 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.505 OF THE
4 MICHIGAN COMPILED LAWS.

5 (O) PANDERING, AS DEFINED IN SECTION 455, 457, OR 459 OF ACT
6 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.455,
7 750.457, AND 750.459 OF THE MICHIGAN COMPILED LAWS.

8 (P) POISONING, AS DEFINED IN SECTION 436 OF ACT NO. 328 OF
9 THE PUBLIC ACTS OF 1931, BEING SECTION 750.436 OF THE MICHIGAN
10 COMPILED LAWS.

11 (Q) PRICE FIXING AND ANTICOMPETITIVE ACTIVITIES, AS DEFINED
12 IN SECTION 9 OF THE MICHIGAN ANTITRUST REFORM ACT, ACT NO. 274 OF
13 THE PUBLIC ACTS OF 1984, BEING SECTION 445.779 OF THE MICHIGAN
14 COMPILED LAWS.

15 (R) RACETRACK FIXING, AS DEFINED IN SECTION 24 OR 25 OF THE
16 RACING LAW OF 1980, ACT NO. 327 OF THE PUBLIC ACTS OF 1980, BEING
17 SECTIONS 431.84 AND 431.85 OF THE MICHIGAN COMPILED LAWS, OR IN
18 SECTION 332 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SEC-
19 TION 750.332 OF THE MICHIGAN COMPILED LAWS.

20 (S) TRAFFICKING IN ILLEGAL GASOLINE OR CIGARETTES, AS
21 DEFINED IN SECTION 9 OF ACT NO. 265 OF THE PUBLIC ACTS OF 1947,
22 BEING SECTION 205.509 OF THE MICHIGAN COMPILED LAWS, OR
23 SECTION 18 OF ACT NO. 150 OF THE PUBLIC ACTS OF 1927, BEING
24 SECTION 207.118 OF THE MICHIGAN COMPILED LAWS, IF THE GASOLINE OR
25 CIGARETTES HAVE A VALUE OF \$100,000.00 OR MORE.

1 (T) USURY OR LOANSHARKING, AS DEFINED IN SECTION 1 OF ACT
2 NO. 259 OF THE PUBLIC ACTS OF 1968, BEING SECTION 438.41 OF THE
3 MICHIGAN COMPILED LAWS.

4 (U) TAX EVASION, AS DEFINED IN SECTION 27 OF ACT NO. 122 OF
5 THE PUBLIC ACTS OF 1941, BEING SECTION 205.27 OF THE MICHIGAN
6 COMPILED LAWS, INVOLVING \$100,000.00 OR MORE.

7 (V) UNLAWFUL DISCHARGE OF A SUBSTANCE INTO THE WATERS OF
8 THIS STATE, AS DEFINED IN SECTION 10(2) OF ACT NO. 245 OF THE
9 PUBLIC ACTS OF 1929, BEING SECTION 323.10 OF THE MICHIGAN
10 COMPILED LAWS.

11 (W) UNLAWFUL DISCHARGE OF POLLUTANTS INTO THE AIR, AS
12 DEFINED IN SECTION 16 OF THE AIR POLLUTION ACT, ACT NO. 348 OF
13 THE PUBLIC ACTS OF 1965, BEING SECTION 336.26 OF THE MICHIGAN
14 COMPILED LAWS.

15 (6) "SUBSTITUTED PROCEEDS" MEANS ANY PROPERTY OBTAINED OR
16 ANY GAIN REALIZED BY THE SALE OR EXCHANGE OF PROCEEDS OF A
17 CRIME.

18 SEC. 4604. THE FOLLOWING PROPERTY IS SUBJECT TO FORFEITURE
19 UNDER THIS CHAPTER UPON CONVICTION OF A PERSON FOR A VIOLATION OF
20 SECTION 571 OR 572 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE
21 PUBLIC ACTS OF 1931, BEING SECTIONS 750.571 AND 750.572 OF THE
22 MICHIGAN COMPILED LAWS:

23 (A) ANY PROPERTY, REAL OR PERSONAL, ACQUIRED OR MAINTAINED
24 BY A PERSON IN VIOLATION OF SECTION 571 OR 572 OF ACT NO. 328 OF
25 THE PUBLIC ACTS OF 1931 THAT WAS USED IN THE COURSE OF, DERIVED
26 FROM, OR REALIZED THROUGH AN OFFENSE INCLUDED IN THE DEFINITION
27 OF RACKETEERING IN SECTION 4603(5), EXCEPT REAL PROPERTY

1 PURCHASED AS THE PRIMARY RESIDENCE OF THE SPOUSE OR A DEPENDENT
2 CHILD OF THE OWNER PRIOR TO THE VIOLATION OF SECTION 571 OR 572
3 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931 OR AN AUTOMOBILE PUR-
4 CHASED OR USED FOR THE PURPOSE OF FAMILY TRANSPORTATION PRIOR TO
5 THE VIOLATION OF SECTION 571 OR 572 OF ACT NO. 328 OF THE PUBLIC
6 ACTS OF 1931.

7 (B) ANY INTEREST IN, SECURITY OF, OR CLAIM AGAINST, PROPERTY
8 OR A CONTRACTUAL RIGHT OF ANY KIND, AFFORDING A SOURCE OF INFLU-
9 ENCE OVER AN ENTERPRISE THAT A PERSON HAS ESTABLISHED, OPERATED,
10 CONTROLLED, CONDUCTED, OR PARTICIPATED IN THE CONDUCT OF, IN VIO-
11 LATION OF SECTION 571 OR 572 OF ACT NO. 328 OF THE PUBLIC ACTS OF
12 1931.

13 (C) ALL PROCEEDS OR SUBSTITUTED PROCEEDS TRACEABLE TO AN
14 OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING IN
15 SECTION 4603(5) AND ALL MONEY, NEGOTIABLE INSTRUMENTS, SECURI-
16 TIES, AND OTHER THINGS OF VALUE USED TO FACILITATE COMMISSION OF
17 THE OFFENSE.

18 SEC. 4605. (1) A FORFEITURE PROCEEDING UNDER THIS CHAPTER
19 SHALL BE AN IN REM PROCEEDING AGAINST THE PROPERTY INSTITUTED BY
20 THE FILING OF A PETITION BY THE ATTORNEY GENERAL.

21 (2) IF THE FORFEITURE PROCEEDING IS INITIATED BEFORE SEI-
22 ZURE, THE PETITION SHALL STATE WHAT PROPERTY IS SOUGHT TO BE FOR-
23 FEITED, THAT THE PROPERTY IS WITHIN THE JURISDICTION OF THE
24 COURT, THE GROUNDS FOR FORFEITURE, AND THE NAMES OF ALL PERSONS
25 KNOWN TO HAVE OR TO CLAIM AN INTEREST IN THE PROPERTY. THE COURT
26 SHALL DETERMINE EX PARTE WHETHER THERE IS PROBABLE CAUSE TO
27 BELIEVE THAT THE PROPERTY IS SUBJECT TO FORFEITURE UNDER THIS ACT

1 AND THAT NOTICE TO THOSE PERSONS HAVING OR CLAIMING AN INTEREST
2 IN THE PROPERTY PRIOR TO SEIZURE WOULD CAUSE THE LOSS OR DESTRU-
3 TION OF THE PROPERTY. IF THE COURT FINDS THAT PROBABLE CAUSE
4 DOES NOT EXIST TO BELIEVE THE PROPERTY IS SUBJECT TO FORFEITURE
5 UNDER THIS ACT, THE COURT SHALL DISMISS THE COMPLAINT. IF THE
6 COURT FINDS THAT PROBABLE CAUSE DOES EXIST TO BELIEVE THE PROP-
7 ERTY IS SUBJECT TO FORFEITURE BUT THERE IS NOT PROBABLE CAUSE TO
8 BELIEVE THAT PRIOR NOTICE WOULD RESULT IN LOSS OR DESTRUCTION OF
9 THE PROPERTY, THE COURT SHALL ORDER SERVICE ON ALL PERSONS KNOWN
10 TO HAVE OR CLAIM AN INTEREST IN THE PROPERTY PRIOR TO A FURTHER
11 HEARING ON WHETHER A WRIT OF SEIZURE SHOULD ISSUE. IF THE COURT
12 FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
13 IS SUBJECT TO FORFEITURE AND PROBABLE CAUSE TO BELIEVE THAT PRIOR
14 NOTICE WOULD CAUSE LOSS OR DESTRUCTION OF THE PROPERTY, THE COURT
15 SHALL ISSUE A WRIT OF SEIZURE DIRECTING THE SHERIFF OR OTHER LAW
16 ENFORCEMENT OFFICER IN THE COUNTY WHERE THE PROPERTY IS FOUND TO
17 SEIZE IT.

18 (3) FOLLOWING A SEIZURE WITHOUT PRIOR NOTICE UNDER
19 SUBSECTION (2), THE COURT SHALL NOTIFY ALL PERSONS WITH AN INTER-
20 EST IN THE PROPERTY AND SHALL HOLD A HEARING TO DETERMINE WHETHER
21 PROPERTY SEIZED PURSUANT TO THIS CHAPTER SHALL CONTINUE TO BE
22 HELD.

23 (4) PROPERTY SUBJECT TO FORFEITURE UNDER THIS CHAPTER MAY BE
24 SEIZED PURSUANT TO A WRIT OF SEIZURE ISSUED BY THE COURT HAVING
25 JURISDICTION OVER THE PROPERTY UPON A SHOWING OF PROBABLE CAUSE
26 TO BELIEVE THAT THE PROPERTY IS SUBJECT TO FORFEITURE.

1 (5) PERSONAL PROPERTY SUBJECT TO FORFEITURE UNDER THIS
2 CHAPTER MAY BE SEIZED WITHOUT PROCESS UNDER ANY OF THE FOLLOWING
3 CIRCUMSTANCES:

4 (A) THE PROPERTY IS THE PROCEEDS OF A CRIME OR AN INSTRUMEN-
5 TALITY OF A CRIME AND THE SEIZURE IS INCIDENT TO A LAWFUL
6 ARREST.

7 (B) THE SEIZURE IS PURSUANT TO A VALID SEARCH WARRANT.

8 (C) THE SEIZURE IS PURSUANT TO AN INSPECTION UNDER A VALID
9 ADMINISTRATIVE INSPECTION WARRANT.

10 (D) THE PROPERTY IS THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR
11 OF THIS STATE IN A FORFEITURE PROCEEDING.

12 (6) THE PROSECUTING AGENCY MAY APPLY EX PARTE FOR AN ORDER
13 AUTHORIZING THE FILING OF A LIEN NOTICE AGAINST REAL PROPERTY
14 SUBJECT TO FORFEITURE UNDER THIS CHAPTER. THE APPLICATION SHALL
15 BE SUPPORTED BY A SWORN AFFIDAVIT SETTING FORTH PROBABLE CAUSE
16 FOR A FORFEITURE ACTION PURSUANT TO THIS CHAPTER. AN ORDER
17 AUTHORIZING THE FILING OF A LIEN NOTICE MAY BE ISSUED UPON A
18 SHOWING OF PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS THE
19 PROCEEDS OF A CRIME OR THE SUBSTITUTED PROCEEDS OF A CRIME.

20 (7) PROPERTY SEIZED PURSUANT TO THIS SECTION THAT BELONGS TO
21 THE VICTIM OF A CRIME SHALL PROMPTLY BE RETURNED TO THE VICTIM,
22 EXCEPT IN THE FOLLOWING CIRCUMSTANCES:

23 (A) IF THE PROPERTY IS CONTRABAND.

24 (B) IF THE OWNERSHIP OF THE PROPERTY IS DISPUTED UNTIL THE
25 DISPUTE IS RESOLVED.

26 (C) IF THE PROPERTY IS REQUIRED TO BE RETAINED AS EVIDENCE
27 PURSUANT TO SECTION 4(4) OF THE CRIME VICTIM'S RIGHTS ACT, ACT

1 NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTION 780.754 OF THE
2 MICHIGAN COMPILED LAWS.

3 (8) PERSONAL PROPERTY SEIZED UNDER THIS CHAPTER IS NOT
4 SUBJECT TO ANY OTHER ACTION TO RECOVER PERSONAL PROPERTY, BUT IS
5 CONSIDERED TO BE IN THE CUSTODY OF THE SEIZING AGENCY SUBJECT
6 ONLY TO THIS CHAPTER, OR TO AN ORDER AND JUDGMENT OF THE COURT
7 HAVING JURISDICTION OVER THE FORFEITURE PROCEEDINGS. WHEN PROP-
8 ERTY IS SEIZED UNDER THIS CHAPTER, THE SEIZING AGENCY MAY DO
9 EITHER OR BOTH OF THE FOLLOWING:

10 (A) PLACE THE PROPERTY UNDER SEAL.

11 (B) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

12 (9) WITHIN 24 HOURS AFTER THE SEIZURE, THE SEIZURE SHALL BE
13 REPORTED BY THE SEIZING LAW ENFORCEMENT AGENCY TO THE ATTORNEY
14 GENERAL. IF PROPERTY IS SEIZED BEFORE A FORFEITURE PROCEEDING IS
15 INITIATED, THE PROSECUTING AGENCY SHALL, WITHIN 90 DAYS AFTER
16 RECEIVING NOTICE OF THE SEIZURE, FILE A PETITION FOR FORFEITURE.
17 THE PETITION SHALL STATE, IN ADDITION TO THE INFORMATION REQUIRED
18 IN SUBSECTION (2), THE DATE AND PLACE OF SEIZURE.

19 (10) VENUE IN A PROCEEDING BROUGHT UNDER THIS CHAPTER SHALL
20 BE PROPER IN ANY COUNTY IN WHICH A VIOLATION OF SECTION 571 OR
21 572 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF
22 1931, BEING SECTIONS 750.571 AND 750.572 OF THE MICHIGAN COMPILED
23 LAWS, OCCURRED.

24 SEC. 4606. (1) THE PROSECUTING AGENCY, UPON FILING A CIVIL
25 ACTION UNDER THIS CHAPTER, OR UPON CHARGING A VIOLATION OF
26 SECTION 571 OR 572 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE
27 PUBLIC ACTS OF 1931, BEING SECTIONS 750.571 AND 750.572 OF THE

1 MICHIGAN COMPILED LAWS, MAY FILE A FORFEITURE LIEN. A FILING FEE
2 OR OTHER CHARGE FOR THE FILING OF THE LIEN SHALL NOT BE
3 REQUIRED.

4 (2) A FORFEITURE LIEN SHALL BE SIGNED BY THE ATTORNEY GENER-
5 AL, OR HIS OR HER DESIGNEE. THE LIEN SHALL SET FORTH ALL OF THE
6 FOLLOWING INFORMATION:

7 (A) THE NAME OF THE PERSON WHOSE PROPERTY OR OTHER INTEREST
8 IS SUBJECT TO THE LIEN. THE PROSECUTING AGENCY MAY SET FORTH ANY
9 ALIASES OR FICTITIOUS NAMES OF THE PERSON NAMED IN THE LIEN.

10 (B) IF KNOWN, THE PRESENT RESIDENCE OR ADDRESS OR PRINCIPAL
11 PLACE OF BUSINESS OF THE PERSON NAMED IN THE LIEN.

12 (C) A REFERENCE TO THE PROCEEDING PURSUANT TO WHICH THE LIEN
13 IS FILED, INCLUDING THE NAME OF THE COURT, THE TITLE OF THE
14 ACTION, AND THE COURT'S FILE NUMBER FOR THE PROCEEDING.

15 (D) THE NAME AND ADDRESS OF THE ATTORNEY REPRESENTING THE
16 PROSECUTING AGENCY IN THE PROCEEDING PURSUANT TO WHICH THE LIEN
17 IS FILED.

18 (E) A STATEMENT THAT THE LIEN IS BEING FILED PURSUANT TO
19 THIS SECTION.

20 (F) THE AMOUNT THAT THE PROSECUTING AGENCY CLAIMS IN THE
21 ACTION OR, WITH RESPECT TO PROPERTY OR OTHER INTERESTS OF WHICH
22 THE PROSECUTING AGENCY HAS REQUESTED FORFEITURE, A DESCRIPTION OF
23 THE PROPERTY OR INTEREST SOUGHT TO BE FORFEITED.

24 (G) IF KNOWN TO THE PROSECUTING AGENCY FILING THE LIEN, A
25 DESCRIPTION OF PROPERTY THAT IS SUBJECT TO FORFEITURE IN WHICH
26 THE PERSON NAMED IN THE LIEN HAS AN INTEREST, WHICH IS AVAILABLE

1 TO SATISFY A JUDGMENT ENTERED IN FAVOR OF THE PROSECUTING
2 AGENCY.

3 (H) OTHER INFORMATION THE PROSECUTING AGENCY FILING THE LIEN
4 CONSIDERS APPROPRIATE.

5 (3) THE PROSECUTING AGENCY FILING THE LIEN MAY AMEND A LIEN
6 FILED UNDER THIS SECTION AT ANY TIME BY FILING AN AMENDED FORFEI-
7 TURE LIEN IN ACCORDANCE WITH THIS SECTION THAT IDENTIFIES THE
8 PRIOR LIEN THAT IS TO BE AMENDED.

9 (4) THE PROSECUTING AGENCY FILING THE FORFEITURE LIEN SHALL,
10 AS SOON AS PRACTICAL AFTER FILING THE LIEN, FURNISH TO ANY PERSON
11 NAMED IN THE LIEN A NOTICE OF THE FILING OF THE LIEN.

12 (5) A FORFEITURE LIEN IS PERFECTED AS FOLLOWS:

13 (A) AGAINST AN INTEREST IN REAL PROPERTY BY FILING THE LIEN
14 WITH THE REGISTER OF DEEDS OF THE COUNTY IN WHICH THE REAL PROP-
15 ERTY IS LOCATED.

16 (B) AGAINST AN INTEREST IN PERSONAL PROPERTY BY FILING THE
17 LIEN WITH THE SECRETARY OF STATE AND THE CLERK OF THE COUNTY IN
18 WHICH THE PERSONAL PROPERTY IS LOCATED OR IN WHICH IT WAS SEIZED,
19 WHERE APPROPRIATE, EXCEPT THAT IN THE CASE OF A TITLED MOTOR
20 VEHICLE, IT SHALL BE FILED WITH THE SECRETARY OF STATE.

21 (C) AGAINST A SHIP BY FILING THE LIEN IN THE APPROPRIATE
22 PUBLIC OFFICE PURSUANT TO CHAPTER 313 OF SUBTITLE III OF TITLE 46
23 OF THE UNITED STATES CODE, 46 U.S.C. 31301 TO 31343, IF THE PROP-
24 ERTY IS A WATERCRAFT MORE THAN 28 FEET LONG OR A WATERCRAFT THAT
25 HAS A CAPACITY OF 5 NET TONS OR MORE.

26 (D) AGAINST AN AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT
27 PROPELLER, OR PARTS OF AN AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT

1 PROPELLER, IF THE LIEN IS FILED IN THE APPROPRIATE PUBLIC OFFICE
2 PURSUANT TO THE FEDERAL AVIATION ACT OF 1958, PUBLIC LAW 85-726,
3 72 STAT. 731.

4 (6) THE FILING OF A FORFEITURE LIEN IN ACCORDANCE WITH THIS
5 SECTION CREATES A LIEN IN FAVOR OF THE JURISDICTION SERVED BY THE
6 PROSECUTING AGENCY AGAINST ANY OF THE FOLLOWING:

7 (A) ANY INTEREST OF THE PERSON IDENTIFIED IN THE LIEN IN
8 REAL PROPERTY SITUATED IN THE COUNTY IN WHICH THE LIEN IS FILED
9 WHETHER THE INTEREST EXISTS AT THE TIME OF FILING OR IS THEREAF-
10 TER ACQUIRED IN THE NAME OF THE PERSON IDENTIFIED IN THE LIEN.

11 (B) ANY INTEREST OF THE PERSON IDENTIFIED IN THE LIEN IN
12 PERSONAL PROPERTY SITUATED IN THIS STATE WHETHER THE INTEREST
13 EXISTS AT THE TIME OF FILING OR IS THEREAFTER ACQUIRED IN THE
14 NAME OF THE PERSON IDENTIFIED IN THE LIEN.

15 (C) ANY PROPERTY IDENTIFIED IN THE LIEN TO THE EXTENT OF THE
16 INTEREST OF THE PERSON IDENTIFIED IN THE LIEN.

17 (7) THE FILING OF A FORFEITURE LIEN UNDER THIS SECTION IS
18 NOTICE TO ALL PERSONS DEALING WITH THE PERSON OR PROPERTY IDENTI-
19 FIED IN THE LIEN OF THE CLAIM BY THE PROSECUTING AGENCY. THE
20 LIEN CREATED IN ACCORDANCE WITH THIS SECTION IS SUPERIOR AND
21 PRIOR TO THE CLAIM OR INTEREST OF ANY OTHER PERSON, EXCEPT A
22 PERSON POSSESSING ANY OF THE FOLLOWING:

23 (A) A VALID LIEN PERFECTED PRIOR TO THE FILING OF THE FOR-
24 FEITURE LIEN.

25 (B) IN THE CASE OF REAL PROPERTY, AN INTEREST ACQUIRED PRIOR
26 TO THE ILLEGAL USE OF THE PROPERTY AND RECORDED PRIOR TO THE
27 FILING OF THE LIEN, OR A PRIOR ACQUIRED INTEREST IF THE PERSON

1 ACQUIRING THE INTEREST HAD NO KNOWLEDGE OF THE ILLEGAL USE OF THE
2 PROPERTY.

3 (C) IN THE CASE OF PERSONAL PROPERTY, AN INTEREST ACQUIRED
4 PRIOR TO THE ILLEGAL USE OF THE PROPERTY AND PRIOR TO THE FILING
5 OF THE LIEN, OR A PRIOR ACQUIRED INTEREST IF THE PERSON ACQUIRING
6 THE INTEREST HAD NO KNOWLEDGE OF THE ILLEGAL USE OF THE
7 PROPERTY.

8 (8) THE TERM OF A FORFEITURE LIEN SHALL BE FOR A PERIOD OF 5
9 YEARS FROM THE DATE OF FILING. UPON APPROVAL BY THE COURT, A
10 FORFEITURE LIEN MAY BE RENEWED FOR 1 ADDITIONAL 5-YEAR PERIOD.

11 (9) UPON ENTRY OF JUDGMENT IN FAVOR OF THE PROSECUTING
12 AGENCY UNDER THIS CHAPTER, THE PROSECUTING AGENCY MAY PROCEED TO
13 EXECUTE ON THE JUDGMENT, EXCEPT THAT IN ORDER TO PRESERVE THE
14 PROSECUTING AGENCY'S LIEN PRIORITY AS PROVIDED IN THIS SECTION,
15 THE PROSECUTING AGENCY SHALL, IN ADDITION TO SUCH OTHER NOTICE AS
16 IS REQUIRED BY LAW, GIVE AT LEAST 30 DAYS' NOTICE OF THE EXECU-
17 TION TO ANY PERSON POSSESSING, AT THE TIME THE NOTICE IS GIVEN,
18 AN INTEREST RECORDED PRIOR TO THE DATE THE PROSECUTING AGENCY'S
19 LIEN WAS PERFECTED.

20 (10) UPON THE ENTRY OF A FINAL JUDGMENT OF FORFEITURE IN
21 FAVOR OF THE PROSECUTING AGENCY UNDER THIS ACT, 1 OF THE FOLLOW-
22 ING SHALL APPLY TO THE TITLE OF THE FORFEITED PROPERTY RECEIVED
23 BY THE PROSECUTING AGENCY:

24 (A) IN THE CASE OF REAL PROPERTY, OR A BENEFICIAL INTEREST
25 IN REAL PROPERTY, THE TITLE SHALL RELATE BACK TO 1 OF THE FOLLOW-
26 ING DATES:

1 (i) TO THE DATE OF FILING OF THE FORFEITURE LIEN IN THE
2 COUNTY WHERE THE REAL PROPERTY OR BENEFICIAL INTEREST IS
3 LOCATED.

4 (ii) IF A FORFEITURE LIEN IS NOT FILED, TO THE DATE OF THE
5 FILING OF A LIS PENDENS IN THE COUNTY WHERE THE REAL PROPERTY OR
6 A BENEFICIAL INTEREST IS LOCATED.

7 (iii) IF A FORFEITURE LIEN OR LIS PENDENS IS NOT FILED, TO
8 THE DATE OF RECORDING OF THE FINAL JUDGMENT OF FORFEITURE IN THE
9 COUNTY WHERE THE REAL PROPERTY OR BENEFICIAL INTEREST IS
10 LOCATED.

11 (B) IN THE CASE OF PERSONAL PROPERTY OR A BENEFICIAL INTER-
12 EST IN PERSONAL PROPERTY, THE TITLE SHALL RELATE BACK TO THE DATE
13 THE PERSONAL PROPERTY WAS SEIZED BY A LAW ENFORCEMENT AGENCY, OR
14 THE DATE OF FILING OF A FORFEITURE LIEN IN THE COUNTY WHERE THE
15 PERSONAL PROPERTY OR BENEFICIAL INTEREST IS LOCATED, WHICHEVER IS
16 EARLIER. IF THE PROPERTY WAS NOT SEIZED OR A FORFEITURE LIEN WAS
17 NOT FILED, THE TITLE SHALL RELATE BACK TO THE DATE OF THE RECORD-
18 ING OF THE FINAL JUDGMENT OF FORFEITURE IN THE COUNTY WHERE THE
19 PERSONAL PROPERTY OR BENEFICIAL INTEREST IS LOCATED.

20 (11) IF PERSONAL OR REAL PROPERTY, OR A BENEFICIAL INTEREST
21 IN PERSONAL OR REAL PROPERTY, THAT IS SUBJECT TO FORFEITURE IS
22 CONVEYED, ALIENATED, DISPOSED OF, OR OTHERWISE RENDERED UNAVAIL-
23 ABLE FOR FORFEITURE AFTER THE FILING OF A FORFEITURE LIEN, OR
24 AFTER THE FILING OF A CIVIL ACTION UNDER THIS CHAPTER OR A CRIMI-
25 NAL PROCEEDING DESCRIBED IN SUBSECTION (1), WHICHEVER IS EARLIER,
26 THE PROSECUTING AGENCY MAY INSTITUTE AN ACTION IN THE CIRCUIT
27 COURT AGAINST THE PERSON NAMED IN THE FORFEITURE LIEN OR THE

1 DEFENDANT IN THE CIVIL ACTION OR CRIMINAL PROCEEDING, AND THE
2 COURT SHALL ENTER JUDGMENT AGAINST THE PERSON NAMED IN THE LIEN,
3 OR THE DEFENDANT IN THE CIVIL ACTION OR CRIMINAL PROCEEDING, IN
4 AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE PROPERTY OR BENE-
5 FICIAL INTEREST IN THE PROPERTY TOGETHER WITH INVESTIGATIVE COSTS
6 AND ATTORNEY'S FEES INCURRED BY THE PROSECUTING AGENCY IN THE
7 ACTION UNDER THIS SUBSECTION. IF A CIVIL ACTION UNDER THIS CHAP-
8 TER IS PENDING, AN ACTION UNDER THIS SUBSECTION SHALL BE FILED
9 ONLY IN THE COURT WHERE THE CIVIL ACTION IS PENDING.

10 (12) IF PERSONAL OR REAL PROPERTY, OR A BENEFICIAL INTEREST
11 IN THE PROPERTY, THAT IS SUBJECT TO FORFEITURE IS CONVEYED,
12 ALIENATED, OR OTHERWISE DISPOSED OF AFTER THE FILING OF THE LIEN
13 OR AFTER THE FILING OF A CIVIL ACTION UNDER THIS CHAPTER OR A
14 CRIMINAL PROCEEDING DESCRIBED IN SUBSECTION (1), WHICHEVER IS
15 EARLIER, THE PROSECUTING AGENCY MAY TREAT THE CONVEYANCE, ALIEN-
16 ATION, OR DISPOSITION AS A FRAUDULENT AND PREFERENTIAL
17 CONVEYANCE.

18 (13) IF NO CIVIL PROCEEDING HAS BEEN INSTITUTED BY THE PROS-
19 ECUTING AGENCY SEEKING A FORFEITURE OF ANY PROPERTY OWNED BY THE
20 PERSON NAMED IN THE LIEN NOTICE, THE ACQUITTAL IN THE CRIMINAL
21 PROCEEDING DESCRIBED IN SUBSECTION (1) OF THE PERSON NAMED IN THE
22 LIEN NOTICE, OR THE DISMISSAL OF THE CRIMINAL PROCEEDING, SHALL
23 TERMINATE THE LIEN NOTICE AND THE FILING OF THE LIEN NOTICE SHALL
24 HAVE NO EFFECT. IF AN ACTION HAS BEEN COMMENCED PURSUANT TO THIS
25 CHAPTER, THE DISMISSAL OF ANY CRIMINAL CASE OR AN ACQUITTAL ON
26 ANY CRIMINAL CHARGE BROUGHT AGAINST ANY PARTY WHO HAS OR MAY HAVE
27 AN INTEREST IN ANY PROPERTY OR ITEM AT ISSUE IN THE CIVIL ACTION

1 SHALL TERMINATE THE CIVIL ACTION AND THE LIEN NOTICE, AND THE
2 FILING OF THE LIEN NOTICE SHALL HAVE NO EFFECT.

3 (14) THE TESTIMONY OF A PERSON AT A HEARING HELD UNDER THIS
4 SECTION IS NOT ADMISSIBLE AGAINST HIM OR HER, EXCEPT FOR THE PUR-
5 POSE OF IMPEACHMENT, IN A CRIMINAL PROCEEDING OTHER THAN A CRIMI-
6 NAL PROSECUTION FOR PERJURY. THE TESTIMONY OF A PERSON AT A
7 HEARING HELD UNDER THIS SECTION DOES NOT WAIVE THE PERSON'S CON-
8 STITUTIONAL RIGHT AGAINST SELF-INCRIMINATION.

9 SEC. 4607. (1) WITHIN 14 DAYS AFTER PROPERTY IS SEIZED OR A
10 LIEN NOTICE IS FILED AGAINST PROPERTY UNDER THIS CHAPTER, THE
11 SEIZING AGENCY OR THE PROSECUTING AGENCY SHALL GIVE NOTICE OF THE
12 SEIZURE OF THE PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF
13 THE PROPERTY ACCORDING TO THIS CHAPTER TO EACH OF THE FOLLOWING
14 PERSONS:

15 (A) IF CHARGES HAVE BEEN FILED AGAINST A PERSON FOR A CRIME,
16 THE PERSON CHARGED.

17 (B) EACH PERSON WITH A KNOWN OWNERSHIP INTEREST IN THE
18 PROPERTY.

19 (C) EACH MORTGAGEE, PERSON HOLDING A SECURITY INTEREST, OR
20 PERSON HAVING A LIEN THAT APPEARS ON THE CERTIFICATE OF TITLE OR
21 IS ON FILE WITH THE SECRETARY OF STATE OR APPROPRIATE REGISTER OF
22 DEEDS, IF THE PROPERTY IS REAL PROPERTY, A MOBILE HOME, MOTOR
23 VEHICLE, WATERCRAFT, OR OTHER PERSONAL PROPERTY.

24 (D) EACH HOLDER OF A PREFERRED SHIP MORTGAGE OF RECORD IN
25 THE APPROPRIATE PUBLIC OFFICE PURSUANT TO CHAPTER 313 OF SUBTITLE
26 III OF TITLE 46 OF THE UNITED STATES CODE, 46 U.S.C. 31301 TO

1 31343, IF THE PROPERTY IS A WATERCRAFT MORE THAN 28 FEET LONG OR
2 A WATERCRAFT THAT HAS A CAPACITY OF 5 NET TONS OR MORE.

3 (E) EACH PERSON WHOSE SECURITY INTEREST IS RECORDED WITH THE
4 APPROPRIATE PUBLIC OFFICE PURSUANT TO THE FEDERAL AVIATION ACT OF
5 1958, PUBLIC LAW 85-726, 72 STAT. 731, IF THE PROPERTY IS AN AIR-
6 CRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER, OR A PART OF AN
7 AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER.

8 (F) EACH PERSON WITH A KNOWN SECURITY INTEREST IN THE
9 PROPERTY.

10 (G) ANY VICTIM OF THE CRIME KNOWN AT THE TIME OF SEIZURE.

11 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL BE A
12 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
13 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
14 REASONABLY ASCERTAINED OR DELIVERY OF THE NOTICE CANNOT REASON-
15 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
16 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
17 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
18 CESSIVE PUBLISHING DAYS. PROOF OF WRITTEN NOTICE OR PUBLICATION
19 SHALL BE FILED WITH THE COURT HAVING JURISDICTION OVER THE SEI-
20 ZURE OR FORFEITURE.

21 SEC. 4608. (1) A FIDUCIARY WHO ACQUIRES ACTUAL KNOWLEDGE
22 THAT A FORFEITURE LIEN NOTICE OR A CIVIL ACTION UNDER THIS CHAP-
23 TER OR A CRIMINAL PROCEEDING DESCRIBED IN SECTION 4606(1) HAS
24 BEEN FILED AGAINST A PERSON FOR WHOM HE OR SHE HOLDS LEGAL OR
25 RECORD TITLE TO PERSONAL OR REAL PROPERTY SHALL IMMEDIATELY FUR-
26 NISH TO THE PROSECUTING AGENCY ALL OF THE FOLLOWING:

1 (A) THE NAME AND ADDRESS OF THE PERSON, AS KNOWN TO THE
2 FIDUCIARY.

3 (B) THE NAME AND ADDRESS, AS KNOWN TO THE FIDUCIARY, OF ALL
4 OTHER PERSONS FOR WHOSE BENEFIT THE FIDUCIARY HOLDS TITLE TO THE
5 PERSONAL OR REAL PROPERTY.

6 (C) IF REQUESTED BY THE PROSECUTING AGENCY, A COPY OF A
7 TRUST AGREEMENT OR OTHER INSTRUMENT OR ORDER UNDER WHICH THE
8 FIDUCIARY HOLDS LEGAL OR RECORD TITLE TO THE PERSONAL OR REAL
9 PROPERTY.

10 (2) A FIDUCIARY WHO TRANSFERS OR CONVEYS TITLE TO PERSONAL
11 OR REAL PROPERTY FOR WHICH A FORFEITURE LIEN HAS BEEN FILED IN
12 THE COUNTY WHERE THE PERSONAL OR REAL PROPERTY IS LOCATED AT THE
13 TIME OF THE TRANSFER OR CONVEYANCE AND WHICH NAMES A PERSON WHO,
14 TO THE ACTUAL KNOWLEDGE OF THE FIDUCIARY, HOLDS A BENEFICIAL
15 INTEREST IN THE PROPERTY, SHALL BE LIABLE TO THE PROSECUTING
16 AGENCY FOR THE GREATER OF THE FOLLOWING:

17 (A) THE AMOUNT OF PROCEEDS RECEIVED DIRECTLY BY THE PERSON
18 NAMED IN THE FORFEITURE LIEN AS A RESULT OF THE TRANSFER OR
19 CONVEYANCE.

20 (B) THE AMOUNT OF PROCEEDS RECEIVED BY THE FIDUCIARY AS A
21 RESULT OF THE TRANSFER OR CONVEYANCE AND DISTRIBUTED TO THE
22 PERSON NAMED IN THE FORFEITURE LIEN.

23 (C) THE FAIR MARKET VALUE OF THE INTEREST OF THE PERSON
24 NAMED IN THE FORFEITURE LIEN IN THE PERSONAL OR REAL PROPERTY
25 TRANSFERRED OR CONVEYED, BUT IF THE FIDUCIARY TRANSFERS OR CON-
26 VEYS THE PERSONAL OR REAL PROPERTY AND HOLDS THE PROCEEDS THAT
27 WOULD OTHERWISE BE PAID OR DISTRIBUTED TO THE BENEFICIARY OR AT

1 THE DIRECTION OF THE BENEFICIARY OR HIS OR HER DESIGNEE, THE
2 FIDUCIARY'S LIABILITY SHALL NOT EXCEED THE AMOUNT OF THE PROCEEDS
3 THAT WERE HELD BY THE FIDUCIARY BEFORE BEING PAID OR
4 DISTRIBUTED.

5 (3) A FIDUCIARY WHO VIOLATES THIS SECTION IS GUILTY OF A
6 FELONY.

7 SEC. 4609. (1) A PERSON CLAIMING AN INTEREST IN PROPERTY OR
8 PROCEEDS SUBJECT TO FORFEITURE MAY, AT ANY TIME WITHIN 28 DAYS
9 AFTER THE DATE OF THE COMPLETION OF THE PUBLICATION PURSUANT TO
10 SECTION 4607 OR WITHIN 21 DAYS AFTER RECEIPT OF ACTUAL NOTICE OF
11 THE FILING OF A PETITION OF FORFEITURE, FILE WITH THE CIRCUIT
12 COURT FOR THE COUNTY IN WHICH THE PETITION IS PENDING A VERIFIED
13 CLAIM STATING HIS OR HER INTEREST IN THE PROPERTY OR PROCEEDS. A
14 COPY OF THE VERIFIED CLAIM SHALL BE GIVEN BY THE CLAIMANT TO THE
15 PROSECUTING AGENCY FILING THE PETITION OF FORFEITURE.

16 (2) IF, AT THE END OF THE TIME SET FORTH IN SUBSECTION (1),
17 A PERSON NAMED IN THE PETITION HAS NOT FILED A CLAIM, THE COURT,
18 UPON MOTION BY THE PROSECUTING AGENCY, SHALL DECLARE THAT THE
19 PERSON HAS DEFAULTED UPON HIS OR HER ALLEGED INTEREST, AND THE
20 INTEREST SHALL BE SUBJECT TO FORFEITURE UPON PROOF OF AN OFFENSE
21 INCLUDED IN THE DEFINITION OF RACKETEERING UNDER
22 SECTION 4603(5).

23 SEC. 4610. (1) VENUE IN A CIVIL ACTION BROUGHT UNDER THIS
24 CHAPTER SHALL BE PROPER IN ANY COUNTY IN WHICH AN OFFENSE LISTED
25 IN THE DEFINITION OF RACKETEERING UNDER SECTION 4603(5) OR A VIO-
26 LATION OF SECTION 571 OR 572 OF THE MICHIGAN PENAL CODE, ACT

1 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.571 AND
2 750.572 OF THE MICHIGAN COMPILED LAWS, OCCURRED.

3 (2) THE STANDARD OF PROOF IN A CIVIL ACTION BROUGHT UNDER
4 THIS CHAPTER IS PROOF BEYOND A REASONABLE DOUBT.

5 (3) JURY TRIAL IN A FORFEITURE PROCEEDING UNDER THIS CHAPTER
6 SHALL BE AT THE REQUEST OF EITHER PARTY EXCEPT FOR MOTIONS BY THE
7 PEOPLE FOR INJUNCTIONS AND PROCEEDINGS TO FORCE A DISSOLUTION OF
8 A CORPORATE STRUCTURE.

9 (4) A DEFENDANT CONVICTED IN ANY CRIMINAL PROCEEDING SHALL
10 BE ESTOPPED FROM SUBSEQUENTLY DENYING IN ANY CIVIL ACTION THE
11 ESSENTIAL ALLEGATIONS OF THE CRIMINAL OFFENSE OF WHICH HE OR SHE
12 WAS CONVICTED.

13 SEC. 4611. (1) THE CIRCUIT COURT MAY PREVENT, RESTRAIN, AND
14 REMEDY RACKETEERING OR A VIOLATION OF SECTION 571 OR 572 OF THE
15 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
16 BEING SECTIONS 750.571 AND 750.572 OF THE MICHIGAN COMPILED
17 LAWS, AFTER MAKING PROVISION FOR THE RIGHTS OF ALL LIENHOLDERS
18 WITHOUT KNOWLEDGE OF, AND AFFECTED BY, THE RACKETEERING OR VIOLA-
19 TION BY ISSUING APPROPRIATE ORDERS AFTER A HEARING OR TRIAL.

20 (2) PRIOR TO A FINDING OR CONVICTION OF RACKETEERING OR A
21 VIOLATION OF SECTION 571 OR 572 OF ACT NO. 328 OF THE PUBLIC ACTS
22 OF 1931, THE COURT MAY DO 1 OR MORE OF THE FOLLOWING:

23 (A) ISSUE A RESTRAINING ORDER OR INJUNCTION.

24 (B) ACCEPT A SATISFACTORY PERFORMANCE BOND IN CONNECTION
25 WITH ANY PROPERTY OR OTHER INTEREST SUBJECT TO DAMAGE, FORFEI-
26 TURE, OR OTHER RESTRAINTS PURSUANT TO THIS SECTION.

1 (C) TAKE OTHER ACTION THE COURT CONSIDERS APPROPRIATE.

2 SEC. 4612. FOLLOWING A FINDING OR CONVICTION OF
3 RACKETEERING OR A VIOLATION OF SECTION 571 OR 572 OF THE MICHIGAN
4 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
5 SECTIONS 750.571 AND 750.572 OF THE MICHIGAN COMPILED LAWS, THE
6 COURT MAY DO ANY OF THE FOLLOWING:

7 (A) ORDER A PERSON TO DIVEST HIMSELF OR HERSELF OF ANY
8 INTEREST, DIRECT OR INDIRECT, IN AN ENTERPRISE.

9 (B) IMPOSE REASONABLE RESTRICTIONS ON THE FUTURE ACTIVITIES
10 OR INVESTMENTS OF A PERSON, INCLUDING PROHIBITING A PERSON FROM
11 ENGAGING IN THE SAME TYPE OF ENDEAVOR AS THE ENTERPRISE ENGAGED
12 IN.

13 (C) ORDER THE DISSOLUTION OR REORGANIZATION OF AN
14 ENTERPRISE.

15 (D) ORDER THE SUSPENSION OR REVOCATION OF A LICENSE, PERMIT,
16 OR PRIOR APPROVAL GRANTED TO AN ENTERPRISE BY ANY AGENCY OF THE
17 STATE, COUNTY, OR OTHER POLITICAL SUBDIVISION.

18 (E) ORDER THE SURRENDER OF THE CHARTER OF A CORPORATION
19 ORGANIZED UNDER THE LAWS OF THIS STATE OR THE REVOCATION OF A
20 CERTIFICATE AUTHORIZING A FOREIGN CORPORATION TO CONDUCT BUSINESS
21 WITHIN THIS STATE UPON A FINDING THAT THE BOARD OF DIRECTORS OR A
22 MANAGERIAL AGENT ACTING ON BEHALF OF THE CORPORATION HAS AUTHO-
23 RIZED OR ENGAGED IN AN OFFENSE INCLUDED IN THE DEFINITION OF
24 RACKETEERING OR A VIOLATION OF SECTION 571 OR 572 OF ACT NO. 328
25 OF THE PUBLIC ACTS OF 1931 AND THAT, FOR THE PREVENTION OF FUTURE
26 CRIMINAL ACTIVITY, THE PUBLIC INTEREST REQUIRES THAT THE CHARTER
27 OR CERTIFICATE OF THE CORPORATION BE SURRENDERED OR REVOKED.

1 (F) ORDER THE DISTRIBUTION OF FORFEITED ITEMS PURSUANT TO
2 SECTION 4613.

3 (G) MAKE ANY OTHER ORDER THE COURT CONSIDERS APPROPRIATE.

4 SEC. 4613. (1) PROPERTY THAT IS FORFEITED UNDER THIS CHAP-
5 TER, UPON ORDER OF THE COURT, MAY BE RETAINED FOR OFFICIAL USE BY
6 THE STATE, AND THE EXPENSES FOR KEEPING AND TRANSFERRING THE
7 PROPERTY SHALL BE PAID BY THE STATE.

8 (2) IF PROPERTY THAT IS FORFEITED UNDER THIS CHAPTER IS
9 DETERMINED BY THE COURT TO BE OF NO VALUE, ENCUMBERED WITH LIENS
10 IN EXCESS OF ITS VALUE, OR OTHERWISE AN ENCUMBRANCE, THE COURT
11 MAY ABANDON ANY INTEREST IN THE PROPERTY. PROPERTY THAT IS ABAN-
12 DONED PURSUANT TO THIS SECTION SHALL BE RETURNED TO THE LAWFUL
13 CLAIMANT UPON THE PAYMENT OF EXPENSES FOR KEEPING THE PROPERTY.

14 (3) BEFORE FORFEITURE OF ANY PROPERTY UNDER THIS SECTION,
15 THE TRIAL COURT SHALL DETERMINE IF A LAWFUL OWNER OR CLAIMANT OF
16 THE PROPERTY HAS BEEN IDENTIFIED OR IS IDENTIFIABLE. IF A LAWFUL
17 OWNER OR CLAIMANT HAS BEEN IDENTIFIED OR IS IDENTIFIABLE, THE
18 COURT SHALL NOTIFY THE OWNER OR CLAIMANT THAT THE PROPERTY IS
19 BEING HELD AND SHALL SPECIFY A REASONABLE PERIOD OF TIME DURING
20 WHICH THE CLAIM MAY BE MADE, OR THE COURT MAY ORDER THE RETURN OF
21 THE PROPERTY TO THE LAWFUL OWNER OR CLAIMANT. IF THE LAWFUL
22 OWNER OR CLAIMANT DOES NOT ASSERT HIS OR HER CLAIM TO THE PROP-
23 ERTY AFTER NOTIFICATION OR IF HE OR SHE RENOUNCES THE CLAIM TO
24 THE PROPERTY, THE PROPERTY SHALL BE DISPOSED OF AS PROVIDED IN
25 THIS SECTION. ALL PEACE OFFICERS AND OTHER OFFICERS OR OFFICIALS
26 HAVING KNOWLEDGE OF THE LAWFUL CLAIMANT OF THE PROPERTY SUBJECT

1 TO FORFEITURE SHALL REPORT THAT INFORMATION TO THE COURT BEFORE
2 FORFEITURE OCCURS.

3 (4) WHEN PROPERTY IS FORFEITED UNDER THIS CHAPTER, THE PROS-
4 ECUTING AGENCY MAY SELL THE PROPERTY THAT IS NOT REQUIRED TO BE
5 DESTROYED BY LAW AND THAT IS NOT HARMFUL TO THE PUBLIC AND MAY
6 DISPOSE OF THE PROCEEDS AND ANY MONEY, NEGOTIABLE INSTRUMENT,
7 SECURITY, OR OTHER THING OF VALUE THAT IS FORFEITED PURSUANT TO
8 THIS CHAPTER IN THE FOLLOWING ORDER OF PRIORITY:

9 (A) PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED PARTY
10 WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO THE COMMISSION
11 OF, THE OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING UNDER
12 SECTION 4603(5) OR THE VIOLATION OF SECTION 571 OR 572 OF THE
13 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
14 BEING SECTIONS 750.571 AND 750.572 OF THE MICHIGAN COMPILED
15 LAWS.

16 (B) SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION FOR
17 THE OFFENSE.

18 (C) PAY THE PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEI-
19 TURE AND SALE, INCLUDING, BUT NOT LIMITED TO, EXPENSES INCURRED
20 DURING THE SEIZURE PROCESS AND EXPENSES FOR MAINTAINING CUSTODY
21 OF THE PROPERTY, ADVERTISING, AND COURT COSTS.

22 (D) THE BALANCE REMAINING AFTER THE PAYMENT OF RESTITUTION,
23 THE CLAIMS OF VICTIMS, OUTSTANDING LIENS, AND EXPENSES SHALL BE
24 DEPOSITED IN THE STATE TREASURY IN A SEPARATE FUND TO BE USED BY
25 THE CRIME VICTIMS COMPENSATION BOARD ESTABLISHED PURSUANT TO ACT
26 NO. 223 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 18.351 TO

1 18.368 OF THE MICHIGAN COMPILED LAWS, TO COMPENSATE CRIME VICTIMS
2 UNDER THAT ACT.

3 SEC. 4614. (1) THE COURT SHALL RETURN PROPERTY FORFEITED
4 UNDER THIS CHAPTER TO THE LAWFUL CLAIMANT IF THE LAWFUL CLAIMANT
5 DOES ALL OF THE FOLLOWING:

6 (A) ASSERTS HIS OR HER CLAIM BEFORE DISPOSITION OF THE PROP-
7 ERTY PURSUANT TO SECTION 4613.

8 (B) ESTABLISHES HIS OR HER LEGAL INTEREST IN THE PROPERTY.

9 (C) ESTABLISHES THAT HE OR SHE DID NOT HAVE PRIOR KNOWLEDGE
10 OF, OR CONSENT TO THE COMMISSION OF, THE OFFENSE DESCRIBED IN
11 SECTION 4612, OR THAT HE OR SHE SERVED WRITTEN NOTICE OF THE COM-
12 MISSION OF THE OFFENSE UPON AN APPROPRIATE LAW ENFORCEMENT
13 AGENCY, AND SERVED A WRITTEN NOTICE TO QUIT UPON THE PERSON WHO
14 COMMITTED THE OFFENSE.

15 (2) WHEN A DECISION IS MADE BY THE PROSECUTING AGENCY NOT TO
16 FILE A FORFEITURE CLAIM UNDER SECTION 4605, PROPERTY SEIZED SHALL
17 BE RETURNED TO ITS UNDISPUTED OWNER, UNLESS IT IS CONTRABAND OR
18 EVIDENCE.

19 SEC. 4615. A CIVIL ACTION UNDER THIS CHAPTER RELATED TO AN
20 OFFENSE INCLUDED IN THE DEFINITION OF RACKETEERING UNDER
21 SECTION 4603(5) OR A VIOLATION OF SECTION 571 OR 572 OF THE
22 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
23 BEING SECTIONS 750.571 AND 750.572 OF THE MICHIGAN COMPILED LAWS,
24 SHALL BE COMMENCED WITHIN 6 YEARS AFTER THE ACTIVITY TERMINATES
25 OR THE CAUSE OF ACTION ACCRUES.

26 SEC. 4616. THE PROVISIONS OF THIS CHAPTER SHALL BE STRICTLY
27 CONSTRUED.

1 SEC. 4617. A PERSON WHO SUFFERS PERSONAL INJURY OR DAMAGE
2 TO OR LOSS OF PROPERTY AS A RESULT OF A VIOLATION OF SECTION 571
3 OR 572 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS
4 OF 1931, BEING SECTIONS 750.571 AND 750.572 OF THE MICHIGAN
5 COMPILED LAWS, MAY BRING A CIVIL CAUSE OF ACTION FOR THE INJURY,
6 DAMAGE, OR LOSS AND SHALL RECOVER 3 TIMES THE AMOUNT OF THE DAM-
7 AGES SUSTAINED PLUS THE COSTS OF THE ACTION AND REASONABLE
8 ATTORNEYS' FEES.

9 SEC. 4618. THIS CHAPTER IS REPEALED EFFECTIVE JANUARY 1,
10 1995.

11 Section 2. This amendatory act shall not take effect unless
12 Senate Bill No. _____ or House Bill No. _____ (request
13 no. 01921'89*) of the 85th Legislature is enacted into law.