

SENATE BILL No. 124

February 8, 1989, Introduced by Senators NICHOLS, KELLY, DE GROW, BINSFELD, SEDERBURG, CHERRY, POLLACK, BARCIA, SHINKLE, CROSEY, GAST, ARTHURHULTZ, GEO. HART, J. HART, N. SMITH, FAXON, WELBORN, SCHWARZ, GEAKE and ENGLER and referred to the Committee on Judiciary.

A bill to amend Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding sections 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, and 580.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 328 of the Public Acts of 1931, as
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled
3 Laws, is amended by adding sections 570, 571, 572, 573, 574, 575,
4 576, 577, 578, 579, and 580. to read as follows:

5 SEC. 570. SECTIONS 570 TO 580 SHALL BE KNOWN AND MAY BE
6 CITED AS THE "MICHIGAN CONTINUING CRIMINAL ENTERPRISE ACT".

7 SEC. 571. AS USED IN THIS ACT:

1 (A) "ENTERPRISE" MEANS AN INDIVIDUAL, PARTNERSHIP,
2 CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY, OR A GROUP OF
3 INDIVIDUALS ASSOCIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY.

4 (B) "INSTRUMENTALITY OF A VIOLATION" MEANS ANY PROPERTY,
5 OTHER THAN REAL PROPERTY, THE USE OF WHICH CONTRIBUTES DIRECTLY
6 AND MATERIALLY TO THE COMMISSION OF THE VIOLATION.

7 (C) "PATTERN OF RACKETEERING ACTIVITY" MEANS NOT LESS THAN 2
8 ACTS OF RACKETEERING ACTIVITY, 1 OF WHICH OCCURRED AFTER THE
9 EFFECTIVE DATE OF THIS ACT AND THE LAST OF WHICH OCCURRED WITHIN
10 10 YEARS, EXCLUDING ANY PERIOD OF IMPRISONMENT, AFTER THE COMMIS-
11 SION OF A PRIOR ACT OF RACKETEERING ACTIVITY.

12 (D) "PERSON" MEANS AN INDIVIDUAL OR ENTITY CAPABLE OF HOLD-
13 ING A LEGAL OR BENEFICIAL INTEREST IN PROPERTY.

14 (E) "PROCEEDS OF A VIOLATION" MEANS ANY PROPERTY OBTAINED,
15 DIRECTLY OR INDIRECTLY, THROUGH THE COMMISSION OF THE VIOLATION,
16 INCLUDING ANY APPRECIATION IN THE VALUE OF THE PROPERTY.

17 (F) "RACKETEERING ACTIVITY" MEANS THE COMMISSION, THE
18 ATTEMPTED COMMISSION, AIDING OR ABETTING THE COMMISSION, CONSPIR-
19 ING TO COMMIT, OR THE SOLICITATION, COERCION, OR INTIMIDATION OF
20 ANOTHER PERSON TO COMMIT 1 OR MORE OF THE FOLLOWING:

21 (i) A VIOLATION OF SECTION 9 OF ACT NO. 265 OF THE PUBLIC
22 ACTS OF 1947, BEING SECTION 205.509 OF THE MICHIGAN COMPILED
23 LAWS, RELATING TO CIGARETTE TAXES.

24 (ii) A VIOLATION OF PART 74 OF THE PUBLIC HEALTH CODE, ACT
25 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.7401 TO
26 333.7461 OF THE MICHIGAN COMPILED LAWS, RELATING TO CONTROLLED
27 SUBSTANCES.

1 (iii) A VIOLATION OF SECTION 60 OF THE SOCIAL WELFARE ACT,
2 ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTION 400.60 OF
3 THE MICHIGAN COMPILED LAWS, RELATING TO WELFARE FRAUD.

4 (iv) A VIOLATION OF SECTION 4, 5, OR 7 OF THE MEDICAID FALSE
5 CLAIM ACT, ACT NO. 72 OF THE PUBLIC ACTS OF 1977, BEING SECTIONS
6 400.604, 400.605, AND 400.607 OF THE MICHIGAN COMPILED LAWS,
7 RELATING TO MEDICAID FRAUD.

8 (v) A VIOLATION OF SECTION 409 OF THE UNIFORM SECURITIES
9 ACT, ACT NO. 265 OF THE PUBLIC ACTS OF 1964, BEING SECTION
10 451.809 OF THE MICHIGAN COMPILED LAWS, RELATING TO SECURITIES
11 FRAUD.

12 (vi) A VIOLATION OF SECTION 5 OR 7 OF ACT NO. 33 OF THE
13 PUBLIC ACTS OF 1978, BEING SECTIONS 722.675 AND 722.677 OF THE
14 MICHIGAN COMPILED LAWS, RELATING TO THE DISPLAY OR DISSEMINATION
15 OF OBSCENE MATTER TO MINORS.

16 (vii) A VIOLATION OF SECTION 72, 73, 74, OR 75 OF THE
17 MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
18 BEING SECTIONS 750.72, 750.73, 750.74, AND 750.75 OF THE MICHIGAN
19 COMPILED LAWS, RELATING TO ARSON.

20 (viii) A VIOLATION OF SECTION 93, 94, 95, OR 96 OF ACT
21 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.93,
22 750.94, 750.95, AND 750.96 OF THE MICHIGAN COMPILED LAWS, RELAT-
23 ING TO BANK BONDS, BILLS, NOTES, AND PROPERTY.

24 (ix) A VIOLATION OF SECTION 117, 118, 119, 120, 121, 124, OR
25 125 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
26 750.117, 750.118, 750.119, 750.120, 750.121, 750.124, AND 750.125
27 OF THE MICHIGAN COMPILED LAWS, RELATING TO BRIBERY.

1 (x) A VIOLATION OF SECTION 120A OF ACT NO. 328 OF THE PUBLIC
2 ACTS OF 1931, BEING SECTION 750.120A OF THE MICHIGAN COMPILED
3 LAWS, RELATING TO JURY TAMPERING.

4 (xi) A VIOLATION OF SECTION 145C OF ACT NO. 328 OF THE
5 PUBLIC ACTS OF 1931, BEING SECTION 750.145C OF THE MICHIGAN
6 COMPILED LAWS, RELATING TO CHILD SEXUALLY ABUSIVE ACTIVITY OR
7 MATERIAL.

8 (xii) A VIOLATION OF SECTION 157N, 157P, 157Q, 157R, 157S,
9 157T, OR 157U OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
10 SECTIONS 750.157N, 750.157P, 750.157Q, 750.157R, 750.157S,
11 750.157T, AND 750.157U OF THE MICHIGAN COMPILED LAWS, RELATING TO
12 CREDIT CARDS OR FINANCIAL TRANSACTION DEVICES.

13 (xiii) A VIOLATION OF SECTION 174, 175, 176, 180, 181, OR
14 182 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
15 750.174, 750.175, 750.176, 750.180, 750.181, AND 750.182 OF THE
16 MICHIGAN COMPILED LAWS, RELATING TO EMBEZZLEMENT.

17 (xiv) A VIOLATION OF CHAPTER XXXIII OF ACT NO. 328 OF THE
18 PUBLIC ACTS OF 1931, BEING SECTIONS 750.200 TO 750.212 OF THE
19 MICHIGAN COMPILED LAWS, RELATING TO EXPLOSIVES AND BOMBS.

20 (xv) A VIOLATION OF SECTION 213 OR 214 OF ACT NO. 328 OF THE
21 PUBLIC ACTS OF 1931, BEING SECTIONS 750.213 AND 750.214 OF THE
22 MICHIGAN COMPILED LAWS, RELATING TO EXTORTION.

23 (xvi) A VIOLATION OF SECTION 218 OF ACT NO. 328 OF THE
24 PUBLIC ACTS OF 1931, BEING SECTION 750.218 OF THE MICHIGAN
25 COMPILED LAWS, RELATING TO FALSE PRETENSES.

1 (xvii) A VIOLATION OF CHAPTER XLI OF ACT NO. 328 OF THE
2 PUBLIC ACTS OF 1931, BEING SECTIONS 750.248 TO 750.266 OF THE
3 MICHIGAN COMPILED LAWS, RELATING TO FORGERY AND COUNTERFEITING.

4 (xviii) A VIOLATION OF SECTION 271, 272, 273, OR 274 OF ACT
5 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.271,
6 750.272, 750.273, AND 750.274 OF THE MICHIGAN COMPILED LAWS,
7 RELATING TO SECURITIES FRAUD.

8 (xix) A VIOLATION OF SECTION 301, 302, 303, 304, 305, 305A,
9 OR 313 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
10 750.301, 750.302, 750.303, 750.304, 750.305, 750.305A, AND
11 750.313 OF THE MICHIGAN COMPILED LAWS, RELATING TO GAMBLING.

12 (xx) A VIOLATION OF SECTION 316 OR 317 OF ACT NO. 328 OF THE
13 PUBLIC ACTS OF 1931, BEING SECTIONS 750.316 AND 750.317 OF THE
14 MICHIGAN COMPILED LAWS, RELATING TO MURDER.

15 (xxi) A VIOLATION OF SECTION 330, 331, OR 332 OF ACT NO. 328
16 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.330, 750.331, AND
17 750.332 OF THE MICHIGAN COMPILED LAWS, RELATING TO HORSE RACING.

18 (xxii) A VIOLATION OF SECTION 349, 349A, OR 350 OF ACT
19 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.349,
20 750.349A, AND 750.350 OF THE MICHIGAN COMPILED LAWS, RELATING TO
21 KIDNAPPING.

22 (xxiii) A VIOLATION OF CHAPTER LII OF ACT NO. 328 OF THE
23 PUBLIC ACTS OF 1931, BEING SECTIONS 750.356 TO 750.367C OF THE
24 MICHIGAN COMPILED LAWS, RELATING TO LARCENY.

25 (xxiv) A VIOLATION OF SECTION 422, 423, 424, OR 425 OF ACT
26 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.422,

1 750.423, 750.424, AND 750.425 OF THE MICHIGAN COMPILED LAWS,
2 RELATING TO PERJURY AND SUBORNATION OF PERJURY.

3 (xxv) A VIOLATION OF SECTION 452, 455, 457, 458, OR 459 OF
4 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.452,
5 750.455, 750.457, 750.458, AND 750.459 OF THE MICHIGAN COMPILED
6 LAWS, RELATING TO PROSTITUTION.

7 (xxvi) A VIOLATION OF SECTION 529, 530, OR 531 OF ACT
8 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.529,
9 750.530, AND 750.531 OF THE MICHIGAN COMPILED LAWS, RELATING TO
10 ROBBERY.

11 (xxvii) A VIOLATION OF SECTION 535, 535A, OR 536A OF ACT
12 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.535,
13 750.535A, AND 750.536A OF THE MICHIGAN COMPILED LAWS, RELATING TO
14 STOLEN, EMBEZZLED, OR CONVERTED PROPERTY.

15 (xxviii) A VIOLATION OF SECTION 5 OR 6 OF ACT NO. 343 OF THE
16 PUBLIC ACTS OF 1984, BEING SECTIONS 752.365 AND 752.366 OF THE
17 MICHIGAN COMPILED LAWS, RELATING TO OBSCENITY.

18 (G) "SECURITY INTEREST" MEANS ANY INTEREST IN REAL OR PER-
19 SONAL PROPERTY THAT SECURES PAYMENT OR PERFORMANCE OF AN
20 OBLIGATION.

21 (H) "SUBSTITUTED PROCEEDS OF A VIOLATION" MEANS ANY PROPERTY
22 OBTAINED OR ANY GAIN REALIZED BY THE SALE OR EXCHANGE OF PROCEEDS
23 OF A VIOLATION.

24 SEC. 572. (1) A PERSON, WHO HAS RECEIVED ANY INCOME DERIVED
25 DIRECTLY OR INDIRECTLY FROM A PATTERN OF RACKETEERING ACTIVITY,
26 SHALL NOT USE OR INVEST, DIRECTLY OR INDIRECTLY, ANY PART OF THAT
27 INCOME, OR THE PROCEEDS OF THAT INCOME, IN ACQUISITION OF AN

1 INTEREST IN, OR THE ESTABLISHMENT OR OPERATION OF, AN
2 ENTERPRISE. A PURCHASE OF SECURITIES ON THE OPEN MARKET FOR PUR-
3 POSES OF INVESTMENT, AND WITHOUT THE INTENTION OF CONTROLLING OR
4 PARTICIPATING IN THE CONTROL OF THE ISSUER, OR OF ASSISTING
5 ANOTHER TO DO SO, SHALL NOT BE UNLAWFUL UNDER THIS SUBSECTION IF
6 THE SECURITIES OF THE ISSUER HELD BY THE PURCHASER, THE MEMBERS
7 OF HIS OR HER IMMEDIATE FAMILY, AND ACCOMPLICES OF THE PURCHASER
8 OR MEMBERS OF HIS OR HER IMMEDIATE FAMILY IN A PATTERN OF RACKE-
9 TEERING ACTIVITY AFTER THE PURCHASE DO NOT AMOUNT IN THE AGGRE-
10 GATE TO 1% OF THE OUTSTANDING SECURITIES OF ANY 1 CLASS, AND DO
11 NOT CONFER, EITHER IN LAW OR IN FACT, THE POWER TO ELECT 1 OR
12 MORE DIRECTORS OF THE ISSUER.

13 (2) A PERSON SHALL NOT, THROUGH A PATTERN OF RACKETEERING
14 ACTIVITY, ACQUIRE OR MAINTAIN, DIRECTLY OR INDIRECTLY, AN INTER-
15 EST IN OR CONTROL OF AN ENTERPRISE.

16 (3) A PERSON EMPLOYED BY OR ASSOCIATED WITH AN ENTERPRISE
17 SHALL NOT CONDUCT OR PARTICIPATE DIRECTLY OR INDIRECTLY IN THE
18 CONDUCT OF THE ENTERPRISE'S AFFAIRS THROUGH A PATTERN OF RACKE-
19 TEERING ACTIVITY.

20 (4) A PERSON SHALL NOT CONSPIRE TO VIOLATE SUBSECTION (2),
21 (3), OR (4).

22 (5) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
23 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE
24 OF NOT MORE THAN \$50,000.00, OR BOTH.

25 SEC. 573. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
26 THE FOLLOWING PROPERTY IS SUBJECT TO SEIZURE BY, AND FORFEITURE

1 TO, A LOCAL UNIT OF GOVERNMENT OR THIS STATE UNDER SECTIONS 573
2 TO 578:

3 (A) ALL PERSONAL PROPERTY THAT IS THE PROCEEDS, THE SUBSTI-
4 TUTED PROCEEDS, OR AN INSTRUMENTALITY OF A VIOLATION OF SECTION
5 572.

6 (B) ALL REAL PROPERTY THAT IS THE PROCEEDS OR THE SUBSTI-
7 TUTED PROCEEDS OF A VIOLATION OF SECTION 572, EXCEPT REAL PROP-
8 ERTY THAT IS THE PRIMARY RESIDENCE OF THE SPOUSE OR A DEPENDENT
9 CHILD OF THE OWNER, UNLESS THAT SPOUSE OR DEPENDENT CHILD HAD
10 PRIOR KNOWLEDGE OF, AND CONSENTED TO THE COMMISSION OF, THE
11 CRIME.

12 (2) PROPERTY IS NOT SUBJECT TO SEIZURE OR FORFEITURE IF
13 EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

14 (A) THE OWNER OF THE PROPERTY DID NOT HAVE PRIOR KNOWLEDGE
15 OF, OR CONSENT TO, THE COMMISSION OF THE RACKETEERING ACTIVITY.

16 (B) THE OWNER SERVED WRITTEN NOTICE OF THE COMMISSION OF THE
17 CRIME OR RACKETEERING ACTIVITY UPON AN APPROPRIATE LAW ENFORCE-
18 MENT AGENCY, AND SERVED A WRITTEN NOTICE TO QUIT UPON THE PERSON
19 WHO COMMITTED THE CRIME OR RACKETEERING ACTIVITY.

20 (3) THE FORFEITURE OF PROPERTY ENCUMBERED BY A SECURITY
21 INTEREST IS SUBJECT TO THE INTEREST OF THE HOLDER OF THE SECURITY
22 INTEREST WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO, THE
23 COMMISSION OF THE CRIME OR RACKETEERING ACTIVITY.

24 (4) THE FORFEITURE OF PROPERTY ENCUMBERED BY AN UNPAID BAL-
25 ANCE ON A LAND CONTRACT IS SUBJECT TO THE INTEREST OF THE LAND
26 CONTRACT VENDOR, IF THE VENDOR DID NOT HAVE PRIOR KNOWLEDGE OF,

1 OR CONSENT TO, THE COMMISSION OF THE CRIME OR RACKETEERING
2 ACTIVITY.

3 SEC. 574. (1) PERSONAL PROPERTY SUBJECT TO FORFEITURE UNDER
4 THIS CHAPTER MAY BE SEIZED PURSUANT TO AN ORDER OF SEIZURE ISSUED
5 BY THE COURT HAVING JURISDICTION OVER THE PROPERTY UPON A SHOWING
6 OF PROBABLE CAUSE THAT THE PROPERTY IS SUBJECT TO FORFEITURE.

7 (2) PERSONAL PROPERTY SUBJECT TO FORFEITURE UNDER THIS CHAP-
8 TER MAY BE SEIZED WITHOUT PROCESS UNDER ANY OF THE FOLLOWING
9 CIRCUMSTANCES:

10 (A) THE PROPERTY IS THE PROCEEDS OF A CRIME OR AN INSTRUMEN-
11 TALITY OF A CRIME AND THE SEIZURE IS INCIDENT TO A LAWFUL
12 ARREST.

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

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

16 (D) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS
17 DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY.

18 (E) EXIGENT CIRCUMSTANCES EXIST THAT PRECLUDE THE OBTAINING
19 OF A COURT ORDER, AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
20 PROPERTY IS THE PROCEEDS OR AN INSTRUMENTALITY OF A VIOLATION OF
21 SECTION 572.

22 (F) THE PROPERTY IS THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR
23 OF THIS STATE IN A FORFEITURE PROCEEDING.

24 (3) THE ATTORNEY GENERAL OR THE PROSECUTING ATTORNEY FOR THE
25 COUNTY IN WHICH THE PROPERTY IS LOCATED MAY APPLY EX PARTE FOR AN
26 ORDER AUTHORIZING THE FILING OF A LIEN NOTICE AGAINST REAL
27 PROPERTY SUBJECT TO FORFEITURE UNDER THIS CHAPTER. THE

1 APPLICATION SHALL BE SUPPORTED BY A SWORN AFFIDAVIT SETTING FORTH
2 PROBABLE CAUSE FOR A FORFEITURE ACTION PURSUANT TO THIS CHAPTER.
3 AN ORDER AUTHORIZING THE FILING OF A LIEN NOTICE MAY BE ISSUED
4 UPON A SHOWING OF PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS
5 THE PROCEEDS OR THE SUBSTITUTED PROCEEDS OF A VIOLATION OF SEC-
6 TION 572.

7 (4) PROPERTY THAT BELONGS TO THE VICTIM OF A CRIME SHALL
8 PROMPTLY BE RETURNED TO THE VICTIM, EXCEPT IN THE FOLLOWING
9 CIRCUMSTANCES:

10 (A) IF THE PROPERTY IS CONTRABAND.

11 (B) IF THE OWNERSHIP OF THE PROPERTY IS DISPUTED UNTIL THE
12 DISPUTE IS RESOLVED.

13 (C) IF THE PROPERTY IS REQUIRED TO BE RETAINED AS EVIDENCE
14 PURSUANT TO SECTION 4(4) OF THE CRIME VICTIM'S RIGHTS ACT, ACT
15 NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTION 780.754 OF THE
16 MICHIGAN COMPILED LAWS.

17 (5) PERSONAL PROPERTY SEIZED UNDER THIS CHAPTER IS NOT
18 SUBJECT TO ANY OTHER ACTION TO RECOVER PERSONAL PROPERTY, BUT IS
19 CONSIDERED TO BE IN THE CUSTODY OF THE SEIZING AGENCY SUBJECT
20 ONLY TO SUBSECTION (4) AND SECTIONS 576 TO 578, OR TO AN ORDER
21 AND JUDGMENT OF THE COURT HAVING JURISDICTION OVER THE FORFEITURE
22 PROCEEDINGS. WHEN PROPERTY IS SEIZED UNDER THIS CHAPTER, THE
23 SEIZING AGENCY MAY DO EITHER OR BOTH OF THE FOLLOWING:

24 (A) PLACE THE PROPERTY UNDER SEAL.

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

26 SEC. 575. (1) WITHIN 21 DAYS AFTER PERSONAL PROPERTY IS
27 SEIZED OR A LIEN NOTICE IS FILED AGAINST REAL PROPERTY UNDER

1 SECTION 4703, THE SEIZING AGENCY OR, IF THE PROPERTY IS REAL
2 PROPERTY, THE ATTORNEY GENERAL OR THE PROSECUTING ATTORNEY SHALL
3 GIVE NOTICE OF THE SEIZURE OF THE PROPERTY AND THE INTENT TO FOR-
4 FEIT AND DISPOSE OF THE PROPERTY ACCORDING TO THIS CHAPTER TO
5 EACH OF THE FOLLOWING PERSONS:

6 (A) IF CHARGES HAVE BEEN FILED AGAINST A PERSON FOR A RACKE-
7 TEERING ACTIVITY, THE PERSON CHARGED.

8 (B) EACH PERSON WITH A KNOWN OWNERSHIP INTEREST IN THE
9 PROPERTY.

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

15 (D) EACH HOLDER OF A PREFERRED SHIP MORTGAGE OF RECORD IN
16 THE APPROPRIATE PUBLIC OFFICE PURSUANT TO THE SHIP MORTGAGE ACT,
17 1920, CHAPTER 250, 41 STAT. 1000, 46 U.S.C. APP. 911, 921 TO
18 927, 941, 951 TO 954, 961, 971 TO 975, AND 981 TO 984, IF THE
19 PROPERTY IS A WATERCRAFT MORE THAN 28 FEET LONG OR A WATERCRAFT
20 THAT HAS A CAPACITY OF 5 NET TONS OR MORE.

21 (E) EACH PERSON WHOSE SECURITY INTEREST IS RECORDED WITH THE
22 APPROPRIATE PUBLIC OFFICE PURSUANT TO THE FEDERAL AVIATION ACT OF
23 1958, PUBLIC LAW 85-726, 27 STAT. 731, IF THE PROPERTY IS AN
24 AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER, OR A PART OF AN
25 AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER.

26 (F) EACH PERSON WITH A KNOWN SECURITY INTEREST IN THE
27 PROPERTY.

1 (G) EACH VICTIM OF THE CRIME.

2 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL BE A
3 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
4 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
5 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
6 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
7 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
8 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
9 CESSIVE PUBLISHING DAYS. PROOF OF WRITTEN NOTICE OR PUBLICATION
10 SHALL BE FILED WITH THE COURT HAVING JURISDICTION OVER THE SEI-
11 ZURE OR FORFEITURE.

12 (3) IF PERSONAL PROPERTY WAS SEIZED, THE SEIZING AGENCY
13 SHALL IMMEDIATELY NOTIFY THE PROSECUTING ATTORNEY FOR THE COUNTY
14 IN WHICH THE PROPERTY WAS SEIZED OR, IF THE ATTORNEY GENERAL IS
15 ACTIVELY HANDLING A CASE INVOLVING OR RELATING TO THE PROPERTY,
16 THE ATTORNEY GENERAL OF THE SEIZURE OF THE PROPERTY AND THE
17 INTENT TO FORFEIT AND DISPOSE OF THE PROPERTY ACCORDING TO THIS
18 CHAPTER.

19 SEC. 576. (1) ANY PERSON CLAIMING AN INTEREST IN PROPERTY
20 THAT IS THE SUBJECT OF A NOTICE UNDER SECTION 575, OR ANY PERSON
21 WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO, THE COMMIS-
22 SION OF THE RACKETEERING ACTIVITY MAY MOVE THE COURT HAVING
23 JURISDICTION TO RETURN THE PROPERTY OR DISCHARGE THE LIEN ON THE
24 GROUNDS THAT THE PROPERTY WAS ILLEGALLY SEIZED, THAT THE PROPERTY
25 IS NOT SUBJECT TO FORFEITURE UNDER THIS CHAPTER, OR THAT THE
26 PERSON HAS AN OWNERSHIP OR SECURITY INTEREST IN THE PROPERTY AND
27 DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO, THE COMMISSION OF

1 THE RACKETEERING ACTIVITY. THE COURT SHALL HEAR THE MOTION
2 WITHIN 30 DAYS AFTER THE MOTION IS FILED, EXCEPT THAT THE COURT
3 MAY ADJOURN THE HEARING UNTIL AFTER THE CRIMINAL PROCEEDINGS ARE
4 COMPLETED WITH THE CONSENT OF ALL OF THE PARTIES.

5 (2) AT THE HEARING ON THE MOTION FILED UNDER SUBSECTION (1),
6 THE ATTORNEY GENERAL OR THE PROSECUTING ATTORNEY FOR THE COUNTY
7 IN WHICH THE PROPERTY WAS SEIZED OR THE LIEN WAS FILED SHALL
8 ESTABLISH THE FOLLOWING:

9 (A) PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS SUBJECT
10 TO FORFEITURE UNDER THIS CHAPTER AND THAT THE PERSON FILING THE
11 MOTION HAD PRIOR KNOWLEDGE OF, OR CONSENTED TO, THE COMMISSION OF
12 THE RACKETEERING ACTIVITY.

13 (B) IF THE PERSON FILING THE MOTION CLAIMS THE PROPERTY WAS
14 ILLEGALLY SEIZED, THAT THE PROPERTY WAS PROPERLY SEIZED.

15 (3) IF THE ATTORNEY GENERAL OR PROSECUTING ATTORNEY FAILS TO
16 SUSTAIN HIS OR HER BURDEN OF PROOF UNDER SUBSECTION (2), THE
17 COURT SHALL ORDER THE RETURN OF THE PROPERTY OR THE DISCHARGE OF
18 THE LIEN.

19 (4) THE TESTIMONY OF A PERSON AT A HEARING HELD UNDER THIS
20 SECTION IS NOT ADMISSIBLE AGAINST HIM OR HER IN ANY CRIMINAL PRO-
21 CEEDING EXCEPT IN A CRIMINAL PROSECUTION FOR PERJURY. THE TESTI-
22 MONY OF A PERSON AT A HEARING HELD UNDER THIS SECTION DOES NOT
23 WAIVE THE PERSON'S CONSTITUTIONAL RIGHT AGAINST
24 SELF-INCRIMINATION.

25 (5) IF NO CLAIM OR MOTION IS FILED WITHIN 20 DAYS, THE UNIT
26 OF GOVERNMENT OR THE STATE SHALL DECLARE THE PROPERTY FORFEITED
27 AND SHALL DISPOSE OF THE PROPERTY ACCORDING TO SECTION 578.

1 (6) THE HEARING SET FORTH IN SUBSECTION (1) MAY BE ADJOURNED
2 WITH THE CONSENT OF THE PROSECUTING ATTORNEY OR ATTORNEY GENERAL,
3 THE PETITIONER, AND THE COURT.

4 SEC. 577. EXCEPT AS OTHERWISE PROVIDED BY LAW, PERSONAL
5 PROPERTY SEIZED PURSUANT TO SECTION 574 SHALL BE RETURNED TO THE
6 OWNER, OR A LIEN FILED AGAINST REAL PROPERTY UNDER SECTION 574
7 SHALL BE DISCHARGED, WITHIN 7 DAYS AFTER THE OCCURRENCE OF ANY OF
8 FOLLOWING:

9 (A) A WARRANT IS NOT ISSUED AGAINST A PERSON FOR THE COMMIS-
10 SION OF A RACKETEERING ACTIVITY WITHIN 7 DAYS AFTER THE PROPERTY
11 IS SEIZED OR, IF THE PROPERTY IS REAL PROPERTY, WITHIN 7 DAYS
12 AFTER THE LIEN IS FILED.

13 (B) ALL CHARGES AGAINST THE CONSENTING LEGAL OWNER RELATING
14 TO THE COMMISSION OF A RACKETEERING ACTIVITY ARE DISMISSED.

15 (C) THE CONSENTING LEGAL OWNER CHARGED WITH COMMITTING A
16 RACKETEERING ACTIVITY IS ACQUITTED OF THE RACKETEERING ACTIVITY.

17 (D) IN THE CASE OF MULTIPLE DEFENDANTS, ALL PERSONS CHARGED
18 WITH COMMITTING A RACKETEERING ACTIVITY ARE ACQUITTED OF THE
19 RACKETEERING ACTIVITY.

20 (E) ENTRY OF A COURT ORDER PURSUANT TO THIS CHAPTER FOR THE
21 RETURN OF THE PROPERTY OR THE DISCHARGE OF THE LIEN.

22 SEC. 578. (1) WHEN PROPERTY IS FORFEITED UNDER THIS CHAP-
23 TER, THE UNIT OF GOVERNMENT THAT SEIZED OR FILED A LIEN AGAINST
24 THE PROPERTY MAY SELL THE PROPERTY THAT IS NOT REQUIRED TO BE
25 DESTROYED BY LAW AND THAT IS NOT HARMFUL TO THE PUBLIC AND MAY
26 DISPOSE OF THE PROCEEDS AND ANY MONEY, NEGOTIABLE INSTRUMENT,

1 SECURITY, OR OTHER THING OF VALUE THAT IS FORFEITED PURSUANT TO
2 THIS CHAPTER IN THE FOLLOWING ORDER OF PRIORITY:

3 (A) PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED PARTY
4 WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO THE COMMISSION
5 OF, THE CRIME.

6 (B) SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION FOR
7 THE CRIME.

8 (C) PAY THE CLAIM OF EACH PERSON WHO SHOWS THAT HE OR SHE IS
9 A VICTIM OF THE CRIME TO THE EXTENT THAT THE CLAIM IS NOT COVERED
10 BY AN ORDER OF RESTITUTION.

11 (D) PAY ANY OUTSTANDING LIEN AGAINST THE PROPERTY THAT HAS
12 BEEN IMPOSED BY A GOVERNMENTAL UNIT.

13 (E) PAY THE PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEI-
14 TURE AND SALE, INCLUDING, BUT NOT LIMITED TO, EXPENSES INCURRED
15 DURING THE SEIZURE PROCESS AND EXPENSES FOR MAINTAINING CUSTODY
16 OF THE PROPERTY, ADVERTISING, AND COURT COSTS.

17 (F) THE BALANCE REMAINING AFTER THE PAYMENT OF RESTITUTION,
18 THE CLAIMS OF VICTIMS, OUTSTANDING LIENS, AND EXPENSES SHALL BE
19 DISTRIBUTED BY THE COURT HAVING JURISDICTION OVER THE FORFEITURE
20 PROCEEDINGS TO THE UNIT OR UNITS OF GOVERNMENT SUBSTANTIALLY
21 INVOLVED IN EFFECTING THE FORFEITURE. THE MONEY RECEIVED BY A
22 UNIT OF GOVERNMENT UNDER THIS SUBDIVISION SHALL BE USED TO
23 ENHANCE ENFORCEMENT OF THE CRIMINAL LAWS.

24 (2) IN THE COURSE OF SELLING REAL PROPERTY PURSUANT TO SUB-
25 SECTION (1), THE COURT THAT ENTERS AN ORDER OF FORFEITURE, ON
26 MOTION OF THE UNIT OF GOVERNMENT TO WHOM THE PROPERTY IS
27 FORFEITED, MAY APPOINT A RECEIVER TO DISPOSE OF THE REAL PROPERTY

1 FORFEITED. THE RECEIVER IS ENTITLED TO REASONABLE COMPENSATION.

2 THE RECEIVER HAS AUTHORITY TO DO ALL OF THE FOLLOWING:

3 (A) LIST THE FORFEITED REAL PROPERTY FOR SALE.

4 (B) MAKE WHATEVER ARRANGEMENTS ARE NECESSARY FOR THE MAINTENANCE AND PRESERVATION OF THE FORFEITED REAL PROPERTY.

6 (C) ACCEPT OFFERS TO PURCHASE THE FORFEITED REAL PROPERTY.

7 (D) EXECUTE INSTRUMENTS TRANSFERRING TITLE TO THE FORFEITED REAL PROPERTY.

9 SEC. 579. A PERSON MAY BE PROSECUTED FOR A VIOLATION OF SECTION 572 AS FOLLOWS:

11 (A) IN ANY COUNTY IN WHICH THE PRINCIPAL PLACE OF BUSINESS, IF ANY, OF THE ENTERPRISE WAS LOCATED AT THE TIME OF THE OFFENSE, AND, IF THE ENTERPRISE HAD A PRINCIPAL PLACE OF BUSINESS LOCATED IN MORE THAN 1 COUNTY, THEN IN ANY SUCH COUNTY IN WHICH ANY CONDUCT OCCURRED CONSTITUTING OR REQUISITE TO THE COMPLETION OF THE RACKETEERING ACTIVITY INVOLVED IN THE VIOLATION.

17 (B) IN ANY COUNTY IN WHICH THE DEFENDANT CONDUCTS OR PARTICIPATES IN THE AFFAIRS OF THE ENTERPRISE, ACQUIRES OR MAINTAINS AN INTEREST IN OR CONTROL OF THE ENTERPRISE, OR INVESTS PROCEEDS IN AN ENTERPRISE IN VIOLATION OF THIS ACT.

21 SEC. 580. A CHARGE OF RACKETEERING ACTIVITY MAY BE PROSECUTED BY THE PROSECUTING ATTORNEY OF ANY COUNTY WITH JURISDICTION OVER THE OFFENSE PURSUANT TO SECTION 579 OR THE ATTORNEY GENERAL WHEN HE OR SHE IS OTHERWISE AUTHORIZED BY LAW TO PROSECUTE EACH OF THE CRIMINAL ACTS SPECIFICALLY INCLUDED IN THE PATTERN OF RACKETEERING ACTIVITY ALLEGED IN THE VIOLATION OF SECTION 572.