

SFA

BILL ANALYSIS

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Senate Fiscal Agency

Lansing Michigan 48909

(517) 373 5383

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**House Bill 4586 (Substitute S-1 as reported)****Sponsor: Representative Ilona Varga****House Committee: Judiciary****Senate Committee: Judiciary****Date Completed: 1-5-88****RATIONALE**

The forfeiture law within the Public Health Code authorizes the State and local units of government to seize property acquired through or used in drug trafficking. The forfeiture action is a civil one that is undertaken separately from any associated criminal prosecution for narcotics law violations. Reportedly, seized and forfeited property occasionally is sold or returned before prosecution is completed, thus depriving the prosecution of valuable evidence. In fact, it is possible for drug-related property to be seized and forfeited without the local prosecutor ever being notified. Prosecutors urge that the forfeiture law be amended to ensure that civil forfeiture actions are coordinated with any associated criminal prosecutions.

**CONTENT**

House Bill 4586 (S-1) would amend the Public Health Code to require notice of forfeiture proceedings to be given to the prosecutor, and consent of the prosecutor to be obtained, if drug-traffic property were seized and related criminal proceedings were not complete. The bill specifies that, unless all criminal proceedings relating to the property were completed, forfeiture proceedings would require a seizing agency to notify the prosecuting attorney or the Attorney General, if the Attorney General were handling a related case, of the seizure and the intent to forfeit and dispose of the property.

In addition, unless all related criminal proceedings were completed, a city or township attorney could not institute forfeiture proceedings without the consent of the prosecuting attorney or the Attorney General, if the Attorney General were actively handling a related case. Similarly, unless all related criminal proceedings were completed, a local unit of government or the State could not dispose of the property without the written consent of the prosecuting attorney or the Attorney General.

MCL 333.7523 and 333.7524

**SENATE COMMITTEE ACTION**

The Senate Judiciary Committee adopted a substitute to the bill under which notice to the prosecutor or the Attorney General would not be required if all related criminal proceedings had been completed, and the consent of the prosecutor or Attorney General to institute forfeiture proceedings or dispose of forfeited property would not be required if related criminal proceedings were completed.

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

**ARGUMENTS****Supporting Argument**

The bill would ensure that prosecutors were notified when police seized drug-related property under the forfeiture law, thereby ensuring that an opportunity for criminal prosecution was not lost. By requiring prosecutor approval before the disposition of that property, the bill would remove the possibility that prosecutions could be compromised by the premature release of evidence.

Legislative Analyst: S. Margules

Fiscal Analyst: P. Graham

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.