

# HOUSE BILL NO. 4240

February 11, 2021, Introduced by Reps. Yaroch and Wozniak and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending section 4708 (MCL 600.4708), as amended by 2014 PA 333.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 4708. (1) When property is forfeited under this chapter,  
2 the unit of government that seized or filed a lien against the  
3 property may sell the property that is not required to be destroyed  
4 by law and that is not harmful to the public and may dispose of the  
5 proceeds and any money, including any interest earned on money

1 deposited in a financial institution as described in section  
2 4703(6), negotiable instrument, security, or other thing of value  
3 that is forfeited under this chapter in the following order of  
4 priority:

5 (a) Pay any outstanding security interest of a secured party  
6 who did not have prior knowledge of, or consent to the commission  
7 of, the crime, or did not acquire his or her interest as the result  
8 of a transfer that is void under section 4703(7).

9 (b) Satisfy any order of restitution in the prosecution for  
10 the crime.

11 (c) Pay the claim of each person who shows that he or she is a  
12 victim of the crime to the extent that the claim is not covered by  
13 an order of restitution.

14 (d) Pay any outstanding lien against the property that has  
15 been imposed by a governmental unit.

16 (e) Pay the proper expenses of the proceedings for forfeiture  
17 and sale, including, but not limited to, expenses incurred during  
18 the seizure process and expenses for maintaining custody of the  
19 property, advertising, as well as reasonable prosecution and court  
20 costs.

21 (f) The balance remaining after the payment of restitution,  
22 the claims of victims, outstanding liens, and expenses ~~shall~~**must**  
23 be distributed by the court having jurisdiction over the forfeiture  
24 proceedings to the **treasurer of the** unit or units of government  
25 substantially involved in effecting the forfeiture. Seventy-five  
26 percent of the money received by a unit of government under this  
27 subdivision ~~shall~~**must** be used to enhance enforcement of the  
28 criminal laws **as appropriated by the entity having budgetary**  
29 **authority over the unit or units of government substantially**

1 involved in effecting the forfeiture with not more than 30%, or in  
2 the alternative, an amount not exceeding an hourly rate agreed to  
3 by the seizing agency and the appropriate prosecutor, being  
4 directed to the prosecuting attorney for the county if the county  
5 is the unit, or 1 of the units of government substantially involved  
6 in effecting the forfeiture and 25% of the money ~~shall~~ **must** be used  
7 to implement the William Van Regenmorter crime victim's rights act,  
8 1985 PA 87, MCL 780.751 to 780.834. A unit of government receiving  
9 money under this subdivision shall report annually to the  
10 department of **technology**, management, and budget the amount of  
11 money received under this subdivision that was used to enhance  
12 enforcement of the criminal laws and the amount that was used to  
13 implement the William Van Regenmorter crime victim's rights act,  
14 1985 PA 87, MCL 780.751 to 780.834.

15 (2) In the course of selling real property under subsection  
16 (1), the court that enters an order of forfeiture, on motion of the  
17 unit of government to whom the property is forfeited, may appoint a  
18 receiver to dispose of the real property forfeited. The receiver is  
19 entitled to reasonable compensation. The receiver has authority to  
20 do all of the following:

21 (a) List the forfeited real property for sale.

22 (b) Make whatever arrangements are necessary for the  
23 maintenance and preservation of the forfeited real property.

24 (c) Accept offers to purchase the forfeited real property.

25 (d) Execute instruments transferring title to the forfeited  
26 real property.

27 (3) If any property included in the order of forfeiture under  
28 this chapter cannot be located or has been sold to a bona fide  
29 purchaser for value, placed beyond the jurisdiction of the court,

1 substantially diminished in value by the conduct of the defendant,  
2 or commingled with other property that cannot be divided without  
3 difficulty or undue injury to innocent persons, the court may order  
4 forfeiture of any other reachable property of the owner up to the  
5 value of the property that is unreachable as described in this  
6 subsection. This subsection only applies against an owner that is  
7 also the person convicted of the crime underlying the forfeiture  
8 action.