

HOUSE BILL No. 2396

By Committee on Judiciary

2-10

1 AN ACT concerning the Kansas standard asset seizure and forfeiture act;
2 requiring a conviction prior to forfeiture; remitting proceeds to the state
3 general fund; requiring proof beyond a reasonable doubt that property
4 is subject to forfeiture; requiring seizing agencies to make forfeiture
5 reports more often; amending K.S.A. 2022 Supp. 60-4104, 60-4105,
6 60-4106, 60-4109, 60-4112, 60-4113, 60-4114, 60-4117 and 60-4127
7 and repealing the existing sections.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2022 Supp. 60-4104 is hereby amended to read as
11 follows: 60-4104. ~~Conduct and Offenses~~ giving rise to forfeiture under this
12 act, ~~whether or not there is a prosecution or only after a felony~~ conviction
13 related to the offense, are:

14 (a) All offenses ~~which~~ *that* statutorily and specifically authorize
15 forfeiture;

16 (b) violations involving controlled substances, as described in K.S.A.
17 2022 Supp. 21-5701 through 21-5717, and amendments thereto;

18 (c) theft, as defined in K.S.A. 2022 Supp. 21-5801, and amendments
19 thereto;

20 (d) criminal discharge of a firearm, as defined in K.S.A. 2022 Supp.
21 21-6308(a)(1) and (a)(2), and amendments thereto;

22 (e) gambling, as defined in K.S.A. 2022 Supp. 21-6404, and
23 amendments thereto, and commercial gambling, as defined in K.S.A. 2022
24 Supp. 21-6406(a)(1), and amendments thereto;

25 (f) counterfeiting, as defined in K.S.A. 2022 Supp. 21-5825, and
26 amendments thereto;

27 (g) unlawful possession or use of a scanning device or reencoder, as
28 described in K.S.A. 2022 Supp. 21-6108, and amendments thereto;

29 (h) medicaid fraud, as described in K.S.A. 2022 Supp. 21-5925
30 through 21-5934, and amendments thereto;

31 (i) an act or omission occurring outside this state, ~~which~~ *that* would
32 be a violation in the place of occurrence and would be described in this
33 section if the act occurred in this state, ~~whether or not it is prosecuted in~~
34 ~~any state~~;

35 (j) an act or omission committed in furtherance of any act or omission
36 described in this section, including any inchoate or preparatory offense;

1 ~~whether or not there is a prosecution or conviction related to the act or~~
2 ~~omission;~~

3 (k) any solicitation or conspiracy to commit any act or omission
4 described in this section, ~~whether or not there is a prosecution or~~
5 ~~conviction related to the act or omission;~~

6 (l) terrorism, as defined in K.S.A. 2022 Supp. 21-5421, and
7 amendments thereto, illegal use of weapons of mass destruction, as
8 defined in K.S.A. 2022 Supp. 21-5422, and amendments thereto, and
9 furtherance of terrorism or illegal use of weapons of mass destruction, as
10 described in K.S.A. 2022 Supp. 21-5423, and amendments thereto;

11 (m) unlawful conduct of dog fighting and unlawful possession of dog
12 fighting paraphernalia, as defined in K.S.A. 2022 Supp. 21-6414(a) and
13 (b), and amendments thereto;

14 (n) unlawful conduct of cockfighting and unlawful possession of
15 cockfighting paraphernalia, as defined in K.S.A. 2022 Supp. 21-6417(a)
16 and (b), and amendments thereto;

17 (o) selling sexual relations, as defined in K.S.A. 2022 Supp. 21-6419,
18 and amendments thereto, promoting the sale of sexual relations, as defined
19 in K.S.A. 2022 Supp. 21-6420, and amendments thereto, and buying
20 sexual relations, as defined in K.S.A. 2022 Supp. 21-6421, and
21 amendments thereto;

22 (p) human trafficking and aggravated human trafficking, as defined in
23 K.S.A. 2022 Supp. 21-5426, and amendments thereto;

24 (q) violations of the banking code, as described in K.S.A. 9-2012, and
25 amendments thereto;

26 (r) mistreatment of a dependent adult, as defined in K.S.A. 2022
27 Supp. 21-5417, and amendments thereto;

28 (s) giving a worthless check, as defined in K.S.A. 2022 Supp. 21-
29 5821, and amendments thereto;

30 (t) forgery, as defined in K.S.A. 2022 Supp. 21-5823, and
31 amendments thereto;

32 (u) making false information, as defined in K.S.A. 2022 Supp. 21-
33 5824, and amendments thereto;

34 (v) criminal use of a financial card, as defined in K.S.A. 2022 Supp.
35 21-5828, and amendments thereto;

36 (w) unlawful acts concerning computers, as described in K.S.A. 2022
37 Supp. 21-5839, and amendments thereto;

38 (x) identity theft and identity fraud, as defined in K.S.A. 2022 Supp.
39 21-6107(a) and (b), and amendments thereto;

40 (y) electronic solicitation, as defined in K.S.A. 2022 Supp. 21-5509,
41 and amendments thereto;

42 (z) felony violations of fleeing or attempting to elude a police officer,
43 as described in K.S.A. 8-1568, and amendments thereto;

- 1 (aa) commercial sexual exploitation of a child, as defined in K.S.A.
2 2022 Supp. 21-6422, and amendments thereto;
 - 3 (bb) violations of the Kansas racketeer influenced and corrupt
4 organization act, as described in K.S.A. 2022 Supp. 21-6329, and
5 amendments thereto;
 - 6 (cc) indecent solicitation of a child and aggravated indecent
7 solicitation of a child, as defined in K.S.A. 2022 Supp. 21-5508, and
8 amendments thereto;
 - 9 (dd) sexual exploitation of a child, as defined in K.S.A. 2022 Supp.
10 21-5510, and amendments thereto; and
 - 11 (ee) violation of a consumer protection order as defined in K.S.A.
12 2022 Supp. 21-6423, and amendments thereto.
- 13 Sec. 2. K.S.A. 2022 Supp. 60-4105 is hereby amended to read as
14 follows: 60-4105. The following property is subject to forfeiture:
- 15 (a) Property described in a statute authorizing forfeiture;
 - 16 (b) except as otherwise provided by law, all property, ~~of every kind,~~
17 including, but not limited to, cash and negotiable instruments and the
18 whole of any lot or tract of land and any appurtenances or improvements
19 to real property, that is either:
 - 20 (1) Furnished or intended to be furnished by any person in an
21 exchange that constitutes ~~conduct an offense~~ giving rise to forfeiture; or
 - 22 (2) used or intended to be used in any manner to facilitate ~~conduct an~~
23 *offense* giving rise to forfeiture, including, but not limited to, any
24 electronic device, computer, computer system, computer network or any
25 software or data owned by the defendant which is used during the
26 commission of an offense listed in K.S.A. 60-4104, and amendments
27 thereto;
 - 28 (c) all proceeds of ~~any conduct an offense~~ giving rise to forfeiture;
 - 29 (d) all property of every kind, including, but not limited to, cash and
30 negotiable instruments derived from or realized through any proceeds
31 ~~which that~~ were obtained directly or indirectly from the commission of an
32 offense listed in K.S.A. 60-4104, and amendments thereto;
 - 33 (e) all weapons possessed, used, or available for use in any manner to
34 facilitate ~~conduct an offense~~ giving rise to forfeiture;
 - 35 (f) ownership or interest in real property that is a homestead, to the
36 extent the homestead was acquired with proceeds from ~~conduct an offense~~
37 giving rise to forfeiture;
 - 38 (g) contraband, which shall be seized and summarily forfeited to the
39 state without regard to the procedures set forth in this act;
 - 40 (h) all controlled substances, raw materials, controlled substance
41 analogs, counterfeit substances, or imitation controlled substances that
42 have been manufactured, distributed, dispensed, possessed, or acquired in
43 violation of the laws of this state; and

1 (i) any items bearing a counterfeit mark.

2 Sec. 3. K.S.A. 2022 Supp. 60-4106 is hereby amended to read as
3 follows: 60-4106. (a) All property, including all interests in property,
4 described in K.S.A. 60-4105, and amendments thereto, is subject to
5 forfeiture subject to all mortgages, deeds of trust, financing statements or
6 security agreements properly of record prior to the forfeiture held by an
7 interest holder except that property specifically exempted hereunder:

8 (1) No real property or conveyance, or an interest therein, may be
9 forfeited under this act unless the offense ~~or conduct~~ giving rise to
10 forfeiture constitutes a felony.

11 (2) No conveyance used by any person as a common carrier in the
12 transaction of business as a common carrier is subject to forfeiture under
13 this act unless the owner or other person in charge of the conveyance is a
14 consenting party or privy to ~~a violation of this act~~ *the offense giving rise to*
15 *forfeiture.*

16 (3) No property is subject to forfeiture under this act if the owner or
17 interest holder acquired the property before or during the ~~conduct~~
18 *commission of the offense* giving rise to the property's forfeiture, and such
19 owner or interest holder:

20 (A) Did not know and could not have reasonably known of the act or
21 omission or that it was likely to occur; or

22 (B) acted reasonably to prevent the ~~conduct~~ *offense* giving rise to
23 forfeiture.

24 (4) No property is subject to forfeiture if the owner or interest holder
25 acquired the property after the ~~conduct~~ *commission of the offense* giving
26 rise to the property's forfeiture, including acquisition of proceeds of
27 ~~conduct~~ *an offense* giving rise to forfeiture, and such owner or interest
28 holder:

29 (A) Acquired the property in good faith, for value; and

30 (B) was not knowingly taking part in an illegal transaction.

31 (5) (A) An interest in property acquired in good faith by an attorney
32 as reasonable payment or to secure payment for legal services in a criminal
33 matter relating to violations of this act or for the reimbursement of
34 reasonable expenses related to the legal services is exempt from forfeiture
35 unless before the interest was acquired the attorney knew of a judicial
36 determination of probable cause that the property is subject to forfeiture.

37 (B) The state bears the burden of proving that an exemption claimed
38 under this section is not applicable. Evidence made available by the
39 compelled disclosure of confidential communications between an attorney
40 and a client other than nonprivileged information relating to attorney fees,
41 is not admissible to satisfy the state's burden of proof.

42 (b) Notwithstanding subsection (a), property is not exempt from
43 forfeiture, even though the owner or interest holder lacked knowledge or

1 reason to know that the ~~conduct~~ *offense* giving rise to property's forfeiture
2 had occurred or was likely to occur, if the:

3 (1) Person whose ~~conduct~~ *offense* gave rise to the property's forfeiture
4 had authority to convey the property of the person claiming the exemption
5 to a good faith purchaser for value at the time of the ~~conduct~~ *offense*;

6 (2) owner or interest holder is ~~criminally responsible for the conduct~~
7 *convicted of the offense* giving rise to the property's forfeiture, ~~whether or~~
8 ~~not there is a prosecution or conviction~~; or

9 (3) owner or interest holder acquired the property with notice of the
10 property's actual or constructive seizure for forfeiture under this act, or
11 with reason to believe that the property was subject to forfeiture under this
12 act.

13 (c) Prior to final judgment in a judicial forfeiture proceeding, a court
14 shall limit the scope of a proposed forfeiture to the extent the court finds
15 the effect of the forfeiture is grossly disproportionate to the nature and
16 severity of the owner's conduct, including, but not limited to, a
17 consideration of any of the following factors:

18 (1) The gain received or expected to be received by an owner from
19 ~~conduct that allows forfeiture~~ *the offense*;

20 (2) the value of the property subject to forfeiture;

21 (3) the extent to which the property actually facilitated the ~~criminal~~
22 ~~conduct~~ *offense giving rise to forfeiture*;

23 (4) the nature and extent of the owner's knowledge of the role of
24 others in the ~~conduct~~ *offense* that allows forfeiture of the property and
25 efforts of the owner to prevent ~~the conduct~~ *such offense*; and

26 (5) the totality of the circumstances regarding the investigation.

27 Sec. 4. K.S.A. 2022 Supp. 60-4109 is hereby amended to read as
28 follows: 60-4109. (a) Forfeiture proceedings shall be commenced *only*
29 *after a conviction for the offense giving rise to forfeiture* by filing a notice
30 of pending forfeiture or a judicial forfeiture action:

31 (1) If the plaintiff's attorney fails to initiate forfeiture proceedings by
32 notice of pending forfeiture within 90 days against property seized for
33 forfeiture or if the seizing agency fails to pursue forfeiture of the property
34 upon which a proper claim has been timely filed by filing a judicial
35 forfeiture proceeding within 90 days after notice of pending forfeiture, the
36 property shall be released on the request of an owner or interest holder to
37 such owner's or interest holder's custody, as custodian for the court,
38 pending further proceedings pursuant to this act. Such custodianship shall
39 not exceed 90 days following the release to the owner or interest holder
40 unless an extension is authorized by the court for good cause shown.

41 (2) If, after notice of pending forfeiture, a claimant files a petition for
42 recognition of exemption pursuant to K.S.A. 60-4110, and amendments
43 thereto, the plaintiff's attorney may delay filing the judicial forfeiture

1 proceeding for a total of 180 days after the notice of pending forfeiture
2 except that if an interest holder timely files a proper petition documenting
3 the complete nature and extent of such holder's interest, including all of the
4 contractual terms and current status, the plaintiff's attorney may delay
5 filing a judicial forfeiture proceeding only if such attorney provides each
6 such petitioner with a written recognition of exemption within 60 days
7 after the effective date of the notice of pending forfeiture, recognizing the
8 interest of such petitioner to the extent of documented outstanding
9 principal plus interest at the contract rate until paid and any attorney fees
10 ordered by a court pursuant to such contract.

11 (3) Whenever notice of pending forfeiture or service of an in rem
12 complaint or notice of a recognition of exemption and statement of
13 nonexempt interests is required under this act, notice or service shall be
14 given in accordance with one of the following:

15 (A) If the owner's or interest holder's name and current address are
16 known, by either personal service by any person qualified to serve process
17 or by any law enforcement officer or by mailing a copy of the notice by
18 certified mail, return receipt requested, to the known address, pursuant to
19 the code of civil procedure;

20 (B) if the owner's or interest holder's name and address are required
21 by law to be on record with a municipal, county, state or federal agency to
22 perfect an interest in the property, and the owner's or interest holder's
23 current address is not known, by mailing a copy of the notice by certified
24 mail, return receipt requested, to any address of record with any of the
25 described agencies, pursuant to the code of civil procedure; or

26 (C) if the owner's or interest holder's address is not known and is not
27 on record as provided in subparagraph (B), or the owner's or interest
28 holder's interest is not known, or if service by certified mail was attempted
29 pursuant to subparagraph (A) or (B) and was not effective, by publication
30 in one issue of the official county newspaper, as defined by K.S.A. 64-101,
31 and amendments thereto, in the county in which the seizure occurred.

32 (4) Notice is effective pursuant to the code of civil procedure, except
33 that notice of pending forfeiture of real property is not effective until it is
34 recorded. Notice of pending forfeiture shall include a description of the
35 property, the date and place of seizure, the ~~conduct~~ offense giving rise to
36 forfeiture or the violation of law alleged and a summary of procedures and
37 procedural rights applicable to the forfeiture action. An affidavit describing
38 the essential facts supporting forfeiture shall be included with the notice.
39 Copies of judicial council forms for petitioning for recognition of an
40 exemption pursuant to K.S.A. 60-4110, and amendments thereto, and for
41 making a claim pursuant to K.S.A. 60-4111, and amendments thereto, shall
42 be provided with the notice.

43 (b) The plaintiff's attorney, without a filing fee, may file a lien for the

1 forfeiture of property upon the initiation of any civil or criminal
2 proceeding relating to ~~conduct an offense~~ giving rise to forfeiture under
3 this act or upon seizure for forfeiture. Court costs may be assessed and, if
4 assessed, shall include the amount of the docket fee prescribed by K.S.A.
5 60-2001, and amendments thereto, and any additional court costs accrued
6 in the action. A plaintiff's attorney may also file a forfeiture lien in this
7 state in connection with a proceeding or seizure for forfeiture in any other
8 state under a state or federal statute substantially similar to the relevant
9 provisions of this act. The filing constitutes notice to any person claiming
10 an interest in the seized property or in property owned by the named
11 person.

12 (1) The lien notice shall set forth the following:

13 (A) The name of the person and, in the discretion of the lienor, any
14 alias, or the name of any corporation, partnership, trust or other entity,
15 including nominees, that are owned entirely or in part or controlled by the
16 person; and

17 (B) the description of the seized property, the criminal or civil
18 proceeding that has been brought relating to ~~conduct the offense~~ giving rise
19 to forfeiture under this act, the amount claimed by the lienor, the name of
20 the district court where the proceeding or action has been brought, and the
21 case number of the proceeding or action if known at the time of filing.

22 (2) A lien filed pursuant to this subsection applies to the described
23 seized property or to one named person, any aliases, fictitious names; or
24 other names, including the names of any corporation, partnership, trust, or
25 other entity, owned entirely or in part; or controlled by the named person,
26 and any interest in real property owned or controlled by the named person.
27 A separate forfeiture lien shall be filed for each named person.

28 (3) The notice of lien creates, upon filing, a lien in favor of the lienor
29 as it relates to the seized property or the named person or related entities.
30 The lien secures the amount of potential liability for civil judgment, and if
31 applicable, the fair market value of seized property relating to all
32 proceedings under this act enforcing the lien. The notice of forfeiture lien
33 referred to in this subsection shall be filed in accordance with the
34 provisions of the laws of this state relating to the type of property that is
35 subject to the lien. The validity and priority of the forfeiture lien shall be
36 determined in accordance with applicable law pertaining to liens. The
37 lienor may amend or release, in whole or in part, a lien filed under this
38 subsection at any time by filing, without a filing fee, an amended lien in
39 accordance with this subsection which identifies the lien amended. The
40 lienor, as soon as practical after filing the lien, shall furnish to any person
41 named in the lien a notice of the filing of the lien. Failure to furnish notice
42 under this subsection shall not invalidate or otherwise affect the lien.

43 (4) Upon entry of judgment in the seizing agency's favor, the seizing

1 agency may proceed to execute on the lien as provided by law.

2 (5) A trustee, constructive or otherwise, who has notice that a notice
3 of forfeiture lien, or a notice of pending forfeiture, or a civil forfeiture
4 proceeding has been filed against the property or against any person or
5 entity for whom the person holds title or appears as record owner, shall
6 furnish within 14 days, to the seizing agency or the plaintiff's attorney all
7 of the following information, unless all of the information is of record in
8 the public records giving notice of liens on that type of property:

9 (A) The name and address of each person or entity for whom the
10 property is held;

11 (B) the description of all other property whose legal title is held for
12 the benefit of the named person; and

13 (C) a copy of the applicable trust agreement or other instrument, if
14 any, under which the trustee or other person holds legal title or appears as
15 record owner of the property.

16 (6) A trustee with notice who knowingly fails to comply with the
17 provisions of this subsection shall be guilty of a class B nonperson
18 misdemeanor.

19 (7) A trustee with notice who fails to comply with paragraph (5) is
20 subject to a civil penalty of \$100 for each day of noncompliance. The court
21 shall enter judgment ordering payment of \$100 for each day of
22 noncompliance from the effective date of the notice until the required
23 information is furnished or the seizing agency executes the seizing
24 agency's judgment lien under this section.

25 (8) To the extent permitted by the constitutions of the United States
26 and the state of Kansas, the duty to comply with paragraph (5) shall not be
27 excused by any privilege or provision of law of this state or any other state
28 or country which authorizes or directs that testimony or records required to
29 be furnished pursuant to paragraph (5) are privileged, confidential and
30 otherwise may not be disclosed.

31 (9) A trustee who furnishes information pursuant to paragraph (5) is
32 immune from civil liability for the release of the information.

33 (10) An employee of the seizing agency or the plaintiff's attorney
34 who releases the information obtained pursuant to paragraph (5), except in
35 the proper discharge of official duties, is guilty of a class B nonperson
36 misdemeanor.

37 (11) If any information furnished pursuant to paragraph (5) is offered
38 in evidence, the court may seal that portion of the record or may order that
39 the information be disclosed in a designated way.

40 (12) A judgment or an order of payment entered pursuant to this
41 section becomes a judgment lien against the property alleged to be subject
42 to forfeiture.

43 Sec. 5. K.S.A. 2022 Supp. 60-4112 is hereby amended to read as

1 follows: 60-4112. (a) A judicial forfeiture proceeding under this act is
2 subject to the provisions of this section.

3 (b) The court, on application of the plaintiff's attorney, may enter any
4 restraining order or injunction, require the execution of satisfactory
5 performance bonds, create receiverships, appoint conservators, custodians,
6 appraisers, accountants or trustees, or take any other action to seize,
7 secure, maintain or preserve the availability of property subject to
8 forfeiture under this act, including a writ of attachment or a warrant for
9 such property's seizure, whether before or after the filing of a notice of
10 pending forfeiture or complaint.

11 (c) If property is seized for forfeiture or a forfeiture lien is filed
12 without a previous judicial determination of probable cause or order of
13 forfeiture or a hearing under K.S.A. 60-4114(c), and amendments thereto,
14 the court, on an application filed by an owner of or interest holder in the
15 property within 14 days after notice of the property's seizure for forfeiture
16 or lien, or actual knowledge of it, whichever is earlier, and after complying
17 with the requirements for claims in K.S.A. 60-4109, and amendments
18 thereto, after seven days' notice to the plaintiff's attorney, may issue an
19 order to show cause to the seizing agency, for a hearing on the sole issue
20 of whether probable cause for forfeiture of the property then exists. The
21 hearing shall be held within 30 days of the order to show cause unless
22 continued for good cause on motion of either party. If the court finds that
23 there is no probable cause for forfeiture of the property, or if the seizing
24 agency elects not to contest the issue, the property shall be released to the
25 custody of the applicant, as custodian for the court, or from the lien
26 pending the outcome of a judicial proceeding pursuant to this act. If the
27 court finds that probable cause for the forfeiture of the property exists, the
28 court shall not order the property released.

29 (d) All applications filed within the 14-day period prescribed by
30 subsection (c) shall be consolidated for a single hearing relating to each
31 applicant's interest in the property seized for forfeiture.

32 (e) A person charged with a criminal offense may apply at any time
33 before final judgment to the court where the forfeiture proceeding is
34 pending for the release of property seized for forfeiture, that is necessary
35 for the defense of the person's criminal charge. The application shall
36 satisfy the requirements under K.S.A. 60-4111(b), and amendments
37 thereto. The court shall hold a probable cause hearing if the applicant
38 establishes that:

39 (1) The person has not had an opportunity to participate in a previous
40 adversarial judicial determination of probable cause;

41 (2) the person has no access to other moneys adequate for the
42 payment of criminal counsel; and

43 (3) the interest in property to be released is not subject to any claim

1 other than the forfeiture.

2 (f) If the court finds that there is no probable cause for forfeiture of
3 the property, the court shall order the property released pursuant to
4 subsection (c). If the seizing agency does not contest the hearing, the court
5 may release a reasonable amount of property for the payment of the
6 applicant's criminal defense costs. Property that has been released by the
7 court and that has been paid for criminal defense services actually
8 rendered is exempt under this act.

9 (g) A defendant convicted in any criminal proceeding is precluded
10 from later denying the elements of the criminal offense of which the
11 defendant was convicted in any proceeding pursuant to this section. For
12 the purposes of this section, a conviction results from a verdict or plea of
13 guilty, including a plea of no contest or nolo contendere.

14 (h) (1) *At any time following seizure pursuant to this act, the person*
15 *from whose possession or control the property was seized may petition the*
16 *court to determine whether such forfeiture is unconstitutionally excessive.*

17 (2) *The plaintiff's attorney has the burden of establishing that the*
18 *forfeiture is proportional to the seriousness of the offense giving rise to the*
19 *forfeiture beyond a reasonable doubt at a hearing conducted by the court*
20 *without a jury. Such hearing may be a component of the associated trial*
21 *instead of a separate hearing.*

22 (3) *In determining whether the forfeiture is unconstitutionally*
23 *excessive, the court may consider all relevant factors, including, but not*
24 *limited to:*

25 (A) *The seriousness of the offense;*

26 (B) *the extent to which the person from whose possession or control*
27 *the property was seized participated in the offense;*

28 (C) *the extent to which the property was used in committing the*
29 *offense;*

30 (D) *the sentence imposed for committing the offense giving rise to*
31 *forfeiture;*

32 (E) *the punitive nature of the forfeiture; and*

33 (F) *the fair market value of the property compared to the property*
34 *owner's net worth.*

35 (i) In any proceeding under this act, if a claim is based on any
36 exemption provided for in this act, the burden of proving the existence of
37 the exemption is on the claimant, and is not necessary for the seizing
38 agency or plaintiff's attorney to negate the exemption in any application or
39 complaint.

40 (j) In hearings and determinations pursuant to this section, the court
41 may receive and consider, in making any determination of probable cause
42 or reasonable cause, all evidence admissible in determining probable cause
43 at a preliminary hearing or in the issuance of a search warrant, together

1 with inferences therefrom.

2 ~~(j)~~(k) The totality of the circumstances shall determine if the property
 3 of a person is subject to forfeiture under this act. Factors that may be
 4 considered include, but are not limited to, the following:

5 (1) The person has engaged in ~~conduct~~ *an offense* giving rise to
 6 forfeiture;

7 (2) the property was acquired by the person during that period of the
 8 ~~conduct~~ *offense* giving rise to forfeiture or within a reasonable time after
 9 the period;

10 (3) there was no likely source for the property other than the ~~conduct~~
 11 *offense* giving rise to forfeiture; and

12 (4) the proximity to contraband or an instrumentality giving rise to
 13 forfeiture.

14 ~~(k)~~(l) A finding that property is the proceeds of ~~conduct~~ *an offense*
 15 giving rise to forfeiture does not require proof the property is the proceeds
 16 of any particular exchange or transaction.

17 ~~(l)~~(m) A person who acquires any property subject to forfeiture is a
 18 constructive trustee of the property, and such property's fruits, for the
 19 benefit of the seizing agency, to the extent that such agency's interest is not
 20 exempt from forfeiture. If property subject to forfeiture has been
 21 commingled with other property, the court shall order the forfeiture of the
 22 mingled property and of any fruits of the mingled property, to the extent of
 23 the property subject to forfeiture, unless an owner or interest holder proves
 24 that specified property does not contain property subject to forfeiture, or
 25 that such owner's or interest holder's interest in specified property is
 26 exempt from forfeiture.

27 ~~(m)~~(n) All property declared forfeited under this act vests in the law
 28 enforcement agency seeking forfeiture on the date of commission of the
 29 ~~conduct~~ *offense* giving rise to forfeiture together with the proceeds of the
 30 property after that time. Any such property or proceeds subsequently
 31 transferred to any person remain subject to forfeiture and thereafter shall
 32 be ordered forfeited unless the transferee acquired the property in good
 33 faith, for value, and was not knowingly taking part in an illegal
 34 transaction, and the transferee's interest is exempt under K.S.A. 60-4106,
 35 and amendments thereto.

36 ~~(n)~~ An acquittal or dismissal in a criminal proceeding shall not
 37 preclude civil proceedings under this act, nor give rise to any presumption
 38 adverse or contrary to any fact alleged by the seizing agency.

39 (o) On motion, the court shall stay discovery against the criminal
 40 defendant and against the seizing agency in civil proceedings during a
 41 related criminal proceeding alleging the same conduct, after making
 42 provision to prevent loss to any party resulting from the delay. Such a stay
 43 shall not be available pending any appeal by a defendant.

1 (p) Except as otherwise provided by this act, all proceedings
2 hereunder shall be governed by the rules of civil procedure pursuant to
3 K.S.A. 60-101 et seq., and amendments thereto.

4 (q) An action pursuant to this act shall be consolidated with any other
5 action or proceeding pursuant to this act or to such other foreclosure or
6 trustee sale proceedings relating to the same property on motion of the
7 plaintiff's attorney; and may be consolidated on motion of an owner or
8 interest holder.

9 Sec. 6. K.S.A. 2022 Supp. 60-4113 is hereby amended to read as
10 follows: 60-4113. (a) A judicial in rem forfeiture proceeding brought by
11 the plaintiff's attorney pursuant to a notice of pending forfeiture or verified
12 petition for forfeiture is ~~also~~ subject to the provisions of this section. If a
13 forfeiture is authorized by this act, ~~it~~ *such forfeiture* shall be ordered by the
14 court in the in rem action.

15 (b) An action in rem may be brought by the plaintiff's attorney in
16 addition to, or in lieu of, civil in personam forfeiture procedures. The
17 seizing agency may serve the complaint in the manner provided by K.S.A.
18 60-4109(a)(3), and amendments thereto, or as provided by the rules of
19 civil procedure.

20 (c) Only an owner of or an interest holder in the property who has
21 timely filed a proper claim may file an answer in an action in rem. For the
22 purposes of this section, an owner of or interest holder in property who has
23 filed a claim and answer shall be referred to as a claimant.

24 (d) The answer shall be signed by the claimant under penalty of
25 perjury, K.S.A. 2022 Supp. 21-5903, and amendments thereto, shall
26 otherwise be in accordance with the rules of civil procedure on answers
27 and shall also set forth the following:

28 (1) The caption of the proceedings and identifying number, if any, as
29 set forth on the notice of pending forfeiture or complaint and the name of
30 the claimant;

31 (2) the address where the claimant will accept mail;

32 (3) the nature and extent of the claimant's interest in the property; and

33 (4) a detailed description of when and how the claimant obtained an
34 interest in the property.

35 (e) Substantial compliance with subsection (d) shall be deemed
36 sufficient.

37 (f) It is permissible to assert the right against self-incrimination in an
38 answer. If a claimant asserts the right, the court, in the court's discretion,
39 may draw an adverse inference from the assertion against the claimant.
40 The adverse inference shall not, by itself, be the basis of a judgment
41 against the claimant.

42 (g) The answer shall be filed within 21 days after service of the civil
43 in rem complaint.

1 (h) The issue shall be determined by the court alone. The plaintiff's
2 attorney shall have the initial burden of proving *beyond a reasonable*
3 *doubt that* the interest in the property is subject to forfeiture ~~by a~~
4 ~~preponderance of the evidence~~. If the state proves the interest in the
5 property is subject to forfeiture, the claimant has the burden of showing by
6 a preponderance of the evidence that the claimant has an interest in the
7 property ~~which~~ *that* is not subject to forfeiture.

8 (i) If the plaintiff's attorney fails to meet the burden of proof for
9 forfeiture; or a claimant establishes by a preponderance of the evidence
10 that the claimant has an interest that is exempt under the provisions of
11 K.S.A. 60-4106, and amendments thereto, the court shall order the interest
12 in the property returned or conveyed to the claimant. The court shall order
13 all other property forfeited to the seizing agency and conduct further
14 proceedings pursuant to K.S.A. 60-4116 and 60-4117, and amendments
15 thereto.

16 Sec. 7. K.S.A. 2022 Supp. 60-4114 is hereby amended to read as
17 follows: 60-4114. (a) (1) A judicial in personam forfeiture proceeding
18 brought by the plaintiff's attorney pursuant to an in personam civil action
19 alleging ~~conduct an offense~~ giving rise to forfeiture is ~~also~~ subject to the
20 provisions of this section. If a forfeiture is authorized by this act, ~~it~~ *such*
21 *forfeiture* shall be ordered by the court in the in personam action. The
22 action shall be in addition to or in lieu of in rem forfeiture procedures.

23 (2) In any proceeding pursuant to this section, the court, on
24 application of the plaintiff's attorney, may enter any order authorized by
25 K.S.A. 60-4112, and amendments thereto.

26 (b) The court may issue a temporary restraining order in an action
27 under this section on application of the plaintiff's attorney, without notice
28 or an opportunity for a hearing, if the plaintiff's attorney demonstrates that:

29 (1) There is probable cause to believe that in the event of a final
30 judgment, the property involved would be subject to forfeiture under the
31 provisions of this act; and

32 (2) a provision of notice would jeopardize the availability of the
33 property for forfeiture.

34 (c) Notice of the issuance of a temporary restraining order and an
35 opportunity for a hearing shall be given to persons known to have an
36 interest in the property. A hearing shall be held at the earliest possible date
37 in accordance with the applicable civil rule and shall be limited to the
38 issues of whether:

39 (1) There is a probability that the seizing agency will prevail on the
40 issue of forfeiture and that failure to enter the order could result in the
41 property being destroyed, conveyed, alienated, encumbered, further
42 encumbered, disposed of, purchased, received, removed from the
43 jurisdiction of the court, concealed, or otherwise made unavailable for

1 forfeiture; and

2 (2) the need to preserve the availability of property through the entry
3 of the requested order outweighs the hardship on any owner or interest
4 holder against whom the order is to be entered.

5 (d) ~~On~~*The plaintiff's attorney shall have the burden of proving*
6 *beyond a reasonable doubt that the interest in the property is subject to*
7 *forfeiture. If the state proves that the interest in the property is subject to*
8 *forfeiture, the court shall make a determination of liability of a person for*
9 ~~conduct~~ *an offense giving rise to forfeiture under this act; If the court*
10 *makes a determination of liability, the court shall enter a judgment of*
11 *forfeiture of the property found to be subject to forfeiture described in the*
12 *complaint and shall also authorize the plaintiff's attorney or any law*
13 *enforcement officer to seize all property ordered forfeited which was not*
14 *previously seized or is not then under seizure. Following the entry of an*
15 *order declaring the property forfeited, the court, on application of the*
16 *plaintiff's attorney, may enter any appropriate order to protect the interest*
17 *of the seizing agency in the property ordered forfeited.*

18 (e) Following the entry of an order of forfeiture under subsection (d),
19 the plaintiff's attorney may give notice of pending forfeiture, in the manner
20 provided in K.S.A. 60-4109, and amendments thereto, to all owners and
21 interest holders who have not previously been given notice.

22 (f) An owner of or interest holder in property that has been forfeited
23 and whose claim is not precluded may file a claim as described in K.S.A.
24 60-4111, and amendments thereto, within 60 days after initial notice of
25 pending forfeiture or after notice under subsection (e), whichever is earlier.
26 If the seizing agency does not recognize the claimed exemption, the
27 plaintiff's attorney shall file a complaint and the court shall hold the
28 hearing and determine the claim, without a jury, in the manner provided
29 for in rem judicial forfeiture actions in K.S.A. 60-4113, and amendments
30 thereto.

31 (g) In accordance with findings made at the hearing, the court may
32 amend the order of forfeiture if the court determines that any claimant has
33 established by a preponderance of the evidence that the claimant has an
34 interest in the property and that the claimant's interest is exempt under
35 K.S.A. 60-4106, and amendments thereto.

36 (h) Except as provided in K.S.A. 60-4112(c), and amendments
37 thereto, no person claiming an interest in property subject to forfeiture
38 under this act may intervene in a trial or appeal of a criminal action or in
39 an in personam civil action involving the forfeiture of the property.

40 Sec. 8. K.S.A. 2022 Supp. 60-4117 is hereby amended to read as
41 follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments
42 thereto:

43 (a) When property is forfeited under this act, the law enforcement

1 agency may:

2 (1) Retain such property for official use or transfer the custody or
3 ownership to any local, state or federal agency, subject to any lien
4 preserved by the court;

5 (2) destroy or use for investigative or training purposes, any illegal or
6 controlled substances and equipment or other contraband, provided that
7 materials necessary as evidence shall be preserved;

8 (3) sell property ~~which~~ that is not required by law to be destroyed and
9 ~~which~~ that is not harmful to the public:

10 (A) All property, except real property, designated by the seizing
11 agency to be sold shall be sold at public sale to the highest bidder for cash
12 without appraisal. The seizing agency shall first cause notice of the sale to
13 be made by publication at least once in an official county newspaper as
14 defined by K.S.A. 64-101, and amendments thereto. Such notice shall
15 include the time, place, and conditions of the sale and description of the
16 property to be sold. Nothing in this subsection shall prevent a state agency
17 from using the state surplus property system and such system's procedures
18 shall be sufficient to meet the requirements of this subsection.

19 (B) Real property may be sold pursuant to subsection (a)(3)(A), or
20 the seizing agency may contract with a real estate company, licensed in
21 this state, to list, advertise and sell such real property in a commercially
22 reasonable manner.

23 (C) No employee or public official of any agency involved in the
24 investigation, seizure or forfeiture of seized property may purchase or
25 attempt to purchase such property; or

26 (4) salvage the property, subject to any lien preserved by the court.

27 (b) When firearms are forfeited under this act, the firearms in the
28 discretion of the seizing agency, shall be destroyed, used within the seizing
29 agency for official purposes, traded to another law enforcement agency for
30 use within such agency or given to the Kansas bureau of investigation for
31 law enforcement, testing, comparison or destruction by the Kansas bureau
32 of investigation forensic laboratory.

33 (c) The proceeds of any sale shall be ~~distributed in the following~~
34 ~~order of priority:~~

35 (1) ~~For satisfaction of any court preserved security interest or lien, or~~
36 ~~in the case of a violation, as defined by K.S.A. 60-4104(i), and~~
37 ~~amendments thereto, the proceeds shall be remitted to the state treasurer in~~
38 ~~accordance with the provisions of K.S.A. 75-4215, and amendments~~
39 ~~thereto. Upon receipt of such remittance, the state treasurer shall deposit~~
40 ~~the entire amount into the state treasury to the credit of the medicaid fraud~~
41 ~~reimbursement fund;~~

42 (2) ~~thereafter, for payment of all proper expenses of the proceedings~~
43 ~~for forfeiture and disposition, including expenses of seizure, inventory,~~

1 appraisal, maintenance of custody, preservation of availability, advertising,
2 service of process, sale and court costs;

3 ~~(3) reasonable attorney fees:~~

4 ~~(A) If the plaintiff's attorney is a county or district attorney, an~~
5 ~~assistant, or another governmental agency's attorney, fees shall not exceed~~
6 ~~15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in~~
7 ~~an uncontested forfeiture nor 20% of the total proceeds, less the amounts~~
8 ~~of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be~~
9 ~~deposited in the county or city treasury and credited to the special~~
10 ~~prosecutor's trust fund. Moneys in such fund shall not be considered a~~
11 ~~source of revenue to meet normal operating expenditures, including salary~~
12 ~~enhancement. Such fund shall be expended by the county or district~~
13 ~~attorney, or other governmental agency's attorney through the normal~~
14 ~~county or city appropriation system and shall be used for such additional~~
15 ~~law enforcement and prosecutorial purposes as the county or district~~
16 ~~attorney or other governmental agency's attorney deems appropriate,~~
17 ~~including educational purposes. All moneys derived from past or pending~~
18 ~~forfeitures shall be expended pursuant to this act. The board of county~~
19 ~~commissioners shall provide adequate funding to the county or district~~
20 ~~attorney's office to enable such office to enforce this act. Neither future~~
21 ~~forfeitures nor the proceeds therefrom shall be used in planning or~~
22 ~~adopting a county or district attorney's budget;~~

23 ~~(B) if the plaintiff's attorney is the attorney general and the conduct~~
24 ~~and offense giving rise to forfeiture is pursuant to K.S.A. 60-4104(i), and~~
25 ~~amendments thereto, fees shall not exceed 15% of the total proceeds, less~~
26 ~~the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor~~
27 ~~20% of the total proceeds, less the amounts of subsection (c)(1) and (2) in~~
28 ~~a contested forfeiture. Such fees shall be remitted to the state treasurer in~~
29 ~~accordance with the provisions of K.S.A. 75-4215, and amendments~~
30 ~~thereto. Upon receipt of each such remittance, the state treasurer shall~~
31 ~~deposit the entire amount in the state treasury to the credit of the medicaid~~
32 ~~fraud prosecution revolving fund. Moneys paid into the medicaid fraud~~
33 ~~prosecution revolving fund pursuant to this subsection shall be~~
34 ~~appropriated to the attorney general for use by the attorney general in the~~
35 ~~investigation and prosecution of medicaid fraud and abuse; or~~

36 ~~(C) if the plaintiff's attorney is a private attorney, such reasonable fees~~
37 ~~shall be negotiated by the employing law enforcement agency;~~

38 ~~(4) repayment of law enforcement funds expended in purchasing of~~
39 ~~contraband or controlled substances, subject to any interagency agreement.~~

40 ~~(d) Any proceeds remaining shall be credited as follows, subject to~~
41 ~~any interagency agreement:~~

42 ~~(1) If the law enforcement agency is a state agency, the entire amount~~
43 ~~shall be deposited in the state treasury and credited to such agency's state~~

1 forfeiture fund. There is hereby established in the state treasury the
2 following state funds: Kansas bureau of investigation state forfeiture fund,
3 Kansas attorney general's state medicaid fraud forfeiture fund, Kansas
4 highway patrol state forfeiture fund, Kansas department of corrections
5 state forfeiture fund and Kansas national guard counter drug state
6 forfeiture fund. Expenditures from the Kansas bureau of investigation state
7 forfeiture fund shall be made upon warrants of the director of accounts and
8 reports issued pursuant to vouchers approved by the attorney general or by
9 a person or persons designated by the attorney general. Expenditures from
10 the Kansas attorney general's state medicaid fraud forfeiture fund shall be
11 made upon warrants of the director of accounts and reports issued pursuant
12 to vouchers approved by the attorney general or by a person or persons
13 designated by the attorney general. Expenditures from the Kansas highway
14 patrol state forfeiture fund shall be made upon warrants of the director of
15 accounts and reports issued pursuant to vouchers approved by the
16 superintendent of the highway patrol or by a person or persons designated
17 by the superintendent. Expenditures from the Kansas department of
18 corrections state forfeiture fund shall be made upon warrants of the
19 director of accounts and reports issued pursuant to vouchers approved by
20 the secretary of the department of corrections or by a person or persons
21 designated by the secretary. Expenditures from the Kansas national guard
22 counter drug state forfeiture fund shall be made upon warrants of the
23 director of accounts and reports issued pursuant to vouchers approved by
24 the adjutant general of Kansas or by a person or persons designated by the
25 adjutant general.

26 (2) If the law enforcement agency is a city or county agency, the
27 entire amount shall be deposited in such city or county treasury and
28 credited to a special law enforcement trust fund.

29 (c)(1) Moneys in the Kansas bureau of investigation state forfeiture
30 fund, Kansas highway patrol state forfeiture fund, Kansas department of
31 corrections state forfeiture fund, the special law enforcement trust funds
32 and the Kansas national guard counter drug state forfeiture fund shall not
33 be considered a source of revenue to meet normal operating expenses.
34 Such funds shall be expended by the agencies or departments through the
35 normal city, county or state appropriation system and shall be used for
36 such special, additional law enforcement purposes specified in subsection
37 (c)(2) as the law enforcement agency head deems appropriate. Neither
38 future forfeitures nor the proceeds from such forfeitures shall be used in
39 planning or adopting a law enforcement agency's budget.

40 (2) Moneys in the funds described in subsection (c)(1) shall be used
41 only for the following special, additional law enforcement purposes:

42 (A) The support of investigations and operations that further the law
43 enforcement agency's goals or missions;

1 ~~(B) the training of investigators, prosecutors and sworn and non-~~
2 ~~sworn law enforcement personnel in any area that is necessary to perform~~
3 ~~official law enforcement duties;~~

4 ~~(C) the costs associated with the purchase, lease, construction,~~
5 ~~expansion, improvement or operation of law enforcement or detention~~
6 ~~facilities used or managed by the recipient agency;~~

7 ~~(D) the costs associated with the purchase, lease, maintenance or~~
8 ~~operation of law enforcement equipment for use by law enforcement~~
9 ~~personnel that supports law enforcement activities;~~

10 ~~(E) the costs associated with the purchase of multi-use equipment and~~
11 ~~operations used by both law enforcement and non-law enforcement~~
12 ~~personnel;~~

13 ~~(F) the costs associated with a contract for a specific service that~~
14 ~~supports or enhances law enforcement;~~

15 ~~(G) the costs associated with travel and transportation to perform or~~
16 ~~in support of law enforcement duties and activities;~~

17 ~~(H) the costs associated with the purchase of plaques and certificates~~
18 ~~for law enforcement personnel in recognition of a law enforcement~~
19 ~~achievement, activity or training;~~

20 ~~(I) the costs associated with conducting awareness programs by law~~
21 ~~enforcement agencies;~~

22 ~~(J) the costs associated with paying a state or local law enforcement~~
23 ~~agency's matching contribution or share in a state or federal grant program~~
24 ~~for items other than salaries;~~

25 ~~(K) cash transfers from one state or local law enforcement agency to~~
26 ~~another in support of the law enforcement agency's goals or missions; and~~

27 ~~(L) transfers from a state or local law enforcement agency to a state,~~
28 ~~county or local governmental agency or community non-profit~~
29 ~~organization in support of the law enforcement agency's goals or missions.~~

30 ~~(3) Moneys in the funds described in subsection (c)(1) shall be~~
31 ~~separated and accounted for in a manner that allows accurate tracking and~~
32 ~~reporting of deposits and expenditures of the following categories of~~
33 ~~money:~~

34 ~~(A) Proceeds from forfeiture credited to the fund pursuant to this~~
35 ~~section;~~

36 ~~(B) proceeds from pending forfeiture actions under this act; and~~

37 ~~(C) proceeds from forfeiture actions under federal law.~~

38 ~~(f) Moneys in the Kansas attorney general's medicaid fraud forfeiture~~
39 ~~fund shall defray costs of the attorney general in connection with the~~
40 ~~duties of investigating and prosecuting medicaid fraud and abuse.~~

41 ~~(g)(1) If the law enforcement agency is a state agency, such agency~~
42 ~~shall compile and submit a forfeiture fund report to the legislature on or~~
43 ~~before February 1 of each year. Such report shall include, but not be~~

1 limited to: (A) The fund balance on December 1; and (B) the deposits and
2 expenditures for the previous 12-month period ending December 1.

3 ~~(2) If the law enforcement agency is a city or county agency, such~~
4 ~~agency shall compile and submit annually a special law enforcement trust~~
5 ~~fund report to the entity that has budgetary authority over such agency and~~
6 ~~such report shall specify, for such period, the type and approximate value~~
7 ~~of the forfeited property received, the amount of any forfeiture proceeds~~
8 ~~received and how any of those proceeds were expended.~~

9 ~~(3) The provisions of this subsection shall expire on July 1, 2019~~
10 ~~remitted to the state treasurer in accordance with the provisions of K.S.A.~~
11 ~~75-4215, and amendments thereto. Upon receipt of each such remittance,~~
12 ~~the state treasurer shall deposit the entire amount in the state treasury to~~
13 ~~the credit of the state general fund.~~

14 Sec. 9. K.S.A. 2022 Supp. 60-4127 is hereby amended to read as
15 follows: 60-4127. (a) ~~On or before July 1, 2019,~~ The Kansas bureau of
16 investigation shall establish the Kansas asset seizure and forfeiture
17 repository. The repository shall gather information concerning each seizure
18 for forfeiture made by a seizing agency pursuant to the Kansas standard
19 asset seizure and forfeiture act including, but not limited to, the following:

20 (1) The name of the seizing agency or the name of the lead agency if
21 part of a multi-jurisdictional task force;

22 (2) the county where the seizure occurred;

23 (3) the date and time the seizure occurred;

24 (4) any applicable agency or district court case numbers for the
25 seizure;

26 (5) a description of the initiating law enforcement activity leading to
27 the seizure;

28 (6) a description of the specific location where the seizure occurred;

29 (7) ~~the conduct or~~ offense giving rise to the forfeiture;

30 (8) a description of the type of property seized and the estimated
31 value;

32 (9) a description of the type of contraband seized and the estimated
33 value;

34 (10) whether criminal charges were filed for an offense related to the
35 forfeiture and, if so, court and case number information for the criminal
36 charges;

37 (11) a description of the final disposition of the forfeiture action,
38 including a description of the disposition of any claim or exemption
39 asserted under this act;

40 (12) whether the forfeiture was transferred to the federal government
41 for disposition;

42 (13) the total cost of the forfeiture action, including attorney fees; and

43 (14) the total amount of proceeds from the forfeiture action,

1 specifying the amount received by the seizing agency and the amount
2 received by any other agency or person.

3 (b) ~~On and after July 1, 2019,~~ The Kansas bureau of investigation
4 shall maintain the repository and an associated public website *that allows*
5 *the public to access all reports made pursuant to this section.* ~~On or before~~
6 ~~July 1, 2019,~~ The Kansas bureau of investigation shall promulgate rules
7 and regulations to implement this section.

8 (c) ~~On and after July 1, 2019,~~ Each seizing agency shall report
9 information concerning each seizure for forfeiture to the Kansas asset
10 seizure and forfeiture repository as required by this section and the rules
11 and regulations promulgated pursuant to this section. The prosecuting
12 attorney shall submit information concerning each forfeiture action to the
13 seizing agency within 30 days after the final disposition of the forfeiture.
14 The seizing agency shall submit the required information to the repository
15 within 60 days after the final disposition of the forfeiture.

16 (d) ~~On or before February 1, 2020, and annually on or before~~
17 ~~February 1 thereafter~~ *On or before January 1, April 1, July 1 and October*
18 *1 each year,* each law enforcement agency shall compile and submit a
19 forfeiture fund report to the Kansas asset seizure and forfeiture repository
20 as required by this section and the rules and regulations promulgated
21 pursuant to this section.

22 (1) If the law enforcement agency is a state agency, the report shall
23 include, but not be limited to:

24 (A) The agency's state forfeiture fund balance on ~~January 1 and~~
25 ~~December 31 of the preceding calendar year~~ *the last day of the*
26 *immediately preceding calendar quarter;* and

27 (B) the total amount of the deposits and a listing, by category, of
28 expenditures ~~from January 1 through December 31 of the preceding~~
29 ~~calendar year~~ *during the immediately preceding calendar quarter.*

30 (2) If the law enforcement agency is a city or county agency, the
31 report shall include, but not be limited to:

32 (A) The agency's special law enforcement trust fund balance on
33 ~~January 1 and December 31 of the preceding calendar year~~ *the last day of*
34 *the immediately preceding calendar quarter;* and

35 (B) the total amount of the deposits and a listing, by category, of
36 expenditures ~~from January 1 through December 31 of the preceding~~
37 ~~calendar year~~ *during the immediately preceding calendar quarter.*

38 (3) The report shall separate and account for:

39 (A) Deposits and expenditures from proceeds from forfeiture credited
40 to the fund pursuant to K.S.A. 60-4117, and amendments thereto;

41 (B) deposits and expenditures from proceeds from forfeiture actions
42 under federal law; and

43 (C) amounts held by the agency related to pending forfeiture actions

1 under the Kansas standard asset seizure and forfeiture act.

2 (e) ~~On March 1, 2020, and annually on March 1 thereafter~~ *February*
3 *1, May 1, August 1 and November 1 each year*, the Kansas bureau of
4 investigation shall determine whether each agency's financial report
5 matches the agency's seizing report. If the Kansas bureau of investigation
6 determines that an agency's financial report does not substantially match
7 that agency's seizing report or the agency has not submitted a financial
8 report, the Kansas bureau of investigation shall notify such agency of the
9 difference in reports. Such agency shall correct the reporting error within
10 30 days. If the reporting error is not corrected within 30 days, the Kansas
11 bureau of investigation shall send such law enforcement agency, and the
12 county or district attorney for the county in which such law enforcement
13 agency is located, a certified letter notifying such agency that it is out of
14 compliance. Upon receipt of such letter, no forfeiture proceedings shall be
15 filed on property seized by such law enforcement agency. When such law
16 enforcement agency has achieved compliance with the reporting
17 requirements, the bureau shall send such law enforcement agency, and the
18 county or district attorney for the county in which such law enforcement
19 agency is located, a certified letter notifying such agency that it is in
20 compliance and forfeiture proceeding filings may continue pursuant to this
21 act. Annually, on or before April 15, the Kansas bureau of investigation
22 shall report to the legislature any law enforcement agencies in the state
23 that have failed to come into compliance with the reporting requirements
24 in subsection (d).

25 Sec. 10. K.S.A. 2022 Supp. 60-4104, 60-4105, 60-4106, 60-4109, 60-
26 4112, 60-4113, 60-4114, 60-4117 and 60-4127 are hereby repealed.

27 Sec. 11. This act shall take effect and be in force from and after its
28 publication in the statute book.