



**House
Legislative
Analysis
Section**

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**COORDINATE ACTION UNDER FORFEITURE LAW
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House Bill 4586 as introduced
First Analysis (5-26-87)

OCT 15 1987

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Sponsor: Rep. Ilona Varga
Committee: Judiciary

H.B. 4586 (5-26-87)

THE APPARENT PROBLEM:

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 laws violations. There are reports that occasionally seized and forfeited property is sold or returned before prosecution is completed, thus depriving the prosecution of valuable evidence. 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.

THE CONTENT OF THE BILL:

The bill would amend the forfeiture law (which authorizes the seizure under civil law of property acquired through or used in drug trafficking) to require the seizing agency (typically, the local police or the state police) to immediately notify the local prosecutor or the attorney general of seizure of property and the intention to "forfeit and dispose" of the property. Neither a local unit of government nor the state could dispose of seized property without the written consent of the prosecutor or the attorney general.

MCL 333.7523 and 333.7524

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

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

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (5-22-87)