



Senate Fiscal Agency
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House Bill 5490 (as reported without amendment)

Sponsor: Representative David Law

House Committee: Judiciary

Senate Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do the following:

- Allow an agency that seized money subject to forfeiture laws to deposit the money into an interest-bearing account in a financial institution.
- Give an attorney for a person charged with a violation involving or related to seized money 60 days to examine the money.
- Require that seized money deposited into a financial institution be returned, with interest, if the prosecution failed to meet its burden of proof.

Under the RJA, personal property that is the proceeds or instrumentality of a crime generally is subject to seizure by, and forfeiture to, a local unit of government or the State. The seizing agency may place the property under seal and/or remove it to a place designated by a court. Under the bill, the agency could deposit seized money into an interest-bearing account in a financial institution.

An attorney for a person charged with a crime would have to be given 60 days in which to examine seized money. The period would begin running after the person was notified of the seizure and intent to forfeit the property but before the money was deposited.

Under the Act, if the Attorney General, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof in a challenge to the seizure and forfeiture of property, the court must order the return of the property or the discharge of a lien. Under the bill, the return of property would include any interest earned on seized money deposited in a financial institution.

Also, when property is forfeited, the unit of government that seized or filed a lien against it may sell the property that is not required by law to be destroyed and that is not harmful to the public, and may dispose of the proceeds and any money or other thing of value in a specified order of priority. Under the bill, this would include any interest earned on seized money deposited in a financial institution.

MCL 600.4703 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a minimal fiscal impact on local and State law enforcement agencies. The Department of State Police asserts that a law enforcement agency commonly does not in current practice, deposit money subject to forfeiture into an interest-bearing account in a financial institution. The bill, therefore, could increase revenue for State and local units.

Date Completed: 4-19-06

Fiscal Analyst: Bruce Baker