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REFERENCE TITLE: forfeiture; criminal conviction; procedures; remedies

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

**H. B. \_\_\_\_\_**

Introduced by \_\_\_\_\_

AN ACT

AMENDING SECTIONS 11-584, 13-2301, 13-2314, 13-2314.01, 13-2314.03, 13-4304, 13-4305 AND 13-4308, ARIZONA REVISED STATUTES; REPEALING SECTION 13-4309, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-4310, 13-4311, 13-4312, 13-4314 AND 13-4315, ARIZONA REVISED STATUTES; RELATING TO FORFEITURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-584, Arizona Revised Statutes, is amended to  
3 read:

4 11-584. Public defender; duties; reimbursement

5 A. The public defender ~~shall~~, on order of the court, **SHALL** defend,  
6 advise and counsel any person who is entitled to counsel as a matter of law  
7 and who is not financially able to employ counsel in the following  
8 proceedings and circumstances:

9 1. Offenses triable in the superior court or justice courts at all  
10 stages of the proceedings, including the preliminary examination.

11 2. Extradition hearings.

12 3. Mental disorder hearings only if appointed by the court under title  
13 36, chapter 5.

14 4. Involuntary commitment hearings held pursuant to title 36, chapter  
15 18, only if appointed by the court.

16 5. Involuntary commitment hearings held pursuant to title 36, chapter  
17 37, if appointed by the court as provided in section 36-3704, subsection C  
18 and the board of supervisors has advised the presiding judge of the county  
19 that the public defender is authorized to accept these appointments.

20 6. Juvenile delinquency and incorrigibility proceedings only if  
21 appointed by the court under section 8-221.

22 7. Appeals to a higher court or courts.

23 8. All juvenile proceedings other than delinquency and incorrigibility  
24 proceedings under paragraph 6 of this subsection, including serving as a  
25 guardian ad litem, if appointed by the court pursuant to section 8-221 and  
26 the board of supervisors has advised the presiding judge of the county that  
27 the public defender is authorized to accept these appointments.

28 9. All mental health hearings regarding release recommendations held  
29 before the psychiatric security review board pursuant to section 13-3994, if  
30 appointed by the court as provided in section 31-502, subsection A, paragraph  
31 8 and the board of supervisors has advised the presiding judge of the  
32 superior court in the county that the public defender is authorized to accept  
33 these appointments.

34 10. As attorneys in any other proceeding or circumstance in which a  
35 party is entitled to counsel as a matter of law if the court appoints the  
36 public defender and the board of supervisors has advised the presiding judge  
37 of the county that the public defender is authorized to accept these  
38 appointments as specified.

39 **11. ALL FORFEITURE PROCEEDINGS HELD PURSUANT TO TITLE 13.**

40 B. The public defender shall perform the following duties:

41 1. Keep a record of all services rendered by the public defender in  
42 that capacity and file with the board of supervisors an annual report of  
43 those services.

1           2. By December 1 of each year, file with the presiding judge of the  
2 superior court, the chief probation officer and the board of supervisors an  
3 annual report on the average cost of defending a felony case.

4           C. Although the services of the public defender or court appointed  
5 counsel shall be without expense to the defendant, the juvenile, a parent or  
6 any other party, the court may make the following assessments:

7           1. Order an indigent administrative assessment of not more than  
8 twenty-five dollars.

9           2. Order an administrative assessment fee of not more than twenty-five  
10 dollars to be paid by the juvenile or the juvenile's parent or guardian.

11           3. Require that the defendant, including a defendant who is placed on  
12 probation, a juvenile, a parent or any other party who is appointed counsel  
13 under subsection A of this section repay to the county a reasonable amount to  
14 reimburse the county for the cost of the person's legal services.  
15 Reimbursement for legal services in a delinquency, dependency or termination  
16 proceeding shall be ordered pursuant to section 8-221. Reimbursement for  
17 legal services in a guardianship or conservatorship proceeding shall be  
18 ordered pursuant to section 14-5414.

19           D. In determining the amount and method of payment the court shall  
20 take into account the financial resources of the defendant and the nature of  
21 the burden that the payment will impose.

22           E. Assessments collected pursuant to subsection C of this section  
23 shall be paid into the county general fund in the account designed for use  
24 solely by the public defender and court appointed counsel to defray the costs  
25 of public defenders and court appointed counsel. The assessments shall  
26 supplement, not supplant, funding provided by counties for public defense,  
27 legal defense and contract indigent defense counsel in each county.

28           Sec. 2. Section 13-2301, Arizona Revised Statutes, is amended to read:  
29 13-2301. Definitions

30           A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

31           1. "Collect an extension of credit" means to induce in any way any  
32 person to make repayment of that extension.

33           2. "Creditor" means any person making an extension of credit or any  
34 person claiming by, under or through any person making an extension of  
35 credit.

36           3. "Debtor" means any person to whom an extension of credit is made or  
37 any person who guarantees the repayment of an extension of credit, or in any  
38 manner undertakes to indemnify the creditor against loss resulting from the  
39 failure of any person to whom an extension is made to repay the extension.

40           4. "Extend credit" means to make or renew any loan or to enter into  
41 any agreement, tacit or express, whereby the repayment or satisfaction of any  
42 debt or claim, whether acknowledged or disputed, valid or invalid, and  
43 however arising, may or shall be deferred.

44           5. "Extortionate extension of credit" means any extension of credit  
45 with respect to which it is the understanding of the creditor and the debtor

1 at the time the extension is made that delay in making repayment or failure  
2 to make repayment could result in the use of violence or other criminal means  
3 to cause harm to the person or the reputation or property of any person.

4 6. "Extortionate means" means the use, or an express or implicit  
5 threat of use, of violence or other criminal means to cause harm to the  
6 person or the reputation or property of any person.

7 7. "Repayment of any extension of credit" means the repayment,  
8 satisfaction or discharge in whole or in part of any debt or claim,  
9 acknowledged or disputed, valid or invalid, resulting from or in connection  
10 with that extension of credit.

11 B. For the purposes of section 13-2305, 13-2306 or 13-2307:

12 1. "Dealer in property" means a person who buys and sells property as  
13 a business.

14 2. "Stolen property" means property of another as defined in section  
15 13-1801 that has been the subject of any unlawful taking.

16 3. "Traffic" means to sell, transfer, distribute, dispense or  
17 otherwise dispose of stolen property to another person, or to buy, receive,  
18 possess or obtain control of stolen property, with the intent to sell,  
19 transfer, distribute, dispense or otherwise dispose of the property to  
20 another person.

21 C. For the purposes of this chapter:

22 1. "Animal activity" means a commercial enterprise that uses animals  
23 for food, clothing or fiber production, agriculture or biotechnology.

24 2. "Animal facility" means a building or premises where a commercial  
25 activity in which the use of animals is essential takes place, including a  
26 zoo, rodeo, circus, amusement park, hunting preserve and horse and dog event.

27 3. "Animal or ecological terrorism" means any felony in violation of  
28 section 13-2312, subsection B that involves at least three persons acting in  
29 concert, that involves the intentional or knowing infliction of property  
30 damage in an amount of more than ten thousand dollars to the property that is  
31 used by a person for the operation of a lawfully conducted animal activity or  
32 to a commercial enterprise that is engaged in a lawfully operated animal  
33 facility or research facility and that involves either:

34 (a) The use of a deadly weapon or dangerous instrument.

35 (b) The intentional or knowing infliction of serious physical injury  
36 on a person engaged in a lawfully conducted animal activity or participating  
37 in a lawfully conducted animal facility or research facility.

38 4. "Biological agent" means any microorganism, virus, infectious  
39 substance or biological product that may be engineered through biotechnology  
40 or any naturally occurring or bioengineered component of any microorganism,  
41 virus, infectious substance or biological product and that is capable of  
42 causing any of the following:

43 (a) Death, disease or physical injury in a human, animal, plant or  
44 other living organism.

1 (b) The deterioration or contamination of air, food, water, equipment,  
2 supplies or material of any kind.

3 5. "Combination" means persons who collaborate in carrying on or  
4 furthering the activities or purposes of a criminal syndicate even though  
5 such persons may not know each other's identity, membership in the  
6 combination changes from time to time or one or more members may stand in a  
7 wholesaler-retailer or other arm's length relationship with others as to  
8 activities or dealings between or among themselves in an illicit operation.

9 6. "Communication service provider" has the same meaning prescribed in  
10 section 13-3001.

11 7. "Criminal syndicate" means any combination of persons or  
12 enterprises engaging, or having the purpose of engaging, on a continuing  
13 basis in conduct that violates any one or more provisions of any felony  
14 statute of this state.

15 8. "Explosive agent" means an explosive as defined in section 13-3101  
16 and flammable fuels or fire accelerants in amounts over fifty gallons but  
17 excludes:

18 (a) Fireworks as defined in section 36-1601.

19 (b) Firearms.

20 (c) A propellant actuated device or propellant actuated industrial  
21 tool.

22 (d) A device that is commercially manufactured primarily for the  
23 purpose of illumination.

24 (e) A rocket having a propellant charge of less than four ounces.

25 9. "Material support or resources" includes money or other financial  
26 securities, financial services, lodging, sustenance, training, safehouses,  
27 false documentation or identification, communications equipment, facilities,  
28 weapons, lethal substances, explosives, personnel, transportation, disguises  
29 and other physical assets but does not include medical assistance, legal  
30 assistance or religious materials.

31 10. "Public establishment" means a structure that is owned, leased or  
32 operated by this state or a political subdivision of this state or a health  
33 care institution as defined in section 36-401.

34 11. "Research facility" means a laboratory, institution, medical care  
35 facility, government facility, public or private educational institution or  
36 nature preserve at which a scientific test, experiment or investigation  
37 involving the use of animals is lawfully carried out, conducted or attempted.

38 12. "Terrorism" means any felony, including any completed or  
39 preparatory offense, that involves the use of a deadly weapon or a weapon of  
40 mass destruction or the intentional or knowing infliction of serious physical  
41 injury with the intent to either:

42 (a) Influence the policy or affect the conduct of this state or any of  
43 the political subdivisions, agencies or instrumentalities of this state.

44 (b) Cause substantial damage to or substantial interruption of public  
45 communications, communication service providers, public transportation,

1 common carriers, public utilities, public establishments or other public  
2 services.

3 13. "Toxin" means the toxic material of plants, animals,  
4 microorganisms, viruses, fungi or infectious substances or a recombinant  
5 molecule, whatever its origin or method of reproduction, including:

6 (a) Any poisonous substance or biological product that may be  
7 engineered through biotechnology and that is produced by a living organism.

8 (b) Any poisonous isomer or biological product, homolog or derivative  
9 of such substance.

10 14. "Vector" means a living organism or molecule, including a  
11 recombinant molecule or biological product that may be engineered through  
12 biotechnology, that is capable of carrying a biological agent or toxin to a  
13 host.

14 15. "Weapon of mass destruction" means:

15 (a) Any device or object that is designed or that the person intends  
16 to use to cause multiple deaths or serious physical injuries through the use  
17 of an explosive agent or the release, dissemination or impact of a toxin,  
18 biological agent, poisonous chemical, or its precursor, or any vector.

19 (b) Except as authorized and used in accordance with a license,  
20 registration or exemption by the radiation regulatory agency pursuant to  
21 section 30-672, any device or object that is designed or that the person  
22 intends to use to release radiation or radioactivity at a level that is  
23 dangerous to human life.

24 D. For the purposes of sections 13-2312, 13-2313, 13-2314 and 13-2315,  
25 unless the context otherwise requires:

26 1. "Control", in relation to an enterprise, means the possession of  
27 sufficient means to permit substantial direction over the affairs of an  
28 enterprise and, in relation to property, means to acquire or possess.

29 2. "Enterprise" means any corporation, partnership, association, labor  
30 union or other legal entity or any group of persons associated in fact  
31 although not a legal entity.

32 3. "Financial institution" means any business under the jurisdiction  
33 of the department of financial institutions or a banking or securities  
34 regulatory agency of the United States, a business coming within the  
35 definition of a bank, financial agency or financial institution as prescribed  
36 by 31 United States Code section 5312 or 31 Code of Federal Regulations  
37 section 1010.100 or a business under the jurisdiction of the securities  
38 division of the corporation commission, the state real estate department or  
39 the department of insurance.

40 4. "Racketeering" means any CRIMINAL act, including any preparatory or  
41 completed offense, that ~~is chargeable or indictable~~ RESULTS IN A CONVICTION  
42 under the laws of the state or country in which the CRIMINAL act occurred  
43 and, if the CRIMINAL act occurred in a state or country other than this  
44 state, that would be chargeable or indictable under the laws of this state if  
45 the CRIMINAL act had occurred in this state, and that would be punishable by

1 imprisonment for more than one year under the laws of this state and, if the  
2 CRIMINAL act occurred in a state or country other than this state, under the  
3 laws of the state or country in which the CRIMINAL act occurred, ~~regardless~~  
4 ~~of whether the act is charged or indicted~~, and the CRIMINAL act involves  
5 either:  
6 (a) Terrorism, animal terrorism or ecological terrorism that results  
7 or is intended to result in a risk of serious physical injury or death.  
8 (b) Any of the following CRIMINAL acts if committed for financial  
9 gain:  
10 (i) Homicide.  
11 (ii) Robbery.  
12 (iii) Kidnapping.  
13 (iv) Forgery.  
14 (v) Theft.  
15 (vi) Bribery.  
16 (vii) Gambling.  
17 (viii) Usury.  
18 (ix) Extortion.  
19 (x) Extortionate extensions of credit.  
20 (xi) Prohibited drugs, marijuana or other prohibited chemicals or  
21 substances.  
22 (xii) Trafficking in explosives, weapons or stolen property.  
23 (xiii) Participating in a criminal syndicate.  
24 (xiv) Obstructing or hindering criminal investigations or  
25 prosecutions.  
26 (xv) Asserting false claims including, but not limited to, false  
27 claims asserted through fraud or arson.  
28 (xvi) Intentional or reckless false statements or publications  
29 concerning land for sale or lease or sale of subdivided lands or sale and  
30 mortgaging of unsubdivided lands.  
31 (xvii) Resale of realty with intent to defraud.  
32 (xviii) Intentional or reckless fraud in the purchase or sale of  
33 securities.  
34 (xix) Intentional or reckless sale of unregistered securities or real  
35 property securities.  
36 (xx) A scheme or artifice to defraud.  
37 (xxi) Obscenity.  
38 (xxii) Sexual exploitation of a minor.  
39 (xxiii) Prostitution.  
40 (xxiv) Restraint of trade or commerce in violation of section 34-252.  
41 (xxv) Terrorism.  
42 (xxvi) Money laundering.  
43 (xxvii) Obscene or indecent telephone communications to minors for  
44 commercial purposes.  
45 (xxviii) Counterfeiting marks as proscribed in section 44-1453.

1 (xxix) Animal terrorism or ecological terrorism.  
2 (xxx) Smuggling of human beings.  
3 (xxxi) Child prostitution.  
4 (xxxii) Sex trafficking.  
5 (xxxiii) Trafficking of persons for forced labor or services.  
6 (xxxiv) Manufacturing, selling or distributing misbranded drugs in  
7 violation of section 13-3406, subsection A, paragraph 9.  
8 5. "Records" means any book, paper, writing, computer program, data,  
9 image or information that is collected, recorded, preserved or maintained in  
10 any form of storage medium.  
11 6. "Remedy racketeering" means to enter a civil judgment pursuant to  
12 this chapter or chapter 39 of this title against property or a person who is  
13 subject to liability, including liability for injury to the state that is  
14 caused by racketeering or by actions in concert with racketeering.  
15 E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:  
16 1. "Access" means to instruct, communicate with, store data in,  
17 retrieve data from or otherwise make use of any resources of a computer,  
18 computer system or network.  
19 2. "Access device" means any card, token, code, account number,  
20 electronic serial number, mobile or personal identification number, password,  
21 encryption key, biometric identifier or other means of account access,  
22 including a canceled or revoked access device, that can be used alone or in  
23 conjunction with another access device to obtain money, goods, services,  
24 computer or network access or any other thing of value or that can be used to  
25 initiate a transfer of any thing of value.  
26 3. "Computer" means an electronic device that performs logic,  
27 arithmetic or memory functions by the manipulations of electronic or magnetic  
28 impulses and includes all input, output, processing, storage, software or  
29 communication facilities that are connected or related to such a device in a  
30 system or network.  
31 4. "Computer contaminant" means any set of computer instructions that  
32 is designed to modify, damage, destroy, record or transmit information within  
33 a computer, computer system or network without the intent or permission of  
34 the owner of the information, computer system or network. Computer  
35 contaminant includes a group of computer instructions, such as viruses or  
36 worms, that is self-replicating or self-propagating and that is designed to  
37 contaminate other computer programs or computer data, to consume computer  
38 resources, to modify, destroy, record or transmit data or in some other  
39 fashion to usurp the normal operation of the computer, computer system or  
40 network.  
41 5. "Computer program" means a series of instructions or statements, in  
42 a form acceptable to a computer, that permits the functioning of a computer  
43 system in a manner designed to provide appropriate products from the computer  
44 system.



1 subsection D, paragraph 4 or by a violation of section 13-2312 for the  
2 recovery of treble damages and the costs of the suit, including reasonable  
3 attorney fees, or to prevent, restrain, ~~or~~ remedy racketeering as defined by  
4 section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312.  
5 If the person against whom a racketeering claim has been asserted, including  
6 a forfeiture action or lien, prevails on that claim, the person may be  
7 awarded costs and reasonable attorney fees incurred in defense of that  
8 claim. In actions filed by the state or a county, awards of costs and  
9 reasonable attorney fees are to be assessed against and paid from monies  
10 acquired pursuant to sections 13-2314.01 and 13-2314.03.

11 B. The superior court has jurisdiction to prevent, restrain, ~~and~~  
12 remedy racketeering as defined by section 13-2301, subsection D, paragraph 4  
13 or a violation of section 13-2312 after making provision for the rights of  
14 any person who sustained injury to his person, business or property by the  
15 racketeering conduct and after a hearing or trial, as appropriate, by issuing  
16 appropriate orders.

17 C. ~~Prior to~~ BEFORE a ~~determination of liability such~~ CONVICTION, THE  
18 orders may include, ~~but are not limited to,~~ issuing seizure warrants,  
19 entering findings of probable cause for in personam or in rem forfeiture,  
20 entering restraining orders or prohibitions or taking such other actions,  
21 including the acceptance of satisfactory performance bonds, the creation of  
22 receiverships and the enforcement of constructive trusts, in connection with  
23 any property or other interest subject to forfeiture, damages or other  
24 remedies or restraints pursuant to this section as the court deems proper.

25 D. Following a ~~determination of liability such~~ CONVICTION, THE orders  
26 may include, ~~but are not limited to:~~

27 1. Ordering any person to divest himself of any interest, direct or  
28 indirect, in any enterprise.

29 2. Imposing reasonable restrictions on the future activities or  
30 investments of any person, including prohibiting any person from engaging in  
31 the same type of endeavor as the enterprise engaged in, the activities of  
32 which affect the laws of this state, to the extent the constitutions of the  
33 United States and this state permit.

34 3. Ordering dissolution or reorganization of any enterprise.

35 4. Ordering the payment of treble damages to those persons injured by  
36 racketeering as defined by section 13-2301, subsection D, paragraph 4 or a  
37 violation of section 13-2312.

38 5. Ordering the payment of all costs and expenses of the prosecution  
39 and investigation of any offense included in the definition of racketeering  
40 in section 13-2301, subsection D, paragraph 4 or a violation of section  
41 13-2312, civil and criminal, including reasonable attorney fees, to be paid  
42 to the general fund of the state or the county which brings the action.

43 6. In personam forfeiture pursuant to chapter 39 of this title to the  
44 general fund of the state or county, as appropriate, to the extent that  
45 forfeiture is not inconsistent with protecting the rights of any person who

1 sustained injury to his person, business or property by the racketeering  
2 conduct, of the interest of a person in:

3 (a) Any property or interest in property acquired or maintained by the  
4 person in violation of section 13-2312.

5 (b) Any interest in, security of, claims against or property, office,  
6 title, license or contractual right of any kind affording a source of  
7 influence over any enterprise or other property ~~which~~ THAT the person has  
8 acquired or maintained an interest in or control of, conducted or  
9 participated in the conduct of in violation of section 13-2312.

10 (c) All proceeds traceable to an offense included in the definition of  
11 racketeering in section 13-2301, subsection D, paragraph 4 and held by the  
12 person and all monies, negotiable instruments, securities and other property  
13 used or intended to be used by the person in any manner or part to facilitate  
14 commission of the offense and that the person either owned or controlled for  
15 the purpose of that use.

16 (d) Any other property up to the value of the subject property  
17 described in subdivision (a), (b) or (c) of this paragraph.

18 7. Payment to the general fund of the state or county as appropriate  
19 of an amount equal to the gain that was acquired or maintained through an  
20 offense included in the definition of racketeering in section 13-2301,  
21 subsection D, paragraph 4 or a violation of section 13-2312 or that any  
22 person is liable for under this section.

23 E. A person who is liable for conduct described in subsection D,  
24 paragraph 6, subdivision (a), (b) or (c) of this section is liable for the  
25 total value of all interests in property described in those subdivisions.  
26 The court shall enter an order of forfeiture against the person in the amount  
27 of the total value of all those interests less the value of any interests  
28 that are forfeited before or at the time of the entry of the final judgment.

29 F. A person or enterprise that acquires any property through an  
30 offense included in the definition of racketeering in section 13-2301,  
31 subsection D, paragraph 4 or through a violation of section 13-2312 is an  
32 involuntary trustee. The involuntary trustee and any other person or  
33 enterprise, except a bona fide purchaser for value who is reasonably without  
34 notice of the unlawful conduct and who is not knowingly taking part in an  
35 illegal transaction, hold the property, its proceeds and its fruits in  
36 constructive trust for the benefit of persons entitled to remedies under this  
37 section.

38 G. In addition to ~~or in lieu of~~ an action under this section the  
39 attorney general or a county attorney may file an in rem action pursuant to  
40 chapter 39 of this title for forfeiture, to the extent that forfeiture is not  
41 inconsistent with protecting the rights of any person who sustained injury to  
42 his person, business or property by the racketeering conduct, of:

43 1. Any property or interest in property acquired or maintained by a  
44 person in violation of section 13-2312.

1           2. Any interest in, security of, claims against or property, office,  
2 title, license or contractual right of any kind affording a source of  
3 influence over any enterprise or other property ~~which~~ THAT a person has  
4 acquired or maintained an interest in or control of, conducted or  
5 participated in the conduct of in violation of section 13-2312.

6           3. All proceeds traceable to an offense included in the definition of  
7 racketeering in section 13-2301, subsection D, paragraph 4 and all monies,  
8 negotiable instruments, securities and other property used or intended to be  
9 used in any manner or part to facilitate the commission of the offense.

10          H. A defendant convicted in any criminal proceeding shall be precluded  
11 from subsequently denying the essential allegations of the criminal offense  
12 of which he was convicted in any civil proceeding. For the purposes of this  
13 subsection, a conviction may result from a verdict or plea including a no  
14 contest plea.

15          I. Notwithstanding any law creating a lesser period, the initiation of  
16 civil proceedings related to violations of any offense included in the  
17 definition of racketeering in section 13-2301, subsection D, paragraph 4 or a  
18 violation of section 13-2312, including procedures pursuant to chapter 39 of  
19 this title, shall be commenced within seven years after actual discovery of  
20 the violation.

21          J. In any civil action brought pursuant to this section, the attorney  
22 general or a county attorney may file with the clerk of the superior court a  
23 certificate stating that the case is of special public importance. A copy of  
24 that certificate shall be furnished immediately by such clerk to the chief  
25 judge or presiding chief judge of the superior court in the county in which  
26 such action is pending, and, upon receipt of such copy, the judge shall  
27 immediately designate a judge to hear and determine the action. The judge so  
28 designated shall promptly assign such action for hearing, participate in the  
29 hearings and determination and cause the action to be expedited.

30          K. The standard of proof in actions brought pursuant to this section  
31 is the preponderance of the evidence test.

32          L. A civil action authorized by this section, including proceedings  
33 pursuant to chapter 39 of this title, is remedial and not punitive and does  
34 not limit and is not limited by any other previous or subsequent civil or  
35 criminal action under this title or any other provision of law. Civil  
36 remedies provided under this title are supplemental and not mutually  
37 exclusive.

38          M. The attorney general may appear as amicus curiae in any proceeding  
39 in which a claim under this section has been asserted, including proceedings  
40 pursuant to chapter 39 of this title, or in which the court is interpreting  
41 this chapter or chapter 39 of this title. A party who files a notice of  
42 appeal from a civil action brought under this chapter or chapter 39 of this  
43 title shall serve the notice and one copy of the appellant's brief on the  
44 attorney general at the time the person files the appellant's brief with the  
45 court. This requirement is jurisdictional.

1 N. ~~It~~ FOR THE PURPOSES OF this section and section 13-2312:  
2 1. "Acquire" means for a person to do any of the following:  
3 (a) Possess.  
4 (b) Act so as to exclude other persons from using their property  
5 except on his own terms.  
6 (c) Bring about or receive the transfer of any interest in property,  
7 whether to himself or to another person, or to secure performance of a  
8 service.  
9 2. "Gain" means any benefit, interest or property of any kind without  
10 reduction for expenses of acquiring or maintaining it or incurred for any  
11 other reason.  
12 3. "Proceeds" includes any interest in property of any kind acquired  
13 through or caused by an act or omission, or derived from the act or omission,  
14 directly or indirectly, and any fruits of this interest, in whatever form.  
15 Sec. 4. Section 13-2314.01, Arizona Revised Statutes, is amended to  
16 read:  
17 13-2314.01. Anti-racketeering revolving fund; use of fund;  
18 reports; review board; classification; board  
19 termination  
20 A. The anti-racketeering revolving fund is established. The attorney  
21 general shall administer the fund under the conditions and for the purposes  
22 provided by this section. Monies in the fund are exempt from the lapsing  
23 provisions of section 35-190.  
24 B. Any prosecution and investigation costs, including attorney fees,  
25 recovered for the state by the attorney general as a result of enforcement of  
26 civil and criminal statutes pertaining to any offense included in the  
27 definition of racketeering in section 13-2301, subsection D, paragraph 4 or  
28 section 13-2312, whether by final judgment, settlement or otherwise, shall be  
29 deposited in the fund established by this section.  
30 C. Any monies received by any department or agency of this state or  
31 any political subdivision of this state from any department or agency of the  
32 United States or another state as a result of participation in any  
33 investigation or prosecution, whether by final judgment, settlement or  
34 otherwise, shall be deposited in the fund established by this section or, if  
35 the recipient is a political subdivision of this state, may be deposited in  
36 the fund established by section 13-2314.03.  
37 D. Any monies obtained as a result of a forfeiture by any department  
38 or agency of this state under this title or under federal law shall be  
39 deposited in the fund established by this section. Any monies or other  
40 property obtained as a result of a forfeiture by any political subdivision of  
41 this state or the federal government may be deposited in the fund established  
42 by this section. Monies deposited in the fund pursuant to this section or  
43 section 13-4315 shall accrue interest and shall be held for the benefit of  
44 the agency or agencies responsible for the seizure or forfeiture to the  
45 extent of their contribution. Except as provided in subsections F and G of

1 this section, the monies and interest shall be distributed within thirty days  
2 of application to the agency or agencies responsible for the seizure or  
3 forfeiture. Monies in the fund used by the attorney general for capital  
4 projects in excess of one million dollars are subject to review by the joint  
5 committee on capital review.

6 E. Monies in the fund may be used for the following:

7 1. The funding of gang prevention programs, substance abuse prevention  
8 programs, substance abuse education programs, programs that provide  
9 assistance to victims of a criminal offense that is listed in section 13-2301  
10 and witness protection pursuant to section 41-196 or for any purpose  
11 permitted by federal law relating to the disposition of any property that is  
12 transferred to a law enforcement agency.

13 2. The investigation and prosecution of any offense included in the  
14 definition of racketeering in section 13-2301, subsection D, paragraph 4 or  
15 section 13-2312, including civil enforcement.

16 3. The payment of the relocation expenses of any law enforcement  
17 officer and the officer's immediate family if the law enforcement officer is  
18 the victim of a bona fide threat that occurred because of the law enforcement  
19 officer's duties.

20 F. On or before January 15, April 15, July 15 and October 15 of each  
21 year, each department or agency of this state receiving monies pursuant to  
22 this section or section 13-2314.03 or 13-4315 or from any department or  
23 agency of the United States or another state as a result of participation in  
24 any investigation or prosecution shall file with the attorney general, the  
25 board of supervisors if the sheriff received the monies and the city or town  
26 council if the ~~city~~ CITY'S or town's department received the monies a report  
27 for the previous calendar quarter. The report shall be in a form that is  
28 prescribed by the Arizona criminal justice commission and approved by the  
29 director of the joint legislative budget committee. The report shall set  
30 forth the sources of all monies and all expenditures. **THE REPORT SHALL**  
31 **PROVIDE SEPARATE DETAILS FOR EACH FORFEITURE, INCLUDING THE CRIMINAL CASE**  
32 **NUMBER OR THE CIVIL CASE NUMBER, AS APPROPRIATE, THAT IS ASSOCIATED WITH THE**  
33 **FORFEITURE AND ANY RELATED LAW ENFORCEMENT DEPARTMENTAL REPORT NUMBERS.** The  
34 report shall not include any identifying information about specific **ONGOING**  
35 investigations. If a department or agency of this state fails to file a  
36 report within forty-five days after the report is due and there is no good  
37 cause as determined by the Arizona criminal justice commission, the attorney  
38 general shall make no expenditures from the fund for the benefit of the  
39 department or agency until the report is filed. The attorney general is  
40 responsible for collecting all reports from departments and agencies of this  
41 state and transmitting the reports to the Arizona criminal justice commission  
42 at the time that the report required pursuant to subsection G of this section  
43 is submitted.

44 G. On or before January 25, April 25, July 25 and October 25 of each  
45 year, the attorney general shall file with the Arizona criminal justice

1 commission a report for the previous calendar quarter. The report shall be  
2 in a form that is prescribed by the Arizona criminal justice commission and  
3 approved by the director of the joint legislative budget committee. The  
4 report shall set forth the sources of all monies and all expenditures. THE  
5 REPORT SHALL PROVIDE SEPARATE DETAILS FOR EACH FORFEITURE, INCLUDING THE  
6 CRIMINAL CASE NUMBER OR THE CIVIL CASE NUMBER, AS APPROPRIATE, THAT IS  
7 ASSOCIATED WITH THE FORFEITURE AND ANY RELATED LAW ENFORCEMENT DEPARTMENTAL  
8 REPORT NUMBERS. The report shall not include any identifying information  
9 about specific ONGOING investigations. If the attorney general fails to file  
10 a report within sixty days after the report is due and there is no good cause  
11 as determined by the Arizona criminal justice commission, the attorney  
12 general shall make no expenditures from the fund for the benefit of the  
13 attorney general until the report is filed. If a political subdivision of  
14 this state fails to file a report with the county attorney pursuant to  
15 section 13-2314.03 within forty-five days after the report is due and there  
16 is no good cause as determined by the Arizona criminal justice commission,  
17 the attorney general shall make no expenditures from the fund for the benefit  
18 of the political subdivision until the report is filed.

19 H. On or before September 30 of each year, the Arizona criminal  
20 justice commission shall compile the attorney general report and the reports  
21 of all departments and agencies of this state into a single comprehensive  
22 report and shall submit a copy of the report to the governor, the director of  
23 the department of administration, the president of the senate, the speaker of  
24 the house of representatives, the director of the joint legislative budget  
25 committee and the secretary of state.

26 I. THE ATTORNEY GENERAL SHALL ESTABLISH AND APPOINT MEMBERS TO AN  
27 INDEPENDENT REVIEW BOARD. THE REVIEW BOARD SHALL REVIEW THE SOURCES AND  
28 EXPENDITURES OF ALL MONIES THAT ARE IN THE ANTI-RACKETEERING REVOLVING FUND.  
29 THE REVIEW BOARD SHALL NOTIFY THE ATTORNEY GENERAL IF IT FINDS ANY UNLAWFUL  
30 USES OF FUND MONIES.

31 J. A PERSON WHO USES OR RECEIVES MONIES FROM THE ANTI-RACKETEERING  
32 REVOLVING FUND FOR A PURPOSE THAT IS NOT ALLOWED BY THIS SECTION IS GUILTY OF  
33 A CLASS 3 MISDEMEANOR. THE ATTORNEY GENERAL SHALL INVESTIGATE ALL  
34 ALLEGATIONS OF UNLAWFUL USE OF MONIES. IF THE ALLEGATION INVOLVES THE  
35 ATTORNEY GENERAL, THE COUNTY ATTORNEY IN THE COUNTY WHERE THE ALLEGED  
36 UNLAWFUL USE OCCURRED SHALL INVESTIGATE THE ALLEGATION.

37 K. THE REVIEW BOARD ESTABLISHED BY SUBSECTION I OF THIS SECTION ENDS  
38 ON JULY 1, 2024 PURSUANT TO SECTION 41-3103.

39 Sec. 5. Section 13-2314.03, Arizona Revised Statutes, is amended to  
40 read:

41 13-2314.03. County anti-racketeering revolving fund; use of  
42 fund; reports; review board; classification

43 A. The board of supervisors of a county shall establish a county  
44 anti-racketeering revolving fund administered by the county attorney under  
45 the conditions and for the purposes provided by this section.

1 B. Any prosecution and investigation costs, including attorney fees,  
2 recovered for the county as a result of enforcement of civil and criminal  
3 statutes pertaining to any offense included in the definition of racketeering  
4 in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by  
5 final judgment, settlement or otherwise, shall be deposited in the fund  
6 established by the board of supervisors.

7 C. Any monies received by any department or agency of this state or  
8 any political subdivision of this state from any department or agency of the  
9 United States or another state as a result of participation in any  
10 investigation or prosecution, whether by final judgment, settlement or  
11 otherwise, shall be deposited in the fund established by this section or in  
12 the fund established by section 13-2314.01.

13 D. Any monies obtained as a result of a forfeiture by the county  
14 attorney under this title or under federal law shall be deposited in the fund  
15 established by this section. Any monies or other property obtained as a  
16 result of a forfeiture by any political subdivision of this state or the  
17 federal government may be deposited in the fund established by this section  
18 or in the fund established by section 13-2314.01. Monies deposited in the  
19 fund pursuant to this section or section 13-4315 shall accrue interest and  
20 shall be held for the benefit of the agency or agencies responsible for the  
21 seizure or forfeiture to the extent of their contribution. Except as  
22 provided in subsections F and G of this section, the monies and interest  
23 shall be distributed to the agency or agencies responsible for the seizure or  
24 forfeiture within thirty days of application.

25 E. Monies in the fund may be used for the funding of gang prevention  
26 programs, substance abuse prevention programs, substance abuse education  
27 programs, programs that provide assistance to victims of a criminal offense  
28 that is listed in section 13-2301 and witness protection pursuant to section  
29 11-536 or for any purpose permitted by federal law relating to the  
30 disposition of any property that is transferred to a law enforcement agency.  
31 Monies in the fund may be used for the investigation and prosecution of any  
32 offense included in the definition of racketeering in section 13-2301,  
33 subsection D, paragraph 4 or section 13-2312, including civil enforcement.

34 F. On or before January 25, April 25, July 25 and October 25 of each  
35 year, the county attorney shall ~~cause to be filed~~ FILE with the Arizona  
36 criminal justice commission a report for the previous calendar quarter. The  
37 report shall be in a form that is prescribed by the Arizona criminal justice  
38 commission and approved by the director of the joint legislative budget  
39 committee. The report shall set forth the sources of all monies and all  
40 expenditures. THE REPORT SHALL PROVIDE SEPARATE DETAILS FOR EACH FORFEITURE,  
41 INCLUDING THE CRIMINAL CASE NUMBER OR THE CIVIL CASE NUMBER, AS APPROPRIATE,  
42 THAT IS ASSOCIATED WITH THE FORFEITURE AND ANY RELATED LAW ENFORCEMENT  
43 DEPARTMENTAL REPORT NUMBERS. The report shall not include any identifying  
44 information about specific ONGOING investigations. If the county attorney  
45 fails to file a report within sixty days after it is due and there is no good

1 cause as determined by the Arizona criminal justice commission, the county  
2 attorney shall make no expenditures from the fund for the benefit of the  
3 county attorney until the report is filed.

4 G. On or before January 15, April 15, July 15 and October 15 of each  
5 year, each political subdivision of this state receiving monies pursuant to  
6 this section or section 13-2314.01 or 13-4315 or from any department or  
7 agency of the United States or another state as a result of participating in  
8 any investigation or prosecution shall cause to be filed with the board of  
9 supervisors of the county in which the political subdivision is located, each  
10 city or town council in which the political subdivision is located and the  
11 county attorney of the county in which the political subdivision is located a  
12 report for the previous calendar quarter. The report shall be in a form that  
13 is prescribed by the Arizona criminal justice commission and approved by the  
14 director of the joint legislative budget committee. The report shall set  
15 forth the sources of all monies and all expenditures. **THE REPORT SHALL  
16 PROVIDE SEPARATE DETAILS FOR EACH FORFEITURE, INCLUDING THE CRIMINAL CASE  
17 NUMBER OR THE CIVIL CASE NUMBER, AS APPROPRIATE, THAT IS ASSOCIATED WITH THE  
18 FORFEITURE AND ANY RELATED LAW ENFORCEMENT DEPARTMENTAL REPORT NUMBERS.** The  
19 report shall not include any identifying information about specific **ONGOING**  
20 investigations. If a political subdivision of this state fails to file a  
21 report within forty-five days after the report is due and there is no good  
22 cause as determined by the Arizona criminal justice commission, the county  
23 attorney shall make no expenditures from the fund for the benefit of the  
24 political subdivision until the report is filed. The county attorney shall  
25 be responsible for collecting all reports from political subdivisions within  
26 that county and transmitting the reports to the Arizona criminal justice  
27 commission at the time that the county report required pursuant to subsection  
28 F of this section is submitted.

29 H. On or before September 30 of each year, the Arizona criminal  
30 justice commission shall compile all county attorney reports into a single  
31 comprehensive report and all political subdivision reports into a single  
32 comprehensive report and submit a copy of each comprehensive report to the  
33 governor, the president of the senate, the speaker of the house of  
34 representatives, the director of the joint legislative budget committee and  
35 the secretary of state.

36 **I. THE BOARD OF SUPERVISORS SHALL ESTABLISH AND APPOINT MEMBERS TO AN  
37 INDEPENDENT REVIEW BOARD. THE REVIEW BOARD SHALL REVIEW THE SOURCES AND  
38 EXPENDITURES OF ALL MONIES THAT ARE IN THE ANTI-RACKETEERING REVOLVING FUND.  
39 THE REVIEW BOARD SHALL NOTIFY THE ATTORNEY GENERAL IF IT FINDS ANY UNLAWFUL  
40 USES OF FUND MONIES.**

41 **J. A PERSON WHO USES OR RECEIVES MONIES FROM THE COUNTY  
42 ANTI-RACKETEERING REVOLVING FUND FOR A PURPOSE THAT IS NOT ALLOWED BY THIS  
43 SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR. THE ATTORNEY GENERAL SHALL  
44 INVESTIGATE ALL ALLEGATIONS OF UNLAWFUL USE OF MONIES. IF THE ALLEGATION**

1 INVOLVES THE ATTORNEY GENERAL, THE COUNTY ATTORNEY IN THE COUNTY WHERE THE  
2 ALLEGED UNLAWFUL USE OCCURRED SHALL INVESTIGATE THE ALLEGATION.

3 Sec. 6. Section 13-4304, Arizona Revised Statutes, is amended to read:  
4 13-4304. Property subject to forfeiture; exemptions; waiver

5 A. FOLLOWING A PERSON'S CONVICTION FOR A CRIMINAL OFFENSE, THE COURT  
6 MAY ORDER THE PERSON TO FORFEIT ANY OF THE FOLLOWING:

7 1. PROPERTY, INCLUDING ALL INTERESTS IN SUCH PROPERTY, THAT WAS  
8 ACQUIRED THROUGH THE COMMISSION OF THE OFFENSE.

9 2. PROPERTY, INCLUDING ALL INTERESTS IN SUCH PROPERTY, THAT IS  
10 DIRECTLY TRACEABLE TO PROPERTY ACQUIRED THROUGH THE COMMISSION OF THE  
11 OFFENSE.

12 3. ANY INSTRUMENTALITY THE PERSON USED IN THE COMMISSION OF THE  
13 OFFENSE.

14 B. All property, including all interests in such property, described  
15 in ~~a statute providing for its forfeiture is~~ SUBSECTION A OF THIS SECTION IS  
16 subject to forfeiture. ~~However,~~ EXCEPT THAT:

17 1. No vehicle used by any person as a common carrier in the  
18 transaction of business as a common carrier may be forfeited under ~~the~~  
19 ~~provisions of~~ this chapter unless it appears that the owner or other person  
20 in charge of the vehicle was a consenting party or privy to the act or  
21 omission giving rise to forfeiture or knew or had reason to know of it.

22 2. No vehicle may be forfeited under ~~the provisions of~~ this chapter  
23 for any act or omission established by the owner to have been committed or  
24 omitted by a person other than the owner while the vehicle was unlawfully in  
25 the possession of a person other than the owner in violation of the criminal  
26 laws of this state or of the United States.

27 3. No property may be forfeited pursuant to section 13-3413,  
28 subsection A, paragraph 1 or 3 if the conduct giving rise to the forfeiture  
29 both:

30 (a) Did not involve an amount of unlawful substance greater than the  
31 statutory threshold amount as defined in section 13-3401.

32 (b) Was not committed for financial gain.

33 4. No owner's or interest holder's interest may be forfeited under  
34 this chapter if the owner or interest holder establishes all of the  
35 following:

36 (a) He acquired the interest before or during the conduct giving rise  
37 to forfeiture.

38 (b) He did not empower any person whose act or omission gives rise to  
39 forfeiture with legal or equitable power to convey the interest, as to a bona  
40 fide purchaser for value, and he was not married to any such person or if  
41 married to such person, held the property as separate property.

42 (c) He did not know and could not reasonably have known of the act or  
43 omission or that it was likely to occur.

1           5. No owner's or interest holder's interest may be forfeited under  
2 this chapter if the owner or interest holder establishes all of the  
3 following:

4           (a) He acquired the interest after the conduct giving rise to  
5 forfeiture.

6           (b) He is a bona fide purchaser for value not knowingly taking part in  
7 an illegal transaction.

8           (c) He was at the time of purchase and at all times after the purchase  
9 and before the filing of a racketeering lien notice or the provision of  
10 notice of pending forfeiture or the filing and notice of a civil or criminal  
11 proceeding under this title relating to the property, whichever is earlier,  
12 reasonably without notice of the act or omission giving rise to forfeiture  
13 and reasonably without cause to believe that the property was subject to  
14 forfeiture.

15           C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, IF THE ALLEGED  
16 PROPERTY OWNER WAIVES OWNERSHIP OF PROPERTY OR AN INTEREST IN PROPERTY THAT  
17 WOULD BE SUBJECT TO A FORFEITURE PURSUANT TO THIS SECTION, THE PROPERTY OR  
18 INTEREST IN THE PROPERTY MAY BE FORFEITED WITHOUT A CONVICTION. THE OWNER OF  
19 THE PROPERTY OR INTEREST IN THE PROPERTY MUST PROVIDE A WRITTEN WAIVER OF ANY  
20 OWNERSHIP IN THE PROPERTY BEFORE A FORFEITURE WITHOUT A CONVICTION MAY OCCUR.

21           Sec. 7. Section 13-4305, Arizona Revised Statutes, is amended to read:

22           13-4305. Seizure of property

23           A. Property subject to forfeiture under this chapter may be seized for  
24 forfeiture by a peace officer:

25           1. On process issued pursuant to the ARIZONA rules of civil procedure  
26 or ~~the provisions of~~ this title including a seizure warrant.

27           2. By making a seizure for forfeiture on property seized on process  
28 issued pursuant to law, including sections 13-3911 through 13-3915.

29           3. By making a seizure for forfeiture without court process if any of  
30 the following is true:

31           (a) The seizure for forfeiture is of property seized incident to an  
32 arrest or search.

33           (b) The property subject to seizure for forfeiture has been the  
34 subject of a prior judgment in favor of this state or any other state or the  
35 federal government in a forfeiture proceeding.

36           (c) The peace officer has probable cause to believe that the property  
37 is subject to forfeiture.

38           B. Property subject to forfeiture under this chapter may be seized for  
39 forfeiture by placing the property under constructive seizure. Constructive  
40 seizure may be made by posting notice of seizure for forfeiture on the  
41 property or by filing notice of seizure for forfeiture or notice of pending  
42 forfeiture in any appropriate public record relating to the property.

43           C. The court shall determine probable cause for seizure before real  
44 property may be seized for forfeiture, unless the seizure is pursuant to a  
45 constructive seizure or the filing of a racketeering lien or lis pendens.

1 The court may make its determination ex parte if the state demonstrates that  
2 notice and an opportunity to appear would create a risk of harm to the public  
3 safety or welfare, including the risk of physical injury or the likelihood of  
4 property damage or financial loss.

5 D. The court shall determine probable cause for seizure before  
6 property may be seized for forfeiture as a substitute asset pursuant to  
7 section 13-2314, subsection D, E or G, or pursuant to section 13-4313,  
8 subsection A, unless the seizure is pursuant to a constructive seizure or the  
9 filing of a racketeering lien or lis pendens. The court may issue a seizure  
10 warrant for such property if it determines that there is probable cause to  
11 believe that the property is subject to forfeiture and is not available for  
12 seizure for forfeiture for any reason described in section 13-4313,  
13 subsection A. The determinations shall be made ex parte unless real property  
14 is to be seized and subsection C of this section requires notice and an  
15 opportunity to appear.

16 ~~E. In establishing a preponderance of the evidence and in determining  
17 probable cause for seizure and for forfeiture, a rebuttable presumption  
18 exists that the property of any person is subject to forfeiture if the state  
19 establishes all of the following by the standard of proof applicable to that  
20 proceeding:~~

21 ~~1. Conduct giving rise to forfeiture occurred.~~

22 ~~2. The person acquired the property during the period of the conduct  
23 giving rise to forfeiture or within a reasonable time after that period.~~

24 ~~3. There is no likely source for the property other than the conduct  
25 giving rise to forfeiture.~~

26 ~~F. In establishing a preponderance of the evidence and in determining  
27 probable cause for seizure and for forfeiture, the fact that money or any  
28 negotiable instrument was found in proximity to contraband or to  
29 instrumentalities of an offense gives rise to an inference that the money or  
30 instrument was the proceeds of contraband or was used or intended to be used  
31 to facilitate commission of the offense.~~

32 Sec. 8. Section 13-4308, Arizona Revised Statutes, is amended to read:

33 13-4308. Commencement of proceedings

34 A. The attorney for the state shall determine whether it is probable  
35 that the property is subject to forfeiture and, if so, **FOLLOWING A CRIMINAL**  
36 **CONVICTION**, may cause the initiation of ~~uncontested or~~ judicial proceedings  
37 against the property. If, on inquiry and examination, the attorney **FOR THE**  
38 **STATE** determines that the proceedings probably cannot be sustained, **THAT A**  
39 **CONVICTION MAY NOT OCCUR** or that justice does not require the institution of  
40 such proceedings, ~~he~~ **THE ATTORNEY FOR THE STATE** shall notify the seizing  
41 agency and immediately authorize the release of the seizure for forfeiture on  
42 the property or on any specified interest in it.

43 B. If the state fails to initiate forfeiture proceedings against  
44 property seized for forfeiture by notice of pending forfeiture within sixty  
45 days after its seizure for forfeiture, ~~or~~ fails to pursue forfeiture of such

1 property on which a timely claim has been properly filed by filing a  
2 complaint, information or indictment pursuant to section 13-4311 or 13-4312  
3 within sixty days after notice of pending forfeiture ~~or, if uncontested~~  
4 ~~forfeiture has been made available, within sixty days after a declaration of~~  
5 ~~forfeiture~~, whichever is later, such property shall be released from its  
6 seizure for forfeiture on the request of an owner or interest holder, pending  
7 further proceedings pursuant to this chapter, which shall be commenced within  
8 seven years after actual discovery of the last act giving rise to forfeiture.

9 C. If the property sought to be forfeited is real property, including  
10 fixtures, the attorney for the state may file a lis pendens or a notice of  
11 pending forfeiture with respect to the property with the county recorder of  
12 the county in which the property is located, in addition to any lien provided  
13 by section 13-2314.02, without a filing fee or other charge.

14 Sec. 9. Repeal

15 Section 13-4309, Arizona Revised Statutes, is repealed.

16 Sec. 10. Section 13-4310, Arizona Revised Statutes, is amended to  
17 read:

18 13-4310. Judicial forfeiture proceedings; general

19 A. In any proceeding pursuant to this chapter, the court, on  
20 application of the state, may enter any restraining order or injunction,  
21 require the execution of satisfactory performance bonds, create  
22 receiverships, appoint conservators, appraisers, accountants or trustees or  
23 take any other action to seize, secure, maintain or preserve the availability  
24 of property subject to forfeiture under this title, including a warrant for  
25 its seizure, whether prior or subsequent to the filing of a notice of pending  
26 forfeiture, complaint, indictment or information.

27 B. If property is seized for forfeiture without a prior judicial  
28 determination of probable cause, an order of forfeiture or a hearing pursuant  
29 to section 13-4312, subsection D, the court, on an application filed by an  
30 owner of or interest holder in the property within fifteen days after notice  
31 of its seizure for forfeiture or actual knowledge of it, whichever is  
32 earlier, and complying with the requirements for claims in section 13-4311,  
33 subsections E and F, may issue an order to show cause to the seizing agency  
34 for a hearing on the sole issue of whether probable cause for forfeiture of  
35 the property then exists. Notice of the order to show cause hearing must be  
36 served ~~upon~~ ON the attorney for the state at least five working days before  
37 the hearing is held. If the court finds that no probable cause for  
38 forfeiture of the property then exists or if the state elects not to contest  
39 the issue, the property seized for forfeiture from the applicant shall be  
40 released to the custody of the applicant pending the outcome of a judicial  
41 proceeding pursuant to this chapter. If the court finds that probable cause  
42 for the forfeiture of the property then exists, the court shall not order the  
43 property released, except as provided in section 13-4306, subsection G.

44 C. A defendant convicted in any criminal proceeding shall be precluded  
45 from subsequently denying the essential allegations of the criminal offense

1 of which he was convicted in any proceeding pursuant to this chapter. For  
2 the purposes of this chapter, a conviction may result from a verdict or plea  
3 including a no contest plea.

4 D. In any judicial forfeiture hearing, determination or other  
5 proceeding pursuant to this chapter, the applicant, petitioner or claimant  
6 must establish by a preponderance of the evidence that he is an owner of or  
7 interest holder in the property seized for forfeiture before other evidence  
8 is taken. The burden of proving the standing of the claimant and the  
9 existence of the exemption is on the claimant or party raising the claim, and  
10 it is not necessary to negate the standing of any claimant or the existence  
11 of any exemption in any notice, application, complaint, information or  
12 indictment.

13 E. In hearings and determinations pursuant to this chapter:

14 1. The law of evidence relating to civil actions applies equally to  
15 all parties, including ~~the~~ THIS state, an applicant, a petitioner, a claimant  
16 and a defendant, on all issues required to be established by a preponderance  
17 of the evidence.

18 2. The court shall receive and consider, in making any determination  
19 of probable cause or reasonable cause, all evidence and information that  
20 would be permissible in determining probable cause at a preliminary hearing,  
21 at a grand jury or by a magistrate pursuant to section 13-3913, together with  
22 inferences from the evidence and information.

23 3. ~~No~~ Evidence may be suppressed in any hearing pursuant to this  
24 chapter on the ground that its acquisition by search or seizure violated  
25 constitutional protections applicable in criminal cases relating to  
26 unreasonable searches or seizures.

27 F. All property, including all interests in such property, declared  
28 forfeited under this title vests in this state on the commission of the act  
29 or omission giving rise to forfeiture under this title together with the  
30 proceeds of the property after such time. Any such property or proceeds  
31 subsequently transferred to any person are subject to forfeiture and  
32 thereafter shall be ordered forfeited unless the transferee claims and  
33 establishes in a hearing pursuant to this chapter the showings set out in  
34 section 13-4304.

35 G. On the motion of a party and after notice to any persons who are  
36 known to have an interest in the property and an opportunity to be heard, the  
37 court may order property that has been seized for forfeiture sold, leased,  
38 rented or operated to satisfy an interest of any interest holder who has  
39 timely filed a proper claim or to preserve the interests of any party. The  
40 court may order a sale or any other disposition of the property if the  
41 property may perish, waste, be foreclosed on or otherwise be significantly  
42 reduced in value or if the expenses of maintaining the property are or will  
43 become greater than its fair market value. If the court orders a sale, the  
44 court shall designate a third party or state property manager to dispose of

1 the property by public sale or other commercially reasonable method and shall  
2 distribute the proceeds in the following order of priority:

3 1. Payment of reasonable expenses incurred in connection with the  
4 sale.

5 2. Satisfaction of exempt interests in the order of their priority.

6 3. Preservation of the balance, if any, in the actual or constructive  
7 custody of the court in an interest bearing account, subject to further  
8 proceedings under this chapter.

9 H. If the property is disposed of pursuant to subsection G of this  
10 section, a successful claimant may apply to the court for actual monetary  
11 damages suffered, if any, as a result of the disposal of the property, but  
12 ~~the~~ THIS state, a political subdivision of ~~the~~ THIS state, or an officer,  
13 employee or agent of any of them shall not in any event be liable under this  
14 chapter for incidental or consequential damages or for damages either:

15 1. That could have been avoided if the claimant had made full and  
16 immediate disclosure to the attorney for the state of facts or evidence known  
17 or available to the claimant.

18 2. In excess of the fair market value of the property seized for  
19 forfeiture at the time of its seizure plus interest from the time of its  
20 seizure for forfeiture.

21 ~~I. If an indictment or information is filed alleging the same conduct  
22 as the conduct giving rise to forfeiture in a civil forfeiture proceeding,  
23 the court in the civil proceeding may stay civil discovery against the  
24 criminal defendant and against the state in the civil proceeding until the  
25 defendant's criminal trial is completed. Before staying civil discovery, the  
26 court shall make adequate provision to prevent any loss or expense to any  
27 victim or party resulting from the delay, including loss or expense due to  
28 maintenance, management, insurance, storage or preservation of the  
29 availability of the property or due to depreciation in the value of the  
30 property.~~

31 ~~J.~~ I. No person claiming to be an owner of or interest holder in  
32 property seized for forfeiture under this chapter may commence or maintain  
33 any action against the state concerning the validity of the alleged interest  
34 other than as provided in this chapter.

35 Sec. 11. Section 13-4311, Arizona Revised Statutes, is amended to  
36 read:

37 13-4311. Judicial in rem forfeiture proceedings

38 A. If a forfeiture is authorized by law, it shall be ordered by a  
39 court on an action in rem brought by the state pursuant to a notice of  
40 pending forfeiture or a verified complaint for forfeiture. The state may  
41 serve the complaint in the manner provided by section 13-4307 or by the  
42 Arizona rules of civil procedure.

43 B. A civil in rem action may be brought by the state in addition to ~~or~~  
44 ~~in lieu of~~ the civil and criminal in personam forfeiture procedures set forth  
45 in sections 13-4312 and 13-4313 ~~or the uncontested civil forfeiture~~

1 ~~procedures set forth in section 13-4309~~. Judicial in rem forfeiture  
2 proceedings are in the nature of an action in rem and are governed by the  
3 Arizona rules of civil procedure unless a different procedure is provided by  
4 law.

5 C. On the filing of a civil in rem action by the state in superior  
6 court the clerk of the court in which the action is filed shall provide, and  
7 the attorney for the state may provide, the notice of pending forfeiture  
8 required by section 13-4307 unless the files of the clerk of the court  
9 reflect that such notice has previously been made.

10 D. An owner of or interest holder in the property may file a claim  
11 against the property, within thirty days after the notice, for a hearing to  
12 adjudicate the validity of his claimed interest in the property. The COURT  
13 SHALL HOLD THE hearing ~~shall be held by the court~~ without a jury.

14 E. The claim shall be signed by the claimant under penalty of perjury  
15 and shall set forth all of the following:

16 1. The caption of the proceeding as set forth on the notice of pending  
17 forfeiture or complaint and the name of the claimant.

18 2. The address at which the claimant will accept future mailings from  
19 the court or attorney for the state.

20 3. The nature and extent of the claimant's interest in the property.

21 4. The date, the identity of the transferor and the circumstances of  
22 the claimant's acquisition of the interest in the property.

23 5. The specific provisions of this chapter relied on in asserting  
24 that the property is not subject to forfeiture.

25 6. All facts supporting each such assertion.

26 7. Any additional facts supporting the claimant's claim.

27 8. The precise relief sought.

28 F. Copies of the claim shall be mailed to the seizing agency and to  
29 the attorney for the state. No extension of time for the filing of a claim  
30 may be granted.

31 G. Within twenty days after service of the complaint, the claimant  
32 shall file and serve the answer to the complaint and the answers to  
33 interrogatories and requests for admission if any were served with the  
34 complaint. The answer shall be signed by the owner or interest holder under  
35 penalty of perjury, shall comply with the Arizona rules of civil procedure  
36 relating to answers and shall comply with all of the requirements for claims.  
37 If no proper answer is timely filed, the attorney for the state shall proceed  
38 as provided in sections 13-4314 and 13-4315 with ten days' notice to any  
39 person who has timely filed a claim that has not been stricken by the court.

40 H. At the time of filing its pleadings or at any other time not less  
41 than thirty days before the hearing, the state and any claimant who has  
42 timely answered the complaint may serve discovery requests on any other  
43 party, the answers or response to which shall be due in twenty days, and may  
44 take the deposition of any person at any time after the expiration of fifteen  
45 days after the filing and service of the complaint. Any party may move for

1 summary judgment at any time after an answer or responsive pleading is served  
2 and not less than thirty days before the hearing. The state, as the party  
3 defending against the claim, may make offers of judgment at any time more  
4 than ten days before the hearing begins.

5 I. An injured person may submit a request for compensation from  
6 forfeited property to the court at any time before the earlier of the entry  
7 of a final judgment or an application for an order of the forfeiture of the  
8 property, or if a hearing pursuant to subsections K, L and M of this section  
9 is held, not less than thirty days before the hearing. The request shall be  
10 signed by the requestor under penalty of perjury and shall set forth all of  
11 the following:

12 1. The caption of the proceeding as set forth on the notice of pending  
13 forfeiture or complaint and the name of the requestor.

14 2. The address at which the requestor will accept future mailings from  
15 the court or parties to the action.

16 3. The property subject to forfeiture from which the requestor seeks  
17 compensation.

18 4. The nature of the economic loss sustained by the requestor.

19 5. All facts supporting each such assertion.

20 6. Any additional facts supporting the request.

21 7. The amount of economic loss for which the requestor seeks  
22 compensation.

23 J. If a proper request for compensation from forfeited property is  
24 timely filed, the court shall hold a hearing to establish whether there is a  
25 factual basis for the request. The requestor has the burden of establishing  
26 by a preponderance of the evidence that the requestor is an injured person  
27 who sustained economic loss.

28 K. The hearing on the claim, to the extent practicable and consistent  
29 with the interest of justice, shall be held sixty days after all parties have  
30 complied with the disclosure required by rule 26.1 of the Arizona rules of  
31 civil procedure. The court may consolidate the hearing on the claim with a  
32 hearing on any other claim concerning the same property.

33 L. At the hearing, the claimant may testify, present evidence and  
34 witnesses on the claimant's own behalf and cross-examine witnesses who appear  
35 at the hearing. The state may present evidence and witnesses and  
36 cross-examine witnesses who appear at the hearing.

37 M. At the hearing, the state has the burden of establishing by a  
38 preponderance of the evidence that the property is subject to forfeiture  
39 under section 13-4304. Any claimant who has previously established by a  
40 preponderance of the evidence that the claimant is an owner of or interest  
41 holder in the property has the burden of establishing by a preponderance of  
42 the evidence that the claimant's interest in the property is exempt from  
43 forfeiture under section 13-4304.

1 N. In accordance with its findings at the hearing:

2 1. The court shall order an interest in property returned or conveyed  
3 to a claimant, if any, who has established by a preponderance of the evidence  
4 that the claimant is an owner of or interest holder in the property if either  
5 of the following applies:

6 (a) The state has failed to establish by a preponderance of the  
7 evidence that the interest is subject to forfeiture under section 13-4304.

8 (b) The claimant has established by a preponderance of the evidence  
9 that the interest is exempt from forfeiture under section 13-4304.

10 2. The court shall order all other property, including all interests  
11 in the property, forfeited to this state and proceed pursuant to sections  
12 13-4314 and 13-4315.

13 3. If the court finds that a requestor is an injured person the court  
14 shall determine the amount of the injured person's economic loss caused by  
15 the conduct giving rise to the forfeiture of the designated property and  
16 shall require the following:

17 (a) If the designated property is not contraband and is not altered or  
18 designed for use in conduct giving rise to forfeiture, the attorney for the  
19 state shall sell the property as provided in section 13-4315, subsection A,  
20 paragraph 2, ~~and~~ and shall apply the resulting balance to compensate the injured  
21 person's economic loss in the amount found by the court.

22 (b) If the balance is insufficient to compensate the economic loss of  
23 all injured persons the attorney for the state shall distribute the balance  
24 among the injured persons according to a method determined by the court.

25 (c) After compensation of all injured persons, the attorney for the  
26 state shall transmit ten ~~per cent~~ PERCENT of the remaining balance, if any,  
27 to the Arizona criminal justice commission for deposit in the victim  
28 compensation and assistance fund established by section 41-2407.

29 (d) The attorney for the state shall deposit the remainder of the  
30 balance, if any, in an appropriate anti-racketeering revolving fund  
31 established by section 13-2314.01 or 13-2314.03.

32 Sec. 12. Section 13-4312, Arizona Revised Statutes, is amended to  
33 read:

34 13-4312. Judicial in personam forfeiture proceedings

35 A. If a forfeiture is authorized by law, it shall be ordered by a  
36 court on proceedings by the state **AFTER A CRIMINAL CONVICTION** in an in  
37 personam civil or criminal action pursuant to section 13-2313 or 13-2314 or  
38 any other law providing for a forfeiture.

39 B. Any complaint, information or indictment alleging or charging one  
40 or more offenses included in section 13-2301, subsection D, paragraph 4 or a  
41 violation of section 13-2312, or any other offense giving rise to forfeiture  
42 under this title, shall set forth with reasonable particularity property that  
43 the state seeks to forfeit pursuant to this section in that action, if any.  
44 The court shall allow the allegation that particular new or different or  
45 differently described property is subject to forfeiture in an in personam

1 criminal or civil case to be made at any time prior to the date the case is  
2 actually tried unless the allegation is filed fewer than twenty days before  
3 the case is actually tried, and the court finds on the record that the  
4 defendant was in fact prejudiced by the untimely filing and states reasons  
5 for these findings, provided that when the allegation is filed, the state  
6 must make available to the defendant a copy of any material information  
7 concerning the allegation.

8 C. In any proceeding pursuant to this section, the court, on  
9 application of the state, may enter any order authorized by section 13-4310,  
10 subsection A or take any other action to seize, secure, maintain or preserve  
11 the availability of property subject to forfeiture under this title,  
12 including a warrant for its seizure, whether before or after the filing of a  
13 complaint, indictment or information.

14 D. Notwithstanding subsection E of this section, a temporary  
15 restraining order under this section may be entered on application of the  
16 state without notice or an opportunity for a hearing if the state  
17 demonstrates both that:

18 1. There is probable cause to believe that the property with respect  
19 to which the order is sought would, in the event of ~~final judgment or~~ A  
20 CRIMINAL conviction, be subject to forfeiture under this title.

21 2. Provision of notice will jeopardize the availability of the  
22 property for forfeiture. A temporary restraining order expires within ten  
23 days after the date on which it is entered unless the party against whom it  
24 is entered consents to an extension for a longer period or unless after  
25 commencing a hearing the court enters or is considering a preliminary  
26 injunction.

27 E. Notice of the entry of the restraining order and an opportunity for  
28 a hearing shall be afforded to persons known to have an interest in the  
29 property, whether or not a temporary restraining order is entered without  
30 notice. The hearing, however, is limited to the issues of whether both:

31 1. There is a probability that the state will prevail on the issue of  
32 forfeiture and that failure to enter the order will result in the property  
33 being destroyed, conveyed, encumbered or further encumbered, removed from the  
34 jurisdiction of the court, concealed or otherwise made unavailable for  
35 forfeiture.

36 2. The need to preserve the availability of property through the entry  
37 of the requested order outweighs the hardship on any owner, interest holder  
38 or defendant against whom the order is to be entered.

39 F. A hearing requested by any owner or interest holder concerning an  
40 order entered under this section shall be held at the earliest possible time  
41 and before the expiration of a temporary order.

42 G. On ~~a determination of liability or~~ the conviction of a person for  
43 conduct giving rise to forfeiture under this title, the court shall enter a  
44 judgment of forfeiture of the property described in the forfeiture statute  
45 alleged and set out in the complaint, information or indictment, as amended,

1 and shall also authorize the county attorney or attorney general, their  
2 agents or any peace officer to seize all property ordered forfeited that was  
3 not previously seized or is not then under seizure. Following the entry of  
4 an order declaring the property forfeited, the court, on application of the  
5 state, may enter any order authorized by section 13-4310, subsection A or  
6 take any other action to protect the interest of this state or a political  
7 subdivision in the property ordered forfeited. The filing of the order of  
8 forfeiture in the appropriate public records perfects the interest of the  
9 state in the property described in the order as of the earlier of the date of  
10 the act or omission giving rise to forfeiture or the date that a notice of  
11 seizure for forfeiture or notice of pending forfeiture or racketeering lien  
12 was first filed in the records, which entitles the state to all rights of a  
13 secured party as to that property in addition to any other rights or remedies  
14 of the state in relation to the property. Any income accruing to, or derived  
15 from, an enterprise or any interest in an enterprise or other property  
16 interest that is forfeited under this chapter is also forfeited from the time  
17 of the conduct giving rise to forfeiture. It may be used pending procedures  
18 subsequent to a verdict or finding of liability to offset ordinary and  
19 necessary expenses of the enterprise or property as required by law or that  
20 are necessary to protect the interests of this state or a political  
21 subdivision.

22 H. Procedures subsequent to the verdict ~~or finding of liability~~ and  
23 order of forfeiture shall be as follows:

24 1. Following the entry of an order of forfeiture under this subsection  
25 the clerk of the court shall, and the attorney for the state may, give notice  
26 of pending forfeiture to all owners and interest holders who have not  
27 previously been given notice, if any, in the manner provided in section  
28 13-4307.

29 2. An owner of or interest holder in property that has been ordered  
30 forfeited pursuant to such action whose claim is not precluded may file a  
31 claim as described in section 13-4311, subsections E and F in the court for a  
32 hearing to adjudicate the validity of his claimed interest in the property  
33 within thirty days after initial notice of pending forfeiture or after notice  
34 under paragraph 1 of this subsection, whichever is earlier.

35 3. The hearing on the claim, to the extent practicable and consistent  
36 with the interest of justice, shall be held within sixty days after the order  
37 of forfeiture. The court may consolidate the hearing on the claim with a  
38 hearing on any other claim filed by a person other than a party or defendant  
39 in the underlying action and concerning the same property.

40 4. The hearing shall be held by the court without a jury and conducted  
41 in the manner provided for in rem judicial forfeiture actions including the  
42 provisions of section 13-4311, subsections ~~J and K~~ L AND M. In addition to  
43 testimony and evidence presented at the hearing, the court shall consider the  
44 relevant portions of the record of the underlying civil or criminal action  
45 that resulted in the order of forfeiture.

1           5. In accordance with its findings at the hearing, the court may amend  
2 the order of forfeiture if it determines that any claimant has established by  
3 a preponderance of the evidence that the claimant is an owner of or interest  
4 holder in the property if either of the following applies:

5           (a) The state has failed to establish by a preponderance of the  
6 evidence that the interest is subject to forfeiture under section 13-4304.

7           (b) The claimant has established by a preponderance of the evidence  
8 that the interest is exempt from forfeiture under section 13-4304.

9           I. In order to facilitate the identification or location of property  
10 declared forfeited and to facilitate the disposition of filed or subsequent  
11 claims pursuant to subsection H, paragraph 2 of this section, the court, on  
12 application of the state, may order that the testimony of any witness  
13 relating to the property forfeited or alleged to be subject to forfeiture be  
14 taken by deposition and that any designated book, paper, document, record,  
15 recording, electronic or otherwise, or other material which is not privileged  
16 be produced at the same time and place and in the same manner as that  
17 provided for the taking of depositions under the rules of civil procedure.

18           Sec. 13. Section 13-4314, Arizona Revised Statutes, is amended to  
19 read:

20           13-4314. Disposition by court

21           A. ~~If no petitions for remission or mitigation or claims are timely~~  
22 ~~filed or if no petitioner files a claim in the court within thirty days after~~  
23 ~~the mailing of a declaration of forfeiture~~ AFTER A CRIMINAL CONVICTION  
24 OCCURS, the attorney for the state shall apply to the court for an order of  
25 forfeiture and allocation of forfeited property pursuant to section 13-4315.  
26 On the state's written application showing A CONVICTION, jurisdiction, AND  
27 notice ~~and facts sufficient to demonstrate probable cause for forfeiture~~, and  
28 in cases brought pursuant to section 13-3413, subsection A, paragraph 1 or 3,  
29 probable cause to believe that the conduct giving rise to forfeiture involved  
30 an amount of unlawful substance greater than the statutory threshold amount  
31 as defined in section 13-3401 or was committed for financial gain, the court  
32 shall order the property forfeited to the state.

33           B. After the court's disposition of all claims timely filed under this  
34 chapter, the state has clear title to the forfeited property and the court  
35 shall so order. Title to the forfeited property and its proceeds is deemed  
36 to have vested in the state on the commission of the act or omission giving  
37 rise to the forfeiture under this title.

38           C. If, in his discretion, the attorney for the state has entered into  
39 a stipulation with an interest holder that the interest holder has an  
40 interest that is exempted from forfeiture, the court, on application of the  
41 attorney for the state, may release or convey forfeited personal property to  
42 the interest holder if all of the following are true:

43           1. The interest holder has an interest ~~which~~ THAT was acquired in the  
44 regular course of business as a financial institution within section 13-2301,  
45 subsection D, paragraph 3.

1           2. The amount of the interest holder's encumbrance is readily  
2 determinable and it has been reasonably established by proof made available  
3 by the attorney for the state to the court.

4           3. The encumbrance held by the interest holder seeking possession is  
5 the only interest exempted from forfeiture and the order forfeiting the  
6 property to the state transferred all of the rights of the owner ~~prior to~~  
7 **BEFORE** forfeiture, including rights to redemption, to the state.

8           4. After the court's release or conveyance, the interest holder shall  
9 dispose of the property by a commercially reasonable public sale, and within  
10 ten days of disposition shall tender to the state the amount received at  
11 disposition less the amount of the interest holder's encumbrance and  
12 reasonable expense incurred by the interest holder in connection with the  
13 sale or disposal.

14           D. On order of the court forfeiting the subject property, the attorney  
15 for the state may transfer good and sufficient title to any subsequent  
16 purchaser or transferee, and the title shall be recognized by all courts, by  
17 this state and by all departments and agencies of this state and any  
18 political subdivision.

19           E. On entry of judgment for a claimant or claimants in any proceeding  
20 to forfeit property under this chapter such property or interest in property  
21 shall be returned or conveyed immediately to the claimant or claimants  
22 designated by the court. If it appears that there was **NO** reasonable cause  
23 for the seizure for forfeiture or for the filing of the notice of pending  
24 forfeiture, complaint, information or indictment, the court shall cause a  
25 finding to be entered, and the claimant ~~is not~~, in such case, **IS** entitled to  
26 **ATTORNEY FEES**, costs or damages. ~~, nor is~~ The person or seizing agency that  
27 made the seizure, ~~nor is~~ **AND** the attorney for the state **IS NOT** liable to suit  
28 or judgment on account of ~~such~~ **THE** seizure, suit or prosecution.

29           F. The court shall order any claimant who fails to establish that his  
30 entire interest is exempt from forfeiture under section 13-4304 to pay ~~the~~  
31 **HIS PROPORTIONATE** costs of any claimant who establishes that his entire  
32 interest is exempt from forfeiture under section 13-4304 and the state's  
33 costs and expenses of the investigation and prosecution of the matter,  
34 including reasonable attorney fees. **THE PROPORTIONATE COSTS SHALL BE EQUAL**  
35 **TO THE CLAIMANT'S PERCENTAGE OF INTEREST THAT IS SUBJECT TO FORFEITURE.**

36           Sec. 14. Section 13-4315, Arizona Revised Statutes, is amended to  
37 read:

38           13-4315. Allocation of forfeited property; classification

39           A. Any property, including all interests in property, forfeited to the  
40 state under this title shall be transferred as requested by the attorney for  
41 the state to the seizing agency or to the agency or political subdivision  
42 employing the attorney for the state, which may do any of the following:

43           1. Sell, lease, lend or transfer the property to any local or state  
44 government entity or agency or political subdivision, **ANY** law enforcement  
45 agency or prosecutorial agency or any federal law enforcement agency ~~which~~

1 THAT operates within this state for official federal, state or political  
2 subdivision use within this state, with expenses for keeping and transferring  
3 such property to be paid by the recipient. Property may not be allocated for  
4 official use if the fair market value of the property substantially exceeds  
5 the agency's probable cost of purchasing other property equally suited for  
6 the intended official use. Property that is allocated for official use may  
7 not be assigned for use by any person who supervised or exercised discretion  
8 in its forfeiture unless the use is approved in writing by the head of the  
9 agency.

10 2. Sell forfeited property by public or otherwise commercially  
11 reasonable sale with expenses of keeping and selling the property and the  
12 amount of all valid interests established by claimants paid out of the  
13 proceeds of the sale with the balance paid into the anti-racketeering  
14 REVOLVING fund of the state or of the county in which the political  
15 subdivision seizing the property or prosecuting the action is located. A  
16 sale of forfeited property may not be made to any employee of the seizing  
17 agency, any person who participated in the forfeiture, any employee of a  
18 contractor selling the property on behalf of the seizing agency or any member  
19 of the immediate family of any of these employees or persons.

20 3. Destroy or use for investigative purposes any illegal or controlled  
21 substances or other contraband at any time more than twenty days after  
22 seizure, on written approval of the attorney for the state, preserving only  
23 such material as may be necessary for evidence.

24 4. Sell, use or destroy all raw materials, products and equipment of  
25 any kind used or intended for use in manufacturing, compounding or processing  
26 a controlled substance.

27 5. Compromise and pay claims against property forfeited pursuant to  
28 any provision of this section.

29 6. Make any other disposition of forfeited property authorized by law  
30 for the disposition of property of the state, government entity, agency or  
31 political subdivision.

32 B. Notwithstanding subsection A of this section or any other ~~provision~~  
33 ~~of~~ law to the contrary:

34 1. If the property forfeited is money, and a law enforcement agency  
35 can specifically identify monies as being from its investigative funds or as  
36 being exchanged for property from its investigative property, the monies  
37 shall be remitted to the investigative fund. If there are additional  
38 forfeited monies or monies tendered on satisfaction by an interest holder  
39 ~~which~~ THAT cannot be specifically identified, the court shall order the  
40 monies returned to each law enforcement agency that makes a showing of costs  
41 or expenses ~~which~~ THAT it incurred in connection with the investigation and  
42 prosecution of the matter and shall order all excess monies remaining after  
43 such returns deposited in the anti-racketeering REVOLVING fund of this state  
44 or of the county in which the political subdivision seizing the monies or

1 prosecuting the action is located, established pursuant to section 13-2314.01  
2 or 13-2314.03.

3 2. If the property declared forfeited is an interest in a vehicle, the  
4 court shall order it forfeited to the local, state or other law enforcement  
5 agency seizing the vehicle for forfeiture or to the seizing agency.

6 C. Monies in any anti-racketeering REVOLVING fund established pursuant  
7 to this title may be used, in addition to any other lawful use, for:

8 1. The payment of any expenses necessary to seize, detain, appraise,  
9 inventory, protect, maintain, preserve the availability of, advertise or sell  
10 property that is subject to forfeiture and that is seized, detained or  
11 forfeited pursuant to this title or of any other necessary expenses incident  
12 to the seizure, detention, preservation or forfeiture of the property. The  
13 payments may include payments for contract services and payments to reimburse  
14 any federal, state or local agency for any expenditures made to perform the  
15 functions of the seizing agency.

16 2. The payment of awards for information or assistance leading to a  
17 civil or criminal proceeding under this title.

18 3. The payment of compensation from forfeited property to injured  
19 persons as provided in section 13-4311, subsection N, paragraph 3.

20 D. Each attorney for the state shall submit a copy of each forfeiture  
21 judgment, including each order of forfeiture, to the Arizona criminal justice  
22 commission within sixty days after the forfeiture judgment becomes final or  
23 after the conclusion of appellate review, if any.

24 E. A PERSON WHO USES OR RECEIVES PROCEEDS FROM FORFEITED PROPERTY FOR  
25 A PURPOSE THAT IS NOT ALLOWED BY THIS SECTION IS GUILTY OF A CLASS 1  
26 MISDEMEANOR. THE ATTORNEY GENERAL SHALL INVESTIGATE ALL ALLEGATIONS OF  
27 UNLAWFUL USE OF MONIES. IF THE ALLEGATION INVOLVES THE ATTORNEY GENERAL, THE  
28 COUNTY ATTORNEY IN THE COUNTY WHERE THE ALLEGED UNLAWFUL USE OCCURRED SHALL  
29 INVESTIGATE THE ALLEGATION.