

AN ACT relating to asset forfeiture.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

➔Section 1. KRS 15.440 is amended to read as follows:

- (1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
- (a) Employs one (1) or more police officers;
  - (b) Pays every police officer at least the minimum federal wage;
  - (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998, shall be deemed to have met the requirements of this subsection;
  - (d) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the

promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

- (e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
- (f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150 **and the annual asset forfeiture report required by Section 2 of this Act**;
- (g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice and Public Safety Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510; and
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has

been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records.

- (2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.
- (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

➔Section 2. KRS 218A.420 is amended to read as follows:

- (1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.
- (2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for

Health and Family Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

- (3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.
- (4) Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:
  - (a) Seventy~~Eighty five~~ percent (70%~~85%~~) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and
  - (b) Thirty~~Fifteen~~ percent (30%~~15%~~) shall be paid to the Office of the Attorney General or, in the alternative, the thirty~~fifteen~~ percent (30%~~15%~~) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

- (5) The Attorney General, after consultation with the Prosecutors Advisory Council, shall promulgate administrative regulations to establish the specific purposes for which these funds shall be expended.
- (6) Each state and local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving any forfeited property, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or substantially comply with the

model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

- (7) Each state or local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving forfeited property, have one (1) or more officers currently employed attend asset-forfeiture training approved by the Kentucky Law Enforcement Council, which shall approve a curriculum of study for asset-forfeiture training.
- (8)
  - (a) Other provisions of this section notwithstanding and subject to the limitations of paragraph (b) of this subsection, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.
  - (b) Any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter and which has been determined by a state or local law enforcement agency to be contaminated with methamphetamine as defined by KRS 218A.1431 shall not be used, resold, or salvaged for parts, but instead shall be destroyed or salvaged only for scrap metal. Any vehicle which is forfeited pursuant to this chapter and has only transported prepackaged materials or products, precursors, or any other materials which have not been subjected to extraction either directly or indirectly from substances of natural origin or independently by means of chemical synthesis, or by a combination

of extraction and chemical synthesis extraction, shall not be deemed contaminated with methamphetamine under this section.

- (9) When money or property is seized in a joint operation involving more than one (1) law enforcement agency or prosecutorial office, the apportionment of funds to each pursuant to subsection (4) of this section shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

➔Section 3. KRS 218A.440 is amended to read as follows:

- (1) Each law enforcement agency **authorized to seize and forfeit**~~[seizing]~~ money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice and public safety containing, a detailed **individual accounting**~~[listing]~~ of all money and property seized **and forfeited** in that fiscal year and the disposition **of all forfeited property or the proceeds from the sale of forfeited property**~~[thereof]~~. The listing shall identify all property so seized. **Each law enforcement agency authorized to seize and forfeit money or property pursuant to KRS 218A.415 shall file an annual report pursuant to this subsection even if the agency did not seize or forfeit any property pursuant to KRS Chapter 218A.**
- (2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of KRS 218A.405 to 218A.460.
- (3) The Auditor of Public Accounts, the secretary of justice and public safety or the Attorney General may at any time initiate an inquiry to determine that property is

being forfeited as required by KRS 218A.405 to 218A.460.