

1 HB518  
2 193463-1  
3 By Representative Mooney  
4 RFD: Judiciary  
5 First Read: 15-MAR-18

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8 SYNOPSIS: Under existing law, the Criminal Justice  
9 Information Center Commission is responsible for  
10 maintenance of the Alabama Criminal Justice  
11 Information Center, which states and analyzes  
12 certain data regarding reported criminal offenses  
13 and offenders.

14 To create the Forfeiture Database and  
15 Reporting Act.

16 This bill would provide reporting  
17 requirements, publication requirements, and certain  
18 requirements regarding the accounting of funds  
19 derived from civil forfeiture.  
20

21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 Relating to civil forfeitures; to provide for  
26 legislative intent; to add Section 41-9-620.1 to the Code of  
27 Alabama 1975; to provide for reporting requirements; to

1 provide for publication requirements; and to provide  
2 requirements regarding the accounting of funds derived from  
3 civil forfeiture.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act shall be known and may be cited  
6 as the Forfeiture Database and Reporting Act.

7 Section 2. The Legislature finds and declares the  
8 following:

9 (1) Public safety is preserved by effective  
10 deterrence of criminal activity. One invaluable deterrent is  
11 the forfeiture of the proceeds of criminal activity and the  
12 property used to facilitate criminal activity.

13 (2) Respect for the property rights of law-abiding  
14 citizens is important to the state and the forfeiture process  
15 must preserve those rights.

16 (3) To maintain the public's trust in law  
17 enforcement, the government's power to seize and forfeit  
18 private property must be exercised with transparency.

19 (4) While current state civil asset forfeiture  
20 procedures are filed and disposed of in a public manner, no  
21 state central repository currently exists to provide a  
22 statewide database that is easily accessible to policymakers  
23 and the public.

24 (5) The effectiveness and fairness of the forfeiture  
25 process should be evaluated on a regular basis to maintain the  
26 highest standards for the state's law enforcement agencies.

1                   Section 3. Section 41-9-620.1 is added to the Code  
2 of Alabama 1975, to read as follows:

3                   §41-9-620.1.

4                   (a) Through the uniform crime reporting system  
5 operated by the Alabama State Law Enforcement Agency (ALEA),  
6 the commission shall provide for the collection and analysis  
7 of data relating to forfeiture activities by state, county,  
8 and municipal criminal justice agencies as defined by Section  
9 41-9-590, within the state, to include the forfeiture of  
10 criminal proceeds, instrumentalities, and abandoned property  
11 upon the filing of a civil asset forfeiture action pursuant to  
12 state law or, if an agreement for a forfeiture action has been  
13 initiated, with the federal government. The commission shall  
14 modify its uniform crime report to include data related to  
15 forfeiture activity.

16                   (b) The modification to include data related to  
17 forfeiture activity addition to the crime reporting system  
18 shall be implemented no later than January 1, 2019, and shall  
19 be subject to the commission's regulatory authority, including  
20 the timeliness and the dissemination of information.

21                   (c) The information collected pursuant to subsection  
22 (a) shall include, but not be limited to, all of the  
23 following:

24                   (1) The name of the law enforcement agency or  
25 multijurisdictional taskforce that seized the property.

26                   (2) The date of the seizure.

1           (3) The type of property seized. If the property is  
2 other than currency, a description of the property seized  
3 including make, model, year, or serial or other unique  
4 identification number.

5           (4) The location of the seizure.

6           (5) The value of any currency seized.

7           (6) The type of underlying criminal offense that led  
8 to the seizure, including whether the offense is under state  
9 or federal law, if applicable.

10          (7) Any crime for which the suspect was charged,  
11 prior to final civil judgment, including whether the crime  
12 charged is under state or federal law, if applicable.

13          (8) The criminal case number and court in which the  
14 case was filed, if applicable.

15          (9) The disposition of the defendant's criminal  
16 case, if applicable.

17          (10) If forfeiture is sought under federal law,  
18 whether it is the result of a joint investigation or adoption.

19          (11) The forfeiture case number and court in which  
20 the case was filed, if available.

21          (12) Whether a claim or counterclaim was filed by  
22 the suspect or a third party, if applicable.

23          (13) The date of the forfeiture order.

24          (14) Whether there was a forfeiture settlement  
25 agreement.

26          (15) The property disposition.

27          (16) The date of the property disposition.

1           (17) The value of the currency forfeited under state  
2 law and description of any non-currency forfeited by order of  
3 the state court.

4           (d) Each criminal justice agency that does not  
5 receive any forfeitures in a calendar year pursuant to the  
6 reporting requirements of this act shall notify ALEA by  
7 January 31 of the immediately following calendar year.

8           Section 4. (a) A public report shall be prepared by  
9 the commission annually, through ALEA, and provided to the  
10 Governor, President Pro Tempore of the Senate, and the Speaker  
11 of the House of Representatives. This report shall summarize  
12 the information received pursuant to Section 5 in a manner  
13 helpful to policymakers as they evaluate the yearly forfeiture  
14 efforts. This report shall be accessible online and may be  
15 published individually, as an addendum included as part of  
16 reporting conducted under subdivision (4) or subdivision (5),  
17 or both, of Section 41-9-621, in the discretion of the  
18 commission. The initial annual report shall be provided to the  
19 Governor, President Pro Tempore of the Senate, and the Speaker  
20 of the House of Representatives no later than the fifth  
21 legislative day of the 2020 Legislative Regular Session.

22           (b) The Governor, the President, Pro Tempore of the  
23 Senate, or the Speaker of the House of Representatives may  
24 request a quarterly forfeiture report pursuant to this act  
25 beginning on October 1, 2020.

26           Section 5. The information contained in the annual  
27 report shall include, but not be limited to, cumulative annual

1 data statewide as well as by criminal justice agency regarding  
2 the following:

3 (1) Criminal justice agencies seizing property for  
4 forfeiture.

5 (2) Types of property seized.

6 (3) Places of seizure, whether homes, businesses, or  
7 traffic stops.

8 (4) Value of currency seized.

9 (5) The alleged criminal offense that led to the  
10 seizure, including whether the offense was under state or  
11 federal law.

12 (6) Outcomes of criminal cases related to seizure,  
13 if applicable.

14 (7) Forfeitures sought under federal law that were  
15 the result of joint investigations or adoptions, if known.

16 (8) Total number of claims or counter-claims filed  
17 by property owners or third parties.

18 (9) Forfeiture settlement orders.

19 (10) Property dispositions.

20 (11) Cumulative value of currency under state law  
21 or, if forfeited under federal law, the cumulative proceeds  
22 received from the federal government.

23 (c) The Alabama State Law Enforcement Agency (ALEA),  
24 acting in conjunction with the commission, shall evaluate the  
25 cost and feasibility of developing and maintaining a public  
26 database regarding forfeiture-related activity. The database  
27 would permit online viewing of data on a quarterly basis. A

1 published report of this evaluation of the cost and  
2 feasibility shall be issued to the Legislature and made public  
3 no later than April 1, 2019, with an estimate of costs  
4 involved, if available. The report may be supplemented at  
5 later dates at the discretion of ALEA, and any subsequent  
6 reporting regarding cost and feasibility shall be made public.

7 Section 6. (a) Civil asset forfeiture funds or  
8 monies shall be maintained consistent with any restrictions  
9 set out in the forfeiture statutes.

10 (b) All civil asset forfeiture funds or monies  
11 derived from the liquidation of civil asset forfeiture funds  
12 shall be kept on a separate line item in the budget of any law  
13 enforcement agency that may be awarded the asset funds.

14 (c) Any expenditure of any monies by a law  
15 enforcement agency from an award of a civil asset forfeiture  
16 may only be expended from a line item pursuant to subsection  
17 (b).

18 (d) All civil asset forfeiture funds or monies  
19 derived from the liquidation of civil asset forfeiture funds  
20 shall only be deposited into an account that is publicly  
21 audited as other public funds pursuant to state law.

22 (e) Any expenditure of funds subject to this section  
23 shall be reported annually to ALEA for inclusion within the  
24 report to the Legislature that is required under Section 5.  
25 For purposes of the annual report, expenditures shall be  
26 reconciled to each law enforcement agency that consumed or  
27 expended the funds or that were expended on their behalf.

1           Section 7. The commission shall discharge its duties  
2 of collecting data under this act in a manner to maintain the  
3 security and confidentiality of individuals whose data is  
4 collected under this act. Any data collected under this act  
5 shall not identify an individual in any public database by  
6 name, specific address, or any other manner that would  
7 disclose the identity of the individual.

8           Section 8. (a) If ALEA or the commission is not able  
9 to fully implement the provisions of this act by April 1,  
10 2019, the Secretary of ALEA shall send notice to the Governor,  
11 President of the Pro Tempore Senate, and the Speaker of the  
12 House of Representatives that explains the reason for the  
13 delay.

14           (b) ALEA shall file any reports required by this act  
15 even if this act has not been fully implemented. The report  
16 shall also state which provisions of this act have not been  
17 implemented in full.

18           (c) Any data collected in the calendar year 2019  
19 shall be included within the initial report in 2020, pursuant  
20 to Section 3 and Section 4.

21           Section 9. This act shall become effective January  
22 1, 2019, following its passage and approval by the Governor,  
23 or its otherwise becoming law. This act shall not be  
24 implemented until the Director of Finance certifies that  
25 specific sufficient funding to implement the provisions of  
26 this act has been appropriated or allocated to ALEA. In no

1 event shall implementation of this act be less than 60 days  
2 following certification of the Director of Finance.