

LEGAL SERVICES

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MEMORANDUM

March 21, 2017

SUBJECT: Sectional summary of CSHB 42(JUD)
(Work Order No. 30-LS0193\U)

TO: Representative Matt Claman
Chair of the House Judiciary Committee
Attn: Lizzie Kubitz

FROM: Hilary V. Martin 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill -- the bill itself is the best statement of its contents.

Sections 1 - 7: Makes conforming amendments to statutes containing forfeiture language to refer to the new forfeiture sections, AS 12.35.200 - 12.35.220 and AS 12.36.300 - 12.36.350.

Section 8: Adds a new article to AS 12.35 relating to seizure of property:

Sec. 12.35.200: Allows the court to issue an order to seize property that is subject to forfeiture if the court makes certain findings. Allows seizure without a prior court order under certain circumstances.

Sec. 12.35.210: Requires seized property to be kept by the custodian in a manner to protect it from theft or damage and insured against those risks if required by the court.

Sec. 12.35.220: Sets out the requirements for a post-seizure hearing and allows another person who claims an interest in the seized property to request return of the property.

Section 9: Amends AS 12.36.020(a) to add references to new bill secs. 12.35.220 and AS 12.36.320.

Section 10: Adds a new article to AS 12.36 relating to forfeiture:

Sec. 12.36.300: States that a person's property is subject to forfeiture if the person is convicted of an offense under AS 12.36.310 and if the state establishes by clear and convincing evidence that the property is subject to forfeiture. Sets out the type of property that can be forfeited. States that property that is illegal to possess is subject to

forfeiture to the state. Provides that nothing in the section limits or prevents civil forfeiture under other state law or authority outside of criminal proceedings.

Sec. 12.36.310: Permits forfeiture for conviction of an offense that provides for forfeiture by law, regulation, or ordinance.

Sec. 12.36.320: Provides a process for a person to seek remission of the person's interest in forfeited property. Requires a claim under this section to be filed within 120 days after the entry of the last final judgment in the case in which property was ordered forfeited.

Sec. 12.36.330: Allows for the forfeiture of substitute property that is equal to but does not exceed the value of property that is subject to forfeiture that the state is unable to seize.

Sec. 12.36.340: Requires a law enforcement agency that holds seized property within 30 days of receipt of a court order or of a notification of the declination, acquittal, or dismissal of criminal charges to return the property. Allows the Department of Law or a law enforcement agency that holds seized property to petition the court to return or dispose of seized property at any time or to extend the period for return.

Sec. 12.36.350: Requires each law enforcement agency that initiates a case resulting in items being forfeited under AS 12.36.300 - 12.36.340 to prepare a report by February 1 of each year itemizing the forfeited property and transmit the report to the Department of Public Safety. Requires the Department of Public Safety to compile the reports by April 1 of each year and publish the aggregate report on the Department of Public Safety's Internet website.

Sections 11 - 19: Makes conforming amendments to statutes containing forfeiture language to refer to the new forfeiture sections, AS 12.35.200 - 12.35.220 and AS 12.36.300 - 12.36.350.

Section 20: Gives the court of appeals appellate jurisdiction over forfeiture proceedings.

Section 21: Allows a party to appeal to the superior court a judgment of the district court in a forfeiture proceeding.

Sections 22 - 28: Makes conforming amendments to statutes containing forfeiture language to refer to the new forfeiture sections, AS 12.35.200 - 12.35.220 and AS 12.36.300 - 12.36.350.

Section 29: States that this Act applies to forfeitures occurring on or after the effective date of this Act.

Section 30: Provides an effective date of July 1, 2017.