

**HB**

**295**

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO:** CSHB 295(2d JUD)

Revision Date: March 6, 1996 Dept. Affected: Public Safety  
 Title: Forfeiture of property to municipal law enforcement agencies. BRU: Alaska State Troopers  
 Sponsor: Representative Porter Component: Detachments  
 Requestor: H. Judiciary COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS (Attach a separate page if necessary)**

See Attached

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: March 6, 1996  
 Approved by Commissioner: *Ronald L. Orr* Date: 3/7/96  
 Agency: Ronald L. Orr, Department of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: CSHB 295(2d JUD)

Revision Date: March 6, 1996

Dept. Affected: Public Safety

## ANALYSIS CONTINUED:

This bill, as drafted will not have a fiscal impact on the Division of Alaska State Troopers. However it may have an impact on the state's general fund.

Currently, a law enforcement agency in the State of Alaska may seek forfeiture through the federal government or the state government. If a municipal agency seeks forfeiture through the federal government that agency would likely receive 80 percent (20 is retained by the federal government for administrative overhead) if successful. If a municipal agency seeks forfeiture under the current state system, 100 percent of the award goes into the general fund.

The federal forfeiture statutes are currently being challenged in court as double jeopardy.

Under this bill, the municipal law enforcement agency would receive 75 percent of the award and the general fund would receive 25 percent. If this bill is enacted and the federal courts rule forfeiture is double jeopardy those municipal agencies that are currently seeking forfeiture through the federal system would likely use the state system.

If this bill were enacted and depending on what the federal courts rule, the state could lose 75 percent of some awards in which it currently receives 100 percent of the award, and gain 25 percent of some awards in which it currently receives zero percent.

1996 LEGISLATIVE SESSION

Revision Date March 8, 1996 Dept. Affected Public Safety  
 Title Property held by law enforcement agencies BRU: Fish and Wildlife Protection  
 Component: Enforcement & I S U  
 Sponsor: Representative Porter  
 Requestor: (H) Judiciary COMPONENT SERIAL NO. 490

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact \$ 0 00

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS HB 295 if enacted would provide municipalities authority to enact ordinances for disposing of property seized by law enforcement agencies.

Since this act would grant an exemption for municipalities only, it does not appear to impact the Division of Fish and Wildlife Protection

This bill if enacted would not affect this Division's programs or budget

Prepared By Captain Richard Graham Phone (907) 269-5503  
 Division Fish and Wildlife Protection Date 3/8/96  
 Approved by Commissioner Ronald L. Otte Date 3/8/96  
 Agency Ronald L. Otte, Dept. of Public Safety

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CSHB 295 (2d JUD)

## Sponsor Statement

### Purpose

To promote cooperative law enforcement efforts in drug trafficking and other investigations. The bill ensures equitable transfer of forfeited property to the appropriate state and local law enforcement agency so as to reflect the agency's contribution of participating directly in any of the acts which led to seizure or forfeitures of such property.

### Implementation

CSHB 259 is designed to implement certain asset forfeiture provisions pertaining to the disposition of forfeited property and the discontinuance of federal forfeiture by state or local procedures.

CSHB allows the state or local law enforcement agency, by court approval, to dispose of criminal forfeited property by: (1) retaining the property for official use; (2) transferring custody or ownership of the property to any federal, state, or local agency; (3) placing the forfeited cash or proceeds of sale of forfeited property in an appropriation to any state or local law enforcement agency.

CSHB authorizes municipalities which have specific code provisions regarding disposal of property by municipal law enforcement agencies to follow those ordinances rather than the state statutes.

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## Sectional Analysis CSHB 295 (2d JUD)

"An Act relating to forfeitures of property; and relating to the custody and disposition of property in the custody of municipal law enforcement agencies."

### Chapter 36 Disposition of Recovered or Seized Property

#### Section 1. AS 12.36.020. Return of property.

Provides that a state or municipal law enforcement agency may not return property to the owner if the property is used for evidence in a criminal proceeding or subject to forfeiture proceedings. If the property is subject to forfeiture proceedings a law enforcement agency may transfer the property, with court approval, to another state or federal law enforcement agency. When granting approval, the court shall consider the elements set forth in Section 1(a)(2).

#### Section 2. AS 12.36.030. Disposal of unclaimed property used as evidence.

Exempts from AS 12.36 municipalities that have adopted ordinances providing for the custody and disposition of property that is held by the municipality's law enforcement agency, if the ordinances meet two conditions. The conditions require (1) certain evidentiary property to be held a certain time, and (2) the municipality to make reasonable attempts to identify and locate the owner of unclaimed property.

#### Section 3. AS 12.36.040 Disposal of property when owner unknown.

conforms the section to the new provisions in sec 2. of th bill.

#### Section 4. AS 12.36.060 Disposal of forfeited deadly weapons.

Clarifies existing law, that when a deadly weapon is forfeited to the state, it shall be disposed of by the commissioner of public safety.

#### Section 5. AS 12.55.015 Authorized sentences.

When a deadly weapon is used in the commission of a crime the court shall order the forfeiture to the commissioner of public safety or municipal law enforcement agency.

**Section 6. AS 12.55.015 Authorized sentences.**

Provides that when the court sentences a defendant, the court may in combination with the sentence order a forfeiture of property to a municipal law enforcement agency that participated in the arrest or conviction of the defendant. The court may grant the property to the municipal law enforcement agency if the property is valued at \$5,000.00 (five thousand dollars) or less and is not money or something that is divisible (i.e., a vehicle with a value less than \$5,000).

However, if the property is valued above \$5,000.00 or is money or some thing that is divisible, the court may grant up to 75 per cent of the property value to the municipal enforcement agency. This section also outlines provisions for the court to consider when establishing the percentage of the value of the property granted to the municipal agency.

**Chapter 30 Controlled Substances**

**Section 7. AS 17.30.112 Proceedings resulting in forfeiture.**  
conforms the section to the new provisions in sec. 6 in the bill.

**Section 8. AS 17.30.114(b) Seizure and custody of property.**  
conforms the section to the new provisions in sec. 1 in the bill. Provides that when the state or municipal agency has taken or detained property, with court approval, can an agency transfer the property to another state or federal law enforcement agency.

**Chapter 45. Unclaimed Property**

**Section 9 and 10. AS 34.45.230. Property held by courts and public agencies.**

Provides that the provisions otherwise governing the disposition of certain abandoned property do not apply to the listed property turned over to or recovered by a municipality's law enforcement agency if the municipality has adopted an ordinance providing for the custody and disposition of the property.



## KENAI POLICE DEPT.

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April 18, 1996

The Honorable Robin Taylor  
Chair, Senate Judiciary Committee  
Alaska State Senate, Room 30  
Juneau, AK 99801-1182

Dear Senator Taylor:

I would like to express my support for the current version of HB295(2dJUD). I was able to testify on a teleconference when the bill was moving through committees in the State House. During that testimony, I heard support from the Department of Public Safety, Department of Law, and several municipal police departments. This bill would accomplish the following:

Section 1 - Provides our local courts with the authority to determine what action to take regarding property (profit) seized from drug dealers.

Section 5 - Allows local courts to forfeit weapons used in a crime to local law enforcement instead of the Commissioner of Public Safety.

Section 6, 7, & 8 - Gives local courts the authority to assign profits from drug dealers to local communities in cases worked by local law enforcement.

Sections 9 & 10 - Allows local government to dispose of found or unclaimed property.

It appears that there is a zero fiscal note from all state agencies affected by this bill. The State House has passed the bill unanimously.

At the city level this bill will reduce the amount of property we have to store. I'm out of space and I don't expect funding for a new storage facility.

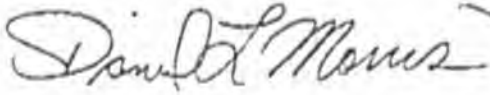
When I checked on this bill yesterday, I noted that it went to your committee on March 22, 1996.

The Honorable Robin Taylor  
April 18, 1996  
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If anyone on the committee is opposed to any part of this bill, please give us an opportunity to address it.

Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script, appearing to read "Daniel L. Morris".

Daniel L. Morris  
Chief of Police

DLM:gc