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JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1109, L.D. 1499, “An Act To Improve Accountability in Asset Seizure and Forfeiture Reporting”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 15 MRSA §5825, as amended by PL 2019, c. 651, §1, is further amended to read:

§5825. Records; reports

1. Records of forfeited property. Any officer to whom or department or agency to which property subject to forfeiture under section 5821 has been ordered forfeited shall maintain ~~records~~ an individual record for each seizure showing:

- A. The forfeiture case number and the name of the court that ordered each item of property to be forfeited to the officer, department or agency;
- ~~D. The date on which each item of property was ordered forfeited to the officer, department or agency; and~~
- ~~E. A description of each item of property forfeited to the officer, department or agency.~~
- F. The name of the law enforcement department or agency that seized the property or, if the property was seized by a multijurisdictional task force, the name of the lead agency;
- G. The date of the seizure;
- H. The type of property seized and, if the property is other than currency, a description of the property seized, including make, model and year;
- I. The place of seizure, whether a home, business or traffic stop, and, if the place of seizure was a traffic stop on an interstate or state highway, the direction of the traffic flow, whether eastbound, westbound, southbound or northbound;
- J. The primary crime for which the suspect or suspects were arrested;

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- 1 K. The date on which each item of property was ordered forfeited to the officer,
2 department or agency;
- 3 L. The method of final forfeiture proceeding, whether civil administrative, civil
4 judicial or criminal forfeiture;
- 5 M. The total value of property forfeited, including currency and proceeds from sale of
6 noncurrency property;
- 7 N. The disposition of property, whether returned to the owner, partially returned to the
8 owner, sold, destroyed, retained by a law enforcement agency or pending disposition;
- 9 O. The outcome of the suspect’s criminal case, including if no charge was filed,
10 charges were dropped or there was an acquittal, a plea agreement, a jury conviction or
11 other disposition; and
- 12 P. An estimate of total costs to the agency for each seizure for:
 - 13 (1) Storing the property in an impound lot or evidence room;
 - 14 (2) Paying for law enforcement personnel and prosecutors’ time and expenses to
15 process and litigate the forfeiture case; and
 - 16 (3) Selling or disposing of the forfeited property.

17 The records must be open to inspection.

18 **2. Department of Public Safety.** A report of the transfer of property previously held
19 by the Department of Public Safety and then ordered by a court to be forfeited to another
20 governmental entity must be provided upon request to the Commissioner of Administrative
21 and Financial Services and the Office of Fiscal and Program Review. The report must
22 account for any such transfer that occurred during the 12 months preceding such a request.

23 **3. Public website.** The Commissioner of Public Safety shall establish and maintain a
24 searchable publicly accessible website that includes the information for each seizure
25 described in subsection 1.

26 **4. Data input.** The department or agency that seizes property shall update the website
27 described in subsection 3 with the information described in subsection 1 at the end of the
28 month following each seizure of property. The commander of a multijurisdictional task
29 force may appoint one agency to report its seizures. If an agency has made no seizures
30 during the previous year, a null report must be filed by the agency specifying that it did not
31 engage in seizures or forfeitures during the reporting period.

32 **5. Report and recommendations.** By October 1st of each year, the Commissioner of
33 Public Safety shall submit to the President of the Senate, the Speaker of the House of
34 Representatives, the Attorney General and the Governor a written report and shall post on
35 the commissioner's publicly accessible website maintained in accordance with subsection
36 3 information summarizing seizure and forfeiture activity in the State during the prior year,
37 including the type, value and disposition of property seized or forfeited, the amount of the
38 proceeds of any sales of property and the costs to any law enforcement agencies and state,
39 county and regional government of seizures and forfeitures from the prior year. The report
40 must separate seizure and forfeiture information by law enforcement agency. The report
41 may include recommendations for changes in legislation and rules to improve the seizure
42 and forfeiture process and ensure that it is fair to crime victims, property owners, citizens

1 and taxpayers, persons holding secured interests in property seized and forfeited and law
2 enforcement agencies.

3 6. **Audit.** The State Auditor shall perform annually a financial audit under the
4 generally accepted government auditing standards of records submitted to the Department
5 of Public Safety related to inventory of seized property and expenditures of forfeiture
6 proceeds. A copy of the final audit report must be submitted to the Commissioner of Public
7 Safety no later than 90 days after the end of the fiscal year and must be made public.

8 7. **Cost recovery.** The Commissioner of Public Safety may recoup costs incurred by
9 the Department of Public Safety under this section by charging a fee to the department or
10 agency filing a report. The department or agency may use forfeiture proceeds to pay the
11 costs of compiling and reporting data under this chapter and to pay any fees imposed by
12 the commissioner.

13 8. **Rulemaking.** The Commissioner of Public Safety shall adopt rules to implement
14 this section including, but not limited to, rules to ensure the timely filing of required reports
15 and setting civil penalties of up to \$500 payable by a law enforcement agency to the General
16 Fund for failure to file on a timely basis. The rules may allow the imposition of fees on a
17 law enforcement agency reporting to the commissioner to pay costs of the commissioner
18 associated with this section. Rules adopted pursuant to this subsection are routine technical
19 rules as defined by Title 5, chapter 375, subchapter 2-A.

20 **Sec. 2. 15 MRSA §5826, sub-§9** is enacted to read:

21 9. **Records reporting.** Effective January 1, 2022, the reporting requirements required
22 by section 5825 apply to criminal forfeiture of property under this section.

23 **Sec. 3. Appropriations and allocations.** The following appropriations and
24 allocations are made.

25 **AUDITOR, OFFICE OF THE STATE**

26 **Audit Bureau 0067**

27 Initiative: Establishes one Staff Auditor I position to annually conduct a financial audit of
28 the records submitted to the Department of Public Safety related to inventory of seized
29 property and expenditures of forfeiture proceeds.

30 GENERAL FUND	2021-22	2022-23
31 POSITIONS - LEGISLATIVE COUNT	1,000	1,000
32 Personal Services	\$84,520	\$87,676
33		
34 GENERAL FUND TOTAL	\$84,520	\$87,676

35 '
36 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
37 number to read consecutively.

38 **SUMMARY**

39 This amendment is the minority report of the committee. It strikes the bill, which is a
40 concept draft. It requires the establishment of a record and case tracking system and
41 detailed reporting to the Commissioner of Public Safety when a law enforcement agency

1 seizes, holds or disposes of property as a result of civil forfeiture provisions of the Maine
2 Revised Statutes, Title 15, section 5821 and the criminal forfeiture provisions of Title 15,
3 section 5826 and applies to law enforcement agencies that seize, hold or dispose of property
4 as a result of an investigation and arrest carried out in cooperation with a federal law
5 enforcement agency. The amendment provides that reported information is public
6 information and requires public access to that information through a publicly accessible
7 website and mandates reports to the Legislature, Attorney General and Governor. The
8 amendment provides for rulemaking by the Commissioner of Public Safety and auditing
9 by the State Auditor, with a report from the State Auditor to the Commissioner of Public
10 Safety. The amendment also adds an appropriations and allocations section.

11 **FISCAL NOTE REQUIRED**

12 **(See attached)**