



HOUSE BILL No. 4238

February 11, 1993, Introduced by Reps. Fitzgerald, Goschka, Hoffman, Kukuk, McBryde, Lowe, London, Hill, Jamian, Weeks, Horton, Rocca, Galloway, Whyman, Bullard, Bodem, Gernaat, Walberg, Nye, Bobier, McManus, Hammerstrom, Porreca, Jersevic, Brackenridge, Gnodtke, Dalman, Middaugh, Dolan, Sikkema, Shugars, Johnson, Martin, Stille, Munsell and Middleton and referred to the Committee on Judiciary.

A bill to amend Act No. 328 of the Public Acts of 1931,
entitled as amended
"The Michigan penal code,"
as amended, being sections 750.1 to 750.568 of the Michigan
Compiled Laws, by adding chapter LXXXIX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 328 of the Public Acts of 1931, as
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled
3 Laws, is amended by adding chapter LXXXIX to read as follows:

4 **CHAPTER LXXXIX**

5 **SEC. 570. SECTIONS 570 TO 588 SHALL BE KNOWN AND MAY BE**
6 **CITED AS THE "MICHIGAN CONTINUING CRIMINAL ENTERPRISE ACT".**

7 **SEC. 571. FOR THE PURPOSES OF THIS CHAPTER, THE WORDS AND**
8 **PHRASES DEFINED IN SECTIONS 572 AND 573 HAVE THE MEANINGS**
9 **ASCRIED TO THEM IN THOSE SECTIONS.**

1 SEC. 572. (1) "ENTERPRISE" MEANS AN INDIVIDUAL, SOLE
2 PROPRIETORSHIP, PARTNERSHIP, CORPORATION, TRUST, UNION, ASSOCIA-
3 TION, GOVERNMENTAL UNIT, OR OTHER LEGAL ENTITY OR A GROUP OF PER-
4 SONS ASSOCIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY. ENTERPRISE
5 INCLUDES ILLICIT AS WELL AS LICIT ENTERPRISES.

6 (2) "INSTRUMENTALITY" MEANS AN INTEREST, REAL OR PERSONAL
7 PROPERTY, OR OTHER THING OF VALUE, THE USE OF WHICH CONTRIBUTES
8 DIRECTLY AND MATERIALLY TO THE COMMISSION OF AN OFFENSE INCLUDED
9 IN THE DEFINITION OF RACKETEERING UNDER SECTION 573.

10 (3) "PATTERN OF RACKETEERING ACTIVITY" MEANS NOT LESS THAN 2
11 INCIDENTS OF RACKETEERING TO WHICH ALL OF THE FOLLOWING CHARAC-
12 TERISTICS APPLY:

13 (A) THE INCIDENTS HAVE THE SAME OR A SUBSTANTIALLY SIMILAR
14 PURPOSE, RESULT, PARTICIPANT, VICTIM, OR METHOD OF COMMISSION, OR
15 ARE OTHERWISE INTERRELATED BY DISTINGUISHING CHARACTERISTICS AND
16 ARE NOT ISOLATED ACTS.

17 (B) THE INCIDENTS AMOUNT TO OR POSE A THREAT OF CONTINUED
18 CRIMINAL ACTIVITY.

19 (C) AT LEAST 1 OF THE INCIDENTS OCCURRED ON OR AFTER THE
20 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, AND
21 THE LAST OF THE INCIDENTS OCCURRED WITHIN 10 YEARS AFTER THE COM-
22 MISSION OF ANY PRIOR INCIDENT, EXCLUDING ANY PERIOD OF IMPRISON-
23 MENT SERVED BY A PERSON ENGAGING IN THE RACKETEERING ACTIVITY.

24 (4) "PERSON" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP, PART-
25 NERSHIP, COOPERATIVE, ASSOCIATION, CORPORATION, PERSONAL REPRE-
26 SENTATIVE, RECEIVER, TRUSTEE, ASSIGNEE, OR OTHER LEGAL OR ILLEGAL
27 ENTITY.

1 (5) "PROCEEDS" MEANS ANY REAL, PERSONAL, OR INTANGIBLE
2 PROPERTY OBTAINED THROUGH THE COMMISSION OF AN OFFENSE INCLUDED
3 IN THE DEFINITION OF RACKETEERING UNDER SECTION 573, INCLUDING
4 ANY APPRECIATION IN THE VALUE OF THE PROPERTY.

5 (6) "PROSECUTING AGENCY" MEANS THE ATTORNEY GENERAL OF THIS
6 STATE, OR HIS OR HER DESIGNEE, OR THE PROSECUTING ATTORNEY OF A
7 COUNTY, OR HIS OR HER DESIGNEE.

8 (7) "RECORDS" OR "DOCUMENTARY MATERIALS" MEANS A BOOK,
9 PAPER, DOCUMENT, WRITING, DRAWING, GRAPH, CHART, PHOTOGRAPH, PHO-
10 NORECORD, MAGNETIC TAPE, COMPUTER PROGRAM OR PRINTOUT, ANY OTHER
11 DATA COMPILATION FROM WHICH INFORMATION CAN BE OBTAINED OR TRANS-
12 LATED INTO USABLE FORM, OR ANY OTHER FUNCTIONALLY SIMILAR TANGI-
13 BLE ITEM.

14 (8) "SUBSTITUTED PROCEEDS" MEANS ANY REAL, PERSONAL, OR
15 INTANGIBLE PROPERTY OBTAINED OR ANY GAIN REALIZED BY THE SALE OR
16 EXCHANGE OF PROCEEDS.

17 SEC. 573. "RACKETEERING" MEANS COMMITTING, ATTEMPTING TO
18 COMMIT, CONSPIRING TO COMMIT, OR AIDING OR ABETTING, SOLICITING,
19 COERCING, OR INTIMIDATING A PERSON TO COMMIT AN OFFENSE FOR
20 FINANCIAL GAIN THAT IS CHARGEABLE OR INDICTABLE UNDER THE LAWS OF
21 THIS STATE OR A SUBSTANTIALLY SIMILAR LAW OF THE UNITED STATES
22 OR, IF THE OFFENSE OCCURRED IN ANOTHER STATE, UNDER A SUBSTAN-
23 Tially SIMILAR STATUTE OF THE STATE IN WHICH THE OFFENSE
24 OCCURRED, INVOLVING ANY OF THE FOLLOWING:

25 (A) A FELONY VIOLATION OF SECTION 9 OF ACT NO. 265 OF THE
26 PUBLIC ACTS OF 1947, BEING SECTION 205.509 OF THE MICHIGAN
27 COMPILED LAWS, CONCERNING CIGARETTE TAXES.

1 (B) A FELONY VIOLATION OF PART 74 OR SECTION 17766A OF THE
2 PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
3 SECTIONS 333.7401 TO 333.7461 AND 333.17766A OF THE MICHIGAN
4 COMPILED LAWS, CONCERNING CONTROLLED SUBSTANCES OR ANDROGENIC
5 ANABOLIC STEROIDS.

6 (C) A FELONY VIOLATION OF SECTION 60 OF THE SOCIAL WELFARE
7 ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTION 400.60
8 OF THE MICHIGAN COMPILED LAWS, CONCERNING WELFARE FRAUD.

9 (D) A VIOLATION OF SECTION 4, 5, OR 7 OF THE MEDICAID FALSE
10 CLAIM ACT, ACT NO. 72 OF THE PUBLIC ACTS OF 1977, BEING SECTIONS
11 400.604, 400.605, AND 400.607 OF THE MICHIGAN COMPILED LAWS, CON-
12 CERNING MEDICAID FRAUD.

13 (E) A VIOLATION OF SECTION 2 OR 3 OF THE MICHIGAN ANTITRUST
14 REFORM ACT, ACT NO. 274 OF THE PUBLIC ACTS OF 1984, BEING SEC-
15 TIONS 445.772 AND 445.773 OF THE MICHIGAN COMPILED LAWS, CONCERN-
16 ING RESTRAINT OF TRADE AND MONOPOLIES.

17 (F) A VIOLATION OF SECTION 409 OF THE UNIFORM SECURITIES
18 ACT, ACT NO. 265 OF THE PUBLIC ACTS OF 1964, BEING SECTION
19 451.809 OF THE MICHIGAN COMPILED LAWS, CONCERNING SECURITIES
20 FRAUD.

21 (G) A VIOLATION OF SECTION 5 OR 7 OF ACT NO. 33 OF THE
22 PUBLIC ACTS OF 1978, BEING SECTIONS 722.675 AND 722.677 OF THE
23 MICHIGAN COMPILED LAWS, CONCERNING THE DISPLAY OR DISSEMINATION
24 OF OBSCENE MATTER TO MINORS.

25 (H) A FELONY VIOLATION OF SECTION 72, 73, 74, OR 75, CON-
26 CERNING ARSON.

1 (I) A VIOLATION OF SECTION 93, 94, 95, OR 96, CONCERNING
2 BANK BONDS, BILLS, NOTES, AND PROPERTY.

3 (J) A VIOLATION OF SECTION 117, 118, 119, 120, 121, OR 124,
4 CONCERNING BRIBERY.

5 (K) A VIOLATION OF SECTION 120A, CONCERNING JURY TAMPERING.

6 (L) A VIOLATION OF SECTION 145C, CONCERNING CHILD SEXUALLY
7 ABUSIVE ACTIVITY OR MATERIAL.

8 (M) A FELONY VIOLATION OF SECTION 157N, 157P, 157Q, 157R,
9 157S, 157T, OR 157U, CONCERNING CREDIT CARDS OR FINANCIAL TRANS-
10 ACTION DEVICES.

11 (N) A FELONY VIOLATION OF SECTION 174, 175, 176, 180, 181,
12 OR 182, CONCERNING EMBEZZLEMENT.

13 (O) A FELONY VIOLATION OF CHAPTER XXXIII, CONCERNING EXPLO-
14 SIVES AND BOMBS.

15 (P) A VIOLATION OF SECTION 213, CONCERNING EXTORTION.

16 (Q) A FELONY VIOLATION OF SECTION 218, CONCERNING FALSE
17 PRETENSES.

18 (R) A FELONY VIOLATION OF CHAPTER XLI, CONCERNING FORGERY
19 AND COUNTERFEITING.

20 (S) A VIOLATION OF SECTION 271, 272, 273, OR 274, CONCERNING
21 SECURITIES FRAUD.

22 (T) A VIOLATION OF SECTION 301, 302, 303, 304, 305, 305A, OR
23 313, CONCERNING GAMBLING.

24 (U) A VIOLATION OF SECTION 316 OR 317, CONCERNING MURDER.

25 (V) A VIOLATION OF SECTION 330, 331, OR 332, CONCERNING
26 HORSE RACING.

1 (W) A VIOLATION OF SECTION 349, 349A, OR 350, CONCERNING
2 KIDNAPPING.

3 (X) A FELONY VIOLATION OF CHAPTER LII, CONCERNING LARCENY.

4 (Y) A VIOLATION OF SECTION 422, 423, 424, OR 425, CONCERNING
5 PERJURY AND SUBORNATION OF PERJURY.

6 (Z) A VIOLATION OF SECTION 452, 455, 457, 458, OR 459, CON-
7 CERNING PROSTITUTION.

8 (AA) A VIOLATION OF SECTION 529, 530, OR 531, CONCERNING
9 ROBBERY.

10 (BB) A FELONY VIOLATION OF SECTION 535, 535A, OR 536A, CON-
11 CERNING STOLEN, EMBEZZLED, OR CONVERTED PROPERTY.

12 (CC) A VIOLATION OF SECTION 5 OF ACT NO. 343 OF THE PUBLIC
13 ACTS OF 1984, BEING SECTION 752.365 OF THE MICHIGAN COMPILED
14 LAWS, CONCERNING OBSCENITY.

15 SEC. 574. (1) A PERSON EMPLOYED BY, OR ASSOCIATED WITH, AN
16 ENTERPRISE SHALL NOT KNOWINGLY CONDUCT OR PARTICIPATE IN,
17 DIRECTLY OR INDIRECTLY, THE AFFAIRS OF THE ENTERPRISE THROUGH A
18 PATTERN OF RACKETEERING ACTIVITY.

19 (2) A PERSON SHALL NOT KNOWINGLY, THROUGH A PATTERN OF RACK-
20 ETEERING ACTIVITY, ACQUIRE OR MAINTAIN, DIRECTLY OR INDIRECTLY,
21 AN INTEREST IN OR CONTROL OF AN ENTERPRISE OR REAL OR PERSONAL
22 PROPERTY.

23 (3) A PERSON WHO HAS KNOWINGLY RECEIVED ANY PROCEEDS DERIVED
24 DIRECTLY OR INDIRECTLY FROM A PATTERN OF RACKETEERING ACTIVITY
25 SHALL NOT DIRECTLY OR INDIRECTLY USE OR INVEST ANY PART OF THOSE
26 PROCEEDS, OR ANY PROCEEDS DERIVED FROM THE USE OR INVESTMENT OF
27 ANY OF THOSE PROCEEDS, IN THE ACQUISITION OF ANY TITLE TO, OR A

1 RIGHT, INTEREST, OR EQUITY IN, REAL OR PERSONAL PROPERTY, OR IN
2 THE ESTABLISHMENT OR OPERATION OF AN ENTERPRISE.

3 (4) A PERSON SHALL NOT CONSPIRE OR ATTEMPT TO VIOLATE
4 SUBSECTION (1), (2), OR (3).

5 SEC. 575. (1) A PERSON WHO VIOLATES SECTION 574 IS GUILTY
6 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS
7 OR A FINE OF NOT MORE THAN \$100,000.00, OR BOTH.

8 (2) IN ADDITION TO ANY PENALTY IMPOSED UNDER SUBSECTION (1),
9 THE COURT MAY DO 1 OR MORE OF THE FOLLOWING WITH RESPECT TO A
10 PERSON CONVICTED UNDER SECTION 574:

11 (A) ORDER THE PERSON TO PAY COURT COSTS.

12 (B) ORDER THE PERSON TO PAY TO THE STATE OR LOCAL LAW
13 ENFORCEMENT AGENCY THAT HANDLED THE INVESTIGATION AND PROSECUTION
14 THE COSTS OF THE INVESTIGATION AND PROSECUTION THAT ARE REASON-
15 ABLY INCURRED.

16 (3) THE COURT SHALL HOLD A HEARING TO DETERMINE THE AMOUNT
17 OF COURT COSTS AND OTHER COSTS TO BE IMPOSED UNDER
18 SUBSECTION (2).

19 (4) THE COURT SHALL ORDER A PERSON CONVICTED OF A VIOLATION
20 OF SECTION 574 TO CRIMINALLY FORFEIT TO THE STATE ANY PERSONAL OR
21 REAL PROPERTY IN WHICH HE OR SHE HAS AN INTEREST AND THAT WAS
22 USED IN THE COURSE OF, INTENDED FOR USE IN THE COURSE OF, DERIVED
23 FROM, OR REALIZED THROUGH CONDUCT IN VIOLATION OF SECTION 574,
24 INCLUDING ANY PROPERTY CONSTITUTING AN INTEREST IN, MEANS OF CON-
25 TROL OVER, OR INFLUENCE OVER THE ENTERPRISE INVOLVED IN THE VIO-
26 LATION AND ANY PROPERTY CONSTITUTING PROCEEDS DERIVED FROM THE
27 VIOLATION. IF 1 OF THE PREDICATE ACTS OF RACKETEERING INVOLVED

1 IN THE CONVICTION IS AN OFFENSE LISTED IN SECTION 573(E), THE
2 COURT'S AUTHORITY UNDER THIS SUBSECTION ALSO INCLUDES, BUT IS NOT
3 LIMITED TO, THE AUTHORITY TO DO ANY OF THE FOLLOWING:

4 (A) ORDER THE CONVICTED PERSON TO DIVEST HIMSELF OR HERSELF
5 OF ANY INTEREST, DIRECT OR INDIRECT, IN THE ENTERPRISE.

6 (B) IMPOSE REASONABLE RESTRICTIONS ON THE FUTURE ACTIVITIES
7 OR INVESTMENTS OF THE CONVICTED PERSON, INCLUDING PROHIBITING THE
8 CONVICTED PERSON FROM ENGAGING IN THE SAME TYPE OF ENDEAVOR AS
9 THE ENTERPRISE ENGAGED IN.

10 (C) ORDER THE DISSOLUTION OR REORGANIZATION OF AN
11 ENTERPRISE.

12 (D) ORDER THE SUSPENSION OR REVOCATION OF A LICENSE, PERMIT,
13 OR PRIOR APPROVAL GRANTED TO AN ENTERPRISE BY ANY AGENCY OF THE
14 STATE, COUNTY, OR OTHER POLITICAL SUBDIVISION.

15 (E) ORDER THE SURRENDER OF THE CHARTER OF A CORPORATION
16 ORGANIZED UNDER THE LAWS OF THIS STATE OR THE REVOCATION OF A
17 CERTIFICATE AUTHORIZING A FOREIGN CORPORATION TO CONDUCT BUSINESS
18 WITHIN THIS STATE UPON FINDING THAT THE BOARD OF DIRECTORS OR A
19 MANAGERIAL AGENT ACTING ON BEHALF OF THE CORPORATION, IN CONDUCT-
20 ING THE AFFAIRS OF THE CORPORATION, AUTHORIZED OR ENGAGED IN
21 RACKETEERING AND, FOR THE PREVENTION OF FUTURE CRIMINAL ACTIVITY,
22 THAT THE PUBLIC INTEREST REQUIRES THAT THE CHARTER OR CERTIFICATE
23 OF THE CORPORATION BE SURRENDERED OR REVOKED.

24 (5) A SENTENCE ORDERING CRIMINAL FORFEITURE PURSUANT TO THIS
25 SECTION SHALL NOT BE ENTERED UNLESS THE INDICTMENT OR INFORMATION
26 ALLEGES THE EXTENT OF THE PROPERTY SUBJECT TO FORFEITURE, OR
27 UNLESS THE SENTENCE REQUIRES THE FORFEITURE OF PROPERTY THAT WAS

1 NOT REASONABLY FORESEEN TO BE SUBJECT TO FORFEITURE AT THE TIME
2 OF THE INDICTMENT OR INFORMATION, IF THE PROSECUTING AGENCY GAVE
3 PROMPT NOTICE TO THE DEFENDANT OF THE PROPERTY NOT REASONABLY
4 FORESEEN TO BE SUBJECT TO FORFEITURE WHEN IT WAS DISCOVERED TO BE
5 FORFEITABLE.

6 (6) AT SENTENCING AND FOLLOWING A HEARING, THE COURT SHALL
7 DETERMINE THE EXTENT OF THE PROPERTY SUBJECT TO FORFEITURE, IF
8 ANY, AND SHALL ENTER AN ORDER OF FORFEITURE. THE COURT MAY BASE
9 ITS DETERMINATION ON EVIDENCE IN THE TRIAL RECORD.

10 (7) IF ANY PROPERTY INCLUDED IN THE ORDER OF FORFEITURE PUR-
11 SUANT TO THIS SECTION CANNOT BE LOCATED OR HAS BEEN SOLD TO A
12 BONA FIDE PURCHASER FOR VALUE, PLACED BEYOND THE JURISDICTION OF
13 THE COURT, SUBSTANTIALLY DIMINISHED IN VALUE BY THE CONDUCT OF
14 THE DEFENDANT, OR COMMINGLED WITH OTHER PROPERTY THAT CANNOT BE
15 DIVIDED WITHOUT DIFFICULTY OR UNDUE INJURY TO INNOCENT PERSONS,
16 THE COURT SHALL ORDER FORFEITURE OF ANY OTHER REACHABLE PROPERTY
17 OF THE DEFENDANT UP TO THE VALUE OF THE PROPERTY THAT IS
18 UNREACHABLE.

19 (8) ALL PROPERTY ORDERED FORFEITED PURSUANT TO THIS SECTION
20 SHALL BE RETAINED BY THE LAW ENFORCEMENT AGENCY THAT SEIZED IT
21 FOR DISPOSAL PURSUANT TO SECTION 583.

22 (9) AN ORDER OF CRIMINAL FORFEITURE ENTERED UNDER THIS SEC-
23 TION SHALL AUTHORIZE AN APPROPRIATE LAW ENFORCEMENT AGENCY TO
24 SEIZE THE PROPERTY DECLARED CRIMINALLY FORFEITED UNDER THIS SEC-
25 TION UPON THOSE TERMS AND CONDITIONS RELATING TO THE TIME AND
26 MANNER OF SEIZURE THE COURT DETERMINES PROPER.

1 (10) CRIMINAL PENALTIES UNDER THIS SECTION ARE NOT MUTUALLY
2 EXCLUSIVE AND DO NOT PRECLUDE THE APPLICATION OF ANY OTHER
3 CRIMINAL OR CIVIL REMEDY UNDER THIS SECTION OR ANY OTHER PROVI-
4 SION OF LAW.

5 SEC. 576. (1) UPON THE ENTRY OF THE ORDER OF CRIMINAL FOR-
6 FEITURE PURSUANT TO SECTION 575, THE COURT SHALL CAUSE NOTICE OF
7 THE ORDER TO BE SENT BY CERTIFIED MAIL TO ALL PERSONS KNOWN TO
8 HAVE, OR APPEARING TO HAVE, AN INTEREST IN THE PROPERTY TO BE
9 FORFEITED. TO ASSIST THE COURT IN DETERMINING WHOM TO NOTIFY,
10 THE PROSECUTING AGENCY SHALL CONDUCT A SEARCH OF COUNTY, STATE,
11 AND FEDERAL PUBLIC RECORDS WHERE NOTICE OF LIENS AND SECURITY
12 INTERESTS ARE NORMALLY RECORDED. IF THE NAME AND ADDRESS OF THE
13 PERSON ARE NOT REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE
14 CANNOT REASONABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED
15 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE
16 PROSECUTION OCCURRED FOR 10 SUCCESSIVE PUBLISHING DAYS. PROOF OF
17 WRITTEN NOTICE OR PUBLICATION SHALL BE FILED WITH THE COURT
18 ENTERING THE ORDER OF CRIMINAL FORFEITURE.

19 (2) WITHIN 21 DAYS AFTER RECEIPT OF THE NOTICE OR AFTER THE
20 DATE OF PUBLICATION UNDER SUBSECTION (1), A PERSON, OTHER THAN
21 THE DEFENDANT, WHO CLAIMS AN INTEREST IN THE PROPERTY SUBJECT TO
22 CRIMINAL FORFEITURE MAY PETITION THE COURT FOR A HEARING TO
23 DETERMINE THE VALIDITY OF THE CLAIM. THE PETITION SHALL BE
24 SIGNED AND SWORN TO BY THE PETITIONER AND SHALL SET FORTH THE
25 NATURE AND EXTENT OF THE PETITIONER'S INTEREST IN THE PROPERTY,
26 THE DATE AND CIRCUMSTANCES OF THE PETITIONER'S ACQUISITION OF THE
27 INTEREST, ANY ADDITIONAL ALLEGATIONS SUPPORTING THE CLAIM, AND

1 THE RELIEF SOUGHT. THE PETITIONER SHALL FURNISH THE PROSECUTING
2 AGENCY WITH A COPY OF THE PETITION.

3 (3) THE COURT, TO THE EXTENT PRACTICABLE AND CONSISTENT WITH
4 THE INTERESTS OF JUSTICE, SHALL HOLD THE HEARING WITHIN 28 DAYS
5 AFTER THE FILING OF THE PETITION. THE COURT MAY CONSOLIDATE THE
6 HEARINGS ON ALL PETITIONS FILED BY THIRD PARTY CLAIMANTS UNDER
7 THIS SECTION. AT THE HEARING, THE PETITIONER MAY TESTIFY AND
8 PRESENT EVIDENCE ON HIS OR HER OWN BEHALF AND MAY CROSS-EXAMINE
9 WITNESSES. THE PROSECUTING AGENCY MAY PRESENT EVIDENCE AND WIT-
10 NESSES IN REBUTTAL AND IN DEFENSE OF THE CLAIM OF THE STATE TO
11 THE PROPERTY AND MAY CROSS-EXAMINE WITNESSES. THE COURT, IN
12 MAKING ITS DETERMINATION, SHALL CONSIDER THE TESTIMONY AND EVI-
13 DENCE PRESENTED AT THE HEARING AND THE RELEVANT PORTIONS OF THE
14 RECORD OF THE CRIMINAL PROCEEDING THAT RESULTED IN THE ORDER OF
15 CRIMINAL FORFEITURE.

16 (4) IF THE COURT, BY A PREPONDERANCE OF THE EVIDENCE, DETER-
17 MINES EITHER OF THE FOLLOWING, THE COURT SHALL AMEND, IN ACCORD-
18 ANCE WITH ITS DETERMINATION, THE ORDER OF CRIMINAL FORFEITURE TO
19 PROTECT THE RIGHTS OF INNOCENT PERSONS:

20 (A) THE PETITIONER HAS A LEGAL RIGHT, TITLE, OR INTEREST IN
21 THE PROPERTY THAT, AT THE TIME OF THE COMMISSION OF THE ACTS
22 GIVING RISE TO THE FORFEITURE OF THE PROPERTY, WAS VESTED IN THE
23 PETITIONER AND NOT IN THE DEFENDANT OR WAS SUPERIOR TO THE RIGHT,
24 TITLE, OR INTEREST OF THE DEFENDANT.

25 (B) THE PETITIONER IS A BONA FIDE PURCHASER FOR VALUE OF THE
26 RIGHT, TITLE, OR INTEREST IN THE PROPERTY AND WAS AT THE TIME OF

1 THE PURCHASE REASONABLY WITHOUT CAUSE TO BELIEVE THAT THE
2 PROPERTY WAS SUBJECT TO FORFEITURE UNDER SECTION 575.

3 SEC. 577. (1) IN A PROSECUTION UNDER SECTION 574, THE COURT
4 HAS JURISDICTION TO ENTER SUCH RESTRAINING ORDERS OR INJUNCTIONS
5 OR TO TAKE OTHER ACTION BY ORDER, INCLUDING, BUT NOT LIMITED TO,
6 THE ACCEPTANCE OF SATISFACTORY PERFORMANCE BONDS, IN CONNECTION
7 WITH ANY PROPERTY SUBJECT TO CRIMINAL FORFEITURE UNDER
8 SECTION 575, AS THE COURT CONSIDERS PROPER.

9 (2) WITHIN 14 DAYS AFTER THE ENTRY OF AN ORDER DESCRIBED IN
10 SUBSECTION (1), THE PROSECUTING AGENCY SHALL NOTIFY ALL PERSONS
11 KNOWN TO HAVE OR APPEARING TO HAVE AN INTEREST IN THE PROPERTY OF
12 THE ORDER, BY CERTIFIED MAIL. IN DETERMINING WHOM TO NOTIFY
13 UNDER THIS SUBSECTION, THE PROSECUTING AGENCY SHALL CONDUCT A
14 SEARCH OF COUNTY, STATE, AND FEDERAL PUBLIC RECORDS WHERE NOTICES
15 OF LIENS AND SECURITY INTERESTS ARE NORMALLY RECORDED.

16 (3) NOTWITHSTANDING ANY PROVISION IN SECTIONS 575 TO 577,
17 THE PROSECUTING AGENCY SHALL NOT SEIZE MATERIALS SUBJECT TO PRO-
18 TECTION UNDER THE FIRST AMENDMENT TO THE CONSTITUTION OF THE
19 UNITED STATES IN A MANNER THAT VIOLATES THAT CONSTITUTIONAL
20 PROVISION.

21 SEC. 578. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
22 ALL REAL OR PERSONAL PROPERTY THAT IS THE PROCEEDS OF RACKETEER-
23 ING, THE SUBSTITUTED PROCEEDS OF RACKETEERING, OR AN INSTRUMEN-
24 Tality OF RACKETEERING, IS SUBJECT TO CIVIL IN REM FORFEITURE TO
25 A LOCAL UNIT OF GOVERNMENT OR THE STATE UNDER SECTIONS 578 TO
26 582.

1 (2) REAL PROPERTY THAT IS THE PRIMARY RESIDENCE OF THE
2 SPOUSE OR A DEPENDENT CHILD OF THE OWNER IS NOT SUBJECT TO CIVIL
3 IN REM FORFEITURE UNDER SECTIONS 578 TO 582, UNLESS THAT SPOUSE
4 OR DEPENDENT CHILD HAD PRIOR ACTUAL KNOWLEDGE OF, AND CONSENTED
5 TO THE COMMISSION OF, THE OFFENSE.

6 (3) PROPERTY IS NOT SUBJECT TO CIVIL IN REM FORFEITURE IF
7 EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

8 (A) THE OWNER OF THE PROPERTY DID NOT HAVE PRIOR ACTUAL
9 KNOWLEDGE OF THE COMMISSION OF THE RACKETEERING ACTIVITY.

10 (B) THE OWNER OF THE PROPERTY SERVED NOTICE OF THE COMMIS-
11 SION OF THE CRIME UPON AN APPROPRIATE LAW ENFORCEMENT AGENCY.

12 (4) THE CIVIL IN REM FORFEITURE OF PROPERTY ENCUMBERED BY A
13 SECURITY INTEREST IS SUBJECT TO THE INTEREST OF THE HOLDER OF THE
14 SECURITY INTEREST WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF THE
15 RACKETEERING ACTIVITY.

16 (5) THE CIVIL IN REM FORFEITURE OF PROPERTY ENCUMBERED BY AN
17 UNPAID BALANCE ON A LAND CONTRACT IS SUBJECT TO THE INTEREST OF
18 THE LAND CONTRACT VENDOR WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE
19 OF THE RACKETEERING ACTIVITY.

20 SEC. 579. (1) A CIVIL IN REM FORFEITURE PROCEEDING UNDER
21 THIS CHAPTER IS A PROCEEDING AGAINST PROPERTY SUBJECT TO FORFEI-
22 TURE UNDER SECTION 578 INSTITUTED BY THE FILING OF A PETITION BY
23 THE PROSECUTING AGENCY.

24 (2) PERSONAL PROPERTY SUBJECT TO CIVIL IN REM FORFEITURE
25 UNDER SECTION 578 MAY BE SEIZED PURSUANT TO AN ORDER OF SEIZURE
26 ISSUED BY THE COURT HAVING JURISDICTION OVER THE PROPERTY.

1 (3) UPON AN EX PARTE APPLICATION BY THE PROSECUTING AGENCY,
2 BEFORE OR AFTER THE INITIATION OF A CIVIL IN REM FORFEITURE
3 PROCEEDING, THE COURT MAY DETERMINE EX PARTE WHETHER THERE IS
4 PROBABLE CAUSE TO BELIEVE THAT PROPERTY IS SUBJECT TO CIVIL IN
5 REM FORFEITURE UNDER SECTION 578 AND THAT NOTICE TO THOSE PERSONS
6 HAVING OR CLAIMING AN INTEREST IN THE PROPERTY BEFORE SEIZURE
7 WOULD CAUSE THE LOSS OR DESTRUCTION OF THE PROPERTY. IN MAKING
8 THIS DETERMINATION, THE COURT SHALL, AS A MATTER OF LAW, MAKE A
9 DETERMINATION THAT THE PROPERTY CONSTITUTED AN INTEREST IN, MEANS
10 OF CONTROL OVER, OR INFLUENCE OVER AN ENTERPRISE INVOLVED IN A
11 VIOLATION OF SECTION 574. IF THE COURT FINDS THAT PROBABLE CAUSE
12 DOES NOT EXIST TO BELIEVE THE PROPERTY IS SUBJECT TO FORFEITURE
13 UNDER THIS ACT, THE COURT SHALL DISMISS THE PLAINTIFF PROSECUTING
14 AGENCY'S APPLICATION AND, IF A CIVIL IN REM FORFEITURE PROCEEDING
15 HAS BEEN INITIATED, SHALL DISMISS THE PETITION. IF THE COURT
16 FINDS THAT PROBABLE CAUSE DOES EXIST TO BELIEVE THE PROPERTY IS
17 SUBJECT TO FORFEITURE BUT THERE IS NOT PROBABLE CAUSE TO BELIEVE
18 THAT PRIOR NOTICE WOULD RESULT IN LOSS OR DESTRUCTION OF THE
19 PROPERTY, THE COURT SHALL ORDER SERVICE ON ALL PERSONS KNOWN TO
20 HAVE OR CLAIM AN INTEREST IN THE PROPERTY BEFORE A FURTHER HEAR-
21 ING ON WHETHER AN ORDER OF SEIZURE SHOULD ISSUE. IF THE COURT
22 FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
23 IS SUBJECT TO FORFEITURE AND TO BELIEVE THAT PRIOR NOTICE WOULD
24 CAUSE LOSS OR DESTRUCTION OF THE PROPERTY, THE COURT SHALL ISSUE
25 AN ORDER OF SEIZURE DIRECTING THE SHERIFF OR OTHER LAW ENFORCE-
26 MENT OFFICER IN THE COUNTY WHERE THE PROPERTY IS FOUND TO SEIZE
27 IT.

1 (4) PERSONAL PROPERTY SUBJECT TO CIVIL IN REM FORFEITURE
2 UNDER THIS CHAPTER MAY BE SEIZED WITHOUT PROCESS UNDER ANY OF THE
3 FOLLOWING CIRCUMSTANCES:

4 (A) THE SEIZURE IS INCIDENT TO A LAWFUL ARREST.

5 (B) THE SEIZURE IS PURSUANT TO A VALID SEARCH WARRANT.

6 (C) THE SEIZURE IS PURSUANT TO AN INSPECTION UNDER A VALID
7 ADMINISTRATIVE INSPECTION WARRANT.

8 (D) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS
9 DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY.

10 (E) EXIGENT CIRCUMSTANCES EXIST THAT PRECLUDE THE OBTAINING
11 OF A COURT ORDER, AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
12 PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
13 SECTION 578.

14 (F) THE PROPERTY IS THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR
15 OF THIS STATE IN A FORFEITURE PROCEEDING.

16 (5) THE PROSECUTING AGENCY MAY APPLY EX PARTE FOR AN ORDER
17 AUTHORIZING THE FILING OF A LIEN NOTICE AGAINST REAL PROPERTY
18 SUBJECT TO CIVIL IN REM FORFEITURE UNDER SECTION 578. THE APPLI-
19 CATION SHALL BE SUPPORTED BY A SWORN AFFIDAVIT SETTING FORTH
20 PROBABLE CAUSE FOR A CIVIL IN REM FORFEITURE ACTION PURSUANT TO
21 SECTIONS 578 TO 582. AN ORDER AUTHORIZING THE FILING OF A LIEN
22 NOTICE MAY BE ISSUED UPON A SHOWING OF PROBABLE CAUSE TO BELIEVE
23 THAT THE PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
24 SECTION 578.

25 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
26 PROSECUTING AGENCY SHALL NOT SEIZE MATERIALS SUBJECT TO
27 PROTECTION UNDER THE FIRST AMENDMENT TO THE CONSTITUTION OF THE

1 UNITED STATES IN A MANNER THAT VIOLATES THAT CONSTITUTIONAL
2 PROVISION.

3 (7) PROPERTY THAT BELONGS TO THE VICTIM OF A CRIME SHALL
4 PROMPTLY BE RETURNED TO THE VICTIM, EXCEPT IN THE FOLLOWING
5 CIRCUMSTANCES:

6 (A) THE PROPERTY IS CONTRABAND.

7 (B) IF THE OWNERSHIP OF THE PROPERTY IS DISPUTED, UNTIL THE
8 DISPUTE IS RESOLVED.

9 (C) THE PROPERTY IS REQUIRED TO BE RETAINED AS EVIDENCE PUR-
10 SUANT TO SECTION 4(4) OF THE CRIME VICTIM'S RIGHTS ACT, ACT
11 NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTION 780.754 OF THE
12 MICHIGAN COMPILED LAWS.

13 (8) PERSONAL PROPERTY SEIZED UNDER THIS SECTION IS NOT
14 SUBJECT TO ANY OTHER ACTION TO RECOVER PERSONAL PROPERTY, BUT IS
15 CONSIDERED TO BE IN THE CUSTODY OF THE SEIZING AGENCY SUBJECT
16 ONLY TO THIS CHAPTER, OR TO AN ORDER AND JUDGMENT OF THE COURT
17 HAVING JURISDICTION OVER THE CIVIL IN REM FORFEITURE
18 PROCEEDINGS. WHEN PROPERTY IS SEIZED UNDER THIS SECTION, THE
19 SEIZING AGENCY MAY DO EITHER OR BOTH OF THE FOLLOWING:

20 (A) PLACE THE PROPERTY UNDER SEAL.

21 (B) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

22 SEC. 580. (1) WITHIN 14 DAYS AFTER PERSONAL PROPERTY IS
23 SEIZED OR A LIEN NOTICE IS FILED AGAINST REAL PROPERTY UNDER SEC-
24 TION 579, THE PROSECUTING AGENCY SHALL GIVE NOTICE PURSUANT TO
25 THIS SECTION OF THE SEIZURE OF THE PROPERTY AND THE INTENT TO
26 FORFEIT AND DISPOSE OF THE PROPERTY ACCORDING TO THIS CHAPTER.
27 THIS 14-DAY NOTICE PERIOD IS NOT JURISDICTIONAL. THE PROSECUTING

1 AGENCY MAY MOVE FOR AN EXTENSION OF THE NOTICE PERIOD FOR GOOD
2 CAUSE SHOWN. THE PROSECUTING AGENCY SHALL GIVE THE NOTICE TO
3 EACH OF THE FOLLOWING PERSONS:

4 (A) IF CHARGES HAVE BEEN FILED AGAINST A PERSON FOR A CRIME,
5 THE PERSON CHARGED.

6 (B) EACH PERSON WITH A KNOWN OWNERSHIP INTEREST IN THE
7 PROPERTY.

8 (C) EACH MORTGAGEE, PERSON HOLDING A SECURITY INTEREST, OR
9 PERSON HAVING A LIEN THAT APPEARS ON THE CERTIFICATE OF TITLE OR
10 IS ON FILE WITH THE SECRETARY OF STATE OR APPROPRIATE REGISTER OF
11 DEEDS, IF THE PROPERTY IS REAL PROPERTY, A MOBILE HOME, MOTOR
12 VEHICLE, WATERCRAFT, OR OTHER PERSONAL PROPERTY.

13 (D) EACH HOLDER OF A PREFERRED SHIP MORTGAGE OF RECORD IN
14 THE APPROPRIATE PUBLIC OFFICE PURSUANT TO CHAPTER 313 OF SUBTITLE
15 III OF TITLE 46 OF THE UNITED STATES CODE, IF THE PROPERTY IS A
16 WATERCRAFT MORE THAN 28 FEET LONG OR A WATERCRAFT THAT HAS A
17 CAPACITY OF 5 NET TONS OR MORE.

18 (E) EACH PERSON WHOSE SECURITY INTEREST IS RECORDED WITH THE
19 APPROPRIATE PUBLIC OFFICE PURSUANT TO THE FEDERAL AVIATION ACT OF
20 1958, PUBLIC LAW 85-726, 72 STAT. 731, IF THE PROPERTY IS AN AIR-
21 CRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER, OR A PART OF AN
22 AIRCRAFT, AIRCRAFT ENGINE, OR AIRCRAFT PROPELLER.

23 (F) EACH PERSON WITH A KNOWN SECURITY INTEREST IN THE
24 PROPERTY.

25 (G) EACH VICTIM OF THE CRIME.

26 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL BE A
27 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY

1 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
2 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
3 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
4 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
5 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
6 CESSIVE PUBLISHING DAYS. PROOF OF WRITTEN NOTICE OR PUBLICATION
7 SHALL BE FILED WITH THE COURT HAVING JURISDICTION OVER THE SEI-
8 ZURE OR FORFEITURE.

9 (3) IF PERSONAL PROPERTY IS SEIZED, THE SEIZING AGENCY SHALL
10 IMMEDIATELY NOTIFY THE PROSECUTING AGENCY OF THE SEIZURE OF THE
11 PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF THE PROPERTY
12 ACCORDING TO THIS CHAPTER.

13 SEC. 581. (1) A PERSON CLAIMING AN INTEREST IN PROPERTY OR
14 PROCEEDS SUBJECT TO FORFEITURE MAY, AT ANY TIME WITHIN 28 DAYS
15 AFTER THE DATE OF THE COMPLETION OF THE PUBLICATION PURSUANT TO
16 SECTION 580 OR WITHIN 21 DAYS AFTER RECEIPT OF ACTUAL NOTICE PUR-
17 SUANT TO SECTION 580, FILE WITH THE PROSECUTING AGENCY A VERIFIED
18 CLAIM STATING HIS OR HER INTEREST IN THE PROPERTY OR PROCEEDS.

19 (2) IF NO CLAIM IS FILED WITHIN THE PERIOD SPECIFIED IN SUB-
20 SECTION (1), THE PROSECUTING AGENCY SHALL DECLARE THE PROPERTY
21 FORFEITED AND SHALL DISPOSE OF THE PROPERTY ACCORDING TO SECTION
22 583.

23 (3) IF A CLAIM IS FILED WITHIN THE PERIOD SPECIFIED IN SUB-
24 SECTION (1), THE PROSECUTING AGENCY SHALL INSTITUTE A CIVIL IN
25 REM FORFEITURE ACTION WITHIN 7 DAYS AFTER THE EXPIRATION OF THE
26 PERIOD SPECIFIED IN SUBSECTION (1).

1 SEC. 582. (1) AT THE CIVIL IN REM FORFEITURE PROCEEDING, IN
2 WHICH THE COURT SHALL ACT AS TRIER OF FACT, THE PROSECUTING
3 AGENCY HAS THE BURDEN OF PROVING BOTH OF THE FOLLOWING BY A PRE-
4 PONDERANCE OF THE EVIDENCE:

5 (A) THE PROPERTY IS SUBJECT TO CIVIL IN REM FORFEITURE UNDER
6 SECTION 578.

7 (B) THE PERSON CLAIMING AN OWNERSHIP OR SECURITY INTEREST IN
8 THE PROPERTY HAD ACTUAL PRIOR KNOWLEDGE OF THE COMMISSION OF AN
9 OFFENSE LISTED IN THE DEFINITION OF RACKETEERING UNDER SECTION
10 573.

11 (2) IF THE PROSECUTING AGENCY FAILS TO MEET THE BURDEN OF
12 PROOF UNDER SUBSECTION (1), THE PROPERTY SHALL BE RETURNED TO THE
13 OWNER WITHIN 28 DAYS AFTER A WRITTEN ORDER IS ENTERED TO RETURN
14 THE PROPERTY, UNLESS AN APPELLATE COURT STAYS THE ORDER. IN
15 ADDITION, THE PROSECUTING AGENCY SHALL REIMBURSE THE OWNER FOR
16 DAMAGES RELATED TO TOWING COSTS, STORAGE FEES AND EXPENSES, FORE-
17 CLOSURE COSTS, AND OTHER SIMILAR EXPENSES.

18 (3) IF THE PROSECUTING AGENCY MEETS THE BURDEN OF PROOF
19 UNDER SUBSECTION (1), THE PROPERTY SHALL BE DISPOSED OF PURSUANT
20 TO SECTION 583.

21 (4) WITHIN 7 DAYS AFTER PERSONAL PROPERTY IS RETURNED TO THE
22 OWNER, OR A LIEN FILED AGAINST REAL PROPERTY OR A MOTOR VEHICLE
23 IS DISCHARGED, THE PROSECUTING AGENCY THAT GAVE NOTICE OF THE
24 SEIZURE OF THE PROPERTY AND THE INTENT TO FORFEIT AND DISPOSE OF
25 THE PROPERTY PURSUANT TO SECTION 580 SHALL GIVE NOTICE TO THE
26 PERSONS WHO RECEIVED NOTICE PURSUANT TO SECTION 580 THAT THE

1 PROPERTY HAS BEEN RETURNED TO THE OWNER OR THAT THE LIEN HAS BEEN
2 DISCHARGED.

3 (5) THE NOTICE REQUIRED UNDER SUBSECTION (4) SHALL BE A
4 WRITTEN NOTICE DELIVERED TO THE PERSON OR SENT TO THE PERSON BY
5 CERTIFIED MAIL. IF THE NAME AND ADDRESS OF THE PERSON ARE NOT
6 REASONABLY ASCERTAINABLE OR DELIVERY OF THE NOTICE CANNOT REASON-
7 ABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED IN A NEWSPA-
8 PER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PERSONAL
9 PROPERTY WAS SEIZED OR THE REAL PROPERTY IS LOCATED FOR 10 SUC-
10 CESSIVE PUBLISHING DAYS.

11 (6) A DEFENDANT CONVICTED IN A CRIMINAL PROCEEDING IS
12 ESTOPPED FROM SUBSEQUENTLY DENYING IN A CIVIL ACTION THE ESSEN-
13 TIAL ALLEGATIONS OF THE CRIMINAL OFFENSE OF WHICH HE OR SHE WAS
14 CONVICTED.

15 (7) IF A CIVIL IN REM FORFEITURE ACTION HAS BEEN COMMENCED
16 PURSUANT TO THIS CHAPTER, THE DISMISSAL OF A CRIMINAL CASE OR AN
17 ACQUITTAL ON A CRIMINAL CHARGE BROUGHT AGAINST A PARTY WHO HAS OR
18 MAY HAVE AN INTEREST IN PROPERTY OR AN ITEM AT ISSUE IN THE CIVIL
19 IN REM FORFEITURE ACTION DOES NOT PRECLUDE OR ADVERSELY AFFECT
20 THE CONTINUED LITIGATION AGAINST THE PROPERTY OR ITEM IN THE
21 CIVIL IN REM FORFEITURE ACTION.

22 (8) THE TESTIMONY OF A PERSON AT A CIVIL IN REM FORFEITURE
23 PROCEEDING HELD UNDER THIS CHAPTER IS NOT ADMISSIBLE AGAINST HIM
24 OR HER, EXCEPT FOR THE PURPOSE OF IMPEACHMENT, IN A CRIMINAL PRO-
25 CEEDING OTHER THAN A CRIMINAL PROSECUTION FOR PERJURY. THE TES-
26 TIMONY OF A PERSON AT A CIVIL IN REM FORFEITURE PROCEEDING HELD

1 UNDER THIS CHAPTER DOES NOT WAIVE THE PERSON'S CONSTITUTIONAL
2 RIGHT AGAINST SELF-INCRIMINATION.

3 SEC. 583. (1) IF PROPERTY IS CRIMINALLY OR CIVILLY FOR-
4 FEITED UNDER THIS CHAPTER, THE UNIT OF GOVERNMENT THAT SEIZED OR
5 FILED A LIEN AGAINST THE PROPERTY MAY SELL THE PROPERTY THAT IS
6 NOT REQUIRED TO BE DESTROYED BY LAW AND THAT IS NOT HARMFUL TO
7 THE PUBLIC AND MAY DISPOSE OF THE MONEY RECEIVED FROM THE SALE OF
8 THE PROPERTY AND ANY MONEY, NEGOTIABLE INSTRUMENT, SECURITY, OR
9 OTHER THING OF VALUE THAT IS FORFEITED PURSUANT TO THIS CHAPTER
10 IN THE FOLLOWING ORDER OF PRIORITY:

11 (A) PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED PARTY
12 WHO DID NOT HAVE PRIOR ACTUAL KNOWLEDGE OF, OR CONSENT TO THE
13 COMMISSION OF, THE CRIME.

14 (B) SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION FOR
15 THE CRIME.

16 (C) PAY THE CLAIM OF EACH PERSON WHO SHOWS THAT HE OR SHE IS
17 A VICTIM OF THE CRIME TO THE EXTENT THAT THE CLAIM IS NOT COVERED
18 BY AN ORDER OF RESTITUTION.

19 (D) PAY ANY VALID OUTSTANDING LIEN AGAINST THE PROPERTY THAT
20 HAS BEEN IMPOSED BY A GOVERNMENTAL UNIT.

21 (E) PAY THE PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEI-
22 TURE AND SALE, INCLUDING, BUT NOT LIMITED TO, EXPENSES INCURRED
23 DURING THE SEIZURE PROCESS AND EXPENSES FOR MAINTAINING CUSTODY
24 OF THE PROPERTY, ADVERTISING, AND COURT COSTS.

25 (F) THE BALANCE REMAINING AFTER THE PAYMENT OF RESTITUTION,
26 THE CLAIMS OF VICTIMS, OUTSTANDING LIENS, AND EXPENSES SHALL BE
27 DISTRIBUTED BY THE COURT HAVING JURISDICTION OVER THE FORFEITURE

1 PROCEEDINGS TO THE UNIT OR UNITS OF GOVERNMENT SUBSTANTIALLY
2 INVOLVED IN EFFECTING THE FORFEITURE. THE MONEY RECEIVED BY A
3 UNIT OF GOVERNMENT UNDER THIS SUBDIVISION SHALL BE USED TO
4 ENHANCE ENFORCEMENT OF THE CRIMINAL LAWS.

5 (2) IN THE COURSE OF SELLING REAL PROPERTY PURSUANT TO SUB-
6 SECTION (1), THE COURT THAT ENTERS AN ORDER OR SENTENCE OF FOR-
7 FEITURE, ON MOTION OF THE UNIT OF GOVERNMENT TO WHICH THE PROP-
8 ERTY IS FORFEITED, MAY APPOINT A RECEIVER TO DISPOSE OF THE REAL
9 PROPERTY FORFEITED. THE RECEIVER IS ENTITLED TO REASONABLE
10 COMPENSATION. THE RECEIVER MAY DO ALL OF THE FOLLOWING:

11 (A) LIST THE FORFEITED REAL PROPERTY FOR SALE.

12 (B) MAKE WHATEVER ARRANGEMENTS ARE NECESSARY FOR MAINTAINING
13 AND PRESERVING THE FORFEITED REAL PROPERTY.

14 (C) ACCEPT OFFERS TO PURCHASE THE FORFEITED REAL PROPERTY.

15 (D) EXECUTE INSTRUMENTS TRANSFERRING TITLE TO THE FORFEITED
16 REAL PROPERTY.

17 SEC. 584. A CIVIL IN REM FORFEITURE ACTION UNDER THIS CHAP-
18 TER RELATED TO AN OFFENSE INCLUDED IN THE DEFINITION OF RACKE-
19 TEERING UNDER SECTION 573 OR A VIOLATION OF SECTION 574 SHALL BE
20 COMMENCED WITHIN 6 YEARS AFTER THE ACTIVITY TERMINATES OR THE
21 CAUSE OF ACTION ACCRUES, WHICHEVER IS LATER.

22 SEC. 585. THIS CHAPTER DOES NOT CREATE A CAUSE OF ACTION
23 BETWEEN 2 OR MORE PERSONS.

24 SEC. 586. THIS CHAPTER DOES NOT PRECLUDE A PROSECUTING
25 AGENCY FROM PURSUING A FORFEITURE PROCEEDING UNDER ANY OTHER LAW
26 OF THIS STATE.

1 SEC. 587. (1) IF THE PROSECUTING AGENCY HAS PROBABLE CAUSE
2 TO BELIEVE THAT A PERSON HAS INFORMATION, OR IS IN POSSESSION,
3 CUSTODY, OR CONTROL OF ANY RECORDS, DOCUMENTARY MATERIALS, OR
4 OTHER OBJECT, RELEVANT TO AN INVESTIGATION FOR AN OFFENSE
5 INCLUDED IN THE DEFINITION OF RACKETEERING UNDER SECTION 573 OR A
6 VIOLATION OF SECTION 574, THE PROSECUTING AGENCY MAY SERVE UPON
7 THE PERSON, BEFORE BRINGING ANY ACTION, A WRITTEN DEMAND TO
8 APPEAR AND BE EXAMINED UNDER OATH, AND TO PRODUCE THE RECORDS,
9 DOCUMENTARY MATERIALS, OR OBJECT FOR INSPECTION AND COPYING. THE
10 DEMAND SHALL DO ALL OF THE FOLLOWING:

11 (A) DESCRIBE THE NATURE OF THE CONDUCT CONSTITUTING THE VIO-
12 LATION UNDER INVESTIGATION.

13 (B) DESCRIBE THE RECORDS, DOCUMENTARY MATERIALS, OR OBJECT
14 REQUESTED WITH SUFFICIENT DEFINITENESS TO PERMIT THEM TO BE
15 FAIRLY IDENTIFIED.

16 (C) CONTAIN A COPY OF ANY WRITTEN INTERROGATORIES.

17 (D) PRESCRIBE A REASONABLE TIME AT WHICH THE PERSON MUST
18 APPEAR TO TESTIFY, WITHIN WHICH TO ANSWER THE WRITTEN INTERROGA-
19 TORIES, AND WITHIN WHICH THE RECORDS, DOCUMENTARY MATERIALS, OR
20 OBJECT MUST BE PRODUCED.

21 (E) ADVISE THE PERSON THAT OBJECTIONS TO OR REASONS FOR NOT
22 COMPLYING WITH THE DEMAND MAY BE FILED WITH THE PROSECUTING
23 AGENCY ON OR BEFORE THE TIME PRESCRIBED PURSUANT TO SUBDIVISION
24 (D).

25 (F) SPECIFY A PLACE FOR THE TAKING OF TESTIMONY OR FOR PRO-
26 Duction, AND DESIGNATE THE PERSON WHO SHALL BE CUSTODIAN OF THE
27 RECORDS, DOCUMENTARY MATERIALS, OR OBJECT.

1 (G) SPECIFY THAT THE PERSON MAY HAVE AN ATTORNEY PRESENT IF
2 TESTIMONY IS TO BE PROVIDED UNDER THIS SECTION AND THAT AN ATTOR-
3 NEY MAY ADVISE THE PERSON AS TO INTERROGATORIES, RECORDS, AND
4 DOCUMENTS REQUESTED BY THE PROSECUTING AGENCY UNDER THIS
5 SECTION.

6 (2) IF A PERSON OBJECTS TO OR OTHERWISE FAILS TO COMPLY WITH
7 THE WRITTEN DEMAND SERVED UPON HIM OR HER UNDER SUBSECTION (1),
8 THE PROSECUTING AGENCY MAY FILE IN THE CIRCUIT COURT OF THE
9 COUNTY IN WHICH THE PERSON RESIDES OR IN WHICH THE PERSON MAIN-
10 TAINS A PRINCIPAL PLACE OF BUSINESS WITHIN THIS STATE AN ACTION
11 TO ENFORCE THE DEMAND. NOTICE OF HEARING THE ACTION AND A COPY
12 OF ALL PLEADINGS SHALL BE SERVED UPON THE PERSON, WHO MAY APPEAR
13 IN OPPOSITION. IF THE COURT FINDS THAT THE DEMAND IS PROPER,
14 THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THERE MAY HAVE
15 BEEN OR IS PRESENTLY OCCURRING A VIOLATION DESCRIBED IN
16 SUBSECTION (1), AND THAT THE INFORMATION SOUGHT OR RECORDS, DOCU-
17 MENTARY MATERIALS, OR OBJECT DEMANDED IS RELEVANT TO THE INVESTI-
18 GATION, THE COURT SHALL ORDER THE PERSON TO COMPLY WITH THE
19 DEMAND, SUBJECT TO ANY MODIFICATION THE COURT MAY PRESCRIBE.
20 UPON MOTION BY THE PERSON AND FOR GOOD CAUSE SHOWN, THE COURT MAY
21 MAKE ANY FURTHER ORDER IN THE PROCEEDINGS THAT JUSTICE REQUIRES
22 TO PROTECT THE PERSON FROM UNREASONABLE ANNOYANCE, EMBARRASSMENT,
23 OPPRESSION, BURDEN, OR EXPENSE.

24 (3) ANY PROCEDURE, TESTIMONY TAKEN, OR MATERIAL PRODUCED
25 SHALL BE KEPT CONFIDENTIAL BY THE PROSECUTING AGENCY BEFORE
26 BRINGING AN ACTION AGAINST A PERSON UNDER THIS CHAPTER OR FOR A
27 VIOLATION DESCRIBED IN SUBSECTION (1) UNLESS CONFIDENTIALITY IS

1 WAIVED BY THE PERSON BEING INVESTIGATED AND THE PERSON WHO HAS
2 TESTIFIED, ANSWERED INTERROGATORIES, OR PRODUCED MATERIAL, OR
3 DISCLOSURE IS AUTHORIZED BY THE COURT. MATERIALS AND INFORMATION
4 OBTAINED UNDER THIS SECTION ARE CONFIDENTIAL AND EXEMPT FROM DIS-
5 CLOSURE UNDER THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE
6 PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
7 MICHIGAN COMPILED LAWS.

8 (4) THIS SECTION DOES NOT DIMINISH A PERSON'S CONSTITUTIONAL
9 RIGHT AGAINST SELF-INCRIMINATION.

10 SEC. 588. (1) SERVICE OF THE DEMAND FOR DOCUMENTS OR ANY
11 PETITION FILED UNDER SECTION 587 MAY BE MADE UPON A PERSON BY 1
12 OF THE FOLLOWING METHODS:

13 (A) DELIVERING A DULY EXECUTED COPY OF THE DEMAND OR PETI-
14 TION TO ANY PARTNER, EXECUTIVE OFFICER, MANAGING AGENT, GENERAL
15 AGENT, OR RESIDENT AGENT OF THE PERSON, AUTHORIZED BY APPOINTMENT
16 OR BY LAW TO RECEIVE SERVICE OF PROCESS ON BEHALF OF THE PERSON,
17 OR BY PERSONAL SERVICE UPON THE INDIVIDUAL.

18 (B) DELIVERING A DULY EXECUTED COPY OF THE DEMAND OR PETI-
19 TION TO THE RESIDENCE, PRINCIPAL OFFICE, OR PLACE OF BUSINESS OF
20 THE PERSON.

21 (C) DEPOSITING THE COPY IN THE UNITED STATES MAIL, BY REGIS-
22 TERED MAIL, ADDRESSED TO THE PERSON AT HIS OR HER RESIDENCE,
23 PRINCIPAL OFFICE, OR PLACE OF BUSINESS.

24 (2) A VERIFIED RETURN BY THE INDIVIDUAL SERVING THE DEMAND
25 OR PETITION SETTING FORTH THE MANNER OF THE SERVICE IS PRIMA
26 FACIE PROOF OF THE SERVICE. IN THE CASE OF SERVICE BY REGISTERED

1 MAIL, THE RETURN SHALL BE ACCOMPANIED BY THE RETURN POST OFFICE
2 RECEIPT OF DELIVERY OF THE DEMAND.