

# HOUSE BILL No. 5823

March 2, 2006, Introduced by Reps. Van Regenmorter and David Law and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 49, 159j, and 535a (MCL 750.49, 750.159j, and 750.535a), section 49 as amended by 1998 PA 38, section 159j as added by 1995 PA 187, and section 535a as amended by 1999 PA 185.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 49. (1) As used in this section, "animal" means a  
2       vertebrate other than a human.

3       (2) A person shall not knowingly do any of the following:

4       (a) Own, possess, use, buy, sell, offer to buy or sell,  
5       import, or export an animal for fighting or baiting, or as a target  
6       to be shot at as a test of skill in marksmanship.

1 (b) Be a party to or cause the fighting, baiting, or shooting  
2 of an animal as described in subdivision (a).

3 (c) Rent or otherwise obtain the use of a building, shed,  
4 room, yard, ground, or premises for fighting, baiting, or shooting  
5 an animal as described in subdivision (a).

6 (d) Permit the use of a building, shed, room, yard, ground, or  
7 premises belonging to him or her or under his or her control for  
8 any of the purposes described in this section.

9 (e) Organize, promote, or collect money for the fighting,  
10 baiting, or shooting of an animal as described in subdivisions (a)  
11 to (d).

12 (f) Be present at a building, shed, room, yard, ground, or  
13 premises where preparations are being made for an exhibition  
14 described in subdivisions (a) to (d), or be present at the  
15 exhibition, knowing that an exhibition is taking place or about to  
16 take place.

17 (g) Breed, buy, sell, offer to buy or sell, exchange, import,  
18 or export an animal the person knows has been trained or used for  
19 fighting as described in subdivisions (a) to (d), or breed, buy,  
20 sell, offer to buy or sell, exchange, import, or export the  
21 offspring of an animal the person knows has been trained or used  
22 for fighting as described in subdivisions (a) to (d). This  
23 subdivision does not prohibit owning, breeding, buying, selling,  
24 offering to buy or sell, exchanging, importing, or exporting an  
25 animal for agricultural or agricultural exposition purposes.

26 (h) Own, possess, use, buy, sell, offer to buy or sell,  
27 transport, or deliver any device or equipment intended for use in

1 the fighting, baiting, or shooting of an animal as described in  
2 subdivisions (a) to (d).

3 (3) A person who violates subsection (2)(a) to (e) is guilty  
4 of a felony punishable by 1 or more of the following:

5 (a) Imprisonment for not more than 4 years.

6 (b) A fine of not less than \$5,000.00 or more than \$50,000.00.

7 (c) Not less than 500 or more than 1,000 hours of community  
8 service.

9 (4) A person who violates subsection (2)(f) to (h) is guilty  
10 of a felony punishable by 1 or more of the following:

11 (a) Imprisonment for not more than 4 years.

12 (b) A fine of not less than \$1,000.00 or more than \$5,000.00.

13 (c) Not less than 250 or more than 500 hours of community  
14 service.

15 (5) The court may order a person convicted of violating this  
16 section to pay the costs of prosecution.

17 (6) The court may order a person convicted of violating this  
18 section to pay the costs for housing and caring for the animal,  
19 including, but not limited to, providing veterinary medical  
20 treatment.

21 (7) As part of the sentence for a violation of subsection (2),  
22 the court shall order the person convicted not to own or possess an  
23 animal of the same species involved in the violation of this  
24 section for 5 years after the date of sentencing. Failure to comply  
25 with the order of the court pursuant to this subsection is  
26 punishable as contempt of court.

27 (8) If a person incites an animal trained or used for fighting

1 or an animal that is the first or second generation offspring of an  
2 animal trained or used for fighting to attack a person and thereby  
3 causes the death of that person, the owner is guilty of a felony  
4 ~~and shall be punished~~ **PUNISHABLE** by imprisonment for life or ~~by~~  
5 ~~imprisonment~~ for a ~~maximum term of any~~ term of years greater  
6 than 15 years.

7 (9) If a person incites an animal trained or used for fighting  
8 or an animal that is the first or second generation offspring of an  
9 animal trained or used for fighting to attack a person, but the  
10 attack does not result in the death of the person, the owner is  
11 guilty of a felony punishable by imprisonment for not more than 4  
12 years or a fine of not more than \$2,000.00, or both.

13 (10) If an animal trained or used for fighting or an animal  
14 that is the first or second generation offspring of an animal  
15 trained or used for fighting attacks a person without provocation  
16 and causes the death of that person, the owner of the animal is  
17 guilty of a felony ~~and shall be punished~~ **PUNISHABLE** by  
18 imprisonment for ~~a maximum term of~~ not more than 15 years.

19 (11) If an animal trained or used for fighting or an animal  
20 that is the first or second generation offspring of an animal  
21 trained or used for fighting attacks a person without provocation,  
22 but the attack does not cause the death of the person, the owner is  
23 guilty of a misdemeanor punishable by imprisonment for not more  
24 than 1 year or a fine of not more than \$1,000.00, or both.

25 (12) Subsections (8) to (11) do not apply if the person  
26 attacked was committing or attempting to commit an unlawful act on  
27 the property of the owner of the animal.

1           (13) If an animal trained or used for fighting or an animal  
2 that is the first or second generation offspring of a dog trained  
3 or used for fighting goes beyond the property limits of its owner  
4 without being securely restrained, the owner is guilty of a  
5 misdemeanor punishable by imprisonment for not more than 90 days or  
6 a fine of not less than \$50.00 nor more than \$500.00, or both.

7           (14) If an animal trained or used for fighting or an animal  
8 that is the first or second generation offspring of a dog trained  
9 or used for fighting is not securely enclosed or restrained on the  
10 owner's property, the owner is guilty of a misdemeanor punishable  
11 by imprisonment for not more than 90 days or a fine of not more  
12 than \$500.00, or both.

13           (15) Subsections (8) to (14) do not apply to any of the  
14 following:

15           (a) A dog trained or used for fighting, or the first or second  
16 generation offspring of a dog trained or used for fighting, that is  
17 used by a law enforcement agency of the state or a county, city,  
18 village, or township.

19           (b) A certified leader dog recognized and trained by a  
20 national guide dog association for the blind or for persons with  
21 disabilities.

22           (c) A corporation licensed under the private security ~~guard~~  
23 ~~act of 1968~~ **BUSINESS AND SECURITY ALARM ACT**, 1968 PA 330, MCL  
24 338.1051 to ~~338.1085~~ **338.1083**, when a dog trained or used for  
25 fighting, or the first or second generation offspring of a dog  
26 trained or used for fighting, is used in accordance with the  
27 private security ~~guard act of 1968~~ **BUSINESS AND SECURITY ALARM**

1 **ACT**, 1968 PA 330, MCL 338.1051 to ~~338.1085~~ **338.1083**.

2 (16) An animal that has been used to fight in violation of  
3 this section or that is involved in a violation of subsections (8)  
4 to (14) shall be confiscated as contraband by a law enforcement  
5 officer and shall not be returned to the owner, trainer, or  
6 possessor of the animal. The animal shall be taken to a local  
7 humane society or other animal welfare agency. If an animal owner,  
8 trainer, or possessor is convicted ~~under~~ **OF VIOLATING** subsection  
9 (2) or subsections (8) to (14), the court shall award the animal  
10 involved in the violation to the local humane society or other  
11 animal welfare agency.

12 (17) Upon receiving an animal confiscated under this section,  
13 or at any time thereafter, an appointed veterinarian, the humane  
14 society, or other animal welfare agency may humanely euthanize the  
15 animal if, in the opinion of that veterinarian, humane society, or  
16 other animal welfare agency, the animal is injured or diseased past  
17 recovery or the animal's continued existence is inhumane so that  
18 euthanasia is necessary to relieve pain and suffering.

19 (18) A humane society or other animal welfare agency that  
20 receives an animal ~~pursuant to~~ **UNDER** this section shall apply to  
21 the district court or municipal court for a hearing to determine  
22 whether the animal shall be humanely euthanized because of its lack  
23 of any useful purpose and the public safety threat it poses. The  
24 court shall hold a hearing not more than 30 days after the filing  
25 of the application and shall give notice of the hearing to the  
26 owner of the animal. Upon a finding by the court that the animal  
27 lacks any useful purpose and poses a threat to public safety, the

1 humane society or other animal welfare agency shall humanely  
2 euthanize the animal. Expenses incurred in connection with the  
3 housing, care, upkeep, or euthanasia of the animal by a humane  
4 society or other animal welfare agency, or by a person, firm,  
5 partnership, corporation, or other entity, shall be assessed  
6 against the owner of the animal.

7 (19) Subject to subsections (16) to (18), all animals being  
8 used or to be used in fighting, equipment, devices and money  
9 involved in a violation of subsection (2) shall be forfeited to the  
10 state. All other instrumentalities, proceeds, and substituted  
11 proceeds of a violation of subsection (2) are subject to forfeiture  
12 under chapter 47 of the revised judicature act of 1961, 1961 PA  
13 236, MCL 600.4701 to 600.4709.

14 (20) THE SEIZING AGENCY MAY DEPOSIT MONEY SEIZED UNDER  
15 SUBSECTION (19) INTO AN INTEREST-BEARING ACCOUNT IN A FINANCIAL  
16 INSTITUTION. AS USED IN THIS SUBSECTION, "FINANCIAL INSTITUTION"  
17 MEANS A STATE OR NATIONALLY CHARTERED BANK OR A STATE OR FEDERALLY  
18 CHARTERED SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT  
19 UNION WHOSE DEPOSITS ARE INSURED BY AN AGENCY OF THE UNITED STATES  
20 GOVERNMENT AND THAT MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE  
21 LOCATED IN THIS STATE UNDER THE LAWS OF THIS STATE OR THE UNITED  
22 STATES.

23 (21) AN ATTORNEY FOR A PERSON WHO IS CHARGED WITH A VIOLATION  
24 OF SUBSECTION (2) INVOLVING OR RELATED TO MONEY SEIZED UNDER  
25 SUBSECTION (19) SHALL BE AFFORDED A PERIOD OF 60 DAYS WITHIN WHICH  
26 TO EXAMINE THAT MONEY. THIS 60-DAY PERIOD SHALL BEGIN TO RUN AFTER  
27 NOTICE OF FORFEITURE IS GIVEN BUT BEFORE THE MONEY IS DEPOSITED

1 INTO A FINANCIAL INSTITUTION UNDER SUBSECTION (20). IF THE ATTORNEY  
 2 GENERAL, PROSECUTING ATTORNEY, OR CITY OR TOWNSHIP ATTORNEY FAILS  
 3 TO SUSTAIN HIS OR HER BURDEN OF PROOF IN FORFEITURE PROCEEDINGS  
 4 UNDER SUBSECTION (19), THE COURT SHALL ORDER THE RETURN OF THE  
 5 MONEY, INCLUDING ANY INTEREST EARNED ON MONEY DEPOSITED INTO A  
 6 FINANCIAL INSTITUTION UNDER SUBSECTION (20).

7 (22) ~~-(20)-~~ This section does not apply to conduct that is  
 8 permitted by and is in compliance with any of the following:

9 (a) Part 401 ~~-(wildlife conservation)-~~ of the natural  
 10 resources and environmental protection act, 1994 PA 451, MCL  
 11 324.40101 to 324.40119.

12 (b) Part 435 ~~-(hunting and fishing licensing)-~~ of the natural  
 13 resources and environmental protection act, 1994 PA 451, MCL  
 14 324.43501 to ~~324.44106-~~ 324.43561.

15 (c) Part 427 ~~-(breeders and dealers)-~~ of the natural resources  
 16 and environmental protection act, 1994 PA 451, MCL 324.42701 to  
 17 324.42714.

18 (d) Part 417 ~~-(private shooting preserves)-~~ of the natural  
 19 resources and environmental protection act, 1994 PA 451, MCL  
 20 324.41701 to 324.41712.

21 (23) ~~-(21)-~~ This section does not prohibit a person from being  
 22 charged with, convicted of, or punished for any other violation of  
 23 law that is committed by that person while violating this section.

24 Sec. 159j. (1) A person who violates section 159i is guilty of  
 25 a felony punishable by imprisonment for not more than 20 years or a  
 26 fine of not more than \$100,000.00, or both.

27 (2) In addition to any penalty imposed under subsection (1),



1 the court may do 1 or more of the following with respect to a  
2 person convicted under section 159i:

3 (a) Order the person to pay court costs.

4 (b) Order the person to pay to the state or local law  
5 enforcement agency that handled the investigation and prosecution  
6 the costs of the investigation and prosecution that are reasonably  
7 incurred.

8 (3) The court shall hold a hearing to determine the amount of  
9 court costs and other costs to be imposed under subsection (2).

10 (4) The court shall order a person convicted of a violation of  
11 section 159i to criminally forfeit to the state any real, personal,  
12 or intangible property in which he or she has an interest and that  
13 was used in the course of, intended for use in the course of,  
14 derived from, or realized through conduct in violation of section  
15 159i, including any property constituting an interest in, means of  
16 control over, or influence over the enterprise involved in the  
17 violation and any property constituting proceeds derived from the  
18 violation. The court's authority under this subsection also  
19 includes, but is not limited to, the authority to do any of the  
20 following:

21 (a) Order the convicted person to divest himself or herself of  
22 any interest, direct or indirect, in the enterprise.

23 (b) Impose reasonable restrictions on the future activities or  
24 investments of the convicted person, including prohibiting the  
25 convicted person from engaging in the same type of endeavor as the  
26 enterprise engaged in.

27 (c) Order the dissolution or reorganization of an enterprise

1 upon finding that, for the prevention of future criminal activity,  
2 the public interest requires the dissolution or reorganization.

3 This subdivision ~~shall~~ **DOES** not apply to the extent ~~such action~~  
4 **THAT AN ORDER OF DISSOLUTION OR REORGANIZATION** is preempted by  
5 **CHAPTER 7 OF** the national labor relations act, 29 ~~U.S.C. 151 et~~  
6 ~~seq~~ **USC 141 TO 187.**

7 (d) Order the suspension or revocation of a license, permit,  
8 or prior approval granted to an enterprise by any agency of the  
9 state, county, or other political subdivision upon finding that,  
10 for the prevention of future criminal activity, the public interest  
11 requires the suspension or revocation.

12 (e) Order the surrender of the charter of a corporation  
13 organized under the laws of this state or the revocation of a  
14 certificate authorizing a foreign corporation to conduct business  
15 within this state upon finding that the board of directors or a  
16 managerial agent acting on behalf of the corporation, in conducting  
17 the affairs of the corporation, authorized or engaged in  
18 racketeering and, for the prevention of future criminal activity,  
19 that the public interest requires that the charter or certificate  
20 of the corporation be surrendered or revoked.

21 (5) A sentence ordering criminal forfeiture ~~pursuant to~~  
22 **UNDER** this section shall not be entered unless the indictment or  
23 information alleges the extent of the property subject to  
24 forfeiture, or unless the sentence requires the forfeiture of  
25 property that was not reasonably foreseen to be subject to  
26 forfeiture at the time of the indictment or information, if the  
27 prosecuting agency gave prompt notice to the defendant of the

1 property not reasonably foreseen to be subject to forfeiture when  
2 it was discovered to be forfeitable.

3 (6) Reasonable attorney fees for representation in an action  
4 under this chapter are not subject to criminal forfeiture under  
5 this chapter.

6 (7) At sentencing and following a hearing, the court shall  
7 determine the extent of the property subject to forfeiture, if any,  
8 and shall enter an order of forfeiture. The court may base its  
9 determination on evidence in the trial record.

10 (8) If any property included in the order of forfeiture  
11 ~~pursuant to~~ **UNDER** this section cannot be located or has been sold  
12 to a bona fide purchaser for value, placed beyond the jurisdiction  
13 of 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, the  
16 court shall order forfeiture of any other reachable property of the  
17 defendant up to the value of the property that is unreachable.

18 (9) All property ordered forfeited ~~pursuant to~~ **UNDER** this  
19 section shall be retained by the law enforcement agency that seized  
20 it for disposal pursuant to section 159r.

21 **(10) THE SEIZING AGENCY MAY DEPOSIT MONEY SEIZED UNDER THIS**  
22 **SECTION INTO AN INTEREST-BEARING ACCOUNT IN A FINANCIAL**  
23 **INSTITUTION. AS USED IN THIS SUBSECTION, "FINANCIAL INSTITUTION"**  
24 **MEANS A STATE OR NATIONALLY CHARTERED BANK OR A STATE OR FEDERALLY**  
25 **CHARTERED SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT**  
26 **UNION WHOSE DEPOSITS ARE INSURED BY AN AGENCY OF THE UNITED STATES**  
27 **GOVERNMENT AND THAT MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE**

1 LOCATED IN THIS STATE UNDER THE LAWS OF THIS STATE OR THE UNITED  
2 STATES.

3 (11) AN ATTORNEY FOR A PERSON WHO IS CHARGED WITH A VIOLATION  
4 OF SECTION 159I INVOLVING OR RELATED TO MONEY SEIZED BY A LAW  
5 ENFORCEMENT AGENCY THAT IS SUBJECT TO CRIMINAL FORFEITURE UNDER  
6 THIS SECTION SHALL BE AFFORDED A PERIOD OF 60 DAYS WITHIN WHICH TO  
7 EXAMINE THAT MONEY. THIS 60-DAY PERIOD SHALL BEGIN TO RUN AFTER  
8 NOTICE OF FORFEITURE IS GIVEN BUT BEFORE THE MONEY IS DEPOSITED  
9 INTO A FINANCIAL INSTITUTION UNDER SUBSECTION (10). IF THE  
10 PROSECUTING AGENCY FAILS TO SUSTAIN ITS BURDEN OF PROOF IN CRIMINAL  
11 PROCEEDINGS UNDER SECTION 159I, THE COURT SHALL ORDER THE RETURN OF  
12 THE MONEY, INCLUDING ANY INTEREST EARNED ON MONEY DEPOSITED INTO A  
13 FINANCIAL INSTITUTION UNDER SUBSECTION (10).

14 (12) ~~-(10)-~~ An order of criminal forfeiture entered under this  
15 section shall authorize an appropriate law enforcement agency to  
16 seize the property declared criminally forfeited under this section  
17 upon those terms and conditions relating to the time and manner of  
18 seizure the court determines proper.

19 (13) ~~-(11)-~~ Criminal penalties under this section are not  
20 mutually exclusive and do not preclude the application of any other  
21 criminal or civil remedy under this section or any other provision  
22 of law.

23 Sec. 535a. (1) As used in this section:

24 (a) "Bona fide purchaser for value" means a person who  
25 purchases property for value in good faith and without notice of  
26 any adverse claim to the property.

27 (b) "Chop shop" means any of the following:

1           (i) Any area, building, storage lot, field, or other premises  
2 or place where 1 or more persons are engaged or have engaged in  
3 altering, dismantling, reassembling, or in any way concealing or  
4 disguising the identity of a stolen motor vehicle or of any major  
5 component part of a stolen motor vehicle.

6           (ii) Any area, building, storage lot, field, or other premises  
7 or place where there are 3 or more stolen motor vehicles present or  
8 where there are major component parts from 3 or more stolen motor  
9 vehicles present.

10           (c) "Major component part" means 1 of the following parts of a  
11 motor vehicle:

12           (i) The engine.

13           (ii) The transmission.

14           (iii) The right or left front fender.

15           (iv) The hood.

16           (v) A door allowing entrance to or egress from the passenger  
17 compartment of the vehicle.

18           (vi) The front or rear bumper.

19           (vii) The right or left rear quarter panel.

20           (viii) The deck lid, tailgate, or hatchback.

21           (ix) The trunk floor pan.

22           (x) The cargo box of a pickup.

23           (xi) The frame, or if the vehicle has a unitized body, the  
24 supporting structure or structures that serve as the frame.

25           (xii) The cab of a truck.

26           (xiii) The body of a passenger vehicle.

27           (xiv) An airbag or airbag assembly.

1 (xv) A wheel or tire.

2 (xvi) Any other part of a motor vehicle that the secretary of  
3 state determines is comparable in design or function to any of the  
4 parts listed in subparagraphs (i) to (xv).

5 (d) "Motor vehicle" means either of the following:

6 (i) A device in, upon, or by which a person or property is or  
7 may be transported or drawn upon a highway that is self-propelled  
8 or that may be connected to and towed by a self-propelled device.

9 (ii) A land-based device that is self-propelled but not  
10 designed for use upon a highway, including, but not limited to,  
11 farm machinery, a bulldozer, or a steam shovel.

12 (2) Except as provided in subsection (3), a person who  
13 knowingly owns, operates, or conducts a chop shop or who knowingly  
14 aids and abets another person in owning, operating, or conducting a  
15 chop shop is guilty of a felony punishable by imprisonment for not  
16 more than 10 years or a fine of not more than \$250,000.00, or both.

17 (3) Upon a second or subsequent conviction under this section,  
18 the person convicted may be imprisoned for not more than 10 years  
19 and shall be fined not less than \$10,000.00 or more than  
20 \$250,000.00, or both.

21 (4) In addition to any other punishment, a person convicted of  
22 violating this section shall be ordered to make restitution to the  
23 rightful owner of a stolen motor vehicle or of a stolen major  
24 component part, or to the owner's insurer if the owner has already  
25 been compensated for the loss by the insurer, for any financial  
26 loss sustained as a result of the theft of the motor vehicle or a  
27 major component part. Restitution shall be imposed in addition to,

1 but not instead of, any imprisonment or fine imposed.

2 (5) All of the following are subject to seizure and, if a  
3 person is charged with a violation or attempted violation of  
4 subsection (2) and is convicted of a violation or attempted  
5 violation of subsection (2) or section 415, 416, 535, or 536a,  
6 subject to forfeiture:

7 (a) An engine, tool, machine, implement, device, chemical, or  
8 substance used or designed for altering, dismantling, reassembling,  
9 or in any other way concealing or disguising the identity of a  
10 stolen motor vehicle or any major component part.

11 (b) A stolen motor vehicle or major component part found at  
12 the site of a chop shop or a motor vehicle or major component part  
13 for which there is probable cause to believe that it is stolen.

14 (c) A wrecker, car hauler, or any other motor vehicle that is  
15 used or has been used to convey or transport a stolen motor vehicle  
16 or major component part.

17 (d) Any book, record, money, negotiable instrument, or other  
18 personal property or real property, except real property that is  
19 the primary residence of the spouse or a dependent child of the  
20 owner, that is or has been used in a chop shop operation.

21 (6) Except as provided in subsection (7), property described  
22 in subsection (5) may be seized by a state or local law enforcement  
23 agency upon process issued by the recorder's court of the city of  
24 Detroit or the district or circuit court having jurisdiction over  
25 the property. Seizure without process may be made in any of the  
26 following cases:

27 (a) The seizure is incident to an arrest or pursuant to a

1 search warrant or an inspection under an administrative inspection  
2 warrant.

3 (b) The property subject to seizure has been the subject of a  
4 prior judgment in favor of this state in a forfeiture proceeding  
5 based upon this section.

6 (c) Exigent circumstances exist that preclude obtaining  
7 process and there is probable cause to believe that the property  
8 was used or is intended to be used in violation of this section.

9 (7) To retain property for which seizure and forfeiture are  
10 sought under this section pending the forfeiture hearing, a  
11 licensed used or secondhand vehicle parts dealer or the owner may  
12 post a bond in the amount of 1-1/2 times the value of the property.  
13 This subsection does not apply to a motor vehicle or major  
14 component part that is to be used as evidence in a criminal  
15 proceeding.

16 (8) If property other than real property is seized under  
17 subsection (6), the seizing law enforcement agency shall do 1 or  
18 more of the following, subject to subsection ~~-(9)-~~ (10):

19 (a) Place the property under seal.

20 (b) Remove the property to a designated storage area.

21 (c) Petition the ~~recorder's court of the city of Detroit or~~  
22 ~~the~~ district or circuit court to appoint a custodian to take  
23 custody of the property and to remove it to an appropriate location  
24 for disposition in accordance with law.

25 **(9) THE SEIZING AGENCY MAY DEPOSIT MONEY SEIZED UNDER**  
26 **SUBSECTION (8) INTO AN INTEREST-BEARING ACCOUNT IN A FINANCIAL**  
27 **INSTITUTION. AS USED IN THIS SUBSECTION, "FINANCIAL INSTITUTION"**



1 MEANS A STATE OR NATIONALLY CHARTERED BANK OR A STATE OR FEDERALLY  
2 CHARTERED SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT  
3 UNION WHOSE DEPOSITS ARE INSURED BY AN AGENCY OF THE UNITED STATES  
4 GOVERNMENT AND THAT MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE  
5 LOCATED IN THIS STATE UNDER THE LAWS OF THIS STATE OR THE UNITED  
6 STATES.

7 (10) AN ATTORNEY FOR A PERSON WHO IS CHARGED WITH A VIOLATION  
8 OF THIS SECTION INVOLVING OR RELATED TO MONEY SEIZED BY A LAW  
9 ENFORCEMENT AGENCY UNDER THIS SECTION SHALL BE AFFORDED A PERIOD OF  
10 60 DAYS WITHIN WHICH TO EXAMINE THAT MONEY. THIS 60-DAY PERIOD  
11 SHALL BEGIN TO RUN AFTER NOTICE IS GIVEN UNDER SUBSECTION (12) BUT  
12 BEFORE THE MONEY IS DEPOSITED INTO A FINANCIAL INSTITUTION UNDER  
13 SUBSECTION (9). IF THE ATTORNEY GENERAL OR PROSECUTING ATTORNEY  
14 FAILS TO SUSTAIN HIS OR HER BURDEN OF PROOF IN CRIMINAL PROCEEDINGS  
15 UNDER THIS SECTION, THE COURT SHALL ORDER THE RETURN OF THE MONEY,  
16 INCLUDING ANY INTEREST EARNED ON MONEY DEPOSITED INTO A FINANCIAL  
17 INSTITUTION UNDER SUBSECTION (9).

18 (11) ~~-(9)-~~ If property is seized without process under  
19 subsection (6), within 14 days after the seizure, the seizing  
20 agency shall return the property to the person from whom it was  
21 seized unless a hearing has been scheduled to determine whether the  
22 seizure was proper and reasonable notice of the hearing has been  
23 given.

24 (12) ~~-(10)-~~ The rightful owner of any property that is to be  
25 forfeited under subsection (5) shall be served notice at least 10  
26 days before the matter is to be heard regarding the forfeiture and,  
27 if the rightful owner did not know of and did not consent to the

1 commission of the crime, the property shall be returned to the  
2 rightful owner. If the rightful owner of the property is not known  
3 or cannot be found, notice may be served by publishing notice of  
4 the forfeiture hearing not less than 10 days before the date of the  
5 hearing in a newspaper of general circulation in the county where  
6 the hearing is to be held. The notice shall contain a general  
7 description of the property and any serial or registration numbers  
8 on the property.

9       **(13)** ~~—(11)—~~ A forfeiture of property encumbered by a bona fide  
10 security interest is subject to the interest of the secured party  
11 who did not know of or consent to the act or omission in violation  
12 of this section.

13       **(14)** ~~—(12)—~~ Any property seized under subsection (6) that was  
14 stolen shall be returned to its rightful owner if that ownership  
15 can be established to the satisfaction of the seizing law  
16 enforcement agency. Any stolen property that is unclaimed after  
17 seizure may be sold as provided by law.

18       **(15)** ~~—(13)—~~ Any property forfeited under this section may be  
19 sold pursuant to an order of the court. The proceeds of the sale  
20 shall be distributed by the court having jurisdiction over the  
21 forfeiture proceeding to the entity having budgetary authority over  
22 the seizing law enforcement agency. If more than 1 law enforcement  
23 agency was substantially involved in effecting the forfeiture, the  
24 court having jurisdiction over the forfeiture proceeding shall  
25 distribute equitably the proceeds of the sale among the entities  
26 having budgetary authority over the seizing law enforcement  
27 agencies. Twenty-five percent of the money received by an entity

1 under this subsection shall be used to enhance law enforcement  
2 efforts pertaining to this section.

3       **(16)** ~~—(14)—~~ This section does not apply to a person who is a  
4 bona fide purchaser for value of the motor vehicle or major  
5 component parts described in subsection (1).