

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.159n Seizure of property subject to civil in rem forfeiture; petition; filing; personal or intangible property; determination by court; seizure without process; circumstances; lien notice against real property; notice and hearing required; return of property to crime victim; exceptions; custody of property by seizing agency.**

Sec. 159n.

(1) A civil in rem forfeiture proceeding under this chapter is a proceeding against property subject to forfeiture under section 159m instituted by the filing of a petition by the prosecuting agency.

(2) Personal or intangible property subject to civil in rem forfeiture under section 159m may be seized pursuant to an order of seizure issued by the court having jurisdiction over the property.

(3) Upon an ex parte application by the prosecuting agency, before or after the initiation of a civil in rem forfeiture proceeding, the court may determine ex parte whether there is probable cause to believe that personal or intangible property is subject to civil in rem forfeiture under section 159m and that notice to those persons having or claiming an interest in the property before seizure would cause the loss or destruction of the property. In making this determination, the court shall, as a matter of law, make a determination that the property constituted an interest in, means of control over, or influence over an enterprise involved in a violation of section 159i. If the court finds that probable cause does not exist to believe the property is subject to forfeiture under this act, the court shall dismiss the plaintiff prosecuting agency's application and, if a civil in rem forfeiture proceeding has been initiated, shall dismiss the petition. If the court finds that probable cause does exist to believe the property is subject to forfeiture but there is not probable cause to believe that prior notice would result in loss or destruction of the property, the court shall order service on all persons known to have or claim an interest in the property before a further hearing on whether an order of seizure should issue. If the court finds that there is probable cause to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction of the property, the court shall issue an order of seizure directing the sheriff or other law enforcement officer in the county where the property is found to seize it.

(4) Personal or intangible property subject to civil in rem forfeiture under this chapter may be seized without process under any of the following circumstances:

- (a) The seizure is incident to a lawful arrest.
- (b) The seizure is pursuant to a valid search warrant.
- (c) The seizure is pursuant to an inspection under a valid administrative inspection warrant.
- (d) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.
- (e) Exigent circumstances exist that preclude the obtaining of a court order, and there is probable cause to believe that the property is subject to civil in rem forfeiture under section 159m.
- (f) The property is the subject of a prior judgment in favor of this state in a forfeiture proceeding.

(5) The prosecuting agency may apply ex parte for an order authorizing the filing of a lien notice against real property subject to civil in rem forfeiture under section 159m. The application shall be supported by a sworn affidavit setting forth probable cause for a civil in rem forfeiture action pursuant to sections 159m to 159q. An order authorizing the filing of a lien notice may be issued upon a showing of probable cause to believe that the property is subject to civil in rem forfeiture under section 159m.

(6) Real property shall not be seized without notice and a hearing.

(7) Property that belongs to the victim of a crime shall promptly be returned to the victim, except in the following circumstances:

- (a) The property is contraband.
- (b) If the ownership of the property is disputed, until the dispute is resolved.
- (c) The property is required to be retained as evidence pursuant to section 4(4) of the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being section 780.754 of the Michigan Compiled Laws.

(8) Personal or intangible property seized under this section is not subject to any other action to recover personal property, but is considered to be in the custody of the seizing agency subject only to this chapter, or to an order and judgment of the court having jurisdiction over the civil in rem forfeiture proceedings. When property is seized under this section, the seizing agency may do 1 or more of the following:

- (a) Place the property under seal.
- (b) Remove the property to a place designated by the court.

**History:** Add. 1995, Act 187, Eff. Apr. 1, 1996

