

2005 DRAFTING REQUEST

Bill

Received: 11/09/2004

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Garey Bies (608) 266-5350

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - drugs
Criminal Law - law enforcement

Extra Copies:

Submit via email: YES

Requester's email: Rep.Bies@legis.state.wi.us

Carbon copy (CC:) to: robin.ryan@legis.state.wi.us
cathlene.hanaman@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Seizure of money related to a drug offense

Instructions:

Same as 2003 AB-882

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			rschluet 11/19/2004	_____	lnorthro 11/19/2004	lnorthro 01/20/2005	

FE Sent For:

At intro

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1?	mdsida	1/mk 11/18 1/jed 11/19					
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FE Sent For:

<END>

2003 ASSEMBLY BILL 882

February 23, 2004 - Introduced by Representatives BIES, LADWIG, HAHN, HINES, HUNDERTMARK, KRAWCZYK, M. LEHMAN, MCCORMICK, MUSSER, OWENS and STASKUNAS, cosponsored by Senator A. LASEE. Referred to Committee on Corrections and the Courts.

LPS: PIS PWF

Reber

- 1 AN ACT *to amend* 961.55 (5) (intro.), 961.55 (5) (a), 961.55 (5) (b) and 961.55 (5)
- 2 (c); and *to create* 961.55 (5) (e) 1. and 961.55 (5) (e) 2. of the statutes; **relating**
- 3 **to:** forfeiture of money derived from a drug crime.

Analysis by the Legislative Reference Bureau

Under current law, a state or local law enforcement agency may acquire certain property involved in the commission of crime through a forfeiture proceeding, which is generally initiated after the end of the criminal case to which it relates. In cases involving illegal drugs, the forfeiture law applies to the drugs themselves, materials and equipment used to process or package the drugs, vehicles used in connection with the offense, and property, including money, derived from the commission of the offense.

The Wisconsin Constitution specifies that the "clear proceeds" of property acquired by forfeiture must be deposited in the school fund. ~~This requirement applies to money derived from the sale of property forfeited in a drug case, though current law permits the agency that seized the property, to retain 50 percent of the proceeds of the sale to cover the costs of its investigation and prosecution and other costs relating to the forfeiture proceeding and sale.~~ But, if the property seized is money, current law requires that all of the money be deposited in the school fund.

Under this bill, if money is forfeited in a drug case, the law enforcement agency that seized the money may retain 70 percent of any amount that does not exceed \$2,000 and 50 percent of any amount in excess of \$2,000 to cover the costs of its investigation and prosecution and other costs relating to the forfeiture proceeding and sale.

that implements this requirement

The provision of

later

ASSEMBLY BILL 882

✓ For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 961.55 (5) (intro.) of the statutes is amended to read:

2 961.55 (5) (intro.) When property is forfeited under this chapter, the agency
3 whose officer or employee seized the property may do one of the following:

4 SECTION 2. 961.55 (5) (a) of the statutes is amended to read:

5 961.55 (5) (a) Retain it for official use; ✓

6 SECTION 3. 961.55 (5) (b) of the statutes is amended to read:

7 961.55 (5) (b) Sell that which is not required to be destroyed by law and which
8 is not harmful to the public. The agency may use 50% 50 percent of the amount
9 received for payment of ~~all proper expenses of the proceedings~~ for forfeiture and sale,
10 including expenses of seizure, maintenance of custody, advertising and court costs
11 and the costs of investigation and prosecution reasonably incurred. The remainder
12 shall be deposited in the school fund as proceeds of the forfeiture. In this paragraph,
13 "forfeiture expenses" include all proper expenses of the proceedings for forfeiture and
14 sale, including expenses of seizure, maintenance of custody, advertising, and court
15 costs and the costs of investigation and prosecution reasonably incurred.

16 (e) If the property forfeited is money, ~~all the money shall be deposited~~ retain
17 one of the following for payment of forfeiture expenses, as defined in par. (b), and
18 deposit the remainder in the school fund; ✓

19 SECTION 4. 961.55 (5) (c) of the statutes is amended to read:

the sum of all

ASSEMBLY BILL 882

1 961.55 (5) (c) Require the sheriff of the county in which the property was seized
 2 to take custody of the property and remove it for disposition in accordance with law;
 3 of.

4 SECTION 5. 961.55 (5) (e) 1. of the statutes is created to read:

5 961.55 (5) (e) 1. If the amount of money does not exceed \$2,000, 70 percent of
 6 that amount.

7 SECTION 6. 961.55 (5) (e) 2. of the statutes is created to read:

8 961.55 (5) (e) 2. If the amount of money exceeds \$2,000, the sum of \$1,400 plus
 9 50 percent of the amount in excess of \$2,000.

10 (Fifty) any seized (END)

Northrop, Lori

From: Nowlan, Andrew
Sent: Wednesday, January 19, 2005 3:40 PM
To: LRB.Legal
Subject: jacketing request

Rep. Bies would like to request his draft 0705 be jacketed for the Assembly.

Thank you.

Andrew Nowlan
Research Assistant
Rep. Garey Bies Office