



Ohio Legislative Service Commission

Sub. Bill Comparative Synopsis

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Sub. H.B. 347

131st General Assembly
(H. Judiciary)

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (LSC 131 1769-4)	Sub. Version (LSC 131 1769-6)
Civil forfeiture	<p>Specifies that a complaint for civil forfeiture may only be filed if the property was seized with probable cause that it was involved in the commission of a felony or was directly or indirectly obtained through the commission of a felony and either of the following applies (<i>R.C. 2981.05(A)</i>):</p> <p>(1) The property owner is unavailable because: (a) that owner is deceased, (b) a felony indictment has been filed against the property owner or a warrant was issued for the owner's arrest, and either the property owner is outside the state and unable to be extradited for prosecution or reasonable efforts have been made to locate and arrest the property owner, but that owner has not been located, or (c)</p>	<p>Specifies that a complaint for civil forfeiture may only be filed if the property was seized with probable cause that it was involved in the commission of a felony or a "gambling offense" (a defined term) or was directly or indirectly obtained through the commission of a felony or gambling offense and either of the following applies (<i>R.C. 2981.05(A)</i>):</p> <p>(1) The property owner is unavailable because: (a) that owner is deceased, or (b) a felony indictment or a charge for a gambling offense has been filed against the property owner or a warrant was issued for the owner's arrest, and either the property owner is outside the state and unable to be extradited for prosecution or reasonable efforts have been made to locate and arrest the property owner, but that owner has not</p>

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	<p>despite reasonable efforts to identify the property owner, that owner is unidentifiable.</p> <p>(2) The property owner has not claimed or asserted interest in the property at any time during or after seizure, verbally or in writing, and all claims of aggrieved parties have been denied.</p> <p>Permits the prosecutor to file a civil forfeiture action not sooner than one year after the seizure of the property (<i>R.C. 2981.03(F) and 2981.05(A)</i>).</p> <p>Requires the complaint to state the facts supporting the allegations of the state or political subdivision and the alleged felony subjecting the property to forfeiture (<i>R.C. 2981.05(C)</i>).</p> <p>No provision.</p> <p>No provision.</p>	<p>been located.</p> <p>(2) Same provision.</p> <p>Permits the prosecutor to file a civil forfeiture action after seizure of the property and not sooner than three months after the property owner is deceased, not sooner than three months after the property owner has not claimed or asserted any interest in the property as described in (2) above, or not sooner than one year after (1)(b) above in this column applies (<i>R.C. 2981.05(A)</i>).</p> <p>Requires the complaint to state the facts supporting the allegations of the state or political subdivision and the alleged felony or gambling offense subjecting the property to forfeiture (<i>R.C. 2981.05(B)(1)</i>).</p> <p>If the property owner is unavailable to the court because that owner is deceased, requires the complaint to include a certified copy of the property owner's death certificate (<i>R.C. 2981.05(B)(2)</i>).</p> <p>Permits a prosecutor to file a civil forfeiture action after a defendant is convicted of an offense or a juvenile is adjudicated a delinquent child, by filing in the court in which the defendant was convicted or the juvenile was adjudicated delinquent a</p>

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	Provides that a civil forfeiture order must state that all interest in the property in question of the property owner who committed the felony that is the basis of the order is forfeited to the state or political subdivision (R.C. 2981.05(F)).	complaint requesting an order to forfeit the property to the state or political subdivision (R.C. 2981.05(C)). Provides that a civil forfeiture order must state that all interest in the property in question of the property owner who committed the felony or gambling offense, or of the adult or juvenile who committed the act if the preceding paragraph applies, that is the basis of the order is forfeited to the state or political subdivision (R.C. 2981.05(G)).
Effect of filing criminal forfeiture action	Provides that the filing of a charging instrument for an offense that is also the basis of a civil forfeiture action terminates the civil forfeiture action, but permits a civil forfeiture action to be filed after a charging instrument has been filed if the civil action is brought as provided above (R.C. 2981.03(F)).	Provides that the filing of a charging instrument for an offense that is also the basis of a civil forfeiture action merges the civil forfeiture action with the criminal action based upon the complaint, indictment, or information charging the offense or municipal violation, or the complaint charging the delinquent act (R.C. 2981.03(F)).
Seizure of real property	Requires the court to hold a hearing on the prosecutor's motion to request a hearing before seizure of real property not sooner than 14 days after the motion is filed (R.C. 2981.03(A)(3)).	Requires the court to hold a hearing on the prosecutor's motion to request a hearing before seizure of real property not sooner than 21 days after the motion is filed (R.C. 2981.03(A)(3)).
Aggrieved party's motion for relief	Provides that if an aggrieved person files a motion for relief from the property seizure before an indictment, information, or complaint seeking forfeiture is filed, the court must schedule a hearing on the motion not later than 14 days after it is filed. The state or political subdivision must demonstrate by a preponderance of the evidence that the seizure was lawful and the person is not entitled to the property. (R.C. 2981.03(A)(4).)	Provides that if an aggrieved person files a motion for relief from the property seizure before an indictment, information, or complaint seeking forfeiture is filed, the court must schedule a hearing on the motion not later than 21 days after it is filed. If the property seized is titled or registered under law, the state or political subdivision must demonstrate by a preponderance of the evidence that the seizure was lawful and the person is not entitled to the property. If the property seized is not titled or

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		registered under law, the person must demonstrate by a preponderance of the evidence that the seizure was unlawful and that person is entitled to the property. (R.C. 2981.03(A)(4).)
Proof of amount of costs	Provides that in any criminal forfeiture action, the alleged offender or delinquent child has the burden to prove the amount of any direct costs involved (R.C. 2981.03(A)(5)(b)).	Provides that in any criminal forfeiture action or civil forfeiture action, the alleged offender or delinquent child has the burden to prove the amount of any direct costs involved (R.C. 2981.03(A)(5)(b)).
Petition for conditional release of property	Provides that if a person with an interest in the seized property files a petition for its conditional release, the court must decide on the petition not more than 14 days after it is filed (R.C. 2981.03(D)(6)).	Provides that if a person with an interest in the seized property files a petition for its conditional release, the court must decide on the petition not more than 21 days after it is filed (R.C. 2981.03(D)(6)).
Expenditure of forfeiture funds	Provides that forfeiture funds may be used to purchase personal safety equipment or apparel or pay the costs associated with a law enforcement agency's participation in a federal drug enforcement task force or similar federal drug program (R.C. 2981.13(C)(2)(a)(v) and (vi)).	Provides that forfeiture funds may be used to do any of the following (R.C. 2981.13(C)(2)(a)(v) to (ix)): (1) Pay the costs of the seized property's storage, maintenance, and security; (2) Pay any liens on forfeited property or outstanding court costs; (3) Purchase equipment for investigations of "drug abuse offenses"; purchase and maintain "K-9 assets"; provide training on the enforcement of laws dealing with drugs of abuse; pay overtime costs and other expenses in the investigation of drug abuse offenses, "trafficking in persons offenses," "gambling offenses," "corrupt activity," "offenses involving cigarettes, tobacco products, or alternative nicotine products," "offenses of illegal use of supplemental nutrition assistance

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	Retains current law providing that forfeiture funds may be used to pay the costs of protracted or complex investigations or prosecutions (<i>R.C. 2981.13(C)(2)(a)(i)</i>).	<p>program benefits or WIC program benefits," (all defined terms, at R.C. 2981.13(C)(2)(b)) or criminal offenses involving the use of alcohol;</p> <p>(4) Pay routine investigative expenses, including the purchase of contraband, confidential informant services, and travel expenses;</p> <p>(5) Pay the costs, including overtime costs, associated with all law enforcement task forces and programs at the federal, state, and local levels, including task forces and programs for investigating the offenses described in (3) above.</p> <p>Modifies current law by providing that forfeiture funds may be used to pay the costs directly related to investigations or prosecutions (<i>R.C. 2981.13(C)(2)(a)(i)</i>).</p>
Exclusion from meaning of "proceeds"	No provision.	Excludes from the definition of "proceeds" property, including money or other means of exchange, if all of the following apply to that property: (1) it is held under clear title by a law enforcement agency, (2) it is used or may be used to purchase contraband for the purpose of investigating any "drug abuse offense," and (3) if it is used to purchase contraband as described in (2), the property continues to be considered the law enforcement agency's property if the agency establishes a clear chain of custody of it (<i>R.C. 2981.01(B)(11)(a)</i>).