

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY SCOTT

AN ACT

1 RELATING TO SEIZURE AND FORFEITURE REPORTING; AMENDING CHAPTER 28, TITLE  
2 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2816, IDAHO CODE, TO  
3 PROVIDE LEGISLATIVE INTENT, TO DEFINE A TERM, TO PROVIDE APPLICABILITY,  
4 TO PROVIDE THAT THE STATE CONTROLLER SHALL ESTABLISH AND MAINTAIN A  
5 WEBSITE REGARDING SEIZED AND FORFEITED PROPERTY, TO PROVIDE REPORTING  
6 REQUIREMENTS, TO PROVIDE A PENALTY, TO AUTHORIZE THE STATE CONTROLLER  
7 TO RECOUP COSTS IN CERTAIN INSTANCES, TO PROVIDE RULEMAKING AUTHORITY,  
8 AND TO PROVIDE THAT CERTAIN INFORMATION SHALL NOT BE EXEMPT FROM DISCLO-  
9 SURE; AND PROVIDING AN EFFECTIVE DATE.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Chapter 28, Title 37, Idaho Code, be, and the same is  
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
14 ignated as Section 37-2816, Idaho Code, and to read as follows:

15 37-2816. SEIZURE AND FORFEITURE REPORTING. (1) The legislature finds  
16 and declares that under state forfeiture laws, state law enforcement agen-  
17 cies can seize money, vehicles, and other property. Prosecutors then  
18 litigate the forfeiture of those assets. If successful, prosecutors then  
19 have the assets sold. In most states, the proceeds may be used to supplement  
20 the budgets of law enforcement agencies and prosecutors' offices. It is the  
21 responsibility of the legislature to monitor seizures and forfeitures. This  
22 act provides legislators with the information necessary for oversight of  
23 seizures and forfeitures under state law.

24 (2) "Law enforcement agency" is as defined in section 37-2701, Idaho  
25 Code.

26 (3) The provisions of this section shall apply to property seized and  
27 forfeited under this chapter and sections 37-2744 and 37-2744A, Idaho Code.

28 (4) The state controller shall establish and maintain a case tracking  
29 system and searchable public website that includes the following informa-  
30 tion about property seized and forfeited under state law and shall assign the  
31 responsibility to report each element to relevant law enforcement agencies:

32 (a) Name of the law enforcement agency that seized the property or the  
33 name of the lead agency, if the property is seized by a multi-jurisdic-  
34 tional task force;

35 (b) Date of the seizure;

36 (c) Type of property seized, such as currency or, if property other than  
37 currency, a description of the property seized, including make, model,  
38 and year. Reporting is not required for seized contraband, including  
39 alcohol, drug paraphernalia, and controlled substances;

40 (d) Place of seizure;

41 (e) If the seizure occurred during a traffic stop on an interstate or  
42 state highway, the direction of the traffic flow;

- 1 (f) Estimated value of the seizure;  
2 (g) Criminal offense alleged that led to the seizure;  
3 (h) Crime for which the suspect was charged;  
4 (i) Criminal case number and court in which the case was filed;  
5 (j) The outcome of the suspect's criminal case;  
6 (k) Forfeiture case number and court in which the case was filed;  
7 (l) If a property owner filed a claim or counterclaim, by whom;  
8 (m) Type of forfeiture process;  
9 (n) Whether the property owner defaulted in the forfeiture litigation;  
10 (o) Whether there was a forfeiture settlement agreement;  
11 (p) Date of the forfeiture order;  
12 (q) Disposition of the property and whether it was returned to the  
13 owner, partially returned to the owner, sold, destroyed, retained by a  
14 law enforcement agency, or if disposition is pending;  
15 (r) Date of the property disposition;  
16 (s) Total value of the property forfeited under state law, including  
17 currency and proceeds from the sale of non-currency property, excluding  
18 the value of contraband;  
19 (t) Market value of the property forfeited under state law that was re-  
20 tained, destroyed, or donated, excluding the value of contraband;  
21 (u) Estimate of the total costs to the law enforcement agency to store  
22 property in impound lots or evidence rooms and pay for law enforcement  
23 personnel's and prosecutors' time and expenses to litigate forfeiture  
24 cases and the cost to sell or dispose of forfeited property;  
25 (v) Amount of the attorney's fees awarded to the property owners, if  
26 any; and  
27 (w) If any property was retained by a law enforcement agency, the pur-  
28 pose for which it is used.  
29 (5) The website established pursuant to subsection (4) of this section  
30 shall also contain the following information:  
31 (a) The total amount of funds expended in each of the following cate-  
32 gories that resulted from property seized, forfeited, and reported pur-  
33 suant to subsection (4) of this section:  
34 (i) Drug abuse, crime, and gang prevention and other community  
35 programs;  
36 (ii) Victim reparations;  
37 (iii) Investigation costs, including controlled buys, forensics,  
38 informant fees, and witness protection;  
39 (iv) Expenses related to seized property, including storage,  
40 maintenance, repairs, and return of seized property;  
41 (v) Expenses related to forfeiture litigation, including court  
42 fees and expenses related to auditing, discovery, court re-  
43 porters, printing, postage, filing, witnesses, outside counsel,  
44 and attorney's fees awarded to opposing counsel;  
45 (vi) Government personnel costs, including salaries, overtime,  
46 and benefits, as permitted by law;  
47 (vii) Government travel and training, including conferences, con-  
48 tinuing education, entertainment, and meals;

1 (viii) Government administrative and operating expenses, includ-  
2 ing office supplies, postage, printing, utilities, and repairs  
3 and maintenance of vehicles and other equipment;

4 (ix) Government capital expenditures, including appliances, ca-  
5 nines, computers, equipment, firearms, furniture, and vehicles;  
6 and

7 (x) An itemized list of other expenditures of forfeiture pro-  
8 ceeds, including payments to trade associations and lobbyists and  
9 the transfer of funds to any other law enforcement agencies; and

10 (b) The total value of seized and forfeited property held by the law en-  
11 forcement agency at the end of the reporting period.

12 (6) The state controller shall not disclose:

13 (a) The names, addresses, contact information, or other personally  
14 identifying information of owners, other persons, or business enti-  
15 ties; or

16 (b) The street address, vehicle identification number, or serial num-  
17 ber of any conveyance.

18 (7) A law enforcement agency may delay the reporting of a particular as-  
19 set if the asset was seized from a confidential informant under the agency's  
20 confidential informant policy. The delay may continue for as long as the  
21 confidential informant cooperates with the agency, after which the agency  
22 shall report the asset as required in subsection (4) of this section.

23 (8) The law enforcement agency that seizes property and prosecutors  
24 that litigate related criminal cases and forfeiture proceedings shall up-  
25 date the state controller's website with the information required pursuant  
26 to subsection (4) of this section per a schedule that the state controller  
27 establishes. The commander of a multi-jurisdictional task force may appoint  
28 one (1) agency to report its seizures. If an agency has made no seizures dur-  
29 ing the previous year, a null report shall be filed by the agency specifying  
30 that it did not engage in seizures or forfeitures pursuant to this chapter  
31 during the reporting period.

32 (9) The law enforcement agency that expends forfeiture-related pro-  
33 ceeds shall update the state controller's website with the information  
34 required pursuant to subsection (5) of this section within thirty (30) days  
35 after the end of the fiscal year. The commander of a multi-jurisdictional  
36 task force may appoint one (1) agency to report its expenditures.

37 (10) The state controller, one hundred twenty (120) days after the close  
38 of the fiscal year, shall submit to the speaker of the house of represen-  
39 tatives, the president pro tempore of the senate, the attorney general,  
40 and the governor a written report summarizing activity in the state for the  
41 preceding fiscal year; the type, approximate value, and disposition of the  
42 property seized; and the amount of any proceeds received or expended at the  
43 state and local levels. The report shall provide a categorized accounting  
44 of all proceeds expended. Summary data on seizures, forfeitures, and ex-  
45 penditures of forfeiture proceeds shall be disaggregated by law enforcement  
46 agency. The aggregate report shall also be made available on the state con-  
47 troller's website.

48 (11) The state controller may include in its aggregate report required  
49 by subsection (10) of this section recommendations to improve statutes,  
50 rules, and policies to better ensure that seizure, forfeiture, and expen-

1 ditures are done and reported in a manner that is fair to crime victims,  
2 innocent property owners, secured interest holders, citizens, law enforce-  
3 ment, and taxpayers.

4 (12) If a law enforcement agency fails to file a report within thirty  
5 (30) days after it is due and there is no good cause as determined by the state  
6 controller, the agency shall be subject to a civil fine, as determined by the  
7 state controller but not to exceed five hundred dollars (\$500), payable to  
8 the general fund.

9 (13) The state controller shall make no disbursement of forfeiture pro-  
10 ceeds to any law enforcement agency unless the agency meets its reporting  
11 obligation.

12 (14) The state controller may recoup its costs under this section by  
13 charging a fee to the law enforcement agencies required to report under this  
14 section. The agency may use forfeiture proceeds to pay the costs of compil-  
15 ing and reporting data under this section and to pay any fees imposed by the  
16 state controller.

17 (15) The state controller may adopt rules necessary to implement the  
18 provisions of this section.

19 (16) The data and reports compiled and prepared pursuant to this chapter  
20 are public information under the public records act and are not exempted from  
21 disclosure.

22 SECTION 2. This act shall be in full force and effect on and after Jan-  
23 uary 1, 2024.