

SENATE No. 2105

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to civil asset forfeiture data reporting.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/26/2021</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/1/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>3/12/2021</i>

SENATE No. 2105

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 2105) of Rebecca L. Rausch, Joanne M. Comerford, Nicholas A. Boldyga, James B. Eldridge and others for legislation relative to civil asset forfeiture data reporting. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to civil asset forfeiture data reporting.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: Section 47 of chapter 94C of the General Laws is hereby amended by
2 striking out subparagraph (k)(1) and inserting in place thereof the following subparagraph:-

3 (k)(1) The attorney general, each district attorney and each police department for which
4 the state treasurer has established a special law enforcement trust fund pursuant to subsection (d)
5 shall file an annual report with the treasurer regarding all assets, monies and proceeds from
6 assets seized pursuant to this section and held by such fund. The report shall provide itemized
7 accounting for each seizure and forfeiture, as required by section 47B. The report shall be filed
8 not later than January 31 for the preceding calendar year and shall be a public record.

9 SECTION 2: Section 24W of chapter 90 of the General Laws is hereby amended by
10 adding the following paragraphs:-

11 (g) The attorney general, each district attorney and each police department shall file an
12 annual report with the treasurer regarding all assets, monies and proceeds from assets seized

13 pursuant to this section and held by such fund. The report shall provide itemized accounting for
14 each seizure and forfeiture, as required by section 47B. The report shall be filed not later than
15 January 31 for the preceding calendar year and shall be a public record.

16 (h) The attorney general, each district attorney and each police department for which the
17 state treasurer has established a special law enforcement trust fund shall file an annual report
18 with the treasurer regarding all expenditures therefrom, which shall include, but not be limited
19 to, the following expense categories: personnel contractors equipment training private-public
20 partnerships inter-agency collaborations; and community grants. The report shall be filed not
21 later than January 31 for the preceding calendar year and shall be a public record.

22 (i) Annually, not later than March 15, the state treasurer shall file a report with the
23 executive office of administration and finance and the house and senate committees on ways and
24 means regarding the aggregate deposits, aggregate expenditures, and ending balances for each
25 special law enforcement trust fund during the preceding calendar year. The report shall be a
26 public record.

27 SECTION 3: Section 56 of chapter 265 of the General Laws is hereby amended by
28 adding the following paragraphs:-

29 (k) The attorney general, each district attorney and each police department shall file an
30 annual report with the treasurer regarding all assets, monies and proceeds from assets seized
31 pursuant to this section and held by such fund. The report shall provide itemized accounting for
32 each seizure and forfeiture, as required by section 47B. The report shall be filed not later than
33 January 31 for the preceding calendar year and shall be a public record.

34 (l) The attorney general, each district attorney and each police department for which the
35 state treasurer has established a special law enforcement trust fund shall file an annual report
36 with the treasurer regarding all expenditures therefrom, which shall include, but not be limited
37 to, the following expense categories: personnel contractors equipment training private-public
38 partnerships inter-agency collaborations; and community grants. The report shall be filed not
39 later than January 31 for the preceding calendar year and shall be a public record.

40 (m) Annually, not later than March 15, the state treasurer shall file a report with the
41 executive office of administration and finance and the house and senate committees on ways and
42 means regarding the aggregate deposits, aggregate expenditures, and ending balances for each
43 special law enforcement trust fund during the preceding calendar year. The reports shall be a
44 public record.

45 SECTION 4: Chapter 94C of the General Laws is hereby amended by adding the
46 following new section:-

47 Section 47B: Seizure and forfeiture case tracking system and searchable public website.

48 (a) This section is applicable to property seized and forfeited under section 24W of
49 chapter 90, section 47 of chapter 94C, section 56 of chapter 265, and any other section of the
50 general laws that authorizes a law enforcement agency to seize property used in the commission
51 of a criminal offense for forfeiture.

52 (b) The state treasurer shall establish and maintain a case tracking system and searchable
53 public website that includes the following information about any property seized and forfeited
54 under state law. The state treasurer shall assign the responsibility to report each element to
55 relevant agencies, including seizing agencies and district attorneys where appropriate:

- 56 (1) Name of the law enforcement agency that seized the property;
- 57 (2) Date of the seizure;
- 58 (3) Type of property seized: currency or, if property other than currency, a description of
59 property seized including make, model, and year;
- 60 (4) Place of seizure;
- 61 (5) Estimated value of the seizure;
- 62 (6) Whether the seizure was transferred to federal government;
- 63 (7) Crime for which suspect was charged;
- 64 (8) The outcome of suspect's arrest: no charge was filed, charges dropped, acquittal, plea
65 agreement, jury conviction or other;
- 66 (9) Criminal case number, if charged;
- 67 (10) Forfeiture case number;
- 68 (11) Type of forfeiture proceeding: civil, administrative, criminal or other;
- 69 (12) If a property owner filed a claim or counterclaim, who filed it: the suspect, innocent
70 owner, lienholder, other party, or no filing by any party;
- 71 (13) Whether there was a forfeiture settlement or consent agreement;
- 72 (14) Date of the forfeiture order;

73 (15) Property disposition: returned to owner, partially returned to owner, sold, destroyed,
74 retained by a law enforcement agency, or pending disposition;

75 (16) Total value of property forfeited including currency and proceeds from sale of non-
76 currency property (excluding the value of contraband);

77 (17) Market value of property forfeited under state law that was retained or donated
78 (excluding the value of contraband); and

79 (18) Estimate of total costs to the state (i) to store property in impound lots or evidence
80 rooms, (ii) to pay for law enforcement personnel and prosecutors' time and expenses to litigate
81 forfeiture cases and (iii) cost to sell or dispose of forfeited property.

82 (c) If an agency has made no seizures during the previous year, a null report shall be filed
83 by the agency specifying that it did not engage in seizures or forfeitures during the reporting
84 period.

85 (d) If a law enforcement agency fails to file a report within 30 days after it is due and
86 there is no good cause as determined by the state treasurer, the agency shall be subject to a civil
87 fine payable to the General Revenue Fund of \$500 or the equivalent of one-quarter of the
88 forfeiture proceeds received in the prior year by the agency, whichever is greater.

89 (e) The state treasurer may recoup its costs under this section by charging a fee to the law
90 enforcement agency filing a report. The agency may use forfeiture proceeds to pay the costs of
91 compiling and reporting data under this chapter, and to pay any fees imposed by the state
92 treasurer.

93 (f) The state treasurer may adopt rules necessary to implement this section.

94 (g) The data and reports compiled and prepared under this section shall public records.

95 SECTION 5. Section 4 shall take effect on January 1, 2022. The remainder of this act

96 shall take effect upon its passage.