

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1678

INTRODUCER: Senator Stargel

SUBJECT: Reports Concerning Seized or Forfeited Property

DATE: February 9, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1678 changes the deadline for the annual submission of reports by law enforcement agencies pursuant to the Florida Contraband Forfeiture Act from October 10 to December 1.

The bill is effective July 1, 2018.

II. Present Situation:

Florida Contraband Forfeiture Act

The Florida Contraband Forfeiture Act (act), ss. 932.701-932.7062, F.S., provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.¹

Contraband and other property may be seized when utilized during a violation of, or for the purpose of violating, the act. Property constituting a “contraband article” includes, but is not limited to, a controlled substance as defined in ch. 893, F.S., any gambling paraphernalia being used or attempted to be used in violation of the state’s gambling laws, and any motor fuel upon which the motor fuel tax has not been paid as required by law.²

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the act.³ If the court finds that the seizure occurred lawfully⁴ and that probable cause exists for the seizure, the forfeiture may proceed as set forth in the act.⁵

¹ Section 932.701(1), F.S.

² See s. 932.701(2)(a)1.-12., F.S.

³ Section 932.703(1)(a), F.S.

⁴ Section 932.703(1)(a), F.S., sets forth the circumstances that permit for a lawful seizure of property.

⁵ Section 932.703(2)(c), F.S.

When a seizing agency obtains a final judgment granting forfeiture of real or personal property, it may elect to:

- Retain the property for the agency's use;
- Sell the property at public auction or by sealed bid to the highest bidder;⁶ or
- Salvage, trade, or transfer the property to any public or nonprofit organization.⁷

Reports Concerning Seized or Forfeited Property

Section 932.7061, F.S., requires every law enforcement agency to submit an annual report by October 10 indicating whether the agency has seized or forfeited property under the act.⁸ In the event that a law enforcement agency received or expended forfeited property or proceeds from the sale of forfeited property in accordance with the act, the annual report must document such receipts and expenditures.

The report must be submitted in electronic form to the Florida Department of Law Enforcement (FDLE) and the entity that has budgetary authority over the law enforcement agency. The report must specify, at a minimum, the type, approximate value, court case number, type of offense, disposition of property received, and amount of any proceeds received or expended. The report must be maintained by the FDLE in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA).⁹

The FDLE must submit an annual report to the OPPAGA that compiles the information and data in the annual reports. The FDLE must also include a list of law enforcement agencies that failed to meet the reporting requirements and a summary of any action taken against such noncomplying agency by the office of Chief Financial Officer (CFO).¹⁰

Penalty for Noncompliance with Reporting Requirements

An agency that is in noncompliance with the reporting requirements in s. 932.7061, F.S., must be notified by the FDLE. Such agency has 60 days within receipt of the notification of noncompliance to comply with the reporting requirements. An agency that fails to comply within 60 days is subject to a civil fine of \$5,000. The fine is determined by the CFO and payable to the General Revenue Fund.¹¹

The FDLE must submit any substantial noncompliance to the office of the CFO, which will then be responsible for the enforcement of the fine.¹²

⁶ Real property should be listed on the market and sold in a commercially reasonable manner after appraisal. Section 932.7055(1)(b), F.S.

⁷ Section 932.7055(1)(a)-(c), F.S.

⁸ Section 932.7061(1), F.S.

⁹ *Id.*

¹⁰ Section 932.7061(2), F.S.

¹¹ Section 932.7062, F.S.

¹² *Id.*

The fiscal year for sheriff departments runs from October 1-September 30, making it difficult to gather all required information and submit it by October 10 to comply with the statutory mandate. An agency that does not meet the deadline for submission of the annual report is subject to negative implications associated with a noncompliance status.¹³

III. Effect of Proposed Changes:

Current law requires agencies with seized or forfeited property pursuant to the act to submit an annual report by October 10 documenting the receipts and expenditures of forfeited property or proceeds from the sale of forfeited property pursuant to the act. The bill changes the deadline for the submission of such report to December 1.

The bill reenacts s. 932.7602, F.S., to make a conforming change for the purpose of incorporating an amendment made by the bill.

The bill is effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will likely have no fiscal impact. While law enforcement agencies are subject to a fine if they are in noncompliance with the reporting requirements pursuant to s. 932.7061, F.S., the agencies have 60 days after receiving notification of noncompliance

¹³ Polk County Sheriff's Office, *Proposal for the 2018 FSA Legislative Summit*, (on file with the Senate Criminal Justice Committee).

to comply. Sections 932.7061 and 932.7062, F.S., went into effect July 1, 2016.¹⁴ Since the law has gone into effect, no law enforcement agencies have been in noncompliance after the passage of the 60 days.¹⁵ No fines have been collected pursuant to s. 932.7062, F.S., to date,¹⁶ and the modification to the submission deadline will enable law enforcement agencies a greater opportunity to achieve initial compliant status.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 932.7061 of the Florida Statutes.

The bill reenacts section 932.7062 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁴ Ch. 2016-179, L.O.F.

¹⁵ Conversation with Tabitha Krol, Government Affairs Coordinator, Florida Sheriffs Association (February 8, 2018).

¹⁶ *Id.*