

2022 South Dakota Legislature

House Bill 1328**AMENDMENT 1328C FOR THE HOUSE JUDICIARY
ENGROSSED BILL**

1 **An Act to require law enforcement to report certain seizures of property.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 23A-49 be amended with a NEW SECTION:**

4 For any property seized or forfeited under this chapter, a law enforcement agency
5 shall issue a report to the attorney general within a time specified and in a form prescribed
6 by the attorney general, containing information about the property seized or forfeited as
7 listed in section 2 of this Act and in rule promulgated by the attorney general. ~~A law~~
8 ~~enforcement agency shall make a null report if it did not engage in seizures or forfeitures~~
9 ~~under this chapter during the fiscal year.~~

10 **Section 2. That chapter 23A-49 be amended with a NEW SECTION:**

11 The attorney general shall establish and maintain a searchable public website or
12 electronic spreadsheet that includes the following information about each property seized
13 and forfeited:

14 (1) Name of the law enforcement agency that seized the property or, if seized by a
15 multijurisdictional state task force, the name of the lead state agency;

16 (2) Forfeiture case file number;

17 (3) County;

18 (4) Arresting agency;

19 (5) Seizure date;

20 (6) Location of the seizure, whether a residence, business, event, or traffic stop;

21 (7) If a traffic stop on an interstate or state highway, the direction of the traffic flow,
22 whether eastbound, westbound, southbound or northbound;

23 (8) Type and amount of controlled substance;

24 (9) Original criminal charge;

- 1 (10) Final criminal charge;
2 (11) Date of summons and complaint filed;
3 (12) Date of summons and complaint served or last date of publication;
4 (13) Whether the defendant or property owner defaulted on the forfeiture complaint,
5 and if no default occurred, the date of civil answer filed by the defendant or
6 property owner;
7 (15) Whether an innocent-owner claimant or creditor moved to regain the property;
8 (16) Date of default civil judgment;
9 (17) Date of summary judgment;
10 (18) Date of civil dismissal;
11 (19) Date of order of civil forfeiture;
12 (20) Dollar amount of seized currency;
13 (21) Description of seized property, other than currency, including make, model, and
14 year;
15 (22) Estimated value of seized property other than currency;
16 (23) Date of case completion;
17 (24) Dollar amount of forfeited currency after case completion;
18 (25) Description of forfeited property, other than currency, after case completion;
19 (26) Estimated value of forfeited property, other than currency, after case completion;
20 (27) Whether the property was returned to the defendant or property owner, returned
21 to the innocent-owner claimant or creditor, bought back, sold, destroyed, retained
22 or disbursed to law enforcement agency, or pending disposition; and
23 (28) Case comments.

24 **Section 3. That chapter 23A-49 be amended with a NEW SECTION:**

25 The attorney general, no more than 120 days after the close of the fiscal year,
26 shall post on a searchable public website ~~and submit~~ a report ~~to the speaker of the House~~
27 ~~of Representatives, president pro tempore of the Senate, and Governor,~~ containing an
28 itemized list of each property seized and forfeited for the preceding fiscal year as provided
29 in section 2 of this Act.

30 The attorney general shall include in the report an itemized list of the expenditures
31 and disbursements made by the attorney general under §§ 23A-49-20 and 34-20B-64.

32 The attorney general may include in the report recommendations to improve
33 statutes, rules, and policies to better ensure that seizure, forfeiture, and expenditures are

1 done and reported in a manner that is fair to crime victims, innocent property owners,
2 secured interest holders, citizens, law enforcement and taxpayers.

3 The data and report compiled hereunder are public records under chapter 1-27.

4 **Section 4. That chapter 23A-49 be amended with a NEW SECTION:**

5 If a law enforcement agency fails to file information within thirty days after the due date
6 specified by the attorney general and there is no good cause as determined by the attorney
7 general, the attorney general shall impose on the agency a civil fine payable to the general
8 fund of five hundred dollars or the equivalent of one quarter of the forfeiture proceeds
9 received by the agency, whichever is greater.

10 **Section 4. That chapter 23A-49 be amended with a NEW SECTION:**

11 At the request of an elected official of the jurisdiction whose law enforcement agency seized
12 or obtained forfeiture of the property, the state auditor shall perform an audit under generally
13 accepted government auditing standards of records submitted to the attorney general related
14 to inventory of seized property. A copy of the final audit report must be submitted to the
15 attorney general no later than ninety days after the end of the fiscal year and made public.

16 **Section 4. That chapter 23A-49 be amended with a NEW SECTION:**

17 The attorney general may recoup its costs under this Act by charging a fee to the
18 law enforcement agency filing a report. The fee must be deposited in the general fund.

19 The law enforcement agency may use forfeiture proceeds to pay the costs of
20 compiling and reporting data under this Act, and to pay any fees imposed by the attorney
21 general under this Act.

22 **Section 5. That chapter 23A-49 be amended with a NEW SECTION:**

23 The attorney general shall promulgate rules, in accordance with chapter 1-26
24 establishing:

25 (1) The fee for law enforcement agencies filing a report with the attorney general, not
26 to exceed thirty dollars;

27 (2) The form for law enforcement agencies to file a report with the attorney general;

28 (3) The deadline by which law enforcement must report under section 1 of this Act;

29 (4) Procedures necessary to facilitate the reporting provisions under this Act; and

1 ~~(5)~~(4) Any information required from law enforcement agencies about property seized
2 and forfeited under this chapter, in addition to the information required to be
3 reported to the attorney general in section 2 of this Act.

4 **Section 6.** This Act applies to any property seized or forfeited under this chapter on or after
5 July 1, 2022.

AMENDED