

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6665

BILL NUMBER: SB 314

NOTE PREPARED: Dec 8, 2004

BILL AMENDED:

SUBJECT: Forfeiture of Vehicles and Other Property Used in Crimes.

FIRST AUTHOR: Sen. Antich-Carr

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes forfeiture of certain items used to facilitate a crime mandatory. It also specifies that a vehicle is subject to forfeiture if the person operating the vehicle is convicted of operating while intoxicated and has three prior operating while intoxicated convictions in the preceding five years. The bill requires a prosecuting attorney to file an action for forfeiture not later than 90 days after receiving a written demand for the return of the seized item from the owner, or not later than 180 days after the item was seized, whichever occurs first.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: This proposal potentially could result in additional revenue to the state General Fund and/or the Common School Fund.

Background Information: Law enforcement entities can seize items subject to forfeiture. After an asset is seized during an arrest, notification is given to the prosecuting attorney. The prosecuting attorney files a motion for forfeiture, and a hearing is set. If the court finds the item is subject to forfeiture, the court will enter an order: (1) allowing the police to use the item for not more than three years (IC 34-24-1-4); or (2) requiring the asset to be sold at a sheriff's auction. If a lien exists on forfeited property, then the lienholder has a right to intervene and may have to pay an amount to the court to get the item itself (see IC 34-24-1-5). If the item is not returned to a co-owner or lienholder under IC 34-24-1-5, then the item is sold and the proceeds are distributed as follows: (1) to the sheriff for storage and auction sale expenditures incurred; (2) to a lien holder or co-owner; (3) to the state General Fund or the local unit's general fund (see IC 34-24-1-4(d)(C)); and (4) any remainder

in excess of law enforcement costs to the Common School Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: See *Explanation of State Revenues*, above.

State Agencies Affected: State Police; Conservation and Excise Officers.

Local Agencies Affected: Local units of government.

Information Sources:

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