

2022 Regular Session

HOUSE BILL NO. 820

BY REPRESENTATIVE VILLIO

1 AN ACT

2 To enact R.S. 14:230.1, relative to forfeiture; to provide for definitions; to provide relative
3 to seizure and forfeiture; to provide relative to criminal offenses; to provide for
4 exceptions; to provide for court proceedings; to provide relative to actions of law
5 enforcement; to provide relative to court judgments; to provide for certain time
6 periods; to provide relative to the applicability of remedies; to provide for the
7 allocation of proceeds; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:230.1 is hereby enacted to read as follows:

10 §230.1. Civil remedies

11 A. As used in this Section:

12 (1) "Commingled funds" means the combination of legitimate funds and
13 proceeds derived from criminal activity.

14 (2) "Criminal activity" means any of the offenses listed in Subsection B of
15 this Section, including conspiracy, principals, and attempts to commit any of the
16 listed offenses that are classified as a felony under the laws of this state or of the
17 United States.

18 (3) "Facilitating property" means any property used to commit the offense.

19 (4) "Proceeds" means funds acquired or derived directly or indirectly from
20 or produced or realized through an act.

21 B. All facilitating property, proceeds, and commingled funds, without
22 limitation to commingled funds of persons who knowingly or should have
23 reasonably known of the foregoing criminal activity, shall be subject to seizure and
24 forfeiture if involved in or derived from any of the following offenses:

- 1 (1) Identity theft (R.S. 14:67.16).
- 2 (2) Access device fraud (R.S. 14:70.4).
- 3 (3) Illegal transmission of monetary funds (R.S. 14:70.8).
- 4 (4) Bank fraud (R.S. 14:71.1).
- 5 (5) Monetary instrument abuse (R.S. 14:72.2).
- 6 (6) Computer fraud (R.S. 14:73.5).
- 7 (7) Money laundering; transactions involving proceeds derived from
8 criminal activity (R.S. 14:230).

9 C.(1) Any facilitating property, proceeds, and commingled funds subject to
10 forfeiture under this Section may be seized under process issued by any court of
11 record having jurisdiction over the facilitating property, proceeds, and commingled
12 funds except that seizure without such process may be made when either of the
13 following exists:

14 (a) The seizure is incident to an arrest with probable cause or a search under
15 a valid search warrant or with probable cause or an inspection under valid
16 administrative inspection warrant.

17 (b) The facilitating property, proceeds, and commingled funds subject to
18 seizure have been the subject of a prior judgment in favor of the state in a criminal
19 injunction or forfeiture proceeding under this Section.

20 (2)(a) All forfeitures or dispositions under this Section shall be made with
21 due provisions for the rights of factually innocent persons. No mortgage, lien,
22 privilege, or other security interest recognized under the laws of Louisiana and no
23 ownership interest in indivision shall be affected by a forfeiture if the owner of such
24 mortgage, lien, privilege, or other security interest, or owner in indivision establishes
25 that he is a factually innocent person. No forfeiture or disposition under this Section
26 shall affect the rights of factually innocent persons.

27 (b) Notwithstanding any provision of law to the contrary, a mortgage, lien,
28 or security interest held by a federally-insured financial institution shall not be
29 affected by the seizure and forfeiture provisions of this Section.

1 (c) Notice of pending forfeiture or disposition shall be provided by the
2 district attorney in accordance with the requirements of R.S. 40:2608(3) or R.S.
3 14:90.1(B)(3).

4 D. In the event of a seizure under Subsection C of this Section, a forfeiture
5 proceeding shall be instituted promptly. Any facilitating property, proceeds, and
6 commingled funds taken or detained under this Section shall not be subject to
7 sequestration or attachment but are deemed to be in the custody of the law
8 enforcement officer making the seizure, subject only to the order of the court. When
9 property is seized under this Section, pending forfeiture and final disposition, the law
10 enforcement officer making the seizure may do any of the following:

11 (1) Place the property under seal.

12 (2) Remove the property to a place designated by the court.

13 (3) Request another agency authorized by law to take custody of the property
14 and remove it to an appropriate location.

15 E. The district attorney may institute civil proceedings under this Section.
16 In any action brought under this Section, the district court shall proceed as soon as
17 practicable to the hearing and determination following conviction or agreement
18 between the parties. Pending final determination, the court may at any time enter
19 such injunctions or restraining orders or take such actions, including the acceptance
20 of satisfactory performance bonds, as the court may deem proper.

21 F. A final judgment or decree rendered in favor of the state in any criminal
22 proceeding shall preclude the defendant from denying the essential facts established
23 in that proceeding in any subsequent civil action.

24 G. Notwithstanding any other provision of law, a criminal or civil action or
25 proceeding under this Chapter may be commenced at any time within five years after
26 the conduct in violation of a provision of this Chapter terminates or the cause of
27 action accrues. If a criminal prosecution or civil action is brought under the
28 provisions of this Chapter, the running of the period prescribed by this Section with
29 respect to any cause of action arising under Subsection E of this Section which is
30 based in whole or in part upon any matter complained of in any such prosecution or

1 action shall be suspended during the pendency of such prosecution or action and for
2 two years following its termination.

3 H. The application of one civil remedy under any provision of this Section
4 shall not preclude the application of any other remedy, civil or criminal, under any
5 other provision of law. Civil remedies under this Section are supplemental and not
6 mutually exclusive.

7 I. The allocation of proceeds from forfeitures or dispositions under this
8 Section shall be determined by the court in accordance with each law enforcement
9 entity's participation in the investigation, seizure, and forfeiture process. Proceeds
10 shall be distributed in the following order of priority:

- 11 (1) Satisfaction of any bona fide security interest or lien.
- 12 (2) Payment of all proper expenses of the proceedings for forfeiture and sale,
13 including expenses of seizure, maintenance of custody, advertising, and court costs.
- 14 (3) The remaining funds shall be allocated as follows:
 - 15 (a) Sixty percent to the law enforcement agency or agencies making the
16 seizure.
 - 17 (b) Twenty percent to the criminal court fund.
 - 18 (c) Twenty percent to the district attorney's office pursuing the forfeiture.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____