



Greg Schwab

Final Analysis

Legislative Service Commission

Sub. H.B. 120

127th General Assembly
(As Passed by the General Assembly)

Reps. Latta, Chandler, Combs, Hughes, Otterman

Sens. Grendell, Harris

Effective date: Emergency, June 30, 2007; Sections 1 and 2 effective July 1, 2007

ACT SUMMARY

- Removes unnecessary and inconsistent language mistakenly retained by Sub. H.B. 241 of the 126th General Assembly.
- Adds references to the Department of Taxation and its Enforcement Division and related funds in the appropriate places in R.C. Chapter 2981., as enacted in Sub. H.B. 241, to retain their preexisting authority to obtain forfeiture and use the property or the proceeds that, due to an oversight, were not included in Sub. H.B. 241.
- Declares an emergency and makes the changes made by the act effective the same date as the changes made by Sub. H.B. 241: July 1, 2007.

CONTENT AND OPERATION

Forfeiture

Based on recommendations of the Ohio Criminal Sentencing Commission, Sub. H.B. 241 of the 126th General Assembly reorganized, consolidated, and relocated many prior provisions containing specific criminal and civil asset forfeiture provisions with respect to corrupt activity, criminal gang activity, felony drug abuse offenses, contraband, and Medicaid fraud in a new chapter, R.C. Chapter 2981. The new chapter applies to asset forfeitures relating to offenses, except that, pursuant to Sub. H.B. 241, the new chapter does not apply to or limit forfeitures under the Motor Vehicle Law.

The act modifies the provisions of Sub. H.B. 241 as follows:

(1) In its enacted form, Sub. H.B. 241 mistakenly retained inconsistent and unnecessary language in R.C. 2152.20, the section concerning juvenile dispositions. Under continuing law, that section provides that the new R.C. Chapter 2981. applies to a child who is adjudicated a delinquent child for participating in a criminal gang. However, in preexisting language that was mistakenly retained in Sub. H.B. 241, that section also provides that the former forfeiture provisions specific to participating in a criminal gang apply to such a delinquent child. The act repeals the language referring to the former forfeiture provisions. (R.C. 2152.20(B)(3).)

(2) In its enacted form, Sub. H.B. 241 includes in its forfeiture provisions in new R.C. Chapter 2981. references to law enforcement agencies and entities that, under preexisting law, had authority in specified circumstances to obtain forfeiture of property and use the property or proceeds of the sale of the property. The references generally retain the preexisting authority of the agencies and entities to obtain forfeiture and use the property or the proceeds. The law enforcement agencies and entities referred to in the forfeiture provisions include county sheriffs, municipal and township police, prosecuting attorneys, park districts, the State Highway Patrol, the Department of Public Safety, and the State Board of Pharmacy (e.g., R.C. 2981.11(B)(2) and 2981.13(C)). On June 26, 2003, Am. Sub. H.B. 95 of the 125th General Assembly added the Department of Taxation and its Enforcement Division to the specified law enforcement agencies and entities that had authority in specified circumstances to obtain forfeiture of property and use the property or proceeds of the sale of the property. However, the report of the Criminal Sentencing Commission on which Sub. H.B. 241 was based was issued in March 2003, before the Department of Taxation and its Enforcement Division were so added. Due to an oversight, the act was not modified during the legislative process to retain the references to the Department and the Division and their preexisting authority to obtain forfeiture and use the property or the proceeds. The act adds references to the Department of Taxation and its Enforcement Division and related funds in the appropriate places in new R.C. Chapter 2981. to retain their preexisting authority to obtain forfeiture and use the property or the proceeds (R.C. 2981.01(B)(7), 2981.11(B)(2), and 2981.13(B)(4)(b), (C)(1), (C)(2)(c), and (C)(3)(e)).

HISTORY

ACTION	DATE
Introduced	03-21-07
Reported, H. Criminal Justice	05-01-07
Passed House (99-0)	05-30-07
Reported, S. Judiciary - Criminal Justice	06-20-07
Passed Senate (32-0)	06-27-07
House concurred in Senate amendments (95-1)	06-27-07

07-hb120-127.doc/jc

