STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1022

By: Easley of the Senate

and

Easley of the House

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; authorizing the district attorney to request forfeiture of certain motor vehicles; establishing certain procedures to be followed; providing for disposal of forfeited vehicles by Department of Public Safety; providing procedures for delivery of certain instruments of title; providing procedures for sale of vehicles; providing certain exception when vehicle is impounded; construing certain action; providing for deposit of certain proceeds to certain revolving fund; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-902a of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The district attorney may file a motion requesting forfeiture of the motor vehicle involved in the commission of an eligible offense as provided in this section. The provisions of this act shall apply to any person who has been convicted of an offense under Section 11-902, 11-903 or 11-904 of Title 47 of the Oklahoma Statutes and who on or after the effective date of this act is convicted of an offense under Section 11-903 or 11-904 of Title 47 of the Oklahoma Statutes within ten (10) years of any prior conviction under Section 11-902, 11-903 or 11-904 of Title 47 of the Oklahoma Statutes.

B. The motion for forfeiture must be filed within thirty (30) days of the verdict or plea of guilty or plea of nolo contendere.

C. Upon filing a motion for forfeiture, the court shall schedule a hearing on the matter and shall notify the Department of Public Safety and the convicted person of the time and place set for the hearing. The hearing shall be not less than twenty (20) days nor more than forty-five (45) days from the date the motion is filed. Upon receiving notice from the court of the time and place set for a hearing under this section, the Department shall notify by certified mail to the address shown upon the records of the Tax Commission every person who has an ascertainable ownership or security interest in the motor vehicle. For all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the vehicle, notice shall be by one publication in a newspaper of general circulation in the county where the motion is filed. The written notice shall include:

1. A full description of the motor vehicle;

2. The time and place of the forfeiture hearing;

3. The legal authority under which the motor vehicle may be forfeited; and

4. Notice of the right to intervene to protect an interest in the motor vehicle.

D. Any person having an ownership or security interest in the vehicle subject to forfeiture may file a written objection to the motion within ten (10) days of the notice from the Department of Public Safety.

E. At the hearing, any person who claims an ownership or security interest in the motor vehicle must establish by a preponderance of the evidence that:

1. The person has an interest in the motor vehicle and such interest was acquired in good faith;

2. The person is not the person convicted of the offense that resulted in the forfeiture proceeding; and

3. The person did not know or have reasonable cause to believe that it would be used in the commission of a criminal offense.

F. If a person satisfies the requirements of subsection E of this section, the court shall either order an amount equal to the value of the interest of that person in the motor vehicle to be paid to that person upon sale of the motor vehicle or order the release of the vehicle from the forfeiture proceedings if the person intervening has full right, title and interest in the vehicle.

G. At the hearing, the court shall order the forfeiture of the motor vehicle if it is determined by a preponderance of the evidence that the forfeiture of the motor vehicle will serve one or more of the following purposes:

1. Deterrence of the convicted person from the commission of future offenses under Section 11-902, 11-903 or 11-904 of Title 47 of the Oklahoma Statutes;

2. Protection of the safety and welfare of the public;

3. Deterrence of other persons who are potential offenders under Section 11-902, 11-903, or 11-904 of Title 47 of the Oklahoma Statutes;

4. Expression of public condemnation of the serious or aggravated nature of the conduct of the convicted person; or

5. Satisfaction of monetary amounts for criminal penalties.

H. Upon forfeiture of a motor vehicle, the court shall require the surrender of the motor vehicle, the certificate of title and registration of the motor vehicle. The vehicle, the certificate of title and registration shall be delivered to any person who suffered personal injury or property loss as a result of the criminal act which resulted in the forfeiture of the vehicle. If more than one person suffered a personal injury or property loss as a result of the criminal act which resulted in the forfeiture of the vehicle, the court shall order the vehicle sold and the proceeds of the sale distributed proportionally to the persons suffering the personal injury or property loss. If no person suffered personal injury or property loss as a result of the criminal act which resulted in the forfeiture of the vehicle, the vehicle, the certificate of title, and the registration shall be delivered to the Department of Public Safety within three (3) days of the forfeiture order unless such vehicle is impounded. A motor vehicle forfeited pursuant to this section, shall be sold by the Department of Public Safety as provided by law for the sale of other forfeited property, except as otherwise provided in this section.

I. When a vehicle is impounded and a forfeiture order is issued, all towing, wrecker services, and storage expenses shall be satisfied from the sale of the vehicle; provided, a notice for the sale of such vehicle to pay impound expenses has not been filed prior to the filing of a motion for forfeiture. If a notice for sale of such vehicle was filed prior to the filing of a motion for forfeiture, the vehicle shall be sold as provided by law for unpaid towing, wrecker services, and storage expenses. If the convicted person redeems his or her interest in the vehicle at such sale, a forfeiture proceeding may thereafter proceed as authorized by this act. Neither the notice of sale for towing, wrecker service, and storage expenses nor the sale of such vehicle shall serve to extend

the requirement for filing a motion to forfeit within thirty (30) days of the conviction or plea as provided in subsection B of this section.

J. Except as provided in subsections H and I of this section, proceeds from the sale of any vehicle forfeited pursuant to this section shall be deposited in the Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503.2 of Title 63 of the Oklahoma Statutes.

SECTION 2. This section shall become effective November 1, 1998.

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