

1 **SENATE FLOOR VERSION**

2 April 1, 2014

3 **AS AMENDED**

4 ENGROSSED HOUSE  
5 BILL NO. 2851

6 By: Fisher, Bennett, Stiles,  
7 Walker, Kern and Ritze of  
8 the House

9 and

10 Shortey of the Senate

11 **[ Oklahoma Antiterrorism Act - codification -  
12 noncodification - effective date ]**

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

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1268.9 of Title 21, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. All property, including but not limited to money, used in  
18 the course of, intended for use in the course of, derived from, or  
19 realized through conduct in violation of the Oklahoma Antiterrorism  
20 Act is subject to civil forfeiture to the state.

21 B. A person, **other than the offender, who is** injured as a  
22 result of a criminal offense under the Oklahoma Antiterrorism Act  
23 and a law enforcement agency or other governmental agency that  
24 participated in the investigation, mitigation, seizure, or  
forfeiture process for a criminal offense under the Oklahoma

1 Antiterrorism Act may file a claim for costs or damages, and the  
2 property described in subsection A of this section shall be used to  
3 satisfy any costs or damages awarded for the claim.

4 C. 1. Forfeiture or disposition under this section shall not  
5 affect the rights of a factually innocent person.

6 2. A mortgage, lien, privilege, other security interest, or  
7 joint ownership interest shall not be affected by a forfeiture under  
8 this section if the owner of the mortgage, lien, privilege, other  
9 security interest or joint owner establishes that he or she is a  
10 factually innocent person.

11 D. The allocation of proceeds from a forfeiture and disposition  
12 under this section shall be paid to claimants under subsection B of  
13 this section in the following order:

14 1. First, the costs of investigation shall be paid to the law  
15 enforcement agency or governmental agency that conducted the  
16 investigation.

17 a. If more than one law enforcement agency or  
18 governmental agency equally conducted the  
19 investigation, the costs of investigation shall be  
20 paid equally to the law enforcement agencies and  
21 governmental agencies conducting the investigation.

22 b. If one law enforcement agency or governmental agency  
23 primarily conducted the investigation, the costs of  
24 investigation first shall be paid to that law

1 enforcement agency or governmental agency, with actual  
2 vouchered costs reimbursed on a pro rata basis to the  
3 other law enforcement agencies or governmental  
4 agencies participating in the investigation, not to  
5 exceed ten percent (10%) of the costs of investigation  
6 allocated to the primary law enforcement agency or  
7 governmental agency;

8 2. Second, twenty-five percent (25%) of the proceeds plus the  
9 costs of prosecution or all of the remaining proceeds, whichever is  
10 less, shall be paid to the office of the prosecuting district  
11 attorney;

12 3. Third, the costs of investigation shall be paid on a pro  
13 rata basis to a law enforcement agency or governmental agency that  
14 was not fully reimbursed under paragraph 1 of this subsection;

15 4. Fourth, the costs of mitigation, seizure, or forfeiture  
16 shall be paid on a pro rata basis to a law enforcement agency or  
17 governmental agency that participated in the mitigation, seizure, or  
18 forfeiture process; and

19 5. Fifth, any remaining proceeds shall be paid on a pro rata  
20 basis to satisfy any judgments under Section 2 of this act for  
21 persons injured as a result of a criminal offense under the Oklahoma  
22 Antiterrorism Act.

1 E. 1. Property subject to forfeiture under this section may be  
2 seized by a law enforcement officer upon the issuance of a court  
3 order.

4 2. Seizure without a court order may be made if:

5 a. the seizure is incident to a lawful arrest or search,  
6 or

7 b. the property subject to seizure has been the subject  
8 of a prior judgment in favor of the state in a  
9 forfeiture proceeding based on this section.

10 3. a. A forfeiture action resulting from a seizure under  
11 this subsection shall be instituted promptly.

12 b. Property taken or detained under this section is not  
13 subject to sequestration or attachment but is deemed  
14 to be in the custody of the law enforcement officer  
15 making the seizure, subject only to the order of the  
16 court.

17 c. When property is seized under this section, pending  
18 forfeiture and final disposition, the law enforcement  
19 officer making the seizure may:

20 (1) place the property under seal,

21 (2) remove the property to a place designated by the  
22 court, or

1 (3) request another agency authorized by law to take  
2 custody of the property and remove it to an  
3 appropriate location.

4 F. The limitations period for a claim brought under this  
5 section is five (5) years from the date of the discovery of the  
6 violation of the Oklahoma Antiterrorism Act.

7 SECTION 2. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1268.10 of Title 21, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. A person, **other than the offender, who is** injured as a  
11 result of a criminal offense under the Oklahoma Antiterrorism Act  
12 may file an action for damages against the person who violated the  
13 Oklahoma Antiterrorism Act.

14 B. A person who files an action under this section is entitled  
15 to recover three times the actual damages sustained or Ten Thousand  
16 Dollars (\$10,000.00), whichever is greater, as well as attorney fees  
17 in the trial and appellate courts if the person prevails in the  
18 claim.

19 C. The limitations period for an action under this section is  
20 five (5) years from the date of discovery of the violation of the  
21 Oklahoma Antiterrorism Act.

22 D. A person who receives a judgment under this section may seek  
23 satisfaction of the judgment under Section 1 of this act.

1 SECTION 3. NEW LAW A new section of law not to be  
2 codified in the Oklahoma Statutes reads as follows:

3 Sections 1 and 2 of this act are hereby incorporated into and  
4 deemed to be included in the Oklahoma Antiterrorism Act.

5 SECTION 4. This act shall become effective November 1, 2014.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
7 April 1, 2014 - DO PASS AS AMENDED  
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