

Stricken language would be deleted from and underlined language would be added to present law.
Act 1295 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/28/13
A Bill

SENATE BILL 630

By: Senator Rapert
By: Representative D. Meeks

For An Act To Be Entitled

*AN ACT PROVIDING FOR ENHANCED CIVIL LIABILITY
RESULTING FROM ACTS OF TERRORISM; TO BE KNOWN AS
ANDY'S LAW; AND FOR OTHER PURPOSES.*

Subtitle

*PROVIDING FOR ENHANCED CIVIL LIABILITY
RESULTING FROM ACTS OF TERRORISM; AND TO
BE KNOWN AS ANDY'S LAW.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16 is amended to add a new chapter to read as follows:

Chapter 127

CIVIL LIABILITY FOR ACTS OF TERROR

16-127-101. Forfeiture of and claims against property used to further an act of terrorism.

(a) All property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of § 5-54-201 et seq., is subject to civil forfeiture to the state.

(b) A person injured as a result of a criminal offense under § 5-54-201 et seq. and a law enforcement agency or other governmental agency that participated in the investigation, mitigation, seizure, or forfeiture process for a criminal offense under § 5-54-201 et seq. may file a claim for costs or



damages, and the property described in subsection (a) of this section shall be used to satisfy any costs or damages awarded for the claim.

(c)(1) A forfeiture or disposition under this section shall not affect the rights of a factually innocent person.

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

(d) The allocation of proceeds from a forfeiture and disposition under this section shall be paid to claimants under subsection (b) of this section in the following order:

(1)(A) First, the costs of investigation shall be paid to the law enforcement agency or governmental agency that conducted the investigation.

(B) If more than one (1) law enforcement agency or governmental agency equally conducted the investigation, the costs of investigation shall be paid equally to the law enforcement agencies and governmental agencies conducting the investigation.

(C) If one (1) law enforcement agency or governmental agency primarily conducted the investigation, the costs of investigation first shall be paid to that law enforcement agency or governmental agency, with actual vouchered costs reimbursed on a pro rata basis to the other law enforcement agencies or governmental agencies participating in the investigation, not to exceed ten percent (10%) of the costs of investigation allocated to the primary law enforcement agency or governmental agency;

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

(3) Third, the costs of investigation shall be paid on a pro rata basis to a law enforcement agency or governmental agency that was not fully reimbursed under subdivision (d)(1)(C) of this section;

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

(5) Fifth, any remaining proceeds shall be paid on a pro rata

basis to satisfy any judgments under § 16-127-102 for persons injured as a result of the criminal offense under § 5-54-201 et seq.

(e)(1) Property subject to forfeiture under this section may be seized by a law enforcement officer upon the issuance of a court order.

(2) Seizure without a court order may be made if:

(A) The seizure is incident to a lawful arrest or search;

or

(B) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based on this section.

(3)(A) A forfeiture action resulting from a seizure under this subsection (e) shall be instituted promptly.

(B) Property taken or detained under this section is not subject to sequestration or attachment but is deemed to be in the custody of the law enforcement officer making the seizure, subject only to the order of the court.

(C) When property is seized under this section, pending forfeiture and final disposition, the law enforcement officer making the seizure may:

(i) Place the property under seal;

(ii) Remove the property to a place designated by the court; or

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

(f) The limitations period for a claim brought under this section is five (5) years from the date of the discovery of the violation of § 5-54-201 et seq.

16-127-102. Civil action by person injured by an act of terrorism.

(a) A person injured as a result of a criminal offense under § 5-54-201 et seq. may file an action for damages against the person who violated § 5-54-201 et seq.

(b) A person who files an action under this section is entitled to recover three (3) times the actual damages sustained or ten thousand dollars (\$10,000), whichever is greater, as well as attorney fees in the trial and appellate courts if the person prevails in the claim.

(c) The limitations period for an action under this section is five (5) years from the date of discovery of the violation of § 5-54-201 et seq.

(d) A person who receives a judgment under this section may seek satisfaction of the judgment under § 16-127-101.

/s/Rapert

APPROVED: 04/16/2013