



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Senators LAKEY, Lee, Burgoyne and,  
Representatives DAYLEY, Chaney, Gannon

**FROM:** Ryan Bush - Principal Legislative Drafting Attorney

**DATE:** March 06, 2019

**SUBJECT:** Temporary Rule

IDAPA 11.06.01 - Rules Governing Civil Asset Forfeiture Reporting (New Chapter) - Adoption of  
Temporary Rule - Docket No. 11-0601-1901

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Ryan Bush at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule

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**IDAPA 11 – IDAHO STATE POLICE**  
**11.06.01 – RULES GOVERNING CIVIL ASSET FORFEITURE REPORTING**  
**DOCKET NO. 11-0601-1901 (NEW CHAPTER)**  
**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is February 7, 2019.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-2901, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

During the 2018 Session, House Bill #477 was approved requiring on or before March 31, 2019, and by March 31 of each year thereafter, each state or local law enforcement agency in this state that has seized or forfeited property pursuant to this section shall retain the following information from the previous calendar year: List 1-12 of required information. Local law enforcement agencies shall submit the information required by this subsection to the county prosecutor for its jurisdiction on a form as promulgated in rule by the Idaho state police, and such prosecutor shall retain the form for a period of seven (7) years.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The statutory deadline of March 31, 2019, for law enforcement officers to use the form mandated to be promulgated by the Idaho state police sufficient time does not exist for ISP to engage in negotiated rulemaking prior to that deadline. Please see Section 37-2744(j), Idaho code.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Amy Jordan, (208) 884-7100.

Dated this 7th day of February, 2019.

Colonel Kedrick R. Wills  
Director  
Idaho State Police  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7003  
Fax: (208) 884-7290

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-0601-1901**

**Pursuant to Section 67-5226, Idaho Code, the full text of  
the temporary rule is being published in this Bulletin.**

**This rule has been adopted as a temporary rule and is effective February 7, 2019.**

**IDAPA 11**  
**TITLE 06**  
**CHAPTER 01**

**11.06.01 – RULES GOVERNING CIVIL ASSET FORFEITURE REPORTING**

**000. LEGAL AUTHORITY.**

**01. General.** The Director of the Idaho State Police has general rulemaking authority to prescribe rules and regulations for civil asset forfeiture reporting, pursuant to Section 67-2901, Idaho Code. (2-7-19)T

**02. Specific.** In accordance with Section 37-2744 (Chapter 27, Article V), Idaho Code, the Idaho State Police shall promulgate such rules and forms it deems necessary to carry out the provisions and mandate of said Section 37-2744, Idaho Code. (2-7-19)T

**03. Temporary Rule.** Pursuant to Section 67-5226, Idaho Code, the Governor has found that compliance with the March 31, 2019, initial reporting deadline set forth for state and law enforcement agencies in Section 37-2744 (Chapter 27, Article V), Idaho Code, as amended by 2018 Session Laws, Chapter 221, Section 1, p. 494, requires that these rules to become effective during or after the conclusion of the 2019 legislative session and thus before it will be submitted to the legislature for review. (2-7-19)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 11.06.01, “Rules Governing Civil Asset Forfeiture Reporting,” IDAPA 11, Title 06, Chapter 01. (2-7-19)T

**02. Scope.** These rules concern the creation, maintenance, and accessibility of a civil asset forfeiture reporting form that the Idaho State Police is charged with promulgating pursuant to Section 37-2744, Idaho Code. Per Section 37-2744 (Chapter 27, Article V), Idaho Code, each local law enforcement agency is required to use such form to submit certain information regarding individual civil asset forfeitures to their local prosecuting attorneys. (2-7-19)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (2-7-19)T

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter are governed by the rules of administrative procedure of the Attorney General, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (2-7-19)T

**004. INCORPORATION BY REFERENCE.**

The following is incorporated by reference in this chapter of rules: (2-7-19)T

**01. Idaho Civil Asset Forfeiture Reporting Form (as adopted February 7, 2019).** This document is available on the Internet at <https://www.isp.idaho.gov>. (2-7-19)T

**005. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein and referenced form have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (2-7-19)T

**006. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Civil Asset Forfeiture Reporting Form.** A form promulgated by the Idaho State Police, to be used by each state and local law enforcement agency. (2-7-19)T

**011. CONTENTS OF CIVIL ASSET FORFEITURE REPORTING FORM.**

**01. Asset Forfeiture Reporting Form.** The Asset Forfeiture Reporting Form shall contain fields for entry of the following information: (2-7-19)T

- a.** The name of the law enforcement agency that seized the property; (2-7-19)T
- b.** The date of seizure; (2-7-19)T
- c.** The type and description of property seized, including make, model, year, and serial number, if applicable; (2-7-19)T
- d.** The crime(s), if any, for which the suspect has been charged, including whether such crime is a violation of state or federal law; (2-7-19)T
- e.** The criminal case number, if any; (2-7-19)T
- f.** The outcome, if any, of the suspect's case; (2-7-19)T
- g.** If the forfeiture was not processed under state law, the reason for the federal transfer, if known; (2-7-19)T
- h.** The forfeiture case number; (2-7-19)T
- i.** The date of the forfeiture decision; (2-7-19)T
- j.** Whether there was a forfeiture settlement; (2-7-19)T
- k.** The date and outcome of property disposition as described by one (1) or more of the following: returned to owner; partially returned to owner; sold; destroyed; or retained by law enforcement; and (2-7-19)T
- l.** The value of the property forfeited based on the value realized, if sold, or a reasonable good faith estimate of the value, if possible. (2-7-19)T

**012. FORMS FOR RECORD USE.**

All forms used or referred to in these rules are available upon request from: Headquarters Management Assistant, Idaho State Police, 700 S. Stratford Dr., Meridian, ID 83642-6202, by telephone at (208) 884-7100, or from the Idaho State Police website at <https://www.isp.idaho.gov>. (2-7-19)T

**013. – 999. (RESERVED)**