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A BILL

20-48

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide a comprehensive scheme governing civil forfeiture in order to ensure that property owners are promptly notified after their property is seized and held for a civil forfeiture proceeding; to ensure that all property seized for purposes of a civil forfeiture proceeding is inventoried and catalogued by the Metropolitan Police Department; to eliminate the bond requirement as a prerequisite to a civil forfeiture proceeding; to ensure that property owners have an opportunity to request interim release of property pending the final disposition of a forfeiture hearing; to remove the burden of proof on the property owners to show that their property is not subject to forfeiture; to require law enforcement agencies to report data annually on civil forfeitures; to provide that drug possession shall not be a forfeitable offense; to amend the Zero Tolerance for Guns Amendment Act of 1995, the District of Columbia Uniform Controlled Substances Act of 1981, Firearms Control Regulations Act of 1975, the Illegal Dumping Enforcement Act of 1994, An Act to establish a code of law for the District of Columbia, the Safe Streets Forfeiture Amendment Act of 1992, and An Act For the suppression of prostitution in the District of Columbia to clarify the reforms to the burden of proof and the compliance procedures; and to amend section 2505 of Chapter 25 of Title 24 of the District of Columbia Municipal Regulations and the Fair Criminal Record Screening Amendment Act of 2014 to make technical amendments.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

act be cited as the “Civil Asset Forfeiture Amendment Act of 2014.”

TITLE I. FORFEITURE.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) “By type of property” means the 4 distinct types of property: real property, vehicles, currency, and other personal property.

35 (2) “Court” means the Superior Court of the District of Columbia.

36 (3) “Currency” means cash, or the fair market value of seized property disposed
37 of pursuant to section 103(e).

38 (4) “Forfeitable offense” means an alleged violation of District law that can give
39 rise to forfeiture pursuant to the following provisions: section 706a of The Firearms Control
40 Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-
41 2507.06a), section 6 of the Illegal Dumping Enforcement Act of 1994, effective May 20, 1994
42 (D.C. Law 10-117; D.C. Official Code § 8-905), section 3 of the Commercial Counterfeiting
43 Criminalization Act of 1996, effective June 3, 1997 (D.C. Law 11-271; D.C. Official Code § 22-
44 902), section 866 of An Act to establish a code of law for the District of Columbia, effective
45 March 3, 1901 (31 Stat. 1331; D.C. Official Code § 22-1705), section 5 of An Act For the
46 Suppression of prostitution in the District of Columbia, effective May 7, 1993 (49 Stat. 651; D.C.
47 Official Code § 22-2723), section 502 of the District of Columbia Uniform Controlled
48 Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-
49 905.02), or Section 4 of the District of Columbia Revenue Act of 1937, approved August 17,
50 1937 (50 Stat. 680; D.C. Official Code § 50-1501.04).

51 (5) “Mayor” means the Mayor of the District of Columbia or the Mayor’s
52 designee.

53 (6) “Proceeds” means all funds received by the District of Columbia as a result of
54 the sale of seized property.

55 (7) “Owner” means a person with a legal ownership interest in the property
56 subject to seizure or forfeiture.

57 (8) "Relative" means a spouse, partner, sibling, parent, grandparent, child,
58 grandchild, or the spouse, partner, or child thereof.

59 Sec. 102. General provisions.

60 (a) Only property designated as forfeitable as the result of the commission of a forfeitable
61 offense shall be subject to forfeiture and shall be subject to forfeiture only in accordance with the
62 provisions of this act.

63 (b) No property shall be subject to forfeiture by reason of an act or omission committed
64 or omitted without the actual knowledge and consent of the owner, unless the owner was
65 willfully blind to the knowledge of the act or omission.

66 (c) Except as provided in section 108, a conviction of a forfeitable offense in a criminal
67 case shall not be required for the purpose of establishing in a civil forfeiture proceeding that
68 property is subject to forfeiture.

69 (d) Property that is contained within property subject to forfeiture does not automatically
70 render that property subject to forfeiture.

71 (e) Property seized as evidence in a criminal or juvenile case shall not be subject to this
72 Act until the Metropolitan Police Department receives written notice from the prosecutorial
73 authority that the property will not be needed as evidence in a criminal case.

74 Sec. 103. Seizure; pre-seizure hearings for real property.

75 (a) Property subject to forfeiture under this title may be seized by the District:

76 (1) By judicial order; or

77 (2) Upon the District's determination that there is probable cause to believe that
78 the property is subject to forfeiture.

79 (b) Property seized for forfeiture under this title is deemed to be in the custody of the
80 District. When property is seized pursuant to this title, the District shall:

81 (1) Place the property in an area designated by the District for safe storage until
82 disposition;

83 (2) Ensure that the seized property is inventoried, including providing a full
84 description of all property seized and all property contained therein. Each specific property
85 seized, including any additional property contained therein, shall be assigned an individual
86 property identification number. The District shall maintain the property identification numbers
87 and description of all items seized. For purposes of this paragraph, a sum of currency shall be
88 deemed to be a single item of property.

89 (c) If the District retains possession of the property pending the outcome of the forfeiture
90 proceedings in Court, the District is responsible for the following:

91 (1) The costs of storage; and

92 (2) Keeping the interest or rent earned by the property and distributing the
93 interest or rent earned to the owner of the property if the property is not ultimately declared
94 forfeited.

95 (d) When property is seized by a law enforcement officer, the officer shall give to the
96 person from whom the property was seized a receipt that provides a description of the property
97 seized.

98 (e)(1) If seized property is likely to perish, or be greatly reduced in value by its seizure,
99 or the expense of keeping the property is disproportionate to its value, the District may dispose
100 of the property.

101 (2) If, pursuant to paragraph (1) of this subsection, the District sells seized
102 property, the sale proceeds will become substitute property for the original seized property and
103 shall be subject to forfeiture in accordance with the standards and procedures set forth in this act;
104 provided, that determination of whether the property is subject to forfeiture shall be made based
105 on the nature of the original seized property and not based on its current form of proceeds.

106 (3) If, pursuant to paragraph (1) of this subsection, the District discards seized
107 property, the fair market value of the discarded property prior to its disposal shall be subject to
108 forfeiture in accordance with the standards and procedures set forth in this act; provided, that
109 determination of whether the property is subject to forfeiture shall be made based on the nature
110 of the original seized property and not based on its current form of currency value.

111 (4) The District must provide notice to the owner of seized property regarding its
112 intent to dispose of the seized property in accordance with section 104.

113 (f)(1) The District may not seize real property for forfeiture unless, prior to the seizure,
114 the owner of the property is afforded notice and an opportunity to be heard at a hearing
115 conducted in accordance with section 106(f).

116 (2)(A) A hearing requested pursuant to subparagraph (1) of this subsection need
117 not be held if, prior to the hearing, the District reaches a written agreement with the owner as to
118 conditions for the owner to retain the real property pending forfeiture proceedings.

119 (B) Permissible conditions are limited to the following:

120 (i) An agreement by the owner to prohibit certain individuals from
121 using the real property;

122 (ii) An agreement by the owner to prohibit the use of the real
123 property to facilitate illegal conduct;

124 (iii) An agreement by the owner that he or she will not
125 intentionally destroy, substantially damage, dispose of, or transfer title to the property;

126 (iv) A requirement that the owner present proof of ownership,
127 which the owner may prove by the presentation of the title to the property; and

128 (v) An agreement by the owner to maintain property insurance.

129 (C) If, prior to the hearing pursuant to paragraph (1) of this subsection, the
130 District reaches an agreement with the owner, the District shall immediately notify the Court that
131 it withdraws its request for the pre-seizure hearing.

132

133 (3) Any decision reached at a hearing conducted pursuant to this subsection shall
134 be appealable pursuant to section 106(l).

135 (4) If the District alleges that the owner has violated a condition to retain custody
136 of the real property pending final forfeiture proceedings, the allegation shall be made and heard
137 in accordance with section 106(l).

138 Sec. 104. Notice.

139 (a)(1)(A) Upon the seizure of any property by law enforcement, the District shall take all
140 reasonable steps to identify the owner or owners of the seized property and provide the owner or
141 owners with notice of the intent of the District to seek forfeiture of the property.

142 (B) The notice shall be in writing and shall be provided in person or by
143 certified or registered mail, return receipt requested. If an owner is detained or otherwise in the

144 custody of the government, the District shall provide notice to the owner where he or she is
145 detained or in custody. The District shall also publish on its official website notice of the
146 seizure.

147 (C) Notice provided in person shall not be valid unless:

148 (i) The owner signs a return receipt acknowledging acceptance of
149 the notice; or

150 (ii) A representative of the District attests in a sworn document to
151 personal knowledge that the owner received notice but refused to sign a return receipt.

152 (D) The District shall send or provide notice to the owner:

153 (i) Within 10 business days after the seizure, if the property is not
154 subject to an evidentiary hold;

155 (ii) Within 10 business days after receiving written notice from the
156 prosecutorial authority that the property will not be needed as evidence in a criminal case if the
157 property was subject to an evidentiary hold for a case that was not charged by the prosecutorial
158 authority after an arrest; or

159 (iii) Within 5 business days after receiving written notice from the
160 prosecutorial authority that the property will not be needed as evidence in a criminal case if the
161 property was subject to an evidentiary hold for a case that was charged by the prosecutorial
162 authority after an arrest.

163 (2) The written notice shall identify the property seized and the property
164 identification number.

165 (A) For each item seized, the notice shall also include:

- 166 (i) Whether the item is immediately returnable to the owner;
167 (ii) Whether the District intends to seek forfeiture;
168 (iii) Whether the District intends to dispose of it or has disposed of
169 it pursuant to section 103(e); and

170 (B) The notice shall explain:

171 (i) The process by which the owner may retrieve items deemed
172 immediately returnable;

173 (ii) The legal basis upon which the District seeks forfeiture of the
174 property, the time period within which the owner must file a claim of interest and intent to
175 contest forfeiture in the seized property pursuant to section 105, and the consequence of an
176 owner's failure to file a claim of interest and intent to contest forfeiture within the time provided
177 under section 105(e);

178 (iii) The process by which the owner may request interim release
179 of the item pending forfeiture proceedings, and by which the District may seek to retain the
180 property in the interim, including the expedited timing of the possible court hearing pursuant to
181 section 106(b)(4);

182 (iv) The affirmative defenses available under section 108(h); and

183 (v) That the District cannot condition either the interim or
184 permanent release of the owner's property on a requirement that the owner communicate with
185 any agent of the District or representative of law enforcement other than by submission of the
186 form described in subparagraph (C) of this paragraph.

187 (C) The notice shall include a claim form which the owner may use to
188 assert his or her interest in the seized property, his or her intent to contest forfeiture, and to
189 request the interim release of property pending the final outcome of any forfeiture proceedings.

190 (D) The notice shall also include the name and contact information of the
191 District official to whom the owner shall return the claim form and direct any other
192 correspondence.

193 (b)(1) If the notice required by subsection (a)(1)(A) is not sent or provided to the owner
194 as required by (a)(1)(D), the seized property shall be returned without conditions to the owner
195 unless the District demonstrates good cause particular to the circumstances of the case for the
196 delay in notification of the owner.

197 (2) Release of the property for failure to comply with notice requirements shall
198 not prejudice the right of the District later to file a libel of information seeking forfeiture
199 pursuant to section 107.

200 Sec. 105. Contesting forfeiture.

201 (a) An owner may contest the seizure and forfeiture of the property by filing a claim with
202 the District stating his or her interest in the property and intent to contest forfeiture. When filing
203 a claim, the owner may also request interim release of the property or interim release of a portion
204 of the property. The owner may request interim release of the property, or of a portion of the
205 property, at any time before the District files a libel of information under section 107.

206 (b)(1) For purposes of making a claim of interest and intent to contest forfeiture pursuant
207 to subsection (a) of this section, the owner shall be required to assert his or her claim under
208 penalty of perjury. Neither a notarized statement nor additional documentary proof shall be

209 required to make a claim. The owner filing the form provided at section 104(a)(2)(C), when
210 signed by the owner under penalty of perjury, shall suffice to make a claim of interest and intent
211 under this section.

212 (2) A claim of interest and intent pursuant to subsection (a) of this section must be
213 made within 90 days after the owner of the seized property receives notice of the seizure
214 pursuant to section 104.

215 (c)(1) If the District has on file a return receipt or a sworn document by the District
216 indicating that the owner has received notice as required by section 104 and the owner has not
217 filed a claim under section 104 within 90 days after the receipt of the notice, the District does not
218 need to file a libel of information as required by section 107, but shall determine pursuant to this
219 title whether the property is forfeitable and determine whether the forfeiture is proportional to the
220 seriousness of the violation of District law that gave rise to the forfeiture.

221 (2) If the District determines that the property is forfeitable, the District shall
222 declare the property forfeited and shall dispose of the property in accordance with section 110.

223 (3) If the District determines that the seized property, or a portion of the seized
224 property, is not forfeitable, the District shall return the property, or if applicable the portion of
225 the property, to its owner as soon as practicable.

226 (d) If the District does not have on file a return receipt or a sworn document by the
227 District indicating that the owner has received notice as required by section 104 within 180 days
228 after the seizure if the property was not subject to an evidentiary hold or within 180 days after
229 receiving written notice from the prosecutorial authority that the property will not be needed as
230 evidence in a criminal case if the property was subject to an evidentiary hold, the District shall

231 not pursue forfeiture. If the District is precluded from pursuing forfeiture pursuant to this
232 paragraph, the custody of the property, notification, and release to the owner or disposition by
233 the District of the seized property shall be pursuant to under the Revised Statutes of the District
234 of Columbia, approved December 5, 1919 (R.S., D.C. sect. 409; D.C. Official Code § 5-119.02
235 et seq.).

236 Sec. 106. Post-seizure property retention hearing.

237 (a) The District shall not release property seized for forfeiture while it is being retained as
238 evidence in a criminal case.

239 (b) Except as prohibited by subsection (a), the District may, at any time, authorize interim
240 release of property for use by the owner pending the final outcome of forfeiture proceedings.

241 (c)(1) Upon an owner's request for interim release of the property, except as prohibited
242 by subsection (a), the District shall release the property to the owner without conditions pending
243 the final outcome of forfeiture proceedings or, if the District alleges compliance with the notice
244 provisions of section 104(b)(1), the District shall file a request for a hearing in accordance with
245 paragraph (2) of this subsection seeking to retain possession of the property or to place
246 conditions on the release of the property pending the final outcome of any forfeiture proceeding.

247 (2) Nothing herein shall require the District to release a seized vehicle if its
248 owner cannot demonstrate that the vehicle will be removed from the place at which it was stored
249 by the District in a way that complies with District of Columbia law.

250 (3) If the District intends to seek to retain possession of the property or to place
251 conditions on the release of the property pending the final outcome of any forfeiture proceedings,
252 the District shall file a request for a hearing with the Court within 5 business days after its receipt

253 of the owner's request for interim release or within 5 business days after receiving written notice
254 from the prosecutorial authority that the property will not be needed as evidence in a criminal
255 case, whichever is later. The District shall not file a request for a hearing while property is being
256 retained as evidence in a criminal case.

257 (4) A hearing with the Court shall be held as soon as practicable but no later than:

258 (A) If the seized property includes currency, 5 business days after the
259 District requests an interim release hearing if the owner attests that the seized funds are
260 necessary to either assist the owner in securing counsel of choice in a pending criminal matter
261 related to the seizure or to meet the basic necessities of life, including the purchase of food,
262 payment of utilities, provision of shelter, transportation costs, support of the owner's family, or
263 operation of a lawful business; or

264 (B) If the seized property includes a motor vehicle, 5 business days after
265 the District requests an interim release hearing; or

266 (C) For all other property, 10 business days after the District requests an
267 interim release hearing.

268 (5) Either party may request a continuance of the hearing of up to 5 business days.

269 (d)(1) A hearing requested pursuant to subsection (b) of this section need not be held if,
270 prior to the hearing, the District reaches a written agreement with the owner as to conditions for
271 interim release of the seized property, except that as required by section 104(b)(1), the District
272 may not request any conditions for interim release if the District failed to provide notice as
273 required by section 104(a)(1)(D).

274 (2) Permissible interim release conditions are limited to the

275 following:

276 (A) An agreement by the owner to prohibit certain individuals from using
277 seized property;

278 (B) An agreement by the owner to prohibit the use of the seized property
279 to facilitate illegal conduct;

280 (C) An agreement by the owner that he or she will not intentionally
281 destroy, substantially damage, dispose of, or transfer title to the property;

282 (D) An agreement by the owner that he or she will deliver to the District
283 the property subject to forfeiture if and when it is ultimately deemed forfeitable;

284 (E) If the owner is not indigent, the payment of a bond not to exceed 2.5%
285 of the fair market value of the property, which for a vehicle shall be the bluebook value; and

286 (F) In the case of a vehicle:

287 (i) A requirement that the owner present proof of ownership, which
288 the owner may prove by the presentation of the title to the vehicle; and

289 (ii) An agreement by the owner to maintain valid registration and
290 insurance; or

291 (G) In the case of currency, an assignment of an interest in other property
292 to the District to secure the fair market value of the property subject to forfeiture proceedings.

293 (3) If, prior to the hearing pursuant to subsection (b) of this section, the District
294 reaches an agreement with the owner, the District shall immediately notify the Court that it
295 withdraws its request for an interim hearing.

296 (e)(1) At the hearing, the Court shall determine if the District complied with the notice
297 requirements of section 104 or had good cause particular to the circumstances of the case for
298 failure to comply with section 104.

299 (2) If the Court concludes that the District did not comply with section 104, it
300 shall deny the District's motion to retain the property and shall order the property released
301 without conditions pending the final outcome of any forfeiture proceedings to the owner.

302 (f)(1) At the hearing, the burden shall be on the District to establish that the seized
303 property is subject to forfeiture under section under section 102.

304 (A) If the property is real property, a motor vehicle, or currency totaling
305 \$1000 or less, the District must establish this by a preponderance of the evidence.

306 (B) For all other property, the District must establish this by probable
307 cause.

308 (2) If the Court concludes that the District has failed to meet its burden under
309 paragraph (1) of this subsection, it shall deny the District's motion to retain the seized property
310 and order the property shall be released in the interim without conditions pending the final
311 outcome of any forfeiture proceedings to the owner of the property.

312 (3) If the Court concludes that the District has met its burden, then the Court must
313 consider whether there is any condition or combination of conditions, other than retention of
314 seized property, that will reasonably protect the interests of the District pending the conclusion
315 of the forfeiture proceeding and whether those interests outweigh any countervailing interests of
316 the owner.

317 (A) If the Court concludes that no condition or combination of conditions
318 will reasonably protect the interests of the District pending the conclusion of the forfeiture
319 proceedings and that those interests outweigh countervailing interests of the owner, the Court
320 shall grant the District's motion to retain the property pending the final outcome of any forfeiture
321 proceedings.

322 (B) If the Court concludes that a condition or combination of
323 conditions will reasonably protect the interests of the District pending the conclusion of the
324 forfeiture proceeding and that those interests do not outweigh the countervailing interests of the
325 owner, the Court shall deny the District's motion and order the property released in the interim
326 with any condition or combination of conditions set forth in subsection (d) necessary to protect
327 the interests of the District pending the conclusion of the forfeiture proceeding, including:

- 328 (i) Any condition permitted by subsection (d) of this section; and
329 (ii) In the case of property other than real property and if the owner
330 is not indigent, the payment of a bond not to exceed 5% of the fair market value of the property,
331 which for a vehicle shall be the bluebook value.

332 (g)(1) If the owner establishes that there is probable cause that the seized funds are
333 necessary to assist the owner in securing counsel in a pending criminal matter related to the
334 seizure or to meet the basic necessities of life, including the purchase of food, payment of
335 utilities, provision of shelter, transportation costs, support of the owner's family, or operation of
336 a lawful business, the portion of the currency necessary for demonstrated needs shall be returned.

337 (2) If the District retains possession of the currency or any portion of the funds
338 pending disposition of the forfeiture case, the currency shall continue to be treated in accordance
339 with D.C. Official Code § 23-532.

340 (h) If the Court orders interim release of seized property with conditions, the order shall
341 specify the official to whom the owner must submit documentation to prove compliance with the
342 conditions.

343 (i) The District shall refund to the owner the bond the owner paid as a condition of
344 interim release of property pursuant to (d)(2)(E) or (f)(3)(B)(ii) of this section when:

345 (1) The property has been determined by the Court not to be forfeitable;

346 (2) The District has decided not to pursue forfeiture; or

347 (3) If the property is declared forfeited, the owner surrenders the property to the
348 District.

349 (j)(1) An order granting or denying the District's motion to retain the seized property is a
350 final order for purposes of appeal.

351 (2) Upon motion of an appealing party, the Court may stay the effect of an order
352 directing release of property pending appeal if the Court finds that:

353 (A) A substantial question is raised by the appeal;

354 (B) Irreparable harm is likely to occur to the moving party if the stay is not
355 granted; and

356 (C) The hardship to the opposing party is outweighed by the threat of
357 irreparable harm to the moving party.

358 (3) The Court shall issue an order at the conclusion of the hearing or as soon
359 thereafter as practicable unless the parties consent to a delay.

360 (k)(1) If the District alleges that the owner has violated a condition of interim release, the
361 District shall file a motion with the court requesting a hearing for the owner to show cause why
362 interim custody should not be revoked pending final forfeiture proceedings. If the condition the
363 owner is alleged to have violated was imposed by agreement pursuant to subsection (d), the
364 District shall file the motion in court at the time it files the libel of information pursuant to
365 section 108.

366 (2) At the hearing, if the Court determines the owner violated a condition of
367 interim release:

368 (A) The owner shall lose interim custody of the property pending final
369 forfeiture proceedings.

370 (B) Where the violation diminishes the value of the property, the owner
371 shall be personally liable for diminished value if the property is ultimately deemed forfeitable. If
372 the violation makes the property unavailable or entirely without value, the measure of the
373 owner's liability shall be the fair market value of the property.

374 (l) Nothing in this section shall preclude the owner from seeking any other relief provided
375 by law or regulation.

376 Sec. 107. Libel of information.

377 (a) If the owner of a seized property makes a claim contesting the seizure pursuant to
378 section 105, the District shall return the property to the owner or file a libel of information
379 seeking forfeiture of the property in Court.

380 (b)(1) If the owner is not in possession of all of the seized property, the District shall file
381 a libel of information not later than 60 days after the owner has made a claim pursuant to section
382 105.

383 (2) If the owner is in possession of all of the seized property, the District must file
384 a libel of information not later than 90 days after the owner has made a claim pursuant to section
385 105.

386 (3) The Court may grant an extension of the time limits set forth in paragraphs (1)
387 and (2) of this subsection upon a showing of good cause particular to the circumstances of the
388 case or upon agreement by the parties.

389 (c) The District shall include in the libel of information a declaration, and any supporting
390 documentation, to establish that the libel of information has been filed in accordance with the
391 requirements of subsection (b) of this section.

392 (d) A libel of information seeking forfeiture is barred if it is not filed in accordance with
393 the timing requirements set forth in subsection (b) of this section.

394 (e) If the property the District seeks to forfeit is real property, the District shall file a
395 notice of the proceeding with the Recorder of Deeds within 10 business days after the libel of
396 information is filed. The notice shall include the legal description of the property and indicate
397 that civil forfeiture is being sought. The Recorder of Deeds shall record the notice against the
398 title of any real property for which civil forfeiture is being sought. Upon resolution of the
399 forfeiture proceeding, the District shall file with the Recorder of Deeds the disposition of the
400 civil forfeiture action within 10 business days after the disposition.

401 Sec. 108. Forfeiture proceeding.

402 (a) An in rem civil forfeiture matter may be brought by the District against specific
403 property, personal or real, by the filing of a civil libel of information in accordance with section
404 107.

405 (b) A party to a forfeiture action has a right to trial by jury.

406 (c) If the trial has not commenced within 60 days after the filing of the libel of
407 information, the owner may move the court for interim release of the property or of a portion of
408 the property pending the final outcome of the forfeiture proceeding. The court shall schedule a
409 hearing on the request as soon as practicable. The court shall conduct the hearing in accordance
410 with section 106.

411 (d)(1) The burden of proof shall be on the District to establish that the property is subject
412 to forfeiture under section 102.

413 (2) The District shall establish that the property is subject to forfeiture by a
414 preponderance of the evidence, except if the property is a motor vehicle or real property, the
415 District shall establish that the property is subject to forfeiture by clear and convincing evidence.

416 (3) There shall be a rebuttable presumption that currency totaling \$1000 or less
417 was not used or intended to be used in furtherance of a forfeitable offense, are not the proceeds
418 of a forfeitable offense, and therefore are not subject to forfeiture under section 102. The
419 government may rebut this presumption with clear and convincing evidence.

420 (4) When determining whether an owner was willfully blind to acts or omissions
421 that subjected the property to forfeiture:

422 (A) A showing of negligence or mistake is insufficient to support a finding
423 that the owner was willfully blind; and

424 (B) A person's past criminal behavior shall not form the sole basis for an
425 inference that the owner was willfully blind.

426 (e) Evidence that was obtained as a result of a violation of the Fourth or Fifth
427 Amendment of the Constitution shall not be admissible.

428 (f) If the property is the primary residence of the owner, in order for the property to be
429 subject to forfeiture, the District must establish that an owner of the property was convicted of
430 the crime giving rise to the forfeiture.

431 (g)(1) At any time after the filing of the libel of information, the Court, sua sponte or on
432 motion of the owner, may determine whether the forfeiture is disproportional to the offense
433 giving rise to the forfeiture.

434 (2) In determining whether the forfeiture is disproportional to the offense, the
435 Court may not consider the value to the District of the property but shall consider all relevant
436 factors, including:

437 (A) The gravity of the forfeitable offense, including:

438 (i) The nature and duration of the forfeitable offense;

439 (ii) Any direct harm caused to other people as a result of the
440 forfeitable offense;

441 (B) The fair market value of the property;

442 (C) The importance of the property to the owner, including the role of the
443 property in the life of the owner or non-culpable members of the owner's family;

444 (D) The degree to which the forfeitable property was integral to the
445 performance of the forfeitable offense;

446 (E) Whether the primary use of the property was to commit or attempt to
447 commit a forfeitable offense;

448 (F) The likelihood that the forfeitable property will be used again to
449 commit similar illegal activity and the availability of other means for the District to address the
450 illegality;

451 (G) The extent to which the owner of the forfeitable property participated
452 in the forfeitable offense;

453 (H) The hardship caused by the forfeiture on the owner of the forfeitable
454 property; and

455 (I) Any other criminal or civil penalties imposed on the owner of the
456 forfeitable property for the same conduct.

457 (3) If the Court determines the forfeiture is disproportional to the offense giving
458 rise to the forfeiture, the Court shall dismiss the libel of information. In the case of seized
459 currency, the Court may dismiss the libel of information in total or as to the amount it determines
460 to be disproportionate to the offense.

461 (h)(1) It shall be an affirmative defense to a forfeiture action that:

462 (A) The owner took reasonable action under the circumstances to prevent
463 or stop the commission of the offense or the involvement of the property in the offense; or

464 (B) The owner did not take action to prevent or stop the commission of the
465 offense or the property's involvement in the offense because the owner reasonably believed to
466 have done so would have placed the owner or a third party in physical danger.

467 (2) The owner must establish that the affirmative defense in paragraph (1) of this
468 subsection applies by a preponderance of the evidence.

469 (i)(1) If the owner acquired his or her interest in the property after the commission of the
470 forfeitable offense and the new owner did not know or had no reason to know of the property's
471 forfeitability, there shall be a rebuttable presumption that the property is not subject to forfeiture.

472 (2) The government may rebut the presumption in paragraph (1) of this subsection
473 with clear and convincing evidence that the property was proceeds of the forfeitable offense and
474 that the current owner did not provide fair consideration in exchange for his interest in the
475 property.

476 (j) A forfeiture of property encumbered by a bona fide security interest is subject to the
477 interest of the secured party if the secured party:

478 (1) Did not have actual knowledge of the offense giving rise to the forfeiture;

479 (2) Did not consent to the commission of that offense; and

480 (3) Was not willfully blind to the commission of that offense.

481 (k) If the District withdraws a forfeiture action or if the Court finds that property is not
482 subject to forfeiture or otherwise issues a dispositive ruling that results in the termination of the
483 action without an order of forfeiture, all claims of custody or title to the property by the District
484 shall be relinquished. The Court, unless the parties agree otherwise, shall:

485 (1) Order the property returned to the owner or released from any conditions
486 immediately or, if not immediately feasible, as soon as practicable.

487 (2) If the District disposed of the property pursuant to section 103(e)(1),
488 determine the fair market value of the property at the time it was seized and award to the owner

489 that value; provided, that if the property was disposed of by selling and the amount for which
490 that property was sold is greater than the determined fair market value, the greater amount shall
491 be awarded to the owner.

492 (3) If the court enters a partial order of forfeiture, make any other rulings
493 consistent with this subsection in the interests of justice.

494 Sec. 109. Return of property.

495 (a) Property that is returnable under this title shall be returned to the owner.

496 (b) The owner shall acknowledge receipt and possession of each item of returnable
497 property by reference to the specific property identification number assigned to the item pursuant
498 to section 103(b)(2). No receipt of acknowledgement shall be valid until the owner has viewed
499 the item and confirmed that it is the item seized and returnable and that any returnable items
500 contained within the item are also present and being returned.

501 (c)(1) No later than 6 months after the property is returned to the owner, the owner of
502 returned property may make a claim against the District for:

503 (A) Total loss of property caused by the intentional or negligent conduct
504 of the District or its employees;

505 (B) Any damage caused by the intentional or grossly negligent conduct of
506 the District or its employees; provided, that wear and tear, decay, corrosion, act or omission of a
507 third party other than employee of the District, or act of God shall not be subject to this
508 subparagraph; or

509 (C) In the case of property disposed of pursuant to section 103(e)(1), the
510 difference between the proceeds of a sale or compensation for disposal and the fair market value
511 of the property at the time of seizure.

512 (2) For the purposes of subsection (c) of this section, the term grossly negligent”
513 shall have the same meaning as the term gross negligence” as defined in section 5 of An Act to
514 amend provisions of law relating to personal property coming into the custody of the property
515 clerk, Metropolitan Police Department, and for other purposes, effective September 25, 1962 (76
516 Stat. 591, Pub. L. 87-691; D.C. Official Code § 5-119.11).

517 (3) For the purposes of D.C. Official Code § 12-309, damages are sustained on
518 the date the property is returned to the owner.

519 (d) When the owner acknowledges receipt and possession of returnable property
520 pursuant to subsection (b) of this section, the District shall provide written explanation of the
521 requirements, procedures, and deadlines to make a claim pursuant to subsection (c) of this
522 section.

523 Sec. 110. Disposal of forfeited property.

524 (a) When any property is declared forfeited pursuant to either section 105(d) or section
525 108, the District shall:

526 (1) Sell property that is not required by law to be destroyed and that is not harmful
527 to the public or dispose of the property in a manner consistent with District law or, consistent
528 with section 113, return the property, or the proceeds from any sale of the property, to the owner;
529 and

530 (2)(A) Deposit in the General Fund of the District government any currency and
531 any proceeds from the sale of property pursuant to paragraph (1).

532 (B) Beginning October 1, 2018, deposit in the General Fund of the District
533 government the currency and proceeds received by any agency of the District government from
534 any state or federal agency pursuant to a multiple-jurisdiction or shared forfeiture program.

535 (b) The law enforcement agency that seized property forfeited under this title may not
536 retain the property for its own use or sell it directly or indirectly to any employee of the agency,
537 to a relative of an employee, or to another law enforcement agency; however, nothing in this
538 section shall prohibit an employee of the law enforcement agency or relative of an employee of
539 the law enforcement agency from purchasing property offered for sale at a public auction.

540 Sec. 111. Prohibition on adoptive seizures.

541 Beginning October 1, 2018, the District shall not refer seized property to a federal agency
542 seeking the adoption by the federal agency of the seized property. Nothing in this title shall be
543 construed to prohibit the federal government, or any of its agencies, from seeking federal
544 forfeiture.

545 Sec. 112. Reporting requirements.

546 By January 1, 2016, and on an annual basis thereafter, the Metropolitan Police
547 Department and the Office of the Attorney General, shall file with the Council of the District of
548 Columbia and publish on its website a report providing the following information for the
549 preceding year:

550 (1) The number of seizures and the number of forfeitures, by type of property
551 seized;

552 (2) The total quantity of each type of property seized and of each type of property
553 forfeited;

554 (3) The number of seizures and the number of forfeitures by type of asserted
555 violation of District law that gave rise to the seizure or forfeiture;

556 (4) The number of libels of information that were filed under section 107, by
557 outcome;

558 (5) The number of times the District exercised its authority pursuant to section
559 105 (e) and determined the property to be forfeitable and the number of times the District
560 determined the property was not forfeitable;

561 (6) The number of seizures where the District either did not file a libel of
562 information pursuant to section 107 or withdrew a libel of information, excluding seizures where
563 the District had the authority to determine forfeitures pursuant to section 105(e);

564 (7) The number of settlements reached between the District and an owner,
565 pursuant to section 106(d);

566 (8) Amount of currency received from forfeiture listed separately according to the
567 provision of the District of Columbia law that gave rise to the forfeiture.

568 (9) Gross and net proceeds received from forfeiture, listed separately according to
569 the provision of the District of Columbia Official Code.

570 (10) By type of property, the number of seized items determined to be returnable
571 for which the District does not have a receipt of return as required by section 109(b) on file; and

572 (11) The total quantity of each type of property seized for forfeiture that the
573 District treated as abandoned under the Revised Statutes of the District of Columbia, approved
574 December 5, 1919 (R.S., D.C. sect. 409; D.C. Official Code § 5-119.02 et seq).

575 Sec. 113. Remission or mitigation.

576 (a) Whenever an owner files with the Mayor, either before or after the sale or disposition
577 of property pursuant to section 110, a petition for remission or mitigation of the forfeiture, the
578 Mayor shall consider the petition and, if the Mayor finds that mitigating circumstances so justify,
579 shall remit or mitigate the forfeiture upon the terms and conditions as the Mayor deems
580 reasonable.

581 (b) The Mayor shall consider as a mitigating circumstance whether the forfeiture of
582 property was proportional to the seriousness of the asserted violation of District law that gave
583 rise to forfeiture, considering the factors at section 108(g)(2).

584 Sec. 114. Rule of Lenity; construction.

585 (a) Any ambiguities in this title relating to the District taking property through
586 forfeiture shall be resolved in favor of the owner.

587 (b) Nothing in this act shall be construed to prohibit law enforcement from seizing and
588 retaining property as evidence in a criminal case.

589 TITLE II. SPECIFIC CRIMINAL OFFENSES

590 Sec. 201. Distribution and manufacture of controlled substances.

591 The District of Columbia Uniform Controlled Substances Act of 1981, effective August
592 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), is amended as follows:

593 (a) Section 102 (D.C. Official Code § 48-901.02) is amended by adding a new paragraph
594 (3A) to read as follows:

595 “(3A) “Contraband” means an item the mere possession of which is unlawful under
596 District or federal law.

597 (b) Section 502 (D.C. Official Code § 48-905.02) is amended to read as follows:

598 “(a) The following property is subject to forfeiture if determined to be used in furtherance
599 of or as proceeds of the manufacture or distribution of a controlled substance as prohibited by
600 section 501(a), including containers, conveyances, equipment, raw materials, real property,
601 money, currency, securities, negotiable instruments, instrumentalities, books, records, and
602 research products, including formulas and data.

603 “(b) Contraband is not subject to forfeiture under this section, but may be seized and
604 disposed of in accordance with applicable law; provided, that controlled substances shall be
605 retained until the public official in charge of prosecuting any violation under the District of
606 Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-
607 29; D.C. Official Code § 48-905.03), shall certify that such controlled substances are no longer
608 needed as evidence.

609 “(c) No property shall be subject to forfeiture for conduct involving only a violation of
610 section 401(d).”.

611 “(d) All seizures and forfeitures under this section shall follow the standards and
612 procedures set forth in the Civil Asset Forfeiture Amendment Act of 2014, as approved by the
613 Committee on Judiciary and Public Safety on November 7, 2014 (Committee Print of Bill 20-
614 48).”.

615 TITLE III - CONFORMING AMENDMENTS.

616 Sec. 301. Section 503 of the District of Columbia Uniform Controlled Substances Act of
617 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-905.03), is amended by
618 adding a new subsection (c) to read as follows:

619 “(c) Subsections (a) and (b) of this section shall not apply to the Civil Asset Forfeiture
620 Amendment Act of 2014, as approved by the Committee on Judiciary and Public Safety on
621 November 7, 2014 (Committee Print of Bill 20-48).”.

622 Sec. 302. Section 706a of the Firearms Control Regulations Act of 1975, effective June 3,
623 1997 (D.C. Law 11-273; D.C. Official Code § 7-2507.06a), is amended to read as follows:

624 “Any conveyance in which a person or persons transport, possess, or conceal any firearm,
625 as that term is defined in section 101, in violation of section 202 or section 3 or section 4 of An
626 Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in
627 the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other
628 purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501 *et seq.*), is subject
629 to forfeiture pursuant to the standards and procedures set forth in the Civil Asset Forfeiture
630 Amendment Act of 2014, as approved by the Committee on Judiciary and Public Safety on
631 November 12, 2014 (Committee Print of Bill 20-48).”.

632 Sec. 303. Section 6 of the Illegal Dumping Enforcement Act of 1994, effective May 20,
633 1994 (D.C. Law 10-117; D.C. Official Code §8-905), is amended to read as follows:

634 “All motor vehicles which are used, or intended to be used, to transport, or in any manner
635 to facilitate a violation of this act shall be subject to forfeiture. All seizures and forfeitures of
636 motor vehicles under this section shall follow the standards and procedures set forth in the Civil

637 Asset Forfeiture Amendment Act of 2014, as approved by the Committee on Judiciary and
638 Public Safety on November 12, 2014 (Committee Print of Bill 20-48).”.

639 Sec. 304. Section 3(e)(1) of the Commercial Counterfeiting Criminalization Act of 1996,
640 effective June 3, 1997 (D.C. Law 11-271; D.C. Official Code § 22-902(e)(1)) is amended by
641 striking the phrase “shall be forfeited” and inserting the phrase “shall be subject to forfeiture
642 pursuant to the standards and procedures set forth in the Civil Asset Forfeiture Amendment Act
643 of 2014, as approved by the Committee on Judiciary and Public Safety on November 12, 2014
644 (Committee Print of Bill 20-48)” in its place.

645 Sec. 305. Section 866(c) of An Act To establish a code of law for the District of
646 Columbia, approved March 3, 1901 (31 Stat. 1331; D.C. Official Code § 22-1705(c)), is
647 amended to read as follows:

648 “(c) All moneys, vehicles, furnishings, fixtures, equipment, stock (including, without
649 limitation, furnishings and fixtures adaptable to nongambling uses, and equipment and stock for
650 printing, recording, computing, transporting, safekeeping, or communication), or other things of
651 value used or to be used in: (1) Carrying on or conducting any lottery, or the game or device
652 commonly known as a policy lottery or policy, contrary to the provisions of section 863; (2)
653 Setting up or keeping any gaming table, bank, or device contrary to the provisions of section
654 865; or (3) Maintaining any gambling premises shall be subject to forfeiture consistent with the
655 standards and procedures set forth in the Civil Asset Forfeiture Amendment Act of 2014, as
656 approved by the Committee on Judiciary and Public Safety on November 12, 2014 (Committee
657 Print of Bill 20-48).”.

658 Sec. 306. Section 2 of the Safe Streets Forfeiture Amendment Act of 1992, effective May
659 7, 1993 (D.C. Law 9-267; D.C. Official Code § 22-2723), is amended to read as follows:

660 “(a) The following are subject to forfeiture:

661 “(1) All conveyances, including aircraft, vehicles or vessels, which are used, or
662 intended for use, to transport, or in any manner to facilitate a violation of a prostitution-related
663 offense;

664 “(2) All money, coins, and currency which are used, or intended for use, in
665 violation of a prostitution-related offense.

666 “(b) All seizures and forfeitures of property under this section shall be pursuant to the
667 standards and procedures set forth in the Civil Asset Forfeiture Amendment Act of 2014, as
668 approved by the Committee on Judiciary and Public Safety on November 12, 2014 (Committee
669 Print of Bill 20-48).”.

670 Sec. 307. Section 4(b)(2) of the District of Columbia Revenue Act of 1937, approved
671 August 17, 1937 (50 Stat. 680; D.C. Official Code § 50-1501.04(b)(2)), is amended to read as
672 follows:

673 “(b)(2) A motor vehicle being used in violation of subsection (a)(4) of this section shall
674 be subject to forfeiture pursuant to the standards and procedures set forth in the Civil Asset
675 Forfeiture Amendment Act of 2014, as approved by the Committee on Judiciary and Public
676 Safety on November 12, 2014 (Committee Print of Bill 20-48). Such forfeiture may be in
677 addition to the imposition of a fine or imprisonment as provided for in paragraph (1) of this
678 subsection.”.

679 Sec. 308. Section 2505 of Chapter 25 of Title 24 of the District of Columbia Municipal
680 Regulations is amended by striking the phrase “10 business days” wherever it appears and
681 inserting the phrase “10 calendar days” in its place.

682 Sec. 309. Section 4(b) of the Fair Criminal Record Screening Amendment Act of 2014,
683 enacted on August 21, 2014 (D.C. Act 20-422; 61 DCR 8906) is amended to read as follows:

684 “(b) The administrative remedies referenced in section 5 are exclusive. A person claiming
685 to be aggrieved by a violation of this act shall have no private cause of action in any court based
686 on a violation of this act.”.

687 **TITLE IV – RULES, FISCAL IMPACT STATEMENT AND EFFECTIVE DATE.**

688 Sec. 401. Rules.

689 The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act,
690 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules
691 to implement the provisions of this act.

692 Sec. 402. Fiscal impact statement.

693 The Council adopts the fiscal impact statement in the committee report as the fiscal
694 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
695 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

696 Sec. 403. Effective date.

697 This act shall take effect following approval by the District (or in the event of veto by the
698 District, action by the Council to override the veto), a 60-day period of congressional review as
699 provided in section 602(c)(1) of the District of Columbia approved December 24, 1973 (87 Stat.
700 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.