

SENATE BILL 161

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6lr0701
CF HB 336

By: ~~Senators Hough, Raskin, and Zirkin~~ Brochin, Cassilly, Lee, Muse, Ramirez, Raskin, Ready, and Zirkin

Introduced and read first time: January 15, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Seizure and Forfeiture**

3 FOR the purpose of authorizing the forfeiture of certain property under certain
4 circumstances; ~~prohibiting a certain law enforcement agency or prosecuting~~
5 ~~authority from directly or indirectly transferring or referring seized property to a~~
6 ~~federal government agency or law enforcement authority for forfeiture under federal~~
7 ~~law unless certain conditions are met; authorizing a certain defendant or third party~~
8 ~~to file a motion for replevin in a certain criminal case at a certain time if the~~
9 ~~defendant or third party claims that he or she has the right to possession of certain~~
10 ~~property; requiring a motion for replevin under this Act to be in writing and state in~~
11 ~~detail the grounds on which it is based; requiring a claimant to notify the State's~~
12 ~~Attorney in writing of the filing of a motion for replevin under this Act; authorizing~~
13 ~~the State's Attorney to file a response to a motion for replevin at a certain time;~~
14 ~~requiring the court to hold a hearing on a motion for replevin at a certain time under~~
15 ~~certain circumstances; authorizing the court to dismiss a motion for replevin without~~
16 ~~a hearing under certain circumstances; requiring the court to grant a motion for~~
17 ~~replevin under certain circumstances; authorizing the court to order the return of~~
18 ~~funds or property sufficient to obtain legal counsel but less than the total amount~~
19 ~~seized; authorizing the court to take certain actions in lieu of ordering issuance of~~
20 ~~the writ of replevin; authorizing the court, following a conviction for certain~~
21 ~~violations involving a gang, to order the divestiture of certain property, the~~
22 ~~dissolution or reorganization of a certain enterprise, or the suspension or revocation~~
23 ~~of a certain license, permit, or approval; requiring that certain proceeds be deposited~~
24 ~~in the General Fund; requiring that a certain seizing authority provide a receipt for~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 property on seizure that includes certain information; requiring that a certain
2 seizing authority mail notice with certain information to the owner of seized property
3 within a certain time; authorizing the owner of certain seized property to make a
4 request that includes certain information for return of the seized property within a
5 certain time; requiring a seizing authority to take certain actions in response to a
6 certain request; altering the circumstances by which a certain law enforcement
7 agency may transfer seized property to a certain federal law enforcement agency;
8 altering the time in which a complaint for forfeiture of money must be filed; requiring
9 that a certain forfeiting authority return property to an owner if a complaint for
10 forfeiture is not filed in a certain time under certain circumstances; providing that a
11 certain seizing authority or forfeiting authority may request an extension for time to
12 file a complaint for forfeiture under certain circumstances; providing that a court
13 may grant a certain extension for time to file a complaint for forfeiture; requiring a
14 court to order that a certain motion be sealed; prohibiting the use of a certain
15 statement regarding seized property from use in a criminal prosecution except under
16 certain circumstances; requiring that a certain amount of forfeiture proceeds be
17 appropriated to the Department of Health and Mental Hygiene to fund certain drug
18 programs; requiring a certain ~~law enforcement agency~~ seizing authority to report, on
19 an annual basis, certain information about ~~each individual seizure and forfeiture~~
20 certain seizures and forfeitures completed by the agency ~~under State or federal~~
21 ~~forfeiture law~~; authorizing the Maryland Statistical Analysis Center (MSAC) to
22 require a ~~law enforcement agency~~ seizing authority to provide relevant information
23 not specified in this Act; requiring a certain ~~law enforcement agency~~ seizing
24 authority to file a certain report for the agency and the corresponding prosecutor's
25 office with MSAC; requiring MSAC to develop a certain form, a process, and
26 deadlines for certain data entry; requiring MSAC to compile certain submissions and
27 issue a certain report; requiring MSAC to make certain reports available in a certain
28 manner; requiring the Governor's Office of Crime Control and Prevention (GOCCP)
29 to submit a certain report to the Governor, the General Assembly, and each ~~law~~
30 ~~enforcement agency~~ seizing authority before a certain date each year; authorizing
31 GOCCP to include in a certain report certain recommendations; requiring GOCCP
32 to report information on ~~law enforcement agencies~~ seizing authorities not in
33 compliance with this Act to the Police Training Commission; requiring the Police
34 Training Commission to contact a certain ~~law enforcement agency~~ seizing authority
35 and request compliance; requiring GOCCP and the Police Training Commission to
36 report certain noncompliance to the Governor and the Legislative Policy Committee
37 of the General Assembly under certain circumstances; authorizing MSAC to recoup
38 certain costs in a certain manner; authorizing a certain ~~law enforcement agency~~
39 seizing authority to use forfeiture proceeds to pay the cost of compiling and reporting
40 information required under this Act; making a conforming change; defining certain
41 terms; and generally relating to seizure and forfeiture.

42 BY adding to

43 Article – Criminal Law

44 Section 9–807

45 Annotated Code of Maryland

46 (2012 Replacement Volume and 2015 Supplement)

1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article – Criminal Procedure~~
 3 ~~Section 12-102(a)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2008 Replacement Volume and 2015 Supplement)~~

6 BY repealing and reenacting, with amendments,
 7 Article – Criminal Procedure
 8 Section ~~12-103 and 12-203~~ 12-102(a), 12-104, and 12-212
 9 Annotated Code of Maryland
 10 (2008 Replacement Volume and 2015 Supplement)
 11 (As enacted by Chapter 5 of the Acts of the General Assembly of 2016)

12 BY repealing and reenacting, with amendments,
 13 Article – Criminal Procedure
 14 Section 12-203 and 12-304
 15 Annotated Code of Maryland
 16 (2008 Replacement Volume and 2015 Supplement)

17 BY adding to
 18 Article – Criminal Procedure
 19 Section ~~12-203.1; and 13-601 and 13-602~~ 12-304.1, 12-313, and 12-405; and
 20 12-601 and 12-602 to be under the new subtitle “Subtitle 6. Reporting”
 21 Annotated Code of Maryland
 22 (2008 Replacement Volume and 2015 Supplement)

23 BY repealing and reenacting, without amendments,
 24 Article – Criminal Procedure
 25 Section 12-312
 26 Annotated Code of Maryland
 27 (2008 Replacement Volume and 2015 Supplement)
 28 (As enacted by Chapter 5 of the Acts of the General Assembly of 2016)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 30 That the Laws of Maryland read as follows:

31 **Article – Criminal Law**

32 **9-807.**

33 **(A) IN THIS SECTION, “ENTERPRISE” INCLUDES:**

34 **(1) A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION,**
 35 **BUSINESS TRUST, OR OTHER LEGAL ENTITY; OR**

1 (6) subject to subsection (b) of this section, money [of more than \$300] or
 2 weapons used or intended to be used in connection with the unlawful manufacture,
 3 distribution, dispensing, or possession of a controlled dangerous substance or controlled
 4 paraphernalia;

5 ~~(7) drug paraphernalia under § 5-619 of the Criminal Law Article;~~

6 ~~(8) controlled paraphernalia under § 5-620 of the Criminal Law Article;~~

7 ~~(9) except as provided in § 12-103 of this subtitle, the remaining balance~~
 8 ~~of the proceeds of a sale by a holder of an installment sale agreement under § 12-626 of the~~
 9 ~~Commercial Law Article of goods seized under this subtitle;~~

10 ~~(10) except as provided in § 12-103 of this subtitle, real property; and~~

11 ~~(11) everything of value furnished, or intended to be furnished, in exchange~~
 12 ~~for a controlled dangerous substance in violation of the Controlled Dangerous Substances~~
 13 ~~law, all proceeds traceable to the exchange, and all negotiable instruments and securities~~
 14 ~~used, or intended to be used, to facilitate any violation of the Controlled Dangerous~~
 15 ~~Substances law.~~

16 (7) subject to subsection (b) of this section, any amount of money that is
 17 [directly connected to] USED OR INTENDED TO BE USED IN CONNECTION WITH the
 18 unlawful MANUFACTURE, distribution, OR DISPENSING of a controlled dangerous
 19 substance;

20 (8) drug paraphernalia under § 5-619 of the Criminal Law Article;

21 (9) controlled paraphernalia under § 5-620 of the Criminal Law Article;

22 (10) except as provided in § 12-103 of this subtitle, the remaining balance
 23 of the proceeds of a sale by a holder of an installment sale agreement under § 12-626 of the
 24 Commercial Law Article of goods seized under this subtitle;

25 (11) except as provided in § 12-103 of this subtitle, real property; and

26 (12) everything of value furnished, or intended to be furnished, in exchange
 27 for a controlled dangerous substance in violation of the Controlled Dangerous Substances
 28 law, all proceeds traceable to the exchange, and all negotiable instruments and securities
 29 used, or intended to be used, to facilitate any violation of the Controlled Dangerous
 30 Substances law.

31 ~~12-103.~~

32 (a) ~~(1) PROPERTY DESCRIBED IN § 12-102(A)(4), (10), OR (11) OF THIS~~
 33 ~~SUBTITLE MAY BE FORFEITED IF:~~

~~(I) THE PROPERTY IS CLAIMED TO BE OWNED BY A PERSON WHO IS CONVICTED OF VIOLATING THE CONTROLLED DANGEROUS SUBSTANCES LAW; AND~~

~~(II) THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY IS AN INSTRUMENTALITY OF THE OFFENSE OR PROCEEDS DERIVED FROM THE OFFENSE OF WHICH THE PERSON IS CONVICTED.~~

~~(2) THIS SUBSECTION DOES NOT PROHIBIT PROPERTY FROM BEING SEIZED UNDER STATE LAW AND HELD AS EVIDENCE OR FORFEITED BY PLEA AGREEMENT APPROVED BY THE PRESIDING CRIMINAL COURT.~~

~~(B) Property or an interest in property described in § 12-102(a)(4), (10), [and] OR (11) of this subtitle may not be forfeited if the owner establishes by a preponderance of the evidence that the violation of the Controlled Dangerous Substances law was committed without the owner's actual knowledge.~~

~~[(b)](C) (1) A conveyance used as a common carrier or vehicle for hire in the transaction of business as a common carrier or vehicle for hire may not be seized or forfeited under this title unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of the Controlled Dangerous Substances law.~~

~~(2) A conveyance may not be forfeited under this title for an act or omission that the owner shows was committed or omitted by a person other than the owner while the person other than the owner possessed the conveyance in criminal violation of federal law or the law of any state.~~

~~[(c)](D) An owner's interest in real property may not be forfeited for a violation of § 5-601, § 5-619, or § 5-620 of the Criminal Law Article.~~

~~[(d)](E) (1) Except as provided in paragraph (2) of this subsection, real property used as the principal family residence may not be forfeited under this subtitle unless one of the owners of the real property was convicted of a violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.~~

~~(2) Without a conviction, a court may order a forfeiture of real property used as the principal family residence if the owner of the family residence:~~

~~(i) fails to appear for a required court appearance; and~~

~~(ii) fails to surrender to the jurisdiction of the court within 180 days after the required court appearance.~~

1 ~~[(c)](F) Real property used as the principal family residence by a husband and~~
2 ~~wife and held by the husband and wife as tenants by the entirety may not be forfeited~~
3 ~~unless:~~

4 ~~(1) the property was used in connection with a violation of §§ 5-602~~
5 ~~through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law~~
6 ~~Article or with an attempt or conspiracy to violate Title 5 of the Criminal Law Article; and~~

7 ~~(2) both the husband and wife are convicted of a violation of §§ 5-602~~
8 ~~through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law~~
9 ~~Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.~~

10 ~~(G) A LAW ENFORCEMENT AGENCY OR PROSECUTING AUTHORITY MAY NOT~~
11 ~~DIRECTLY OR INDIRECTLY TRANSFER OR REFER SEIZED PROPERTY TO A FEDERAL~~
12 ~~GOVERNMENT AGENCY OR LAW ENFORCEMENT AUTHORITY FOR FORFEITURE~~
13 ~~UNDER FEDERAL LAW UNLESS:~~

14 ~~(1) THE PROPERTY INCLUDES SEIZED CASH IN EXCESS OF \$50,000;~~
15 ~~AND~~

16 ~~(2) A CRIMINAL CASE RELATED TO THE SEIZURE IS PROSECUTED IN~~
17 ~~THE FEDERAL COURT SYSTEM UNDER FEDERAL LAW.~~

18 12-104.

19 (a) AT THE TIME OF SEIZURE, THE SEIZING AUTHORITY SHALL PROVIDE A
20 RECEIPT TO THE PERSON FROM WHOM THE PROPERTY WAS SEIZED, THAT
21 INCLUDES:

22 (1) A DETAILED DESCRIPTION OF THE PROPERTY;

23 (2) A CASE NUMBER, PROPERTY INVENTORY NUMBER, OR ANY OTHER
24 REFERENCE NUMBER USED BY THE SEIZING AUTHORITY TO CONNECT THE
25 PROPERTY TO THE CIRCUMSTANCES OF THE SEIZURE;

26 (3) THE NAME AND CONTACT INFORMATION OF AN INDIVIDUAL OR
27 OFFICE WITHIN THE SEIZING AUTHORITY THAT CAN PROVIDE INFORMATION
28 CONCERNING THE SEIZED PROPERTY;

29 (4) NOTICE THAT THE OWNER OF THE PROPERTY MAY MAKE A
30 WRITTEN REQUEST THAT INCLUDES PROOF OF OWNERSHIP, FOR RETURN OF THE
31 SEIZED PROPERTY; AND

32 (5) NOTICE THAT WITHIN 60 DAYS AFTER RECEIPT OF A WRITTEN
33 REQUEST FOR RETURN OF THE SEIZED PROPERTY, THE SEIZING AUTHORITY WILL

1 DECIDE WHETHER TO RETURN THE PROPERTY AND NOTIFY THE OWNER OF THE
2 DECISION.

3 (B) [Within 30] IF THE PERSON WHO RECEIVED A RECEIPT UNDER
4 SUBSECTION (A) OF THIS SECTION IS NOT THE OWNER OF THE PROPERTY, WITHIN
5 15 days after the seizure of property by a seizing authority, the seizing authority shall send
6 by first-class mail written information to the owner of the seized property, if known,
7 providing:

8 (1) the location and description of the seized property; and

9 (2) the name and contact information of an individual or office within the
10 seizing authority that can provide further information concerning the seized property,
11 including information on how the property may be returned to the owner.

12 [(b)](C) The written information DISTRIBUTED BY A SEIZING AUTHORITY AS
13 required under this section shall state: "Seizure and forfeiture of property is a legal matter.
14 Nothing in this document may be construed as legal advice. You may wish to consult an
15 attorney concerning this matter."

16 12-203.

17 (a) Property seized under this title~~f~~:

18 (1) is not repleviable; but

19 (2)~~f~~ is in the custody of the seizing authority, AND, UNLESS RETURNED TO
20 THE OWNER AS PROVIDED IN SUBSECTION (C) OF THIS SECTION OR § 12-207 OF THIS
21 SUBTITLE, IS subject only to the orders, judgments, and decrees of the court or the official
22 having jurisdiction over the property.

23 (b) A seizing authority may place seized property under seal and remove the
24 property to a place designated by the court.

25 (C) (1) THE OWNER OF SEIZED PROPERTY MAY MAKE A WRITTEN
26 REQUEST THAT INCLUDES PROOF OF OWNERSHIP TO THE SEIZING AUTHORITY FOR
27 THE RETURN OF THE SEIZED PROPERTY.

28 (2) WITHIN 60 DAYS AFTER RECEIPT OF A WRITTEN REQUEST UNDER
29 PARAGRAPH (1) OF THIS SUBSECTION, THE SEIZING AUTHORITY SHALL MAKE A
30 DECISION AS TO THE DISPOSITION OF THE SEIZED PROPERTY AND SHALL NOTIFY
31 THE OWNER THAT:

1 (I) THE SEIZING AUTHORITY DOES NOT HAVE CUSTODY OF THE
2 PROPERTY AND SHALL PROVIDE CONTACT INFORMATION FOR THE LAW
3 ENFORCEMENT AGENCY THAT DOES HAVE CUSTODY OF THE PROPERTY;

4 (II) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF THE
5 PROPERTY AND WILL FILE A COMPLAINT FOR FORFEITURE; OR

6 (III) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF THE
7 PROPERTY AND WILL PROMPTLY RETURN THE PROPERTY TO THE OWNER.

8 ~~12-203.1.~~

9 ~~(A) FOLLOWING THE SEIZURE OF PROPERTY, A DEFENDANT OR THIRD~~
10 ~~PARTY MAY FILE A MOTION FOR WRIT OF REPLEVIN IN THE CRIMINAL CASE IF THE~~
11 ~~DEFENDANT OR THIRD PARTY CLAIMS TO HAVE THE RIGHT TO POSSESSION OF THE~~
12 ~~PROPERTY.~~

13 ~~(B) A MOTION FOR WRIT OF REPLEVIN UNDER THIS SECTION MAY BE FILED~~
14 ~~AT ANY TIME BEFORE TRIAL OF THE CRIMINAL OFFENSE OR OFFENSES.~~

15 ~~(C) A MOTION UNDER THIS SECTION SHALL:~~

16 ~~(1) BE IN WRITING; AND~~

17 ~~(2) STATE IN DETAIL THE GROUNDS ON WHICH THE MOTION IS BASED.~~

18 ~~(D) (1) A CLAIMANT SHALL NOTIFY THE STATE'S ATTORNEY IN WRITING~~
19 ~~OF THE FILING OF A MOTION UNDER THIS SECTION.~~

20 ~~(2) THE STATE'S ATTORNEY MAY FILE A RESPONSE TO THE MOTION~~
21 ~~WITHIN 15 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER THIS~~
22 ~~SUBSECTION OR WITHIN THE PERIOD OF TIME THAT THE COURT ORDERS.~~

23 ~~(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~
24 ~~THE COURT SHALL HOLD A HEARING ON A MOTION FILED UNDER THIS SECTION~~
25 ~~WITHIN 30 DAYS AFTER THE FILING OF THE MOTION.~~

26 ~~(2) THE COURT MAY DISMISS A MOTION WITHOUT A HEARING IF THE~~
27 ~~COURT FINDS THAT THE MOTION FAILS TO ASSERT GROUNDS ON WHICH RELIEF MAY~~
28 ~~BE GRANTED.~~

29 ~~(F) THE COURT SHALL GRANT THE MOTION IF IT FINDS THAT THE~~
30 ~~CLAIMANT HAS SHOWN BY A PREPONDERANCE OF THE EVIDENCE THAT:~~

~~(1) THE CLAIMANT HAS THE RIGHT TO POSSESSION OF THE PROPERTY AND THE PROPERTY IS NOT REASONABLY REQUIRED TO BE HELD FOR INVESTIGATORY OR EVIDENTIARY REASONS; OR~~

~~(2) THE PROPERTY IS THE ONLY REASONABLE MEANS FOR A DEFENDANT TO PAY FOR LEGAL REPRESENTATION IN THE FORFEITURE OR CRIMINAL PROCEEDING.~~

~~(C) THE COURT MAY ORDER THE RETURN OF FUNDS OR PROPERTY SUFFICIENT TO OBTAIN LEGAL COUNSEL BUT LESS THAN THE TOTAL AMOUNT SEIZED.~~

~~(H) IN LIEU OF ORDERING THE ISSUANCE OF THE WRIT OF REPLEVIN, THE COURT MAY:~~

~~(1) ORDER THE STATE TO GIVE SECURITY OR WRITTEN ASSURANCE FOR SATISFACTION OF ANY JUDGMENT, INCLUDING DAMAGES, THAT MAY BE RENDERED IN THE ACTION; OR~~

~~(2) ORDER ANY OTHER APPROPRIATE RELIEF.~~

12-212.

(A) THIS SECTION DOES NOT APPLY TO:

(1) FIREARMS, AMMUNITION, OR EXPLOSIVES;

(2) PROPERTY RELATING TO CHILD PORNOGRAPHY; OR

(3) PROPERTY DIRECTLY RELATING TO PUBLIC SAFETY, AS APPROVED BY THE UNITED STATES ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION.

(B) A seizing authority or prosecuting authority may not directly or indirectly transfer seized property to a federal law enforcement authority or agency unless:

(1) a criminal case related to the seizure is prosecuted in the federal court system under federal law; [or]

(2) the owner of the property consents to the forfeiture;

(3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY TRANSFERS THE PROPERTY TO A FEDERAL AUTHORITY UNDER A FEDERAL SEIZURE WARRANT ISSUED TO TAKE CUSTODY OF ASSETS ORIGINALLY SEIZED UNDER STATE LAW; OR

1 **(4) THE VALUE OF THE PROPERTY IS AT LEAST \$50,000 AND THE**
2 **SEIZURE WAS THE RESULT OF A JOINT INVESTIGATION COORDINATED WITH**
3 **FEDERAL AUTHORITIES.**

4 12-304.

5 (a) Except as provided under [subsections] SUBSECTION (b) [and (c)] of this
6 section AND § 12-304.1 OF THIS SUBTITLE, a complaint seeking forfeiture shall be filed
7 within the earlier of:

8 (1) 90 days after the seizure; or

9 (2) 1 year after the final disposition of the criminal charge for the violation
10 giving rise to the forfeiture.

11 (b) A complaint for the forfeiture of a motor vehicle shall be filed within 45 days
12 after the motor vehicle is seized.

13 (c) (1) [A proceeding about money shall be filed within 90 days after the final
14 disposition of criminal proceedings that arise out of the Controlled Dangerous Substances
15 law] IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT FILE A TIMELY
16 COMPLAINT SEEKING FORFEITURE UNDER SUBSECTION (A) OR (B) OF THIS SECTION,
17 THE PROPERTY SHALL BE PROMPTLY RELEASED TO THE OWNER, IF KNOWN.

18 [(2) If the State or a political subdivision does not file proceedings about
19 money within the 90-day period, the money seized under this title shall be returned to the
20 owner on request by the owner.

21 (3)~~(2)~~ If the owner IS UNKNOWN OR fails to [ask the return of the
22 money] CLAIM THE PROPERTY within 1 year after the [final disposition of criminal
23 proceedings] PROPERTY WAS SEIZED, as provided under § 12-403 of this title, the
24 [money] PROPERTY shall revert to:

25 (i) the political subdivision in which the [money] PROPERTY was
26 seized; or

27 (ii) the State, if the [money] PROPERTY was seized by State
28 authorities.

29 **12-304.1.**

30 **(A) (1) A SEIZING AUTHORITY OR FORFEITING AUTHORITY MAY REQUEST**
31 **AN EXTENSION ON THE TIME LIMIT ESTABLISHED IN § 12-304 OF THIS SUBTITLE FOR**
32 **THE FILING OF A FORFEITURE PROCEEDING OR ON THE EXTENDED TIME GRANTED**
33 **BY A COURT UNDER SUBSECTION (D) OF THIS SECTION.**

1 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
2 **PARAGRAPH, A MOTION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL**
3 **BE FILED IN THE CIRCUIT COURT.**

4 **(II) FOR THE CONTINUED SEIZURE OF MONEY IN AN AMOUNT**
5 **THAT DOES NOT EXCEED \$20,000, A MOTION FILED UNDER PARAGRAPH (1) OF THIS**
6 **SUBSECTION SHALL BE FILED IN THE DISTRICT COURT.**

7 **(B) (1) A MOTION FILED UNDER SUBSECTION (A) OF THIS SECTION**
8 **SHALL:**

9 **(I) BE IN WRITING;**

10 **(II) DESCRIBE THE PROPERTY SEIZED; AND**

11 **(III) INCLUDE THE GROUNDS FOR CONTINUED SEIZURE.**

12 **(2) THE MOTION MAY INCLUDE A REQUEST THAT THE COURT ORDER**
13 **THE CONTENTS OF THE MOTION TO BE SEALED.**

14 **(C) NOTICE THAT A MOTION HAS BEEN FILED UNDER SUBSECTION (A) OF**
15 **THIS SECTION SHALL BE PROVIDED TO THE OWNER OF THE SEIZED PROPERTY, IF**
16 **KNOWN.**

17 **(D) (1) THE COURT MAY GRANT A MOTION FILED UNDER SUBSECTION (A)**
18 **OF THIS SECTION AND EXTEND THE TIME LIMIT FOR FILING A FORFEITURE**
19 **PROCEEDING FOR NO LONGER THAN 90 DAYS, ON A FINDING OF GOOD CAUSE.**

20 **(2) A FINDING OF GOOD CAUSE UNDER PARAGRAPH (1) OF THIS**
21 **SUBSECTION IS ESTABLISHED BY EVIDENCE THAT THE SEIZED PROPERTY IS**
22 **RELATED TO A CRIMINAL INVESTIGATION THAT IS OF A CONTINUING NATURE.**

23 **(E) IF THE COURT GRANTS A MOTION UNDER SUBSECTION (D) OF THIS**
24 **SECTION, THE COURT SHALL ORDER THAT THE CONTENTS OF THE MOTION BE**
25 **SEALED FOR THE PERIOD OF EXTENSION.**

26 12-312.

27 **(a) Except as provided in subsection (b) of this section, property or part of a**
28 **property in which a person has an ownership interest is subject to forfeiture as proceeds, if**
29 **the State establishes by clear and convincing evidence that:**

1 ~~OPERATES IN COOPERATION WITH A FEDERAL AGENCY UNDER FEDERAL LAW TO~~
2 ~~ENGAGE IN SEIZURE AND FORFEITURE.~~

3 ~~(D)~~ (C) "MSAC" MEANS THE MARYLAND STATISTICAL ANALYSIS
4 CENTER OF GOCCP.

5 ~~13-602, 12-602.~~

6 (A) ON AN ANNUAL BASIS, EACH ~~LAW ENFORCEMENT AGENCY~~ SEIZING
7 AUTHORITY IN CONSULTATION WITH THE CORRESPONDING FORFEITING
8 AUTHORITY SHALL REPORT HOW ANY FUNDS APPROPRIATED TO THE AUTHORITY AS
9 A RESULT OF FORFEITURE WERE SPENT IN THE PRECEDING FISCAL YEAR AND THE
10 FOLLOWING INFORMATION ABOUT EACH INDIVIDUAL SEIZURE AND FORFEITURE
11 COMPLETED BY THE AGENCY UNDER ~~STATE FORFEITURE LAW AND FEDERAL~~
12 ~~FORFEITURE LAW~~ THIS TITLE:

13 (1) THE DATE THAT CURRENCY, VEHICLES, HOUSES, OR OTHER TYPES
14 OF PROPERTY WERE SEIZED;

15 (2) THE TYPE OF PROPERTY SEIZED, INCLUDING YEAR, MAKE, AND
16 MODEL, AS APPLICABLE;

17 ~~(3) THE TYPE OF ALLEGED CRIME ASSOCIATED WITH THE SEIZURE OF~~
18 ~~THE PROPERTY;~~

19 ~~(4)~~ (3) THE OUTCOME OF RELATED CRIMINAL ACTION, INCLUDING
20 WHETHER CHARGES WERE BROUGHT, A PLEA BARGAIN WAS REACHED, A
21 CONVICTION WAS OBTAINED, OR AN ACQUITTAL WAS ISSUED;

22 ~~(5) WHETHER THE FORFEITURE PROCEDURE WAS ADMINISTRATIVE,~~
23 ~~JUDICIAL, OR OTHER;~~

24 ~~(6) WHETHER THE CLAIMANT WAS THE CRIMINAL SUSPECT,~~
25 ~~INNOCENT OWNER, OR BOTH AS JOINT OWNERS;~~

26 ~~(7) WHETHER THE VENUE OF THE FORFEITURE CASE WAS AN~~
27 ~~ADMINISTRATIVE AGENCY, A SMALL CLAIMS COURT, A CIVIL COURT, A CRIMINAL~~
28 ~~COURT, OR ANY OTHER VENUE;~~

29 ~~(8) WHETHER THE PROPERTY OWNER WAS REPRESENTED BY AN~~
30 ~~ATTORNEY IN THE FORFEITURE CASE;~~

31 (4) WHETHER A UNIT OF FEDERAL GOVERNMENT TOOK CUSTODY OF
32 THE SEIZED PROPERTY, AND THE NAME OF THE UNIT;

1 ~~(9)~~ (5) FOR PROPERTY OTHER THAN MONEY, THE MARKET VALUE
2 OF THE PROPERTY SEIZED;

3 ~~(10) THE GROSS AMOUNT RECEIVED FROM THE FORFEITURE;~~

4 ~~(11) THE TOTAL ADMINISTRATIVE AND OTHER EXPENSES DEDUCTED~~
5 ~~AS PART OF THE FORFEITURE PROCESS;~~

6 ~~(12) THE NET AMOUNT RECEIVED FROM THE FORFEITURE;~~

7 ~~(13) THE DISPOSITION OF THE PROPERTY FOLLOWING SEIZURE,~~
8 ~~INCLUDING WHETHER THE PROPERTY WAS:~~

9 ~~(I) RETURNED TO THE OWNER;~~

10 ~~(II) DESTROYED; OR~~

11 ~~(III) SOLD OR RETAINED AFTER FORFEITURE; AND~~

12 ~~(14) THE DATE OF THE DISPOSITION OF THE PROPERTY.~~

13 (6) IF MONEY WAS SEIZED, THE AMOUNT OF MONEY;

14 (7) THE AMOUNT THE SEIZING AUTHORITY RECEIVED IN THE PRIOR
15 YEAR FROM THE FEDERAL GOVERNMENT AS PART OF AN EQUITABLE SHARING
16 AGREEMENT; AND

17 (8) WHETHER THE PROPERTY WAS RETURNED TO THE OWNER.

18 (B) MSAC MAY REQUIRE A ~~LAW ENFORCEMENT AGENCY~~ SEIZING
19 AUTHORITY TO PROVIDE RELEVANT INFORMATION NOT SPECIFIED IN SUBSECTION
20 (A) OF THIS SECTION.

21 (C) (1) EACH ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY SHALL
22 FILE WITH MSAC THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
23 FOR THE ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY AND THE
24 CORRESPONDING ~~PROSECUTOR'S OFFICE~~ FORFEITING AUTHORITY.

25 ~~(2) THE LAW ENFORCEMENT AGENCY SHALL FILE SEPARATE~~
26 ~~REPORTS FOR FORFEITURES COMPLETED UNDER STATE FORFEITURE LAW AND~~
27 ~~FEDERAL FORFEITURE LAW.~~

1 ~~(3)~~ (2) A NULL REPORT SHALL BE FILED BY A ~~LAW ENFORCEMENT~~
2 ~~SEIZING AUTHORITY AGENCY~~ THAT DID NOT ENGAGE IN SEIZURES OR FORFEITURES
3 UNDER THIS TITLE DURING THE REPORTING PERIOD.

4 (D) (1) MSAC SHALL DEVELOP A STANDARD FORM, A PROCESS, AND
5 DEADLINES FOR ELECTRONIC DATA ENTRY FOR ANNUAL SUBMISSION OF
6 FORFEITURE DATA BY ~~LAW ENFORCEMENT AGENCIES~~ SEIZING AUTHORITIES.

7 (2) MSAC SHALL COMPILE THE SUBMISSIONS AND ISSUE AN
8 AGGREGATE REPORT OF ALL FORFEITURES UNDER THIS TITLE IN THE STATE.

9 (E) (1) BY MARCH 1 OF EACH YEAR, MSAC SHALL MAKE AVAILABLE ON
10 ITS WEB SITE THE REPORTS SUBMITTED BY ~~LAW ENFORCEMENT AGENCIES~~ SEIZING
11 AUTHORITIES AND THE AGGREGATE REPORT OF MSAC.

12 (2) GOCCP SHALL SUBMIT THE AGGREGATE REPORT TO THE
13 GOVERNOR, THE GENERAL ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE STATE
14 GOVERNMENT ARTICLE, AND EACH ~~LAW ENFORCEMENT AGENCY~~ SEIZING
15 AUTHORITY BEFORE SEPTEMBER 1 OF EACH YEAR.

16 (F) GOCCP MAY INCLUDE, WITH THE AGGREGATE REPORT OF MSAC,
17 RECOMMENDATIONS TO THE LEGISLATURE TO IMPROVE FORFEITURE STATUTES TO
18 BETTER ENSURE THAT FORFEITURE PROCEEDINGS ARE REPORTED AND HANDLED
19 IN A MANNER THAT IS FAIR TO CRIME VICTIMS, INNOCENT PROPERTY OWNERS,
20 SECURED INTEREST HOLDERS, CITIZENS, AND TAXPAYERS.

21 (G) (1) IF A ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY FAILS TO
22 COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION:

23 (i) GOCCP SHALL REPORT THE NONCOMPLIANCE TO THE
24 POLICE TRAINING COMMISSION; AND

25 (ii) THE POLICE TRAINING COMMISSION SHALL CONTACT THE
26 ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY AND REQUEST THAT THE AGENCY
27 COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

28 (2) IF THE ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY FAILS
29 TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER
30 BEING CONTACTED BY THE POLICE TRAINING COMMISSION, GOCCP AND THE
31 POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO
32 THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL
33 ASSEMBLY.

1 **(H) (1) MSAC MAY RECOUP ITS COSTS BY CHARGING A FEE TO ~~LAW~~**
2 **~~ENFORCEMENT AGENCIES~~ EACH SEIZING AUTHORITY THAT ~~ENGAGE~~ ENGAGES IN**
3 **SEIZURES OR FORFEITURES DURING THE REPORTING PERIOD.**

4 **(2) A ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY MAY USE**
5 **FORFEITURE PROCEEDS TO PAY THE COST OF COMPILING AND REPORTING DATA**
6 **UNDER THIS SUBTITLE, INCLUDING ANY FEE IMPOSED BY MSAC.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.