

**SB0161/478474/1**

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 161  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Raskin, and Zirkin” and substitute: “Brochin, Cassilly, Lee, Muse, Ramirez, Raskin, Ready, and Zirkin”.

AMENDMENT NO. 2

On page 1, strike beginning with “prohibiting” in line 4 down through “replevin;” in line 20 and substitute “authorizing the court, following a conviction for certain violations involving a gang, to order the divestiture of certain property, the dissolution or reorganization of a certain enterprise, or the suspension or revocation of a certain license, permit, or approval; requiring that certain proceeds be deposited in the General Fund; requiring that a certain seizing authority provide a receipt for property on seizure that includes certain information; requiring that a certain seizing authority mail notice with certain information to the owner of seized property within a certain time; authorizing the owner of certain seized property to make a request that includes certain information for return of the seized property within a certain time; requiring a seizing authority to take certain actions in response to a certain request; altering the circumstances by which a certain law enforcement agency may transfer seized property to a certain federal law enforcement agency; altering the time in which a complaint for forfeiture of money must be filed; requiring that a certain forfeiting authority return property to an owner if a complaint for forfeiture is not filed in a certain time under certain circumstances; providing that a certain seizing authority or forfeiting authority may request an extension for time to file a complaint for forfeiture under certain circumstances; providing that a court may grant a certain extension for time to file a complaint for forfeiture; requiring a court to order that a certain motion be sealed; prohibiting the use of a certain statement regarding seized property from use in a criminal prosecution except under certain circumstances; requiring that a certain amount of forfeiture proceeds be appropriated to the Department of Health and Mental Hygiene to fund certain drug programs;”; in lines 20, 23, and 31, in each instance, strike

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“law enforcement agency” and substitute “seizing authority”; in lines 24 and 25, strike “law enforcement agency” and substitute “seizing authority”; in line 21, strike “each individual seizure and forfeiture” and substitute “certain seizures and forfeitures”; and in line 22, strike “under State or federal forfeiture law”.

On page 2, in line 2, strike “law enforcement agencies” and substitute “seizing authorities”; in lines 4 and 8, in each instance, strike “law enforcement agency” and substitute “seizing authority”; after line 11, insert:

“BY adding to

Article – Criminal Law

Section 9-807

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)”;

strike lines 12 through 16 in their entirety; in line 19, strike “12-103 and 12-203” and substitute “12-102(a), 12-104, and 12-212”; after line 21, insert “(As enacted by Chapter 5 of the Acts of the General Assembly of 2016)”

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 12-203 and 12-304

Annotated Code of Maryland

(2008 Replacement Volume and 2015 Supplement)”;

in line 24, strike “12-203.1; and 13-601 and 13-602” and substitute “12-304.1, 12-313, and 12-405; and 12-601 and 12-602”; and after line 27, insert:

“BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 12-312

Annotated Code of Maryland

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(2008 Replacement Volume and 2015 Supplement)  
(As enacted by Chapter 5 of the Acts of the General Assembly of 2016)".

AMENDMENT NO. 3

On page 2, after line 29, insert:

"Article – Criminal Law

9-807.

(A) IN THIS SECTION, "ENTERPRISE" INCLUDES:

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

(2) ANY GROUP OF INDIVIDUALS ASSOCIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY.

(B) IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS SUBTITLE, ON CONVICTION THE COURT MAY:

(1) ORDER A PERSON OR CRIMINAL GANG TO BE DIVESTED OF ANY INTEREST IN AN ENTERPRISE OR REAL PROPERTY;

(2) ORDER THE DISSOLUTION OR REORGANIZATION OF AN ENTERPRISE ASSOCIATED WITH THE DEFENDANT; AND

(3) ORDER THE SUSPENSION OF REVOCATION OF ANY LICENSE, PERMIT, OR PRIOR APPROVAL GRANTED TO THE DEFENDANT BY A UNIT OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE.

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**(C) ASSETS DIVESTED UNDER THIS SECTION AND DERIVED FROM THE COMMISSION OF, ATTEMPTED COMMISSION OF, CONSPIRACY TO COMMIT, OR SOLICITATION OF A CRIME DESCRIBED UNDER THIS SUBTITLE, EITHER IN WHOLE OR IN PART, SHALL BE DEPOSITED INTO THE GENERAL FUND OF THE STATE.**

**AMENDMENT NO. 4**

On page 3, in line 9, after “money” insert “[of more than \$300]”; in the same line, after “or” insert a closing bracket; and strike in their entirety lines 12 through 22, inclusive, and substitute:

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

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

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

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

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

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

AMENDMENT NO. 5

On pages 3 through 5, strike in their entirety the lines beginning with line 23 on page 3 through line 11 on page 5, inclusive, and substitute:

“12-104.

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

(1) A DETAILED DESCRIPTION OF THE PROPERTY;

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

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

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

(5) NOTICE THAT WITHIN 60 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR RETURN OF THE SEIZED PROPERTY, THE SEIZING AUTHORITY WILL DECIDE WHETHER TO RETURN THE PROPERTY AND NOTIFY THE OWNER OF THE DECISION.

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

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

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

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

On page 5, in lines 13 and 15, in each instance, strike the bracket; in line 15, after “authority,” insert “**AND, UNLESS RETURNED TO THE OWNER AS PROVIDED IN SUBSECTION (C) OF THIS SECTION OR § 12-207 OF THIS SUBTITLE, IS**”; after line 18, insert:

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

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

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

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

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

**AMENDMENT NO. 6**

On pages 5 and 6, strike in their entirety the lines beginning with line 19 on page 5 through line 28 on page 6, inclusive, and substitute:

“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:**

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(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**

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

12-304.

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

(1) 90 days after the seizure; or

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

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

(c) (1) [A proceeding about money shall be filed within 90 days after the final disposition of criminal proceedings that arise out of the Controlled Dangerous Substances law] IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT FILE A



TIMELY COMPLAINT SEEKING FORFEITURE UNDER SUBSECTION (A) OR (B) OF THIS SECTION, THE PROPERTY SHALL BE PROMPTLY RELEASED TO THE OWNER, IF KNOWN.

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

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

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

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

12-304.1.

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

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

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

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

**(I) BE IN WRITING;**

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

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

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

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

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

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

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

12-312.

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

(1) the person has violated §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or has attempted or conspired to violate Title 5 of the Criminal Law Article;

(2) the property was acquired by the person during the violation or within a reasonable time after the violation; and

(3) there was no other likely source for the property.

(b) Real property used as the principal family residence may not be forfeited under this section unless:

(1) an owner of the real property was convicted of a crime described under subsection (a)(1) of this section; or

(2) the real property is covered by § 12-103(d)(2) of this title.

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**12-313.**

**EXCEPT FOR PURPOSES OF IMPEACHMENT, A STATEMENT MADE BY A PERSON REGARDING OWNERSHIP OF SEIZED PROPERTY DURING THE COURSE OF A FORFEITURE PROCEEDING IS NOT ADMISSIBLE IN A RELATED CRIMINAL PROSECUTION.**

**12-405.**

**NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GOVERNOR SHALL APPROPRIATE 20% OF THE PROCEEDS DEPOSITED IN THE GENERAL FUND OF THE STATE UNDER THIS SUBTITLE TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR THE PURPOSE OF FUNDING DRUG TREATMENT AND EDUCATION PROGRAMS.**

**AMENDMENT NO. 7**

On page 6, in line 30, strike “**13-601.**” and substitute “**12-601.**”.

On page 7, strike in their entirety lines 5 through 9, inclusive; in line 10, strike “**(D)**” and substitute “**(C)**”; in line 12, strike “**13-602.**” and substitute “**12-602.**”; in line 13, strike “**LAW ENFORCEMENT AGENCY**” and substitute “**SEIZING AUTHORITY IN CONSULTATION WITH THE CORRESPONDING FORFEITING AUTHORITY**”; in line 14, after “**REPORT**” insert “**HOW ANY FUNDS APPROPRIATED TO THE AUTHORITY AS A RESULT OF FORFEITURE WERE SPENT IN THE PRECEDING FISCAL YEAR AND**”; in lines 15 and 16, strike “**STATE FORFEITURE LAW AND FEDERAL FORFEITURE LAW**” and substitute “**THIS TITLE**”; strike in their entirety lines 21 and 22; and in line 23, strike “**(4)**” and substitute “**(3)**”.

On pages 7 and 8, strike in their entirety the lines beginning with line 26 on page 7 through line 5 on page 8, inclusive, and substitute:

**“(4) WHETHER A UNIT OF FEDERAL GOVERNMENT TOOK CUSTODY OF THE SEIZED PROPERTY, AND THE NAME OF THE UNIT;”**.

On page 8, in line 6, strike “(9)” and substitute “**(5) FOR PROPERTY OTHER THAN MONEY,**”; strike in their entirety lines 7 through 16, inclusive, and substitute:

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

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

**(8) WHETHER THE PROPERTY WAS RETURNED TO THE OWNER.”;**

strike in their entirety lines 22 through 24, inclusive; in line 25, strike “(3)” and substitute “(2)”; in lines 17 and 19, in each instance, strike “LAW ENFORCEMENT AGENCY” and substitute “**SEIZING AUTHORITY**”; in lines 20 and 21, strike “LAW ENFORCEMENT AGENCY” and substitute “**SEIZING AUTHORITY**”; in line 21, strike “PROSECUTOR’S OFFICE” and substitute “**FORFEITING AUTHORITY**”; in line 25, strike “LAW ENFORCEMENT” and substitute “**SEIZING AUTHORITY**”; in line 26, strike “AGENCY”; and in the same line, after “FORFEITURES” insert “**UNDER THIS TITLE**”.

On page 9, in lines 3 and 7, in each instance, strike “LAW ENFORCEMENT AGENCIES” and substitute “**SEIZING AUTHORITIES**”; in line 5, after “FORFEITURES” insert “**UNDER THIS TITLE**”; in lines 11, 18, 23, and 25, in each instance, strike “LAW ENFORCEMENT AGENCY” and substitute “**SEIZING AUTHORITY**”; in lines 30 and 31, strike “LAW ENFORCEMENT AGENCIES” and substitute “**EACH SEIZING AUTHORITY**”; and in line 31, strike “ENGAGE” and substitute “**ENGAGES**”.

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On page 10, in line 1, strike “**LAW ENFORCEMENT AGENCY**” and substitute “**SEIZING AUTHORITY**”.