

HOUSE BILL 336

E2

(6lr1244)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Vallario, Anderson, Atterbeary, Carter, Conaway, Dumais, Glass, Kittleman, Moon, Morales, Rosenberg, Sanchez, Smith, Sydnor, Tarlau, and Valentino-Smith**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Seizure and Forfeiture**

3 FOR the purpose of ~~altering the types of crimes for which certain property is subject to~~
4 ~~forfeiture~~ authorizing the forfeiture of certain property under certain circumstances;
5 repealing a certain provision authorizing the forfeiture of certain money or weapons
6 relating to possession of a controlled dangerous substance; ~~authorizing the forfeiture~~
7 ~~of certain property under certain circumstances;~~ ~~prohibiting a certain law~~
8 ~~enforcement agency or prosecuting authority from directly or indirectly transferring~~
9 ~~or referring seized property to a federal government agency or law enforcement~~
10 ~~authority for forfeiture under federal law unless certain conditions are met;~~
11 ~~authorizing a certain defendant or third party to file a motion for replevin in a certain~~
12 ~~criminal case at a certain time if the defendant or third party claims that he or she~~
13 ~~has the right to possession of certain property; requiring a motion for replevin under~~

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.

Italics indicate opposite chamber/conference committee amendments.



~~this Act to be in writing and state in detail the grounds on which it is based; requiring a claimant to notify the State's Attorney in writing of the filing of a motion for replevin under this Act; authorizing the State's Attorney to file a response to a motion for replevin at a certain time; requiring the court to hold a hearing on a motion for replevin at a certain time under certain circumstances; authorizing the court to dismiss a motion for replevin without a hearing under certain circumstances; requiring the court to grant a motion for replevin under certain circumstances; authorizing the court to order the return of funds or property sufficient to obtain legal counsel but less than the total amount seized; authorizing the court to take certain actions in lieu of ordering issuance of the writ of replevin 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 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; prohibiting the construction of a certain provision of law in a certain manner; 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; 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; requiring a certain law enforcement agency seizing authority to report, on an annual basis, certain information about each individual seizure and forfeiture certain seizures and forfeitures completed by the agency ~~under State or federal forfeiture law~~; authorizing the Maryland Statistical Analysis Center (MSAC) to require a ~~law enforcement agency~~ seizing authority to provide relevant information not specified in this Act; requiring a certain ~~law enforcement agency~~ seizing authority to file a certain report for the agency and the corresponding prosecutor's office with MSAC; requiring MSAC to develop a certain form, a process, and deadlines for certain data entry; requiring MSAC to compile certain submissions and issue a certain report; requiring MSAC to make certain reports available in a certain manner; requiring the Governor's Office of Crime Control and Prevention (GOCCP) to submit a certain report to the Governor, the General Assembly, and each ~~law enforcement agency~~ seizing authority before a certain date each year; authorizing GOCCP to include in a certain report certain recommendations; requiring GOCCP to report information on ~~law enforcement agencies~~ seizing authorities not in compliance with this Act to the Police Training Commission; requiring the Police Training Commission to contact a certain ~~law enforcement agency~~ seizing authority and request compliance; requiring GOCCP and the Police Training Commission to report certain noncompliance to the Governor and the Legislative Policy Committee of the General Assembly under certain circumstances; authorizing MSAC to recoup certain costs in a certain manner; authorizing a certain ~~law enforcement agency~~ seizing authority to use forfeiture proceeds to pay the cost of compiling and reporting~~

1 information required under this Act; making a conforming change; defining certain
2 terms; and generally relating to seizure and forfeiture.

3 BY repealing and reenacting, with amendments,

4 Article – Criminal Procedure

5 Section 12-102(a), 12-104, and 12-212

6 Annotated Code of Maryland

7 (2008 Replacement Volume and 2015 Supplement)

8 (As enacted by Chapter 5 of the Acts of the General Assembly of 2016)

9 BY repealing and reenacting, with amendments,

10 Article – Criminal Procedure

11 Section ~~12-102(a), 12-103, and~~ 12-203 and 12-304

12 Annotated Code of Maryland

13 (2008 Replacement Volume and 2015 Supplement)

14 BY adding to

15 Article – Criminal Procedure

16 Section ~~12-103(f) and 12-203.1; and 13-601 and 13-602~~ 12-313 and 12-405; and
17 12-601 and 12-602 to be under the new subtitle “Subtitle 6. Reporting”

18 Annotated Code of Maryland

19 (2008 Replacement Volume and 2015 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Criminal Procedure

22 Section 12-312

23 Annotated Code of Maryland

24 (2008 Replacement Volume and 2015 Supplement)

25 (As enacted by Chapter 5 of the Acts of the General Assembly of 2016)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

27 That the Laws of Maryland read as follows:

28 **Article – Criminal Procedure**

29 12-102.

30 (a) The following are subject to forfeiture:

31 (1) controlled dangerous substances manufactured, distributed, dispensed,
32 acquired, or possessed in violation of the Controlled Dangerous Substances law;

33 (2) raw materials, products, and equipment used, or intended for use, in
34 manufacturing, compounding, processing, delivering, importing, or exporting a controlled
35 dangerous substance in violation of the Controlled Dangerous Substances law;

1 (3) property used or intended for use as a container for property described
2 in item (1) or (2) of this subsection;

3 (4) except as provided in § 12–103 of this subtitle, conveyances, including
4 aircraft, vehicles, or vessels used or intended to be used to transport, or facilitate the
5 transportation, sale, receipt, possession, or concealment of property described in item (1) or
6 (2) of this subsection;

7 (5) books, records, and research, including formulas, microfilm, tapes, and
8 data used or intended for use in violation of the Controlled Dangerous Substances law;

9 (6) subject to subsection (b) of this section, ~~money or~~ weapons used or
10 intended to be used in connection with the unlawful manufacture, distribution, **OR**
11 dispensing[, or possession] of a controlled dangerous substance or controlled
12 paraphernalia;

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

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

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

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

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

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

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

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

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

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

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

6 ~~12-103.~~

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

9 ~~(I) THE PROPERTY IS CLAIMED TO BE OWNED BY A PERSON~~
10 ~~WHO IS CONVICTED OF A FELONY VIOLATION OF THE CONTROLLED DANGEROUS~~
11 ~~SUBSTANCES LAW; AND~~

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

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

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

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

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

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

32 ~~[(d)](E) (1) Except as provided in paragraph (2) of this subsection, real~~
33 ~~property used as the principal family residence may not be forfeited under this subtitle~~
34 ~~unless one of the owners of the real property was convicted of a violation of §§ 5-602~~

1 ~~through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law~~
 2 ~~Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.~~

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

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

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

8 ~~[(e)](F) Real property used as the principal family residence by a husband and~~
 9 ~~wife and held by the husband and wife as tenants by the entirety may not be forfeited~~
 10 ~~unless:~~

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

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

17 ~~(G) (F) A LAW ENFORCEMENT AGENCY OR PROSECUTING AUTHORITY~~
 18 ~~MAY NOT DIRECTLY OR INDIRECTLY TRANSFER OR REFER SEIZED PROPERTY TO A~~
 19 ~~FEDERAL GOVERNMENT AGENCY OR LAW ENFORCEMENT AUTHORITY FOR~~
 20 ~~FORFEITURE UNDER FEDERAL LAW UNLESS:~~

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

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

25 12-104.

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

28 (1) A DETAILED DESCRIPTION OF THE PROPERTY;

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

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

4 **(4) NOTICE THAT THE OWNER OF THE PROPERTY MAY MAKE A**
 5 **WRITTEN REQUEST FOR RETURN OF THE SEIZED PROPERTY; AND**

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

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

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

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

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

22 12-203.

23 (a) Property seized under this title[:

24 (1) is not repleviable; but

25 (2)] is in the custody of the seizing authority, **AND, UNLESS RETURNED TO**
 26 **THE OWNER AS PROVIDED IN SUBSECTION (C) OF THIS SECTION OR § 12-207 OF THIS**
 27 **SUBTITLE, IS** subject only to the orders, judgments, and decrees of the court or the official
 28 having jurisdiction over the property.

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

31 **(C) (1) THE OWNER OF SEIZED PROPERTY MAY MAKE A WRITTEN REQUEST**
 32 **TO THE SEIZING AUTHORITY FOR THE RETURN OF THE SEIZED PROPERTY.**

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

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

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

10 **(III) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF THE**
11 **PROPERTY AND WILL RETAIN IT FOR EVIDENTIARY PURPOSES UNTIL AFTER THE**
12 **CONCLUSION OF A CRIMINAL CASE; OR**

13 **(IV) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF THE**
14 **PROPERTY AND WILL PROMPTLY RETURN THE PROPERTY TO THE OWNER.**

15 ~~**12-203.1.**~~

16 ~~**(A) FOLLOWING THE SEIZURE OF PROPERTY, A DEFENDANT OR THIRD**~~
17 ~~**PARTY MAY FILE A MOTION FOR WRIT OF REPLEVIN IN THE CRIMINAL CASE IF THE**~~
18 ~~**DEFENDANT OR THIRD PARTY CLAIMS TO HAVE THE RIGHT TO POSSESSION OF THE**~~
19 ~~**PROPERTY.**~~

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

22 ~~**(C) A MOTION UNDER THIS SECTION SHALL:**~~

23 ~~**(1) BE IN WRITING; AND**~~

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

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

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

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

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

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

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

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

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

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

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

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

24 12-212.

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

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

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

30 (3) THE PROPERTY IS CASH OF AT LEAST \$50,000; OR

1 **(4) THE SEIZING AUTHORITY TRANSFERS THE PROPERTY TO A**
2 **FEDERAL AUTHORITY UNDER A FEDERAL SEIZURE WARRANT ISSUED TO TAKE**
3 **CUSTODY OF ASSETS ORIGINALLY SEIZED UNDER STATE LAW.**

4 12-304.

5 (a) Except as provided under subsections (b), [and] (c), AND (D) of this section, a
6 complaint seeking forfeiture shall be filed within the earlier of:

7 (1) 90 days after the seizure; or

8 (2) 1 year after the final disposition of the criminal charge for the violation
9 giving rise to the forfeiture.

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

12 (c) IF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE DOES NOT
13 FILE A TIMELY COMPLAINT SEEKING FORFEITURE UNDER SUBSECTION (A) OR (B) OF
14 THIS SECTION, THE PROPERTY SHALL BE PROMPTLY RELEASED TO THE OWNER, IF
15 KNOWN.

16 (D) (1) A proceeding about money shall be filed within 90 days after the final
17 disposition of criminal proceedings that arise out of the Controlled Dangerous Substances
18 law.

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

22 (3) If the owner fails to ask the return of the money within 1 year after the
23 final disposition of criminal proceedings, as provided under § 12-403 of this title, the money
24 shall revert to:

25 (i) the political subdivision in which the money was seized; or

26 (ii) the State, if the money was seized by State authorities.

27 12-312.

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

1 (1) the person has violated §§ 5-602 through 5-609, §§ 5-612 through
 2 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or has attempted or
 3 conspired to violate Title 5 of the Criminal Law Article;

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

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

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

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

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

12 **12-313.**

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

17 **12-405.**

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

23 **SUBTITLE 6. REPORTING.**

24 ~~13-601.~~ **12-601.**

25 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 26 **INDICATED.**

27 **(B) "GOCCP" MEANS THE GOVERNOR'S OFFICE OF CRIME CONTROL AND**
 28 **PREVENTION.**

29 ~~**(C) "LAW ENFORCEMENT AGENCY" MEANS A POLICE FORCE, A**~~
 30 ~~**MULTIJURISDICTIONAL TASK FORCE, A FIRE DEPARTMENT, OR ANY OTHER LOCAL,**~~
 31 ~~**COUNTY, OR STATE AGENCY THAT HAS THE AUTHORITY UNDER STATE LAW OR**~~

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 AUTHORITY
 8 SHALL REPORT HOW ANY FUNDS APPROPRIATED TO THE AUTHORITY AS A RESULT
 9 OF FORFEITURE WERE SPENT IN THE PRECEDING FISCAL YEAR AND THE FOLLOWING
 10 INFORMATION ABOUT EACH INDIVIDUAL SEIZURE AND FORFEITURE COMPLETED BY
 11 THE AGENCY UNDER ~~STATE FORFEITURE LAW AND FEDERAL FORFEITURE LAW~~ THIS
 12 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)~~ 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;

17 (8) THE RACE AND GENDER OF THE PERSON OR PERSONS FROM WHOM
18 THE PROPERTY WAS SEIZED, IF KNOWN; AND

19 (9) WHETHER THE PROPERTY WAS RETURNED TO THE OWNER.

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

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

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

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

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

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

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

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

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

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

26 (I) GOCCP SHALL REPORT THE NONCOMPLIANCE TO THE
27 POLICE TRAINING COMMISSION; AND

28 (II) THE POLICE TRAINING COMMISSION SHALL CONTACT THE
29 ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY AND REQUEST THAT THE AGENCY
30 COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

31 (2) IF THE ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY FAILS
32 TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER
33 BEING CONTACTED BY THE POLICE TRAINING COMMISSION, GOCCP AND THE
34 POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO

1 THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL
2 ASSEMBLY.

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.