

**HB0336/708579/1**

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 336

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “altering” in line 3 down through “forfeiture” in line 4 and substitute “authorizing the forfeiture of certain property under certain circumstances; repealing a certain provision authorizing the forfeiture of certain money or weapons relating to possession of a controlled dangerous substance”; strike beginning with “prohibiting” in line 5 down through “replevin” in line 20 and substitute “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”; in line 22, strike “each individual seizure and forfeiture” and substitute “certain seizures and forfeitures”; and in line 23, strike “under State or federal forfeiture law”.

On page 1 in line 21 and on page 2 in lines 1, 2, 8, 12 and 13, and 17, in each instance, strike “law enforcement agency” and substitute “seizing authority”.

On page 2, in lines 10 and 11, strike “law enforcement agencies” and substitute “seizing authorities”; in line 22, after “12-102(a)” insert “12-104, and 12-212”; in line 28,

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after “12-203” insert “and 12-304”; in line 33, strike beginning with “12-103(f)” through “13-602” and substitute “12-313 and 12-405; and 12-601 and 12-602”; and after line 36, insert:

“BY repealing and reenacting, without amendments,

Article - Criminal Procedure

Section 12-312

Annotated Code of Maryland

(2008 Replacement Volume and 2015 Supplement)

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

AMENDMENT NO. 2

On page 3, in line 15, strike “money or”; in line 31, strike “directly connected to” and substitute “USED OR INTENDED TO BE USED IN CONNECTION WITH”; in the same line, after “unlawful” insert “MANUFACTURE,”; and in the same line, after “distribution” insert “, OR DISPENSING”.

AMENDMENT NO. 3

On page 4, strike line 10 in its entirety.

On page 5, strike in their entirety lines 22 through 29, 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 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.**

**(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**

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matter. Nothing in this document may be construed as legal advice. You may wish to consult an attorney concerning this matter.”.

AMENDMENT NO. 4

On page 6, in line 1, 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 4, insert:

“(C) (1) THE OWNER OF SEIZED PROPERTY MAY MAKE A WRITTEN REQUEST 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;

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

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

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AMENDMENT NO. 5

On pages 6 and 7, strike in their entirety the lines beginning with line 5 on page 6 through line 12 on page 7, inclusive, and substitute:

“12-212.

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) **THE PROPERTY IS CASH OF AT LEAST \$50,000; OR**

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

12-304.

(a) Except as provided under subsections (b), [and] (c), AND (D) of this section, 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.

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

(c) IF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE 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.

(D) (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.

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

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

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

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:

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(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.

**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.”.**

(Over)

AMENDMENT NO. 6

On page 7, in lines 14 and 26, strike “**13-601.**” and “**13-602.**”, respectively, and substitute “**12-601.**” and “**12-602.**”, respectively; strike in their entirety lines 19 through 23, inclusive; in line 24, strike “**(D)**” and substitute “**(C)**”; in line 27, strike “**LAW ENFORCEMENT AGENCY**” and substitute “**SEIZING AUTHORITY IN CONSULTATION WITH THE CORRESPONDING FORFEITING AUTHORITY**”; in line 28, after “**REPORT**” insert “**HOW ANY FUNDS APPROPRIATED TO THE AUTHORITY AS A RESULT OF FORFEITURE WERE SPENT IN THE PRECEDING FISCAL YEAR AND**”; and strike beginning with “**STATE**” in line 29 down through “**LAW**” in line 30 and substitute “**THIS TITLE**”.

On page 8, strike beginning with the first “**THE**” in line 5 down through “**(4)**” in line 7; strike in their entirety lines 10 through 18, inclusive, and substitute:

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

in line 19, strike “**(9)**” and substitute “**(5)**”; in the same line, before the first “**THE**” insert “**FOR PROPERTY OTHER THAN MONEY,**”; and strike in their entirety lines 20 through 29, 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;**”

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



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

On page 9, in line 5, strike “PROSECUTOR’S OFFICE” and substitute “FORFEITING AUTHORITY”; strike beginning with “THE” in line 6 down through “(3)” in line 9; in line 10, after “FORFEITURES” insert “UNDER THIS TITLE”; and in lines 14 and 18, in each instance, strike “LAW ENFORCEMENT AGENCIES” and substitute “SEIZING AUTHORITIES”; and in line 16, after “FORFEITURES” insert “UNDER THIS TITLE”.

On page 9 in lines 1, 3, 4 and 5, 9, 10, 22, and 29, and on page 10 in lines 2, 4, and 12, in each instance, strike “LAW ENFORCEMENT AGENCY” and substitute “SEIZING AUTHORITY”.

On page 10, in lines 9 and 10, strike “LAW ENFORCEMENT AGENCIES” and substitute “EACH SEIZING AUTHORITY”; and in line 10, strike “ENGAGE” and substitute “ENGAGES”.