



Testimony for the House Judiciary Committee

January 21, 2020

JUSTIN NALLEY
POLICY ANALYST,
EDUCATION

HB 69

Criminal Procedure – Governor’s Office of Crime Control and Prevention – Reporting of Seizures and Forfeitures

SUPPORT WITH AMENDMENT

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The ACLU of Maryland supports HB 69, requiring law enforcement agencies to notify the Maryland Statistical Analysis Center of the Governor’s Office of Crime Control and Prevention of updates to information previously reported under the existing reporting law regarding civil asset forfeiture.

The inherent conflict of interest in asset forfeiture requires reporting to guard against abuse. A 2013 investigatory report by the Baltimore Sun revealed that Maryland’s law enforcement agencies are reaping substantial rewards from the sale of seized assets. In fiscal year 2012, Maryland police agencies received \$6 million for selling property they seized. About \$1 million of that amount went to Baltimore police and \$650,000 went to state police.¹

By the police force’s own admission, the revenue from seizures were “absolutely vital” to the operation of the police force.² The heavy reliance on seizure-generated revenue creates a significant conflict of interest for law enforcement because law enforcement agencies are being funded by seized property.

In *Tumey v. Ohio*, the Supreme Court held, “it certainly [...] deprives a defendant in a criminal case of due process of law to subject his liberty or property to the judgment of a court, the judge of which has a direct, personal, substantial pecuniary interest in reaching a conclusion against him in his case.”³ Similarly here, law enforcement has a pecuniary interest in revenues from property seizure and this pecuniary interest creates a perverse incentive for law enforcement agencies to carry out seizures.

In addition to the updates recommended in HB 69, we respectfully urge the Committee to consider adding the following reporting categories to §12-602:

(8) the **COUNTY**, race, and gender of the person or persons from whom the

¹ Ian Duncan, *Maryland police seek federal help to take ill-gotten gains* (The Baltimore Sun, Feb. 14, 2013).

² Ian Duncan, *Maryland police seek federal help to take ill-gotten gains* (The Baltimore Sun, Feb. 14, 2013).

³ *Tumey v. Ohio*, 273 U.S. 510 (1927).

property was seized, if known; and
(9) whether the property was returned to the owner.; **AND**
THE COUNTY OF RESIDENCE, RACE, ETHNICITY, AND GENDER
OF THE PERSON OR PERSONS FROM WHOM THE PROPERTY
WAS RETURNED.

We believe these additions to reporting will allow better evaluation of the seizing programs and alert counties to any disparities in seizures and return of property.

For the foregoing reasons, the ACLU of Maryland supports HB 69 with the aforementioned amendment.

