

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 570 (Senator Jacobs, *et al.*)
Judicial Proceedings

**Criminal Procedure - Seizure and Forfeiture of Money - Criminal Gang
Members**

This bill provides that any money in the possession of a criminal gang member arrested for a violation of the criminal gang activity provisions: (1) is *prima facie* contraband; (2) may be seized by any law enforcement officer; and (3) is subject to forfeiture. Upon conviction of a person for criminal gang activity, the court shall order all money seized from the person at the time of arrest to be forfeited to the jurisdiction which governs the law enforcement unit that seized the property.

Fiscal Summary

State Effect: Potential general fund revenue increase from forfeited money. The bill's requirements could be handled with existing budgeted State resources.

Local Effect: Potential revenue increase from forfeited money. The bill's requirements could be handled with existing budgeted local resources.

Small Business Effect: None.

Analysis

Current Law: State laws authorizing search and seizure of property, money, or valuables do not apply to property that may have been used in furtherance of criminal gang activity. Search and seizure provisions apply to property used or intended to be used to violate controlled dangerous substance, gambling, gun, and explosive laws.

Procedures vary for the search, seizure, and forfeiture of property depending on whether the offense involves controlled dangerous substances, gambling, guns, or explosives. Generally, raw materials, equipment, books, records, research, motor vehicles, other vehicles or vessels, real property, money, contraband, negotiable instruments, as well as other items of value may be subject to search, seizure, and forfeiture. Once the property is seized, a law enforcement authority must file a complaint seeking forfeiture. The owner of the seized property is entitled to notice and opportunity for hearing on the forfeiture claim. The courts are authorized to mitigate the impact of forfeiture or return all seized property to the owner. The courts are also authorized to take appropriate measures to safeguard and maintain forfeited property.

Once forfeiture is authorized, the governing body where the property was seized may keep the property for official use or dispose of or sell the property. If the property is sold by a State law enforcement unit, then proceeds from the sale must be deposited into the general fund of the State. If the property is sold by a local law enforcement unit, then proceeds from the sale must be deposited into the general fund of the political subdivision that has jurisdiction over the law enforcement unit.

Background: Alaska, Florida, Louisiana, Nevada, and Ohio have statutes pertaining to forfeiture of property used in criminal gang activity.

Local Effect: Baltimore City, Caroline County, City of Laurel, Howard County, and Prince George's County indicate that the bill's provisions could be handled with existing resources. Howard County advises that seizures average less than \$30,000 annually and that procedures and staff are in place to handle a modest increase in activity. Any increase in revenues is assumed to be relatively small.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Caroline County, City of Laurel, Howard County, Montgomery County, Prince George's County, Department of State Police, Judiciary (Administrative Office of the Courts), Institute for Intergovernmental Research, Department of Legislative Services

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ncs/jr

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