

HOUSE BILL 396

E2, L2

71r2021

By: **Charles County Delegation**

Introduced and read first time: February 2, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Charles County – Prostitution and Pandering – Seizure and Forfeiture**

3 FOR the purpose of authorizing a law enforcement agency of Charles County, on
4 process issued by a court of competent jurisdiction, to seize certain property
5 used or intended for use in connection with violations of certain prostitution
6 laws; establishing that certain property is contraband and presumed to be
7 forfeitable; placing the burden of rebutting a certain presumption on a certain
8 property claimant; authorizing the seizure of certain property with or without a
9 warrant in certain circumstances; authorizing a court to direct a certain
10 defendant to forfeit certain property; establishing a certain forfeiture
11 proceeding; defining certain terms; providing for the application of this Act; and
12 generally relating to seizure and forfeiture of property used in connection with
13 violations of the prostitution law in Charles County.

14 BY adding to

15 Article – Criminal Procedure

16 Section 13–401 through 13–408 to be under the new subtitle “Subtitle 4.

17 Charles County – Violations of Prostitution Law”

18 Annotated Code of Maryland

19 (2001 Volume and 2006 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 4. CHARLES COUNTY – VIOLATIONS OF PROSTITUTION LAW.**

2 **13-401.**

3 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

5 **(B) “CONVICTED” MEANS FOUND GUILTY.**

6 **(C) (1) “OWNER” MEANS A PERSON HAVING A LEGAL, EQUITABLE, OR**
7 **POSSESSORY INTEREST IN PROPERTY.**

8 **(2) “OWNER” INCLUDES:**

9 **(I) A CO-OWNER;**

10 **(II) A LIFE TENANT;**

11 **(III) A REMAINDERMAN TO A LIFE TENANCY IN REAL**
12 **PROPERTY;**

13 **(IV) A HOLDER OF AN INCHOATE INTEREST IN REAL**
14 **PROPERTY; AND**

15 **(V) A BONA FIDE PURCHASER FOR VALUE.**

16 **(D) (1) “PROPERTY” INCLUDES:**

17 **(I) REAL PROPERTY AND ANYTHING GROWING ON OR**
18 **ATTACHED TO REAL PROPERTY;**

19 **(II) TANGIBLE AND INTANGIBLE PERSONAL PROPERTY,**
20 **INCLUDING:**

21 **1. SECURITIES;**

22 **2. NEGOTIABLE AND NONNEGOTIABLE**
23 **INSTRUMENTS;**

- 1 **3. VEHICLES AND CONVEYANCES OF ANY TYPE;**
- 2 **4. PRIVILEGES;**
- 3 **5. INTERESTS;**
- 4 **6. CLAIMS; AND**
- 5 **7. RIGHTS;**

6 **(III) AN ITEM, OBJECT, TOOL, SUBSTANCE, DEVICE, OR**
7 **WEAPON USED IN CONNECTION WITH A CRIME UNDER THE PROSTITUTION LAW;**
8 **AND**

9 **(IV) MONEY.**

10 **(2) “PROPERTY” DOES NOT INCLUDE:**

11 **(I) AN ITEM UNLAWFULLY IN THE POSSESSION OF A**
12 **PERSON OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH A CRIME**
13 **UNDER THE PROSTITUTION LAW; OR**

14 **(II) A LESSOR’S INTEREST IN PROPERTY SUBJECT TO A**
15 **BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT THE**
16 **LESSOR PARTICIPATED IN A CRIME UNDER THE PROSTITUTION LAW OR THAT**
17 **THE PROPERTY WAS THE PROCEEDS OF A CRIME UNDER THE PROSTITUTION**
18 **LAW.**

19 **(E) “PROSTITUTION LAW” MEANS TITLE 11, SUBTITLE 3 OF THE**
20 **CRIMINAL LAW ARTICLE.**

21 **(F) (1) “REAL PROPERTY” MEANS LAND OR AN IMPROVEMENT TO**
22 **LAND.**

23 **(2) “REAL PROPERTY” INCLUDES:**

24 **(I) A LEASEHOLD OR OTHER LIMITED INTEREST IN REAL**
25 **PROPERTY;**

1 (II) AN EASEMENT; AND

2 (III) A REVERSIONARY INTEREST IN A 99-YEAR GROUND
3 LEASE, RENEWABLE FOREVER.

4 **13-402.**

5 **THIS SUBTITLE APPLIES ONLY IN CHARLES COUNTY.**

6 **13-403.**

7 (A) EXCEPT AS PROVIDED IN § 13-404 OF THIS SUBTITLE, A LAW
8 ENFORCEMENT AGENCY OF CHARLES COUNTY, ON PROCESS ISSUED BY A
9 COURT OF COMPETENT JURISDICTION, MAY SEIZE:

10 (1) CONVEYANCES, INCLUDING AIRCRAFT, VEHICLES, OR
11 VESSELS USED OR INTENDED TO BE USED IN CONNECTION WITH A CRIME UNDER
12 THE PROSTITUTION LAW;

13 (2) BOOKS, RECORDS, TELECOMMUNICATION EQUIPMENT, OR
14 COMPUTERS USED OR INTENDED TO BE USED IN CONNECTION WITH A CRIME
15 UNDER THE PROSTITUTION LAW;

16 (3) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MONEY OR
17 WEAPONS USED OR INTENDED TO BE USED IN CONNECTION WITH A CRIME
18 UNDER THE PROSTITUTION LAW;

19 (4) REAL PROPERTY USED OR INTENDED TO BE USED IN
20 CONNECTION WITH A CRIME UNDER THE PROSTITUTION LAW; AND

21 (5) EVERYTHING OF VALUE FURNISHED OR INTENDED TO BE
22 FURNISHED IN EXCHANGE FOR AN ACT OF PROSTITUTION IN VIOLATION OF THE
23 PROSTITUTION LAW, ALL PROCEEDS TRACEABLE TO THE EXCHANGE, AND ALL
24 NEGOTIABLE INSTRUMENTS AND SECURITIES USED OR INTENDED TO BE USED
25 TO FACILITATE ANY VIOLATION OF THE PROSTITUTION LAW.

26 (B) (1) MONEY OR WEAPONS THAT ARE FOUND IN CLOSE PROXIMITY
27 TO AN ACT IN VIOLATION OF THE PROSTITUTION LAW ARE CONTRABAND AND
28 PRESUMED TO BE FORFEITABLE.

1 (2) A CLAIMANT OF MONEY OR WEAPONS HAS THE BURDEN TO
2 REBUT THE PRESUMPTION.

3 **13-404.**

4 A MEMBER OF A LAW ENFORCEMENT AGENCY, ON PROCESS ISSUED BY A
5 COURT OF COMPETENT JURISDICTION, MAY SEIZE PROPERTY DESCRIBED IN
6 THIS SUBTITLE WITHOUT A WARRANT WHEN THE SEIZURE IS:

7 (1) INCIDENT TO AN ARREST;

8 (2) INCIDENT TO A SEARCH MADE UNDER A SEARCH WARRANT;

9 (3) MADE IN ACCORDANCE WITH A VALID CONSENT TO SEARCH;

10 **OR**

11 (4) MADE WITH PROBABLE CAUSE TO BELIEVE THAT THE
12 PROPERTY HAS BEEN USED OR IS INTENDED TO BE USED IN CONNECTION WITH
13 A CRIME UNDER THE PROSTITUTION LAW.

14 **13-405.**

15 ON CONVICTION, THE COURT MAY DIRECT THE DEFENDANT TO FORFEIT
16 THE PROPERTY SEIZED IN ACCORDANCE WITH THIS SUBTITLE.

17 **13-406.**

18 (A) WITHIN 14 DAYS AFTER THE SEIZURE, THE SEIZING LAW
19 ENFORCEMENT AGENCY SHALL RETURN PROPERTY TO A PERSON FROM WHOM
20 THE PROPERTY WAS SEIZED UNLESS A HEARING HAS BEEN SCHEDULED TO
21 DETERMINE WHETHER:

22 (1) THE SEIZURE OF THE PROPERTY WAS PROPER; AND

23 (2) REASONABLE NOTICE HAS BEEN GIVEN.

24 (B) THE OWNER OF PROPERTY TO BE FORFEITED SHALL BE SERVED
25 NOTICE AT LEAST 10 DAYS BEFORE THE FORFEITURE HEARING.

1 **(C) IF THE OWNER OF PROPERTY TO BE FORFEITED IS NOT**
2 **REASONABLY DISCOVERABLE, THE SEIZING LAW ENFORCEMENT AGENCY MAY**
3 **SERVE NOTICE BY PUBLISHING A NOTICE OF THE FORFEITURE HEARING IN A**
4 **NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE**
5 **HEARING IS TO BE HELD AT LEAST 10 DAYS BEFORE THE DAY OF THE HEARING.**

6 **(D) THE NOTICE SHALL CONTAIN A GENERAL DESCRIPTION OF THE**
7 **PROPERTY, INCLUDING AVAILABLE SERIAL OR REGISTRATION NUMBERS.**

8 **(E) THE SEIZING LAW ENFORCEMENT AGENCY SHALL RETURN THE**
9 **PROPERTY TO THE OWNER ON A SHOWING THAT THE OWNER DID NOT KNOW OF**
10 **OR CONSENT TO A VIOLATION OF THE PROSTITUTION LAW.**

11 **13-407.**

12 **A FORFEITURE OF PROPERTY ENCUMBERED BY A BONA FIDE SECURITY**
13 **INTEREST IS SUBJECT TO THE INTEREST OF A SECURED PARTY WHO DID NOT**
14 **KNOW OF OR CONSENT TO THE ACT OR OMISSION CONSTITUTING A VIOLATION**
15 **OF THE PROSTITUTION LAW.**

16 **13-408.**

17 **(A) PROPERTY FORFEITED UNDER THIS SUBTITLE MAY BE SOLD BY**
18 **ORDER OF THE COURT.**

19 **(B) THE COURT SHALL ORDER THAT THE PROCEEDS OF THE SALE OF**
20 **FORFEITED PROPERTY BE DISTRIBUTED TO THE UNIT HAVING BUDGETARY**
21 **AUTHORITY OVER THE SEIZING LAW ENFORCEMENT AGENCY AFTER DEDUCTION**
22 **OF ANY REASONABLE AND NECESSARY TOWING AND STORAGE CHARGES.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
24 construed to apply only prospectively and may not be applied or interpreted to have
25 any effect on or application to any offense committed before the effective date of this
26 Act.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2007.