

HOUSE BILL 1271

E2
HB 655/06 – JUD

71r2986
CF 71r2987

By: **Delegate Dumais**

Introduced and read first time: February 22, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Prostitution and Pandering – Seizure and Forfeiture**

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

14 BY adding to

15 Article – Criminal Procedure

16 Section 13–401 through 13–407 to be under the new subtitle “Subtitle 4.
17 Violations of Prostitution Laws”

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.



SUBTITLE 4. VIOLATIONS OF PROSTITUTION LAWS.

13-401.

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

(B) "CONVICTED" MEANS FOUND GUILTY.

(C) (1) "OWNER" MEANS A PERSON HAVING A LEGAL, EQUITABLE, OR POSSESSORY INTEREST IN PROPERTY.

(2) "OWNER" INCLUDES:

(I) A CO-OWNER;

(II) A LIFE TENANT;

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

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

(V) A BONA FIDE PURCHASER FOR VALUE.

(D) (1) "PROPERTY" INCLUDES:

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

(II) TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, INCLUDING:

1. SECURITIES;

2. NEGOTIABLE AND NONNEGOTIABLE 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, AS DEFINED IN §**
16 **12-101 OF THIS ARTICLE, CAN SHOW THAT THE LESSOR PARTICIPATED IN A**
17 **CRIME UNDER THE PROSTITUTION LAW OR THAT THE PROPERTY WAS THE**
18 **PROCEEDS OF A CRIME UNDER THE PROSTITUTION 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 (A) EXCEPT AS PROVIDED IN § 13-403 OF THIS SUBTITLE, A STATE OR
6 LOCAL LAW ENFORCEMENT AGENCY, ON PROCESS ISSUED BY A COURT OF
7 COMPETENT JURISDICTION, MAY SEIZE:

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

11 (2) BOOKS, RECORDS, TELECOMMUNICATION EQUIPMENT, OR
12 COMPUTERS USED OR INTENDED FOR USE IN CONNECTION WITH A CRIME
13 UNDER THE PROSTITUTION LAW;

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

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

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

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

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

13-403.

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

(1) INCIDENT TO AN ARREST;

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

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

OR

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

13-404.

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

13-405.

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

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

(2) REASONABLE NOTICE HAS BEEN GIVEN.

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

(C) IF THE OWNER OF PROPERTY TO BE FORFEITED IS NOT REASONABLY DISCOVERABLE, THE SEIZING LAW ENFORCEMENT AGENCY MAY

1 **SERVE NOTICE BY PUBLISHING A NOTICE OF THE FORFEITURE HEARING IN A**
2 **NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE**
3 **HEARING IS TO BE HELD AT LEAST 10 DAYS BEFORE THE DAY OF THE HEARING.**

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

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

9 **13-406.**

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

14 **13-407.**

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

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

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

25 **SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect**
26 **October 1, 2007.**