

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

House Bill 396  
Judiciary

(Charles County Delegation)

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**Charles County - Prostitution and Pandering - Seizure and Forfeiture**

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This bill authorizes a law enforcement agency of Charles County to seize property used or intended for use in a violation of the State's prostitution law. The bill contains provisions for ordering forfeiture upon conviction, returning seized property, and distributing the proceeds of forfeiture after sale.

The bill applies prospectively to offenses committed on or after the bill's October 1, 2007 effective date.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** The fiscal impact to Charles County is expected to be minimal, both in the costs to implement and in the revenue expected from seizures.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** This bill authorizes a law enforcement agency of Charles County, on process from a court of competent jurisdiction, to seize property used or intended for use in a violation of the State's prostitution law. Property eligible for seizure includes real property, conveyances, money, everything of value furnished for an act of prostitution, and all proceeds traceable to the exchange.

A law enforcement agency, on proper process, may seize this property without a warrant when the seizure is:

- incident to an arrest;
- incident to a search made under a search warrant;
- made in accordance with a valid consent to search; or
- 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.

Money or weapons found in close proximity to an act in violation of the prostitution laws are contraband and are presumed forfeitable. A claimant of money or weapons has the burden to rebut this presumption.

The bill also authorizes courts to direct defendants to forfeit properly seized property upon conviction.

Law enforcement agencies must return seized property within 14 days after the seizure unless a hearing has been scheduled to determine the propriety of the seizure and the reasonableness of the notice provided to the person from whom the property was seized. Law enforcement agencies must return seized property to its owner if the owner can show that the owner did not have knowledge of or consent to the violation of the prostitution law.

The bill also provides that a secured party who did not have knowledge of or consent to the violation of the prostitution law retains its security interest over the law enforcement agency if the forfeited property is encumbered by a bona fide security interest.

The bill authorizes sales of forfeited property and provides for distribution of the proceeds from these sales to the unit having budgetary authority over the seizing law enforcement agency after a deduction for costs.

**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 a violation of prostitution provisions. 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. For example, with regard to controlled dangerous substance violations, 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.

The State prostitution law consists of the following misdemeanor offenses:

| <u>Offense</u>                               | <u>Maximum Penalty</u> |
|--|------------------------|
| Pandering                                    | 10 years/\$5,000       |
| Receiving earnings of prostitute             | 10 years/\$10,000      |
| Abduction of child under 16 for prostitution | 10 years/\$5,000       |
| Prostitution; House of Prostitution          | 1 year/\$500           |

**Background:** According to the Maryland State Police, there were seven arrests from prostitution in Charles County in 2004, and one such arrest in Charles County in 2005. Statistics were not available for other associated commercial vice crimes.

## **Additional Information**

**Prior Introductions:** Similar bills, HB 655 and HB 497 of 2006, both received unfavorable reports from the House Judiciary Committee. HB 713 of 2005 was withdrawn.

**Cross File:** None.

**Information Source(s):** Charles County, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State Prosecutor's Office, Department of State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - February 12, 2007  
bfl/jr

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Analysis by: Nicholas M. Goedert

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510