

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 611
Judiciary

(Delegate Wilson, *et al.*)

**Criminal Law - Use of Proceeds of Drug Crime - Repeal of Exception for Person's
Right to Representation**

This bill repeals an exception to the general prohibition on engaging in certain financial transactions involving the proceeds of a drug crime for financial transactions necessary to preserve a person's right to representation.

Fiscal Summary

State Effect: The bill is procedural/technical and does not materially affect State finances.

Local Effect: The bill is procedural/technical and does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: Except for a financial transaction necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment to the U.S. Constitution and Article 21 of the Maryland Declaration of Rights, a person is prohibited from engaging in the following transactions with the intent to promote a drug crime or with the intent to conceal or disguise the nature, location, source, ownership, or control of proceeds of a drug crime:

- receive or acquire proceeds knowing that the proceeds are derived from a drug crime;
- engage in a financial transaction involving proceeds knowing that the proceeds are derived from a drug crime;
- give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in proceeds knowing that the proceeds are derived from a drug crime;
- direct, promote, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds knowing that the proceeds are derived from a drug crime; or
- conduct a financial transaction involving proceeds knowing that the proceeds are derived from a drug crime.

Violators are guilty of a felony. A first violation is punishable by up to five years imprisonment and/or a maximum fine of \$250,000 or twice the value of the proceeds involved in the financial transaction, whichever is greater. A second or subsequent violation is punishable by up to 10 years imprisonment and/or a maximum fine of \$500,000 or five times the value of the proceeds involved in the financial transaction, whichever is greater. Each financial transaction is a separate violation.

A criminal defendant has a right to legal counsel under Article 21 of the Maryland Declaration of Rights and the Sixth Amendment of the U.S. Constitution, applicable to the states through the Fourteenth Amendment.

Additional Information

Prior Introductions: HB 568 of 2011 received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Baltimore, Garrett, and Montgomery counties; Commission on Criminal Sentencing Policy; Department of Natural Resources; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2012
mc/kdm

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