E4, E2 4lr0633

## By: Senators Shank, Benson, Brinkley, Colburn, Getty, Jacobs, Jennings, and Jones-Rodwell

Introduced and read first time: January 27, 2014

Assigned to: Judicial Proceedings

## A BILL ENTITLED

1 AN ACT concerning

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## Criminal Procedure - Seizure and Forfeiture - Reporting

3 FOR the purpose of requiring a certain law enforcement agency to report, on an 4 annual basis, certain information about each individual seizure and forfeiture 5 completed by the agency under State or federal forfeiture law; authorizing the 6 Maryland Statistical Analysis Center (MSAC) to require a law enforcement 7 agency to provide relevant information not specified in this Act; requiring a 8 certain law enforcement agency to file a certain report for the agency and the 9 corresponding prosecutor's office with the MSAC; requiring MSAC to develop a 10 certain form, a process, and deadlines for certain data entry; requiring MSAC to compile certain submissions and issue a certain report; requiring MSAC to 11 12 make certain reports available in a certain manner; requiring the Governor's 13 Office of Crime Control and Prevention (GOCCP) to submit a certain report to 14 the Governor, the General Assembly, and each law enforcement agency before a 15 certain date each year; authorizing GOCCP to include on a certain report 16 certain recommendations; requiring GOCCP to report information on law 17 enforcement agencies not in compliance with this Act to the Police Training 18 Commission; requiring the Police Training Commission to contact a certain law 19 enforcement agency and request certain compliance; requiring GOCCP and the 20 Police Training Commission to report certain noncompliance to the Governor 21and the Legislative Policy Committee of the General Assembly under certain 22 circumstances; authorizing MSAC to recoup certain costs in a certain manner; 23 authorizing a certain law enforcement agency to use forfeiture proceeds to pay 24 the cost of compiling and reporting information required under this Act; 25 defining certain terms; and generally relating to seizure and forfeiture.

26 BY adding to

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Article – Criminal Procedure

Section 13–601 to be under the new subtitle "Subtitle 6. Reporting"

29 Annotated Code of Maryland



1	(2008 Replacement Volume and 2013 Supplement)			
2 3	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:			
4	Article - Criminal Procedure			
5	SUBTITLE 6. REPORTING.			
6	13-601.			
7	(A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE			
8	MEANINGS INDICATED.			
9	(2) (I) "ADOPTIVE SEIZURE" MEANS A SEIZURE:			
10	1. THAT RESULTED FROM A STATE VIOLATION AND A			
11	FEDERAL BASIS FOR FORFEITURE; AND			
12	2. FOR WHICH 100% OF THE PRESEIZURE ACTIVITY			
13	AND RELATED INVESTIGATIONS WERE PERFORMED BY THE STATE OR LOCAL			
14	SEIZING AGENCY BEFORE A REQUEST WAS MADE TO THE FEDERA			
15	GOVERNMENT FOR ADOPTION.			
16	(II) "ADOPTIVE SEIZURE" DOES NOT INCLUDE A SEIZURE			
17	RESULTING FROM A JOINT STATE AND FEDERAL INVESTIGATION OR TASK			
18	FORCE.			
19	(3) "GOCCP" MEANS THE GOVERNOR'S OFFICE OF CRIME			
20	CONTROL AND PREVENTION.			
21	(4) "LAW ENFORCEMENT AGENCY" MEANS A POLICE FORCE, A			
$\frac{-}{22}$	MULTIJURISDICTIONAL TASK FORCE, A FIRE DEPARTMENT, OR ANY OTHER			
23	LOCAL, COUNTY, OR STATE AGENCY THAT HAS THE AUTHORITY UNDER STATE			
24	LAW OR OPERATES IN COOPERATION WITH A FEDERAL AGENCY UNDER			
25	FEDERAL LAW TO ENGAGE IN SEIZURE AND FORFEITURE.			
26	(5) "MSAC" MEANS THE MARYLAND STATISTICAL ANALYSIS			
27	CENTER OF GOCCP.			

- (B) ON AN ANNUAL BASIS, EACH LAW ENFORCEMENT AGENCY SHALL 28 29 REPORT THE FOLLOWING INFORMATION ABOUT EACH INDIVIDUAL SEIZURE AND
- 30 FORFEITURE COMPLETED BY THE AGENCY UNDER STATE FORFEITURE LAW AND
- 31 FEDERAL FORFEITURE LAW:

1	(1) DATA ON SEIZURES AND FORFEITURES, INCLUDING:
2	(I) THE DATE THAT CURRENCY, VEHICLES, HOUSES, OR
3	OTHER TYPES OF PROPERTY WERE SEIZED;
4	(II) THE TYPE OF PROPERTY SEIZED, INCLUDING YEAR
5	MAKE AND MODEL, AS APPLICABLE;
6	(III) THE TYPE OF ALLEGED CRIME ASSOCIATED WITH THE
7	SEIZURE OF THE PROPERTY;
8	(IV) THE OUTCOME OF RELATED CRIMINAL ACTION
9 10	INCLUDING WHETHER CHARGES WERE BROUGHT, A PLEA BARGAIN WAS REACHED, A CONVICTION WAS OBTAINED, OR AN ACQUITTAL WAS ISSUED;
11	(V) WHETHER THE PROCEDURE WAS A CRIMINAL
12	FORFEITURE OR CIVIL FORFEITURE;
13	(VI) IF THE PROCEDURE WAS A CIVIL FORFEITURE
14	WHETHER THE PROCEDURE WAS ADMINISTRATIVE, JUDICIAL, OR OTHER;
15	(VII) WHETHER THE VENUE OF THE FORFEITURE CASE WAS
16 17	AN ADMINISTRATIVE AGENCY, A SMALL CLAIMS COURT, A CIVIL COURT, A CRIMINAL COURT, OR ANY OTHER VENUE;
18	(VIII) WHETHER THE PROPERTY OWNER WAS REPRESENTED
19	BY AN ATTORNEY IN THE FORFEITURE CASE;
20	(IX) THE MARKET VALUE OF THE PROPERTY SEIZED;
21	(X) THE GROSS AMOUNT RECEIVED FROM THE FORFEITURE
22	(XI) THE TOTAL ADMINISTRATIVE AND OTHER EXPENSES
23	DEDUCTED AS PART OF THE FORFEITURE PROCESS;
24	(XII) THE NET AMOUNT RECEIVED FROM THE FORFEITURE;
25	(XIII) THE DISPOSITION OF THE PROPERTY FOLLOWING
26	SEIZURE, INCLUDING WHETHER THE PROPERTY WAS:
27	1. RETURNED TO THE OWNER;

1	2. DESTROYED; OR			
2	3. SOLD OR RETAINED AFTER FORFEITURE;			
3	(XIV) THE DATE OF THE DISPOSITION OF PROPERTY; AND			
4 5	(XV) WHETHER THE FORFEITURE RESULTED FROM AN ADOPTIVE SEIZURE; AND			
6 7	(2) DATA ON EXPENDITURES OF FORFEITURE FUNDS BY THE LAVENFORCEMENT AGENCY, INCLUDING FUNDS SPENT ON:			
8 9	(I) CRIME, GANG, AND SUBSTANCE ABUSE PREVENTION PROGRAMS;			
10	(II) WITNESS PROTECTION;			
11	(III) VICTIM REPARATIONS;			
12	(IV) INFORMANT FEES AND BUY MONEY;			
13 14	(V) REGULAR-TIME SALARIES, OVERTIME PAY, AND EMPLOYEE BENEFITS FOR PROSECUTORS;			
15 16 17				
18 19 20	(VII) REGULAR-TIME SALARIES, OVERTIME PAY, AND EMPLOYEE BENEFITS FOR UNSWORN LAW ENFORCEMENT AGENCY PERSONNE OTHER THAN PROSECUTORS;			
21 22 23	(VIII) PROFESSIONAL OR OUTSIDE SERVICES, INCLUDING SERVICES RELATED TO AUDITING, COURT REPORTING, EXPERT WITNESSES, AND OTHER COURT COSTS;			
24	(IX) TRAVEL AND MEALS;			
25	(X) ENTERTAINMENT;			
26	(XI) TRAINING;			
27	(XII) CONFERENCES;			

1	(XIII)	VEHICLE PURCHASES;
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- 2 (XIV) CANINES, FIREARMS, AND EQUIPMENT, INCLUDING
- 3 TACTICAL GEAR;
- 4 (XV) CAPITAL EXPENDITURES, INCLUDING FURNITURE,
- 5 COMPUTERS, AND OFFICE EQUIPMENT; AND
- 6 (XVI) OTHER USES.
- 7 (C) MSAC MAY REQUIRE A LAW ENFORCEMENT AGENCY TO PROVIDE 8 RELEVANT INFORMATION NOT SPECIFIED IN SUBSECTION (B) OF THIS SECTION.
- 9 (D) (1) EACH LAW ENFORCEMENT AGENCY SHALL FILE WITH MSAC 10 THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION FOR THE LAW
- 11 ENFORCEMENT AGENCY AND THE CORRESPONDING PROSECUTOR'S OFFICE.
- 12 (2) THE LAW ENFORCEMENT AGENCY SHALL FILE SEPARATE
- 13 REPORTS FOR FORFEITURES COMPLETED UNDER STATE FORFEITURE LAW AND
- 14 FEDERAL FORFEITURE LAW.
- 15 (3) A NULL REPORT SHALL BE FILED BY A LAW ENFORCEMENT
- 16 AGENCY THAT DID NOT ENGAGE IN SEIZURES OR FORFEITURES DURING THE
- 17 REPORTING PERIOD.
- 18 (E) (1) MSAC SHALL DEVELOP A STANDARD FORM, A PROCESS, AND
- 19 DEADLINES FOR ELECTRONIC DATA ENTRY FOR ANNUAL SUBMISSION OF
- 20 FORFEITURE DATA BY LAW ENFORCEMENT AGENCIES.
- 21 (2) MSAC SHALL COMPILE THE SUBMISSIONS AND ISSUE AN
- 22 AGGREGATE REPORT OF ALL FORFEITURES IN THE STATE.
- 23 (F) (1) BY MARCH 1 OF EACH YEAR, MSAC SHALL MAKE AVAILABLE
- 24 ON MSAC'S WEB SITE THE REPORTS SUBMITTED BY LAW ENFORCEMENT
- 25 AGENCIES AND MSAC'S AGGREGATE REPORT.
- 26 (2) GOCCP SHALL SUBMIT THE AGGREGATE REPORT TO THE
- 27 GOVERNOR, THE GENERAL ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE
- 28 STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY
- 29 BEFORE SEPTEMBER 1 OF EACH YEAR.

- 1 (G) GOCCP MAY INCLUDE, WITH MSAC'S AGGREGATE REPORT, 2 RECOMMENDATIONS TO THE LEGISLATURE TO IMPROVE FORFEITURE
- 3 STATUTES TO BETTER ENSURE THAT FORFEITURE PROCEEDINGS ARE
- 4 REPORTED AND HANDLED IN A MANNER THAT IS FAIR TO CRIME VICTIMS,
- 5 INNOCENT PROPERTY OWNERS, SECURED INTEREST HOLDERS, CITIZENS, AND
- 6 TAXPAYERS.
- 7 (H) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE
- 8 REPORTING PROVISIONS OF THIS SECTION, GOCCP SHALL REPORT THE
- 9 NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.
- 10 (2) THE POLICE TRAINING COMMISSION SHALL CONTACT THE
- 11 LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH
- 12 THE REQUIRED REPORTING PROVISIONS.
- 13 (3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH
- 14 THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER BEING
- 15 CONTACTED BY THE POLICE TRAINING COMMISSION, GOCCP AND THE
- 16 POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE
- 17 TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE
- 18 GENERAL ASSEMBLY.
- 19 (I) MSAC MAY RECOUP ITS COSTS BY CHARGING A FEE TO LAW
- 20 ENFORCEMENT AGENCIES THAT ENGAGE IN SEIZURES OR FORFEITURES
- 21 DURING THE REPORTING PERIOD.
- 22 (2) A LAW ENFORCEMENT AGENCY MAY USE FORFEITURE
- 23 PROCEEDS TO PAY THE COST OF COMPILING AND REPORTING DATA UNDER THIS
- 24 SUBTITLE, INCLUDING ANY FEE IMPOSED BY MSAC.
- 25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 26 October 1, 2014.