

# SENATE BILL 161

E2

(6lr0701)

## ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by ~~Senators Hough, Raskin, and Zirkin~~ Brochin, Cassilly, Lee, Muse, Ramirez, Raskin, Ready, and Zirkin

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 Criminal Procedure – Seizure and Forfeiture

3 FOR the purpose of authorizing the forfeiture of certain property under certain  
4 circumstances; repealing a certain provision authorizing the forfeiture of certain  
5 money or weapons relating to possession of a controlled dangerous substance;  
6 requiring that a certain seizing authority provide a receipt for property on seizure that  
7 includes certain information; requiring that a certain seizing authority mail notice  
8 with certain information to the owner of seized property within a certain time;  
9 authorizing the owner of certain seized property to make a request for return of the  
10 seized property within a certain time; requiring a seizing authority to take certain  
11 actions in response to a certain request; altering the circumstances by which a certain  
12 law enforcement agency may transfer seized property to a certain federal law  
13 enforcement agency; prohibiting the construction of a certain provision of law in a  
14 certain manner; altering the time in which a complaint for forfeiture of money must

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 be filed; requiring that a certain forfeiting authority return property to an owner if a  
2 complaint for forfeiture is not filed in a certain time under certain circumstances;  
3 prohibiting the use of a certain statement regarding seized property from use in a  
4 criminal prosecution except under certain circumstances; requiring that a certain  
5 amount of forfeiture proceeds be appropriated to the Department of Health and  
6 Mental Hygiene to fund certain drug programs; prohibiting a certain law  
7 enforcement agency or prosecuting authority from directly or indirectly transferring  
8 or referring seized property to a federal government agency or law enforcement  
9 authority for forfeiture under federal law unless certain conditions are met;  
10 authorizing a certain defendant or third party to file a motion for replevin in a certain  
11 criminal case at a certain time if the defendant or third party claims that he or she  
12 has the right to possession of certain property; requiring a motion for replevin under  
13 this Act to be in writing and state in detail the grounds on which it is based; requiring  
14 a claimant to notify the State's Attorney in writing of the filing of a motion for  
15 replevin under this Act; authorizing the State's Attorney to file a response to a  
16 motion for replevin at a certain time; requiring the court to hold a hearing on a  
17 motion for replevin at a certain time under certain circumstances; authorizing the  
18 court to dismiss a motion for replevin without a hearing under certain circumstances;  
19 requiring the court to grant a motion for replevin under certain circumstances;  
20 authorizing the court to order the return of funds or property sufficient to obtain  
21 legal counsel but less than the total amount seized; authorizing the court to take  
22 certain actions in lieu of ordering issuance of the writ of replevin; authorizing the  
23 court, following a conviction for certain violations involving a gang, to order the  
24 divestiture of certain property, the dissolution or reorganization of a certain  
25 enterprise, or the suspension or revocation of a certain license, permit, or approval;  
26 requiring that certain proceeds be deposited in the General Fund; requiring that a  
27 certain seizing authority provide a receipt for property on seizure that includes  
28 certain information; requiring that a certain seizing authority mail notice with  
29 certain information to the owner of seized property within a certain time; authorizing  
30 the owner of certain seized property to make a request that includes certain  
31 information for return of the seized property within a certain time; requiring a  
32 seizing authority to take certain actions in response to a certain request; altering the  
33 circumstances by which a certain law enforcement agency may transfer seized  
34 property to a certain federal law enforcement agency; altering the time in which a  
35 complaint for forfeiture of money must be filed; requiring that a certain forfeiting  
36 authority return property to an owner if a complaint for forfeiture is not filed in a  
37 certain time under certain circumstances; providing that a certain seizing authority  
38 or forfeiting authority may request an extension for time to file a complaint for  
39 forfeiture under certain circumstances; providing that a court may grant a certain  
40 extension for time to file a complaint for forfeiture; requiring a court to order that a  
41 certain motion be sealed; prohibiting the use of a certain statement regarding seized  
42 property from use in a criminal prosecution except under certain circumstances;  
43 requiring that a certain amount of forfeiture proceeds be appropriated to the  
44 Department of Health and Mental Hygiene to fund certain drug programs; requiring  
45 a certain law enforcement agency seizing authority to report, on an annual basis,  
46 certain information about each individual seizure and forfeiture certain seizures and  
47 forfeitures completed by the agency under State or federal forfeiture law; authorizing

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

22 BY adding to

23 Article — Criminal Law

24 Section 9–807

25 Annotated Code of Maryland

26 (2012 Replacement Volume and 2015 Supplement)

27 ~~BY repealing and reenacting, without amendments,~~

28 ~~Article — Criminal Procedure~~

29 ~~Section 12–102(a)~~

30 ~~Annotated Code of Maryland~~

31 ~~(2008 Replacement Volume and 2015 Supplement)~~

32 BY repealing and reenacting, with amendments,

33 Article – Criminal Procedure

34 Section ~~12–103 and 12–203~~ 12–102(a), 12–104, and 12–212

35 Annotated Code of Maryland

36 (2008 Replacement Volume and 2015 Supplement)

37 (As enacted by Chapter 5 of the Acts of the General Assembly of 2016)

38 BY repealing and reenacting, with amendments,

39 Article – Criminal Procedure

40 Section 12–203 and 12–304

41 Annotated Code of Maryland

42 (2008 Replacement Volume and 2015 Supplement)

1 BY adding to

2 Article – Criminal Procedure

3 Section ~~12-203.1~~; and ~~13-601~~ and ~~13-602~~ ~~12-304.1~~, ~~12-313~~, ~~12-313~~ and 12-405;  
4 and ~~12-601~~ and ~~12-602~~ to be under the new subtitle “Subtitle 6. Reporting”

5 Annotated Code of Maryland

6 (2008 Replacement Volume and 2015 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Criminal Procedure

9 Section 12-312

10 Annotated Code of Maryland

11 (2008 Replacement Volume and 2015 Supplement)

12 (As enacted by Chapter 5 of the Acts of the General Assembly of 2016)

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

15 ~~Article – Criminal Law~~

16 ~~9-807.~~

17 ~~(A) IN THIS SECTION, “ENTERPRISE” INCLUDES:~~

18 ~~(1) A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION,~~  
19 ~~BUSINESS TRUST, OR OTHER LEGAL ENTITY; OR~~

20 ~~(2) ANY GROUP OF INDIVIDUALS ASSOCIATED IN FACT ALTHOUGH~~  
21 ~~NOT A LEGAL ENTITY.~~

22 ~~(B) IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS SUBTITLE, ON~~  
23 ~~CONVICTION THE COURT MAY:~~

24 ~~(1) ORDER A PERSON OR CRIMINAL GANG TO BE DIVESTED OF ANY~~  
25 ~~INTEREST IN AN ENTERPRISE OR REAL PROPERTY;~~

26 ~~(2) ORDER THE DISSOLUTION OR REORGANIZATION OF AN~~  
27 ~~ENTERPRISE ASSOCIATED WITH THE DEFENDANT; AND~~

28 ~~(3) ORDER THE SUSPENSION OR REVOCATION OF ANY LICENSE,~~  
29 ~~PERMIT, OR PRIOR APPROVAL GRANTED TO THE DEFENDANT BY A UNIT OF THE~~  
30 ~~STATE OR POLITICAL SUBDIVISION OF THE STATE.~~

31 ~~(C) ASSETS DIVESTED UNDER THIS SECTION AND DERIVED FROM THE~~  
32 ~~COMMISSION OF, ATTEMPTED COMMISSION OF, CONSPIRACY TO COMMIT, OR~~

~~SOLICITATION OF A CRIME DESCRIBED UNDER THIS SUBTITLE, EITHER IN WHOLE OR IN PART, SHALL BE DEPOSITED INTO THE GENERAL FUND OF THE STATE.~~

### Article – Criminal Procedure

12–102.

(a) The following are subject to forfeiture:

(1) controlled dangerous substances manufactured, distributed, dispensed, acquired, or possessed in violation of the Controlled Dangerous Substances law;

(2) raw materials, products, and equipment used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting a controlled dangerous substance in violation of the Controlled Dangerous Substances law;

(3) property used or intended for use as a container for property described in item (1) or (2) of this subsection;

(4) except as provided in § 12–103 of this subtitle, conveyances, including aircraft, vehicles, or vessels used or intended to be used to transport, or facilitate the transportation, sale, receipt, possession, or concealment of property described in item (1) or (2) of this subsection;

(5) books, records, and research, including formulas, microfilm, tapes, and data used or intended for use in violation of the Controlled Dangerous Substances law;

(6) subject to subsection (b) of this section, ~~money~~ [of more than \$300] ~~or~~ weapons used or intended to be used in connection with the unlawful manufacture, distribution, OR ~~dispensing, or possession~~ of a controlled dangerous substance or controlled paraphernalia;

~~(7) drug paraphernalia under § 5–619 of the Criminal Law Article;~~

~~(8) controlled paraphernalia under § 5–620 of the Criminal Law Article;~~

~~(9) except as provided in § 12–103 of this subtitle, the remaining balance of the proceeds of a sale by a holder of an installment sale agreement under § 12–626 of the Commercial Law Article of goods seized under this subtitle;~~

~~(10) except as provided in § 12–103 of this subtitle, real property; and~~

~~(11) everything of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Controlled Dangerous Substances law, all proceeds traceable to the exchange, and all negotiable instruments and securities~~

~~used, or intended to be used, to facilitate any violation of the Controlled Dangerous Substances law.~~

(7) subject to subsection (b) of this section, any amount of money that is [directly connected to] USED OR INTENDED TO BE USED IN CONNECTION WITH the unlawful MANUFACTURE, distribution, OR DISPENSING of a controlled dangerous substance;

(8) drug paraphernalia under § 5-619 of the Criminal Law Article;

(9) controlled paraphernalia under § 5-620 of the Criminal Law Article;

(10) except as provided in § 12-103 of this subtitle, the remaining balance of the proceeds of a sale by a holder of an installment sale agreement under § 12-626 of the Commercial Law Article of goods seized under this subtitle;

(11) except as provided in § 12-103 of this subtitle, real property; and

(12) everything of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Controlled Dangerous Substances law, all proceeds traceable to the exchange, and all negotiable instruments and securities used, or intended to be used, to facilitate any violation of the Controlled Dangerous Substances law.

~~12-103.~~

~~(a) (1) PROPERTY DESCRIBED IN § 12-102(A)(4), (10), OR (11) OF THIS SUBTITLE MAY BE FORFEITED IF:~~

~~(I) THE PROPERTY IS CLAIMED TO BE OWNED BY A PERSON WHO IS CONVICTED OF VIOLATING THE CONTROLLED DANGEROUS SUBSTANCES LAW; AND~~

~~(II) THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY IS AN INSTRUMENTALITY OF THE OFFENSE OR PROCEEDS DERIVED FROM THE OFFENSE OF WHICH THE PERSON IS CONVICTED.~~

~~(2) THIS SUBSECTION DOES NOT PROHIBIT PROPERTY FROM BEING SEIZED UNDER STATE LAW AND HELD AS EVIDENCE OR FORFEITED BY PLEA AGREEMENT APPROVED BY THE PRESIDING CRIMINAL COURT.~~

~~(B) Property or an interest in property described in § 12-102(a)(4), (10), [and] OR (11) of this subtitle may not be forfeited if the owner establishes by a preponderance of the evidence that the violation of the Controlled Dangerous Substances law was committed without the owner's actual knowledge.~~

1 ~~[(b)](C) (1) A conveyance used as a common carrier or vehicle for hire in the~~  
2 ~~transaction of business as a common carrier or vehicle for hire may not be seized or forfeited~~  
3 ~~under this title unless it appears that the owner or other person in charge of the conveyance~~  
4 ~~was a consenting party or privy to a violation of the Controlled Dangerous Substances law.~~

5 ~~(2) A conveyance may not be forfeited under this title for an act or omission~~  
6 ~~that the owner shows was committed or omitted by a person other than the owner while~~  
7 ~~the person other than the owner possessed the conveyance in criminal violation of federal~~  
8 ~~law or the law of any state.~~

9 ~~[(e)](D) An owner's interest in real property may not be forfeited for a violation~~  
10 ~~of § 5-601, § 5-619, or § 5-620 of the Criminal Law Article.~~

11 ~~[(d)](E) (1) Except as provided in paragraph (2) of this subsection, real~~  
12 ~~property used as the principal family residence may not be forfeited under this subtitle~~  
13 ~~unless one of the owners of the real property was convicted of a violation of §§ 5-602~~  
14 ~~through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law~~  
15 ~~Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.~~

16 ~~(2) Without a conviction, a court may order a forfeiture of real property~~  
17 ~~used as the principal family residence if the owner of the family residence:~~

18 ~~(i) fails to appear for a required court appearance; and~~

19 ~~(ii) fails to surrender to the jurisdiction of the court within 180 days~~  
20 ~~after the required court appearance.~~

21 ~~[(e)](F) Real property used as the principal family residence by a husband and~~  
22 ~~wife and held by the husband and wife as tenants by the entirety may not be forfeited~~  
23 ~~unless:~~

24 ~~(1) the property was used in connection with a violation of §§ 5-602~~  
25 ~~through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law~~  
26 ~~Article or with an attempt or conspiracy to violate Title 5 of the Criminal Law Article; and~~

27 ~~(2) both the husband and wife are convicted of a violation of §§ 5-602~~  
28 ~~through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law~~  
29 ~~Article or of an attempt or conspiracy to violate Title 5 of the Criminal Law Article.~~

30 ~~(G) A LAW ENFORCEMENT AGENCY OR PROSECUTING AUTHORITY MAY NOT~~  
31 ~~DIRECTLY OR INDIRECTLY TRANSFER OR REFER SEIZED PROPERTY TO A FEDERAL~~  
32 ~~GOVERNMENT AGENCY OR LAW ENFORCEMENT AUTHORITY FOR FORFEITURE~~  
33 ~~UNDER FEDERAL LAW UNLESS:~~

34 ~~(1) THE PROPERTY INCLUDES SEIZED CASH IN EXCESS OF \$50,000;~~  
35 ~~AND~~

1 ~~(2) A CRIMINAL CASE RELATED TO THE SEIZURE IS PROSECUTED IN~~  
2 ~~THE FEDERAL COURT SYSTEM UNDER FEDERAL LAW.~~

3 12-104.

4 (a) AT THE TIME OF SEIZURE, THE SEIZING AUTHORITY SHALL PROVIDE A  
5 RECEIPT TO THE PERSON FROM WHOM THE PROPERTY WAS SEIZED, THAT  
6 INCLUDES:

7 (1) A DETAILED DESCRIPTION OF THE PROPERTY;

8 (2) A CASE NUMBER, PROPERTY INVENTORY NUMBER, OR ANY OTHER  
9 REFERENCE NUMBER USED BY THE SEIZING AUTHORITY TO CONNECT THE  
10 PROPERTY TO THE CIRCUMSTANCES OF THE SEIZURE;

11 (3) THE NAME AND CONTACT INFORMATION OF AN INDIVIDUAL OR  
12 OFFICE WITHIN THE SEIZING AUTHORITY THAT CAN PROVIDE INFORMATION  
13 CONCERNING THE SEIZED PROPERTY;

14 (4) NOTICE THAT THE OWNER OF THE PROPERTY MAY MAKE A  
15 WRITTEN REQUEST ~~THAT INCLUDES PROOF OF OWNERSHIP,~~ FOR RETURN OF THE  
16 SEIZED PROPERTY; AND

17 (5) NOTICE THAT WITHIN 60 DAYS AFTER RECEIPT OF A WRITTEN  
18 REQUEST FOR RETURN OF THE SEIZED PROPERTY, THE SEIZING AUTHORITY WILL  
19 DECIDE WHETHER TO RETURN THE PROPERTY AND NOTIFY THE OWNER OF THE  
20 DECISION.

21 (B) [Within 30] IF THE PERSON WHO RECEIVED A RECEIPT UNDER  
22 SUBSECTION (A) OF THIS SECTION IS NOT THE OWNER OF THE PROPERTY, WITHIN  
23 15 days after the seizure of property by a seizing authority, the seizing authority shall send  
24 by first-class mail written information to the owner of the seized property, if known,  
25 providing:

26 (1) the location and description of the seized property; and

27 (2) the name and contact information of an individual or office within the  
28 seizing authority that can provide further information concerning the seized property,  
29 including information on how the property may be returned to the owner.

30 [(b)] (C) The written information DISTRIBUTED BY A SEIZING AUTHORITY AS  
31 required under this section shall state: "Seizure and forfeiture of property is a legal matter.  
32 Nothing in this document may be construed as legal advice. You may wish to consult an  
33 attorney concerning this matter."



1 12-203.

2 (a) Property seized under this title~~is~~

3 ~~(1) is not repleviable; but~~

4 ~~(2)~~ is in the custody of the seizing authority, AND, UNLESS RETURNED TO  
5 THE OWNER AS PROVIDED IN SUBSECTION (C) OF THIS SECTION OR § 12-207 OF THIS  
6 SUBTITLE, IS subject only to the orders, judgments, and decrees of the court or the official  
7 having jurisdiction over the property.

8 (b) A seizing authority may place seized property under seal and remove the  
9 property to a place designated by the court.

10 (C) (1) THE OWNER OF SEIZED PROPERTY MAY MAKE A WRITTEN  
11 REQUEST THAT INCLUDES PROOF OF OWNERSHIP TO THE SEIZING AUTHORITY FOR  
12 THE RETURN OF THE SEIZED PROPERTY.

13 (2) WITHIN 60 DAYS AFTER RECEIPT OF A WRITTEN REQUEST UNDER  
14 PARAGRAPH (1) OF THIS SUBSECTION, THE SEIZING AUTHORITY SHALL MAKE A  
15 DECISION AS TO THE DISPOSITION OF THE SEIZED PROPERTY AND SHALL NOTIFY  
16 THE OWNER THAT:

17 (I) THE SEIZING AUTHORITY DOES NOT HAVE CUSTODY OF THE  
18 PROPERTY AND SHALL PROVIDE CONTACT INFORMATION FOR THE LAW  
19 ENFORCEMENT AGENCY THAT DOES HAVE CUSTODY OF THE PROPERTY;

20 (II) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF THE  
21 PROPERTY AND WILL FILE A COMPLAINT FOR FORFEITURE; ~~OR~~

22 (III) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF THE  
23 PROPERTY AND WILL RETAIN IT FOR EVIDENTIARY PURPOSES UNTIL AFTER THE  
24 CONCLUSION OF A CRIMINAL CASE; OR

25 ~~(III)~~ (IV) THE SEIZING AUTHORITY DOES HAVE CUSTODY OF  
26 THE PROPERTY AND WILL PROMPTLY RETURN THE PROPERTY TO THE OWNER.

27 ~~12-203.1.~~

28 ~~(A) FOLLOWING THE SEIZURE OF PROPERTY, A DEFENDANT OR THIRD~~  
29 ~~PARTY MAY FILE A MOTION FOR WRIT OF REPLEVIN IN THE CRIMINAL CASE IF THE~~  
30 ~~DEFENDANT OR THIRD PARTY CLAIMS TO HAVE THE RIGHT TO POSSESSION OF THE~~  
31 ~~PROPERTY.~~

1       ~~(B) A MOTION FOR WRIT OF REPLEVIN UNDER THIS SECTION MAY BE FILED~~  
2 ~~AT ANY TIME BEFORE TRIAL OF THE CRIMINAL OFFENSE OR OFFENSES.~~

3       ~~(C) A MOTION UNDER THIS SECTION SHALL:~~

4           ~~(1) BE IN WRITING; AND~~

5           ~~(2) STATE IN DETAIL THE GROUNDS ON WHICH THE MOTION IS BASED.~~

6       ~~(D) (1) A CLAIMANT SHALL NOTIFY THE STATE'S ATTORNEY IN WRITING~~  
7 ~~OF THE FILING OF A MOTION UNDER THIS SECTION.~~

8           ~~(2) THE STATE'S ATTORNEY MAY FILE A RESPONSE TO THE MOTION~~  
9 ~~WITHIN 15 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER THIS~~  
10 ~~SUBSECTION OR WITHIN THE PERIOD OF TIME THAT THE COURT ORDERS.~~

11       ~~(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~  
12 ~~THE COURT SHALL HOLD A HEARING ON A MOTION FILED UNDER THIS SECTION~~  
13 ~~WITHIN 30 DAYS AFTER THE FILING OF THE MOTION.~~

14           ~~(2) THE COURT MAY DISMISS A MOTION WITHOUT A HEARING IF THE~~  
15 ~~COURT FINDS THAT THE MOTION FAILS TO ASSERT GROUNDS ON WHICH RELIEF MAY~~  
16 ~~BE GRANTED.~~

17       ~~(F) THE COURT SHALL GRANT THE MOTION IF IT FINDS THAT THE~~  
18 ~~CLAIMANT HAS SHOWN BY A PREPONDERANCE OF THE EVIDENCE THAT:~~

19           ~~(1) THE CLAIMANT HAS THE RIGHT TO POSSESSION OF THE~~  
20 ~~PROPERTY AND THE PROPERTY IS NOT REASONABLY REQUIRED TO BE HELD FOR~~  
21 ~~INVESTIGATORY OR EVIDENTIARY REASONS; OR~~

22           ~~(2) THE PROPERTY IS THE ONLY REASONABLE MEANS FOR A~~  
23 ~~DEFENDANT TO PAY FOR LEGAL REPRESENTATION IN THE FORFEITURE OR~~  
24 ~~CRIMINAL PROCEEDING.~~

25       ~~(G) THE COURT MAY ORDER THE RETURN OF FUNDS OR PROPERTY~~  
26 ~~SUFFICIENT TO OBTAIN LEGAL COUNSEL BUT LESS THAN THE TOTAL AMOUNT~~  
27 ~~SEIZED.~~

28       ~~(H) IN LIEU OF ORDERING THE ISSUANCE OF THE WRIT OF REPLEVIN, THE~~  
29 ~~COURT MAY:~~

~~(1) ORDER THE STATE TO GIVE SECURITY OR WRITTEN ASSURANCE FOR SATISFACTION OF ANY JUDGMENT, INCLUDING DAMAGES, THAT MAY BE RENDERED IN THE ACTION; OR~~

~~(2) ORDER ANY OTHER APPROPRIATE RELIEF.~~

12-212.

~~(A) THIS SECTION DOES NOT APPLY TO:~~

~~(1) FIREARMS, AMMUNITION, OR EXPLOSIVES;~~

~~(2) PROPERTY RELATING TO CHILD PORNOGRAPHY; OR~~

~~(3) PROPERTY DIRECTLY RELATING TO PUBLIC SAFETY, AS APPROVED BY THE UNITED STATES ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION.~~

~~(B) A seizing authority or prosecuting authority may not directly or indirectly transfer seized property to a federal law enforcement authority or agency unless:~~

~~(1) a criminal case related to the seizure is prosecuted in the federal court system under federal law; [or]~~

~~(2) the owner of the property consents to the forfeiture;~~

~~(3) THE PROPERTY IS CASH OF AT LEAST \$50,000; OR~~

~~(4) THE SEIZING AUTHORITY TRANSFERS THE PROPERTY TO A FEDERAL AUTHORITY UNDER A FEDERAL SEIZURE WARRANT ISSUED TO TAKE CUSTODY OF ASSETS ORIGINALLY SEIZED UNDER STATE LAW.~~

~~(3) A STATE OR LOCAL LAW ENFORCEMENT AGENCY TRANSFERS THE PROPERTY TO A FEDERAL AUTHORITY UNDER A FEDERAL SEIZURE WARRANT ISSUED TO TAKE CUSTODY OF ASSETS ORIGINALLY SEIZED UNDER STATE LAW; OR~~

~~(4) THE VALUE OF THE PROPERTY IS AT LEAST \$50,000 AND THE SEIZURE WAS THE RESULT OF A JOINT INVESTIGATION COORDINATED WITH FEDERAL AUTHORITIES.~~

12-304.

~~(a) Except as provided under [subsections] SUBSECTION SUBSECTIONS (b), (C), AND (D) [and (c)] of this section AND § 12-304.1 OF THIS SUBTITLE, a complaint seeking forfeiture shall be filed within the earlier of:~~

1           (1)    90 days after the seizure; or

2           (2)    1 year after the final disposition of the criminal charge for the violation  
3 giving rise to the forfeiture.

4           (b)    A complaint for the forfeiture of a motor vehicle shall be filed within 45 days  
5 after the motor vehicle is seized.

6           (c)    ~~(1)~~    [A proceeding about money shall be filed within 90 days after the final  
7 disposition of criminal proceedings that arise out of the Controlled Dangerous Substances  
8 law] IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT FILE A TIMELY  
9 COMPLAINT SEEKING FORFEITURE UNDER SUBSECTION (A) OR (B) OF THIS SECTION,  
10 THE PROPERTY SHALL BE PROMPTLY RELEASED TO THE OWNER, IF KNOWN.

11           ~~(2)    If the State or a political subdivision does not file proceedings about~~  
12 ~~money within the 90-day period, the money seized under this title shall be returned to the~~  
13 ~~owner on request by the owner.~~

14           ~~(3)(2)       If the owner IS UNKNOWN OR fails to [ask the return of the~~  
15 ~~money] CLAIM THE PROPERTY within 1 year after the [final disposition of criminal~~  
16 ~~proceedings] PROPERTY WAS SEIZED, as provided under § 12-403 of this title, the~~  
17 ~~[money] PROPERTY shall revert to:~~

18           ~~(i)       the political subdivision in which the [money] PROPERTY was~~  
19 ~~seized; or~~

20           ~~(ii)       the State, if the [money] PROPERTY was seized by State~~  
21 ~~authorities.~~

22           (D)   (1)    A proceeding about money shall be filed within 90 days after the final  
23 disposition of criminal proceedings that arise out of the Controlled Dangerous Substances  
24 law.

25           (2)    If the State or a political subdivision does not file proceedings about  
26 money within the 90-day period, the money seized under this title shall be returned to the  
27 owner on request by the owner.

28           (3)    If the owner fails to ask the return of the money within 1 year after the  
29 final disposition of criminal proceedings, as provided under § 12-403 of this title, the money  
30 shall revert to:

31           (i)       the political subdivision in which the money was seized; or

32           (ii)       the State, if the money was seized by State authorities.

1 12-312.

2 (a) Except as provided in subsection (b) of this section, property or part of a  
 3 property in which a person has an ownership interest is subject to forfeiture as proceeds, if  
 4 the State establishes by clear and convincing evidence that:

5 (1) the person has violated §§ 5-602 through 5-609, §§ 5-612 through  
 6 5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or has attempted or  
 7 conspired to violate Title 5 of the Criminal Law Article;

8 (2) the property was acquired by the person during the violation or within  
 9 a reasonable time after the violation; and

10 (3) there was no other likely source for the property.

11 (b) Real property used as the principal family residence may not be forfeited under  
 12 this section unless:

13 (1) an owner of the real property was convicted of a crime described under  
 14 subsection (a)(1) of this section; or

15 (2) the real property is covered by § 12-103(d)(2) of this title.

16 ~~12-304.1.~~

17 ~~(A) (1) A SEIZING AUTHORITY OR FORFEITING AUTHORITY MAY REQUEST~~  
 18 ~~AN EXTENSION ON THE TIME LIMIT ESTABLISHED IN § 12-304 OF THIS SUBTITLE FOR~~  
 19 ~~THE FILING OF A FORFEITURE PROCEEDING OR ON THE EXTENDED TIME GRANTED~~  
 20 ~~BY A COURT UNDER SUBSECTION (D) OF THIS SECTION.~~

21 ~~(2) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS~~  
 22 ~~PARAGRAPH, A MOTION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL~~  
 23 ~~BE FILED IN THE CIRCUIT COURT.~~

24 ~~(ii) FOR THE CONTINUED SEIZURE OF MONEY IN AN AMOUNT~~  
 25 ~~THAT DOES NOT EXCEED \$20,000, A MOTION FILED UNDER PARAGRAPH (1) OF THIS~~  
 26 ~~SUBSECTION SHALL BE FILED IN THE DISTRICT COURT.~~

27 ~~(B) (1) A MOTION FILED UNDER SUBSECTION (A) OF THIS SECTION~~  
 28 ~~SHALL:~~

29 ~~(i) BE IN WRITING;~~

30 ~~(ii) DESCRIBE THE PROPERTY SEIZED; AND~~

1 ~~(H) INCLUDE THE GROUNDS FOR CONTINUED SEIZURE.~~

2 ~~(2) THE MOTION MAY INCLUDE A REQUEST THAT THE COURT ORDER~~  
3 ~~THE CONTENTS OF THE MOTION TO BE SEALED.~~

4 ~~(C) NOTICE THAT A MOTION HAS BEEN FILED UNDER SUBSECTION (A) OF~~  
5 ~~THIS SECTION SHALL BE PROVIDED TO THE OWNER OF THE SEIZED PROPERTY, IF~~  
6 ~~KNOWN.~~

7 ~~(D) (1) THE COURT MAY GRANT A MOTION FILED UNDER SUBSECTION (A)~~  
8 ~~OF THIS SECTION AND EXTEND THE TIME LIMIT FOR FILING A FORFEITURE~~  
9 ~~PROCEEDING FOR NO LONGER THAN 90 DAYS, ON A FINDING OF GOOD CAUSE.~~

10 ~~(2) A FINDING OF GOOD CAUSE UNDER PARAGRAPH (1) OF THIS~~  
11 ~~SUBSECTION IS ESTABLISHED BY EVIDENCE THAT THE SEIZED PROPERTY IS~~  
12 ~~RELATED TO A CRIMINAL INVESTIGATION THAT IS OF A CONTINUING NATURE.~~

13 ~~(E) IF THE COURT GRANTS A MOTION UNDER SUBSECTION (D) OF THIS~~  
14 ~~SECTION, THE COURT SHALL ORDER THAT THE CONTENTS OF THE MOTION BE~~  
15 ~~SEALED FOR THE PERIOD OF EXTENSION.~~

16 ~~12-312.~~

17 ~~(a) Except as provided in subsection (b) of this section, property or part of a~~  
18 ~~property in which a person has an ownership interest is subject to forfeiture as proceeds, if~~  
19 ~~the State establishes by clear and convincing evidence that:~~

20 ~~(1) the person has violated §§ 5-602 through 5-609, §§ 5-612 through~~  
21 ~~5-614, § 5-617, § 5-618, or § 5-628 of the Criminal Law Article or has attempted or~~  
22 ~~conspired to violate Title 5 of the Criminal Law Article;~~

23 ~~(2) the property was acquired by the person during the violation or within~~  
24 ~~a reasonable time after the violation; and~~

25 ~~(3) there was no other likely source for the property.~~

26 ~~(b) Real property used as the principal family residence may not be forfeited~~  
27 ~~under this section unless:~~

28 ~~(1) an owner of the real property was convicted of a crime described under~~  
29 ~~subsection (a)(1) of this section; or~~

30 ~~(2) the real property is covered by § 12-103(d)(2) of this title.~~

31 12-313.

1 EXCEPT FOR PURPOSES OF IMPEACHMENT, A STATEMENT MADE BY A PERSON  
2 REGARDING OWNERSHIP OF SEIZED PROPERTY DURING THE COURSE OF A  
3 FORFEITURE PROCEEDING IS NOT ADMISSIBLE IN A RELATED CRIMINAL  
4 PROSECUTION.

5 12-405.

6 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GOVERNOR SHALL  
7 APPROPRIATE 20% OF THE PROCEEDS DEPOSITED IN THE GENERAL FUND OF THE  
8 STATE UNDER THIS SUBTITLE TO THE DEPARTMENT OF HEALTH AND MENTAL  
9 HYGIENE FOR THE PURPOSE OF FUNDING DRUG TREATMENT AND EDUCATION  
10 PROGRAMS.

11 SUBTITLE 6. REPORTING.

12 ~~13-601.~~ 12-601.

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

15 (B) "GOCCP" MEANS THE GOVERNOR'S OFFICE OF CRIME CONTROL AND  
16 PREVENTION.

17 ~~(C) "LAW ENFORCEMENT AGENCY" MEANS A POLICE FORCE, A~~  
18 ~~MULTIJURISDICTIONAL TASK FORCE, A FIRE DEPARTMENT, OR ANY OTHER LOCAL,~~  
19 ~~COUNTY, OR STATE AGENCY THAT HAS THE AUTHORITY UNDER STATE LAW OR~~  
20 ~~OPERATES IN COOPERATION WITH A FEDERAL AGENCY UNDER FEDERAL LAW TO~~  
21 ~~ENGAGE IN SEIZURE AND FORFEITURE.~~

22 ~~(D)~~ (C) "MSAC" MEANS THE MARYLAND STATISTICAL ANALYSIS  
23 CENTER OF GOCCP.

24 ~~13-602.~~ 12-602.

25 (A) ON AN ANNUAL BASIS, EACH ~~LAW ENFORCEMENT AGENCY~~ SEIZING  
26 AUTHORITY IN CONSULTATION WITH THE CORRESPONDING FORFEITING  
27 AUTHORITY SHALL REPORT HOW ANY FUNDS APPROPRIATED TO THE AUTHORITY AS  
28 A RESULT OF FORFEITURE WERE SPENT IN THE PRECEDING FISCAL YEAR AND THE  
29 FOLLOWING INFORMATION ABOUT EACH INDIVIDUAL SEIZURE AND FORFEITURE  
30 COMPLETED BY THE AGENCY UNDER ~~STATE FORFEITURE LAW AND FEDERAL~~  
31 FORFEITURE LAW THIS TITLE:

1 (1) THE DATE THAT CURRENCY, VEHICLES, HOUSES, OR OTHER TYPES  
2 OF PROPERTY WERE SEIZED;

3 (2) THE TYPE OF PROPERTY SEIZED, INCLUDING YEAR, MAKE, AND  
4 MODEL, AS APPLICABLE;

5 ~~(3) THE TYPE OF ALLEGED CRIME ASSOCIATED WITH THE SEIZURE OF~~  
6 ~~THE PROPERTY;~~

7 ~~(4)~~ (3) THE OUTCOME OF RELATED CRIMINAL ACTION, INCLUDING  
8 WHETHER CHARGES WERE BROUGHT, A PLEA BARGAIN WAS REACHED, A  
9 CONVICTION WAS OBTAINED, OR AN ACQUITTAL WAS ISSUED;

10 ~~(5) WHETHER THE FORFEITURE PROCEDURE WAS ADMINISTRATIVE,~~  
11 ~~JUDICIAL, OR OTHER;~~

12 ~~(6) WHETHER THE CLAIMANT WAS THE CRIMINAL SUSPECT,~~  
13 ~~INNOCENT OWNER, OR BOTH AS JOINT OWNERS;~~

14 ~~(7) WHETHER THE VENUE OF THE FORFEITURE CASE WAS AN~~  
15 ~~ADMINISTRATIVE AGENCY, A SMALL CLAIMS COURT, A CIVIL COURT, A CRIMINAL~~  
16 ~~COURT, OR ANY OTHER VENUE;~~

17 ~~(8) WHETHER THE PROPERTY OWNER WAS REPRESENTED BY AN~~  
18 ~~ATTORNEY IN THE FORFEITURE CASE;~~

19 (4) WHETHER A UNIT OF FEDERAL GOVERNMENT TOOK CUSTODY OF  
20 THE SEIZED PROPERTY, AND THE NAME OF THE UNIT;

21 ~~(9)~~ (5) FOR PROPERTY OTHER THAN MONEY, THE MARKET VALUE  
22 OF THE PROPERTY SEIZED;

23 ~~(10) THE GROSS AMOUNT RECEIVED FROM THE FORFEITURE;~~

24 ~~(11) THE TOTAL ADMINISTRATIVE AND OTHER EXPENSES DEDUCTED~~  
25 ~~AS PART OF THE FORFEITURE PROCESS;~~

26 ~~(12) THE NET AMOUNT RECEIVED FROM THE FORFEITURE;~~

27 ~~(13) THE DISPOSITION OF THE PROPERTY FOLLOWING SEIZURE,~~  
28 ~~INCLUDING WHETHER THE PROPERTY WAS:~~

29 ~~(i) RETURNED TO THE OWNER;~~



1           ~~(H) DESTROYED; OR~~

2           ~~(HH) SOLD OR RETAINED AFTER FORFEITURE; AND~~

3           ~~(14) THE DATE OF THE DISPOSITION OF THE PROPERTY.~~

4           (6) IF MONEY WAS SEIZED, THE AMOUNT OF MONEY;

5           (7) THE AMOUNT THE SEIZING AUTHORITY RECEIVED IN THE PRIOR  
6 YEAR FROM THE FEDERAL GOVERNMENT AS PART OF AN EQUITABLE SHARING  
7 AGREEMENT; AND

8           (8) THE RACE AND GENDER OF THE PERSON OR PERSONS FROM WHOM  
9 THE PROPERTY WAS SEIZED, IF KNOWN; AND

10          ~~(8)~~ (9) WHETHER THE PROPERTY WAS RETURNED TO THE OWNER.

11          (B) MSAC MAY REQUIRE A ~~LAW ENFORCEMENT AGENCY~~ SEIZING  
12 AUTHORITY TO PROVIDE RELEVANT INFORMATION NOT SPECIFIED IN SUBSECTION  
13 (A) OF THIS SECTION.

14          (C) (1) ~~EACH LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY SHALL  
15 FILE WITH MSAC THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION  
16 FOR THE ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY AND THE  
17 CORRESPONDING ~~PROSECUTOR'S OFFICE~~ FORFEITING AUTHORITY.

18          ~~(2) THE LAW ENFORCEMENT AGENCY SHALL FILE SEPARATE~~  
19 ~~REPORTS FOR FORFEITURES COMPLETED UNDER STATE FORFEITURE LAW AND~~  
20 ~~FEDERAL FORFEITURE LAW.~~

21          ~~(3)~~ (2) A NULL REPORT SHALL BE FILED BY A ~~LAW ENFORCEMENT~~  
22 SEIZING AUTHORITY AGENCY THAT DID NOT ENGAGE IN SEIZURES OR FORFEITURES  
23 UNDER THIS TITLE DURING THE REPORTING PERIOD.

24          (D) (1) MSAC SHALL DEVELOP A STANDARD FORM, A PROCESS, AND  
25 DEADLINES FOR ELECTRONIC DATA ENTRY FOR ANNUAL SUBMISSION OF  
26 FORFEITURE DATA BY ~~LAW ENFORCEMENT AGENCIES~~ SEIZING AUTHORITIES.

27          (2) MSAC SHALL COMPILE THE SUBMISSIONS AND ISSUE AN  
28 AGGREGATE REPORT OF ALL FORFEITURES UNDER THIS TITLE IN THE STATE.

29          (E) (1) BY MARCH 1 OF EACH YEAR, MSAC SHALL MAKE AVAILABLE ON  
30 ITS WEB SITE THE REPORTS SUBMITTED BY ~~LAW ENFORCEMENT AGENCIES~~ SEIZING  
31 AUTHORITIES AND THE AGGREGATE REPORT OF MSAC.

1           **(2) GOCCP SHALL SUBMIT THE AGGREGATE REPORT TO THE**  
2 **GOVERNOR, THE GENERAL ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE STATE**  
3 **GOVERNMENT ARTICLE, AND EACH ~~LAW ENFORCEMENT AGENCY~~ SEIZING**  
4 **AUTHORITY BEFORE SEPTEMBER 1 OF EACH YEAR.**

5           **(F) GOCCP MAY INCLUDE, WITH THE AGGREGATE REPORT OF MSAC,**  
6 **RECOMMENDATIONS TO THE LEGISLATURE TO IMPROVE FORFEITURE STATUTES TO**  
7 **BETTER ENSURE THAT FORFEITURE PROCEEDINGS ARE REPORTED AND HANDLED**  
8 **IN A MANNER THAT IS FAIR TO CRIME VICTIMS, INNOCENT PROPERTY OWNERS,**  
9 **SECURED INTEREST HOLDERS, CITIZENS, AND TAXPAYERS.**

10           **(G) (1) IF A ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY FAILS TO**  
11 **COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION:**

12                   **(I) GOCCP SHALL REPORT THE NONCOMPLIANCE TO THE**  
13 **POLICE TRAINING COMMISSION; AND**

14                   **(II) THE POLICE TRAINING COMMISSION SHALL CONTACT THE**  
15 **~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY AND REQUEST THAT THE AGENCY**  
16 **COMPLY WITH THE REQUIRED REPORTING PROVISIONS.**

17           **(2) IF THE ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY FAILS**  
18 **TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER**  
19 **BEING CONTACTED BY THE POLICE TRAINING COMMISSION, GOCCP AND THE**  
20 **POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO**  
21 **THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL**  
22 **ASSEMBLY.**

23           **(H) (1) MSAC MAY RECOUP ITS COSTS BY CHARGING A FEE TO ~~LAW~~**  
24 **~~ENFORCEMENT AGENCIES~~ EACH SEIZING AUTHORITY THAT ~~ENGAGE~~ ENGAGES IN**  
25 **SEIZURES OR FORFEITURES DURING THE REPORTING PERIOD.**

26           **(2) A ~~LAW ENFORCEMENT AGENCY~~ SEIZING AUTHORITY MAY USE**  
27 **FORFEITURE PROCEEDS TO PAY THE COST OF COMPILING AND REPORTING DATA**  
28 **UNDER THIS SUBTITLE, INCLUDING ANY FEE IMPOSED BY MSAC.**

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2016.