



# House of Representatives

General Assembly

**File No. 647**

January Session, 2007

Substitute House Bill No. 7164

*House of Representatives, April 30, 2007*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING SEIZED CURRENCY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 54-36a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2007*):

4 (b) (1) Whenever property is seized in connection with a criminal  
5 arrest or seized pursuant to a search warrant without an arrest, the law  
6 enforcement agency seizing such property shall file, on forms  
7 provided for this purpose by the Office of the Chief Court  
8 Administrator, an inventory of the property seized. The inventory,  
9 together with the uniform arrest report, in the case of an arrest, shall be  
10 filed with the clerk of the court for the geographical area in which the  
11 criminal offense is alleged to have been committed; except, when the  
12 property is stolen property and, in the opinion of the law enforcement  
13 officer, does not exceed two hundred fifty dollars in value, or when an  
14 attempt was made to steal the property but the property at all times  
15 remained on the premises in a sealed container, the filing of an

16 inventory shall not be required and such property may be returned to  
17 the owner. In the case of property seized in connection with a search  
18 warrant without an arrest, the inventory shall be attached to the  
19 warrant and shall be filed with the clerk of the court for the  
20 geographical area in which the search warrant was issued. If any  
21 criminal proceeding is transferred to another court location, then the  
22 clerk with whom the inventory is filed shall transfer such inventory to  
23 the clerk of the court location to which such action is transferred.

24 (2) If the seized property is stolen property, within ten days of the  
25 seizure, the law enforcement agency seizing the property shall notify  
26 the owner of the property if known, or, if the owner of the property is  
27 unknown at the time of seizure, such agency shall within ten days of  
28 any subsequent ascertainment of the owner notify such owner, and, on  
29 a form prescribed by the Office of the Chief Court Administrator,  
30 advise the owner of such owner's rights concerning the property and  
31 the location of the property. Such written notice shall include a request  
32 form for the return of the property. The owner may request the return  
33 of the property by filing such request form with such law enforcement  
34 agency, and upon receipt of such request, the law enforcement agency  
35 shall forward it to the clerk of the court for the geographical area in  
36 which the criminal offense is alleged to have been committed. The  
37 clerk of the court shall notify the defendant or defendants of the  
38 request to return the property. The court shall order the return of the  
39 property within thirty days of the date of filing such return request by  
40 the owner, except that for good cause shown, the court may order  
41 retention of the property for a period to be determined by the court.  
42 Any secondary evidence of the identity, description or value of such  
43 property shall be admissible in evidence against such defendant in the  
44 trial of such case. The fact that the evidence is secondary in nature may  
45 be shown to affect the weight of such evidence, but not to affect its  
46 admissibility. If the stolen property is a motor vehicle, a photograph of  
47 the motor vehicle and a sworn affidavit attesting to the vehicle  
48 identification number of such motor vehicle shall be sufficient  
49 evidence of the identity of the motor vehicle. For the purposes of this  
50 subdivision, "motor vehicle" means a passenger or commercial motor

51 vehicle or a motorcycle, as defined in section 14-1, and includes  
52 construction equipment, agricultural tractors and farm implements.

53 (3) (A) If the seized property is currency and is stolen property, the  
54 law enforcement agency seizing the currency shall follow the  
55 procedures set forth in subdivision (2) of this subsection.

56 (B) If the seized property is currency and is not stolen property, the  
57 law enforcement agency seizing the currency shall, [within] not later  
58 than ten days [of] after such seizure, notify the defendant or  
59 defendants, if such currency was seized in connection with a criminal  
60 arrest, or the person or persons having a possessory interest in the  
61 premises from which such currency was seized, if such currency was  
62 seized pursuant to a search warrant without an arrest, that such  
63 defendant or person has the right to a hearing before the Superior  
64 Court on the disposition of the currency. Such defendant or person  
65 may, not later than thirty days after receiving such notice, file a motion  
66 for the return of the seized currency or a motion for the retention of the  
67 seized currency and request a hearing before the Superior Court. [The  
68 court may, after any such hearing, order that the law enforcement  
69 agency, after taking reasonable measures to preserve the evidentiary  
70 value of the currency, deposit the currency in a deposit account in the  
71 name of the law enforcement agency as custodian for evidentiary  
72 funds at a financial institution in this state or order, for good cause  
73 shown, that the currency be retained for a period to be determined by  
74 the court. If such defendant or person does not request a hearing,] If  
75 such a motion is filed, the law enforcement agency shall retain the  
76 currency pending an order of the court to return or retain the seized  
77 currency. If such a motion is not filed, the law enforcement agency  
78 may, after taking reasonable measures to preserve the evidentiary  
79 value of the currency, deposit the currency in a deposit account in the  
80 name of the law enforcement agency as custodian for evidentiary  
81 funds at a financial institution in this state and in accordance with the  
82 provisions of subsection (a) of section 51-81c, as amended by this act.

83 (C) If the currency is deposited in a deposit account at a financial

84 institution in this state pursuant to subparagraph (B) of this  
85 subdivision, the financial institution at which such deposit account is  
86 established shall not be required to segregate the currency deposited in  
87 such deposit account. No funds may be withdrawn from such deposit  
88 account except pursuant to a court order, [directed to the financial  
89 institution. Any withdrawal of funds from such deposit account shall  
90 be in the form of a check issued by the financial institution to the law  
91 enforcement agency or to such other payee as the court may order.]  
92 The financial institution shall not be liable in any controversy arising  
93 over the deposit or withdrawal of the funds. Nothing in this  
94 subdivision shall prohibit a financial institution from charging a fee for  
95 the maintenance and administration of such deposit account and for  
96 the review of the court order.

97 (D) If the currency is deposited in a deposit account at a financial  
98 institution in this state pursuant to subparagraph (B) of this  
99 subdivision, any secondary evidence of the identity, description or  
100 value of such currency shall be admissible in evidence against a  
101 defendant in the trial of a criminal offense. The fact that the evidence is  
102 secondary in nature may be shown to affect the weight of such  
103 evidence, but not to affect its admissibility.

104 Sec. 2. Subsection (a) of section 51-81c of the general statutes is  
105 repealed and the following is substituted in lieu thereof (*Effective*  
106 *October 1, 2007*):

107 (a) A program for the use of interest earned on lawyers' clients'  
108 funds accounts is hereby established. The organization administering  
109 the program shall use such interest to provide funding for (1) the  
110 delivery of legal services to the poor by nonprofit corporations whose  
111 principal purpose is providing legal services to the poor, and (2) law  
112 school scholarships based on financial need. Each lawyer and law firm  
113 having a clients' funds account shall participate in the program. On  
114 and after July 1, 2005, each entity, other than a borrower, having an  
115 account established to receive loan proceeds from a mortgage lender,  
116 as defined in this subsection, shall participate in the program. On and

117 after October 1, 2007, each law enforcement agency that deposits  
118 seized currency in a deposit account pursuant to subparagraph (B) of  
119 subdivision (3) of subsection (b) of section 54-36a, as amended by this  
120 act, shall participate in the program. Under the program, funds in  
121 accounts established to receive [such] loan proceeds from a mortgage  
122 lender, regardless of the amount or period held, seized currency,  
123 regardless of the amount or period held, and clients' funds that are less  
124 than ten thousand dollars in amount or expected to be held for a  
125 period of not more than sixty business days, shall be deposited by  
126 participating lawyers, law firms, [and] entities and law enforcement  
127 agencies in interest-bearing accounts specifically established pursuant  
128 to the program. Funds deposited in such accounts shall be subject to  
129 withdrawal upon request by the depositor and without delay, except  
130 as provided in subparagraph (C) of subdivision (3) of subsection (b) of  
131 section 54-36a, as amended by this act. The interest earned on such  
132 accounts shall be paid to an organization qualified under Section  
133 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent  
134 corresponding internal revenue code of the United States, as from time  
135 to time amended, which shall be designated to administer the program  
136 by the judges of the Superior Court pursuant to subsection (b) of this  
137 section. Nothing in this section shall prevent (A) a lawyer or law firm  
138 from depositing a client's funds, regardless of the amount of such  
139 funds or the period for which such funds are expected to be held, in a  
140 separate interest-bearing account established on behalf of and for the  
141 benefit of the client, or (B) an entity from depositing a person's loan  
142 proceeds, regardless of the amount of such proceeds or the period for  
143 which such proceeds are expected to be held, in a separate interest-  
144 bearing account established on behalf of and for the benefit of the  
145 person. The organization administering the program shall mail to each  
146 lawyer, law firm, [and] entity and law enforcement agency  
147 participating in the program a detailed annual report of all funds  
148 disbursed under the program including the amount disbursed to each  
149 recipient of funds. Any recipient of funds under the program which,  
150 using program funds, represents a party in an action filed after July 1,  
151 1992, against the state or any officer or agency thereof and is awarded

152 attorney's fees in such action by the court, shall reimburse the program  
153 for the amount of attorney's fees received in proportion to the  
154 percentage of program funds used for the litigation. No recipient of  
155 funds under the program may use such funds to pay the occupational  
156 tax imposed pursuant to section 51-81b on behalf of any attorney. As  
157 used in this section, "mortgage lender" means any person engaged in  
158 the business of making first mortgage loans or secondary mortgage  
159 loans, including, but not limited to, a bank, out-of-state bank,  
160 Connecticut credit union, federal credit union, out-of-state credit  
161 union, first mortgage lender required to be licensed under sections  
162 36a-485 to 36a-498a, inclusive, or secondary mortgage lender required  
163 to be licensed under sections 36a-510 to 36a-524, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	54-36a(b)
Sec. 2	<i>October 1, 2007</i>	51-81c(a)

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill facilitates the deposit into bank accounts currency seized by law enforcement as evidence of a crime. It thereby improves financial controls over the currency and limits the liability of law enforcement agencies holding seized currency in evidence lockers. The bill requires law enforcement agencies to deposit seized currency into interest-bearing accounts in accordance with the interest on lawyers' trust accounts (IOLTA) program.<sup>1</sup> Interest income from seized currency would support IOLTA under the bill. The bill does not alter legal entitlement (of the state or defendants) to the principal deposit of seized currency.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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<sup>1</sup> The IOLTA program is authorized by statute to subsidize legal aid to the poor in Connecticut and to fund law school scholarships based on financial need. It is administered by the Connecticut Bar Foundation and supported by interest income from lawyers' trust accounts and certain accounts established to receive loan proceeds from mortgage lenders. No state or municipal funds are involved in the IOLTA program.

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**OLR Bill Analysis**

**sHB 7164**

***AN ACT CONCERNING SEIZED CURRENCY.***

**SUMMARY:**

By law, when law enforcement agencies seize currency that is not stolen, they must notify the party from whom it was seized or anyone with an interest in the premises where it was seized of his or her right to a Superior Court dispositional hearing. The party has 30 days after getting the notice to request the hearing.

Under current law, the court may, after the hearing, order that the agency (1) put the money in a bank account in Connecticut or (2) retain it for good cause shown for a time the court determines. And the agency may deposit the money if the party does not request a hearing during the 30-day period. The bill, instead, allows the party requesting the hearing to file a motion for the return or retention of the money, and removes the requirement for a good cause finding to hold it. If a motion is filed, the law enforcement agency must keep the currency, pending the court order. The bill allows the agency to deposit the money at any time if no motion is filed.

The bill requires that, beginning October 1, 2007, agencies that make deposits under the bill participate in the Interest on Lawyers' Trust Accounts (IOLTA) program. It exempts such funds from a provision that subjects program funds to withdrawal upon request by the depositor and without delay. It requires the organization that administers the program to mail each participating agency a detailed annual report of all funds disbursed under the program.

The bill eliminates requirements that (1) any withdrawal of deposited funds be made by checks to the appropriate agency or other

payee the court orders and (2) the court order required to withdraw funds be directed to the financial institution where the money is deposited.

Under the bill, financial institutions are not liable in any controversy arising over the deposit or withdrawal of the funds.

EFFECTIVE DATE: October 1, 2007

**BACKGROUND**

***IOLTA Program***

IOLTA is a program in which lawyers pool their clients' fund accounts and use the interest to assist in providing legal services to the poor and scholarships for poor law students. The Connecticut Bar Foundation administers the program.

Under the program, clients' funds which are less than \$10,000 or are expected to be held for a period of not more than 60 business days, must be deposited by participating lawyers and law firms in interest-bearing accounts specifically established pursuant to the IOLTA program. But the law specifies that a lawyer or law firm may deposit a client's funds, regardless of the amount or the period for which the funds are expected to be held, in a separate interest-bearing account established on behalf of and for the benefit of the client.

***Legislative History***

On March 27, the House referred the bill to the Judiciary Committee, which added the IOLTA provision and reported the substitute bill favorably on April 13.

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable Substitute  
Yea 23 Nay 0 (03/06/2007)

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (04/13/2007)