



**Substitute House Bill No. 7146**

**Public Act No. 17-193**

**AN ACT REQUIRING A CRIMINAL CONVICTION FOR CERTAIN OFFENSES BEFORE ASSETS SEIZED IN A LAWFUL ARREST OR LAWFUL SEARCH MAY BE FORFEITED IN A CIVIL PROCEEDING.**

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

Section 1. Section 54-33g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) When any property believed to be possessed, controlled, designed or intended for use or which is or has been used or which may be used as a means of committing any criminal offense, or which constitutes the proceeds of the commission of any criminal offense, except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, has been seized as a result of a lawful arrest or a lawful search that results in an arrest, which the state claims to be a nuisance and desires to have destroyed or disposed of in accordance with the provisions of this section, the Chief State's Attorney or a deputy chief state's attorney, state's attorney or assistant or deputy assistant state's attorney may petition the court not later than ninety days after the seizure, in the nature of a proceeding in rem, to order forfeiture of such property. Such proceeding shall be deemed a civil suit in equity, in which the state shall have the burden of proving all material facts by clear and convincing evidence. The court shall identify the owner of such

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property and any other person as appears to have an interest in such property, and order the state to give notice to such owner and any interested person by certified or registered mail. [The court shall promptly, but not less than two weeks after such notice, hold a hearing on the petition.]

(b) The court shall hold a hearing on the petition filed pursuant to subsection (a) of this section not more than two weeks after the criminal proceeding that occurred as a result of the arrest has been nolle, dismissed or otherwise disposed of. The court shall deny the petition and return the property to the owner if the criminal proceeding does not result in (1) a plea of guilty or nolo contendere to any offense charged in the same criminal information, (2) a guilty verdict after trial to a forfeiture-eligible offense for which the property was possessed, controlled, designed or intended for use, or which was or had been used as a means of committing such offense, or which constitutes the proceeds of the commission of such offense, or (3) a dismissal resulting from the completion of a pretrial diversionary program.

~~[(b)]~~ (c) If the court finds the allegations made in such petition to be true and that the property has been possessed, controlled or designed for use, or is or has been or is intended to be used, with intent to violate or in violation of any of the criminal laws of this state, or constitutes the proceeds of a violation of any of the criminal laws of this state, except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, and that a plea of guilty or nolo contendere to such offense or another charge in the same criminal information, or a guilty verdict after trial for such forfeiture-eligible offense, or a dismissal resulting from the completion of a pretrial diversionary program has been entered, the court shall render judgment that such property is a nuisance and order the property to be destroyed or disposed of to a charitable or educational institution or to a governmental agency or

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institution, except that if any such property is subject to a bona fide mortgage, assignment of lease or rent, lien or security interest, such property shall not be so destroyed or disposed of in violation of the rights of the holder of such mortgage, assignment of lease or rent, lien or security interest.

[(c)] (d) (1) When the condemned property is money (A) on and after October 1, 2014, and prior to July 1, 2016, the court shall order that such money be distributed as follows: (i) Seventy per cent shall be allocated to the law enforcement agency, including the Department of Emergency Services and Public Protection and local police departments, responsible for investigating the criminal violation and seizing the money, and such local police departments shall use such money for the detection, investigation, apprehension and prosecution of persons for the violation of criminal laws, and any money allocated to the Department of Emergency Services and Public Protection shall be deposited in the General Fund; (ii) twenty per cent shall be deposited in the Criminal Injuries Compensation Fund established in section 54-215; and (iii) ten per cent shall be allocated to the Division of Criminal Justice and deposited in the General Fund; and (B) on and after July 1, 2016, such money shall be deposited in the General Fund.

(2) When the condemned property is a valuable prize, which is subject to a bona fide mortgage, assignment of lease or rent, lien or security interest, such property shall remain subject to such mortgage, assignment of lease or rent, lien or security interest.

[(d)] (e) When any property or valuable prize has been declared a nuisance and condemned under this section, the court may also order that such property be sold in accordance with procedures approved by the Commissioner of Administrative Services. Proceeds of such sale shall first be allocated toward the balance of any mortgage, assignment of lease or rent, lien or security interest, and the remaining proceeds of such sale, if any, shall be allocated in accordance with subparagraphs

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(A) to (C), inclusive, of subdivision (1) of subsection [(c)] (d) of this section. In any criminal prosecution, secondary evidence of property condemned and destroyed pursuant to this section shall be admissible against the defendant to the same extent as such evidence would have been admissible had the property not been condemned and destroyed.

[(e)] (f) If the court finds the allegations not to be true, irrespective of the findings in the criminal proceeding, or that the property has not been kept with intent to violate or in violation of the criminal laws of this state, or that the property does not constitute the proceeds of a violation of the criminal laws of this state, or that the property is the property of a person who is not a defendant, the court shall order the property returned to the owner forthwith and the party in possession of such property pending such determination shall be responsible and personally liable for such property from the time of seizure and shall immediately comply with such order.

[(f)] (g) Failure of the state to proceed against such property in accordance with the provisions of this section shall not prevent the use of such property as evidence in any criminal trial.

Sec. 2. Section 54-36h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) The following property shall be subject to forfeiture to the state pursuant to subsection (b) of this section:

(1) All moneys used, or intended for use, in the procurement, manufacture, compounding, processing, delivery or distribution of any controlled substance, as defined in subdivision (9) of section 21a-240;

(2) All property constituting the proceeds obtained, directly or indirectly, from any sale or exchange of any such controlled substance in violation of section 21a-277 or 21a-278;

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(3) All property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain of any such controlled substance in violation of section 21a-277 or 21a-278;

(4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of section 21a-277 or 21a-278;

(5) All property constituting, or derived from, the proceeds obtained, directly or indirectly, by a corporation as a result of a violation of section 53a-276, 53a-277 or 53a-278.

(b) Not later than ninety days after the seizure of moneys or property subject to forfeiture pursuant to subsection (a) of this section, in connection with a lawful criminal arrest or a lawful search that results in an arrest, the Chief State's Attorney or a deputy chief state's attorney, state's attorney or assistant or deputy assistant state's attorney may petition the court in the nature of a proceeding in rem to order forfeiture of said moneys or property. Such proceeding shall be deemed a civil suit in equity, in which the state shall have the burden of proving all material facts by clear and convincing evidence. The court shall identify the owner of said moneys or property and any other person as appears to have an interest therein, and order the state to give notice to such owner and any interested person by certified or registered mail, [ and shall promptly, but not less than two weeks after notice, hold a hearing on the petition.] No testimony offered or evidence produced by such owner or interested person at such hearing and no evidence discovered as a result of or otherwise derived from such testimony or evidence, may be used against such owner or interested person in any proceeding, except that no such owner or interested person shall be immune from prosecution for perjury or contempt committed while giving such testimony or producing such evidence. At such hearing the court shall hear evidence and make findings of fact and enter conclusions of law and shall issue a final

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order, from which the parties shall have such right of appeal as from a decree in equity.

(c) The court shall hold a hearing on the petition filed pursuant to subsection (a) of this section not more than two weeks after the criminal proceeding that occurred as a result of the arrest has been nolle, dismissed or otherwise disposed of. The court shall deny the petition and return the property to the owner if the criminal proceeding does not result in (1) a plea of guilty or nolo contendere to any offense charged in the same criminal information, (2) a guilty verdict after trial to a forfeiture-eligible offense for which the property was possessed, controlled, designed or intended for use, or which was or had been used as a means of committing such offense, or which constitutes the proceeds of the commission of such offense, or (3) a dismissal resulting from the completion of a pretrial diversionary program.

[[c]] (d) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or omission committed by another person if such owner or lienholder did not know and could not have reasonably known that such property was being used or was intended to be used in, or was derived from, criminal activity.

[[d]] (e) Notwithstanding the provisions of subsection (a) of this section, no moneys or property used or intended to be used by the owner thereof to pay legitimate attorney's fees in connection with his defense in a criminal prosecution shall be subject to forfeiture under this section.

[[e]] (f) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction conducted by the Commissioner of Administrative Services or his designee.

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[(f)] (g) The proceeds from any sale of property under subsection [(e)] (f) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the drug assets forfeiture revolving account established under section 54-36i.

Sec. 3. Section 54-360 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) All property constituting, or derived from, the proceeds obtained, directly or indirectly, by a person as a result of a violation of section 53a-129a of the general statutes, revision of 1958, revised to January 1, 2003, or section 53a-127g, 53a-129b, 53a-129c, 53a-129d, 53a-129e, 53a-130, 21-120 or 21-121 shall be subject to forfeiture to the state pursuant to subsection (b) of this section.

(b) Not later than ninety days after the seizure of property subject to forfeiture pursuant to subsection (a) of this section, in connection with a lawful arrest or a lawful search that results in an arrest, the Chief State's Attorney or a deputy chief state's attorney, state's attorney or assistant or deputy assistant state's attorney may petition the court in the nature of a proceeding in rem to order forfeiture of said moneys or property. Such proceeding shall be deemed a civil suit in equity, in which the state shall have the burden of proving all material facts by clear and convincing evidence. The court shall identify the owner of such property and any other person as appears to have an interest therein, and order the state to give notice to such owner and any interested person by certified or registered mail, [ , and shall promptly, but not less than two weeks after notice, hold a hearing on the petition.] No testimony offered or evidence produced by such owner or interested person at such hearing and no evidence discovered as a

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result of or otherwise derived from such testimony or evidence, may be used against such owner or interested person in any proceeding, except that no such owner or interested person shall be immune from prosecution for perjury or contempt committed while giving such testimony or producing such evidence. At such hearing the court shall hear evidence and make findings of fact and enter conclusions of law and shall issue a final order, from which the parties shall have such right of appeal as from a decree in equity.

(c) The court shall hold a hearing on the petition filed pursuant to subsection (a) of this section not more than two weeks after the criminal proceeding that occurred as a result of the arrest has been nolle, dismissed or otherwise disposed of. The court shall deny the petition and return the property to the owner if the criminal proceeding does not result in (1) a plea of guilty or nolo contendere to any offense charged in the same criminal information, (2) a guilty verdict after trial to a forfeiture-eligible offense for which the property was possessed, controlled, designed or intended for use, or which was or had been used as a means of committing such offense, or which constitutes the proceeds of the commission of such offense, or (3) a dismissal resulting from the completion of a pretrial diversionary program.

[[c)] (d) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or omission committed by another person if such owner or lienholder did not know and could not have reasonably known that such property was being used or was intended to be used in, or was derived from, criminal activity.

[[d)] (e) Notwithstanding the provisions of subsection (a) of this section, no property used or intended to be used by the owner thereof to pay legitimate attorney's fees in connection with his defense in a criminal prosecution shall be subject to forfeiture under this section.

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[(e)] (f) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction conducted by the Commissioner of Administrative Services.

[(f)] (g) The proceeds from any sale of property under subsection [(e)] (f) of this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the privacy protection guaranty and enforcement account established under section 42-472a.

Sec. 4. Section 54-36p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) The following property shall be subject to forfeiture to the state pursuant to subsection (b) of this section:

(1) All moneys used, or intended for use, in a violation of subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

(2) All property constituting the proceeds obtained, directly or indirectly, from a violation of subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

(3) All property derived from the proceeds obtained, directly or indirectly, from a violation of subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

(4) All property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation of subdivision (3) of

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subsection (a) of section 53-21 or section 53a-83, 53a-83a, 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i.

(b) Not later than ninety days after the seizure of moneys or property subject to forfeiture pursuant to subsection (a) of this section, in connection with a lawful criminal arrest or a lawful search that results in an arrest, the Chief State's Attorney or a deputy chief state's attorney, state's attorney or assistant or deputy assistant state's attorney may petition the court in the nature of a proceeding in rem to order forfeiture of such moneys or property. Such proceeding shall be deemed a civil suit in equity in which the state shall have the burden of proving all material facts by clear and convincing evidence. The court shall identify the owner of such moneys or property and any other person as appears to have an interest therein, and order the state to give notice to such owner and any interested person, including any victim of the crime with respect to which such moneys or property were seized, by certified or registered mail. [The court shall promptly, but not less than two weeks after such notice, hold a hearing on the petition.] No testimony offered or evidence produced by such owner or interested person at such hearing and no evidence discovered as a result of or otherwise derived from such testimony or evidence may be used against such owner or interested person in any proceeding, except that no such owner or interested person shall be immune from prosecution for perjury or contempt committed while giving such testimony or producing such evidence. At such hearing, the court shall hear evidence and make findings of fact and enter conclusions of law and shall issue a final order from which the parties shall have such right of appeal as from a decree in equity.

(c) The court shall hold a hearing on the petition filed pursuant to subsection (a) of this section not more than two weeks after the criminal proceeding that occurred as a result of the arrest has been

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nolled, dismissed or otherwise disposed of. The court shall deny the petition and return the property to the owner if the criminal proceeding does not result in (1) a plea of guilty or nolo contendere to any offense charged in the same criminal information, (2) a guilty verdict after trial to a forfeiture-eligible offense for which the property was possessed, controlled, designed or intended for use, or which was or had been used as a means of committing such offense, or which constitutes the proceeds of the commission of such offense, or (3) a dismissal resulting from the completion of a pretrial diversionary program.

[(c)] (d) No moneys or property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or omission committed by another person if such owner or lienholder did not know and could not have reasonably known that such moneys or property was being used or was intended to be used in, or was derived from, criminal activity.

[(d)] (e) Notwithstanding the provisions of subsection (a) of this section, no moneys or property used or intended to be used by the owner thereof to pay legitimate attorney's fees in connection with his or her defense in a criminal prosecution shall be subject to forfeiture under this section.

[(e)] (f) Any property ordered forfeited pursuant to subsection (b) of this section shall be sold at public auction conducted by the Commissioner of Administrative Services or the commissioner's designee.

[(f)] (g) The proceeds from any sale of property under subsection [(e)] (f) of this section and any moneys forfeited under this section shall be applied: (1) To payment of the balance due on any lien preserved by the court in the forfeiture proceedings; (2) to payment of any costs incurred for the storage, maintenance, security and forfeiture of any

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such property; and (3) to payment of court costs. The balance, if any, shall be deposited in the Criminal Injuries Compensation Fund established in section 54-215.

Approved July 10, 2017