



House of Representatives

File No. 787

General Assembly

January Session, 2017

(Reprint of File No. 192)

Substitute House Bill No. 7146
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 22, 2017

**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:

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 Section 54-33g of the general statutes is repealed and the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

3 (a) When any property believed to be possessed, controlled,
4 designed or intended for use or which is or has been used or which
5 may be used as a means of committing any criminal offense, or which
6 constitutes the proceeds of the commission of any criminal offense,
7 except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, has
8 been seized as a result of a lawful arrest or a lawful search that results
9 in an arrest, which the state claims to be a nuisance and desires to have
10 destroyed or disposed of in accordance with the provisions of this
11 section, the Chief State's Attorney or a deputy chief state's attorney,
12 state's attorney or assistant or deputy assistant state's attorney may
13 petition the court not later than ninety days after the seizure, in the
14 nature of a proceeding in rem, to order forfeiture of such property.

15 Such proceeding shall be deemed a civil suit in equity, in which the
16 state shall have the burden of proving all material facts by clear and
17 convincing evidence. The court shall identify the owner of such
18 property and any other person as appears to have an interest in such
19 property, and order the state to give notice to such owner and any
20 interested person by certified or registered mail. [The court shall
21 promptly, but not less than two weeks after such notice, hold a hearing
22 on the petition.]

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

36 [(b)] (c) If the court finds the allegations made in such petition to be
37 true and that the property has been possessed, controlled or designed
38 for use, or is or has been or is intended to be used, with intent to
39 violate or in violation of any of the criminal laws of this state, or
40 constitutes the proceeds of a violation of any of the criminal laws of
41 this state, except a violation of section 21a-267, 21a-277, 21a-278 or 21a-
42 279, and that a plea of guilty or nolo contendere to such offense or
43 another charge in the same criminal information, or a guilty verdict
44 after trial for such forfeiture-eligible offense, or a dismissal resulting
45 from the completion of a pretrial diversionary program has been
46 entered, the court shall render judgment that such property is a
47 nuisance and order the property to be destroyed or disposed of to a
48 charitable or educational institution or to a governmental agency or

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

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

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

73 [(d)] (e) When any property or valuable prize has been declared a
74 nuisance and condemned under this section, the court may also order
75 that such property be sold in accordance with procedures approved by
76 the Commissioner of Administrative Services. Proceeds of such sale
77 shall first be allocated toward the balance of any mortgage, assignment
78 of lease or rent, lien or security interest, and the remaining proceeds of
79 such sale, if any, shall be allocated in accordance with subparagraphs
80 (A) to (C), inclusive, of subdivision (1) of subsection [(c)] (d) of this
81 section. In any criminal prosecution, secondary evidence of property

82 condemned and destroyed pursuant to this section shall be admissible
83 against the defendant to the same extent as such evidence would have
84 been admissible had the property not been condemned and destroyed.

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

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

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

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

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

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

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

111 (4) All property used or intended for use, in any manner or part, to

112 commit or facilitate the commission of a violation for pecuniary gain of
113 section 21a-277 or 21a-278;

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

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

141 (c) The court shall hold a hearing on the petition filed pursuant to
142 subsection (a) of this section not more than two weeks after the
143 criminal proceeding that occurred as a result of the arrest has been
144 nolled, dismissed or otherwise disposed of. The court shall deny the

145 petition and return the property to the owner if the criminal
146 proceeding does not result in (1) a plea of guilty or nolo contendere to
147 any offense charged in the same criminal information, (2) a guilty
148 verdict after trial to a forfeiture-eligible offense for which the property
149 was possessed, controlled, designed or intended for use, or which was
150 or had been used as a means of committing such offense, or which
151 constitutes the proceeds of the commission of such offense, or (3) a
152 dismissal resulting from the completion of a pretrial diversionary
153 program.

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

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

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

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

176 Sec. 3. Section 54-360 of the general statutes is repealed and the

177 following is substituted in lieu thereof (*Effective October 1, 2017*):

178 (a) All property constituting, or derived from, the proceeds
179 obtained, directly or indirectly, by a person as a result of a violation of
180 section 53a-129a of the general statutes, revision of 1958, revised to
181 January 1, 2003, or section 53a-127g, 53a-129b, 53a-129c, 53a-129d, 53a-
182 129e, 53a-130, 21-120 or 21-121 shall be subject to forfeiture to the state
183 pursuant to subsection (b) of this section.

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

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

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

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

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

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

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

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

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

244 (1) All moneys used, or intended for use, in a violation of
245 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-
246 87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b,
247 53a-196c or 53a-196i;

248 (2) All property constituting the proceeds obtained, directly or
249 indirectly, from a violation of subdivision (3) of subsection (a) of
250 section 53-21 or section 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-
251 189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

252 (3) All property derived from the proceeds obtained, directly or
253 indirectly, from a violation of subdivision (3) of subsection (a) of
254 section 53-21 or section 53a-86, 53a-87, 53a-88, 53a-90a, 53a-189a, 53a-
255 189b, 53a-192a, 53a-196a, 53a-196b, 53a-196c or 53a-196i;

256 (4) All property used or intended for use, in any manner or part, to
257 commit or facilitate the commission of a violation of subdivision (3) of
258 subsection (a) of section 53-21 or section 53a-83, 53a-83a, 53a-86, 53a-
259 87, 53a-88, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b,
260 53a-196c or 53a-196i.

261 (b) Not later than ninety days after the seizure of moneys or
262 property subject to forfeiture pursuant to subsection (a) of this section,
263 in connection with a lawful criminal arrest or a lawful search that
264 results in an arrest, the Chief State's Attorney or a deputy chief state's
265 attorney, state's attorney or assistant or deputy assistant state's
266 attorney may petition the court in the nature of a proceeding in rem to
267 order forfeiture of such moneys or property. Such proceeding shall be
268 deemed a civil suit in equity in which the state shall have the burden
269 of proving all material facts by clear and convincing evidence. The
270 court shall identify the owner of such moneys or property and any
271 other person as appears to have an interest therein, and order the state
272 to give notice to such owner and any interested person, including any
273 victim of the crime with respect to which such moneys or property

274 were seized, by certified or registered mail. [The court shall promptly,
275 but not less than two weeks after such notice, hold a hearing on the
276 petition.] No testimony offered or evidence produced by such owner
277 or interested person at such hearing and no evidence discovered as a
278 result of or otherwise derived from such testimony or evidence may be
279 used against such owner or interested person in any proceeding,
280 except that no such owner or interested person shall be immune from
281 prosecution for perjury or contempt committed while giving such
282 testimony or producing such evidence. At such hearing, the court shall
283 hear evidence and make findings of fact and enter conclusions of law
284 and shall issue a final order from which the parties shall have such
285 right of appeal as from a decree in equity.

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

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

305 [(d)] (e) Notwithstanding the provisions of subsection (a) of this
306 section, no moneys or property used or intended to be used by the

307 owner thereof to pay legitimate attorney's fees in connection with his
 308 or her defense in a criminal prosecution shall be subject to forfeiture
 309 under this section.

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

314 ~~[(f)]~~ ~~(g)~~ The proceeds from any sale of property under subsection
 315 ~~[(e)]~~ ~~(f)~~ of this section and any moneys forfeited under this section shall
 316 be applied: (1) To payment of the balance due on any lien preserved by
 317 the court in the forfeiture proceedings; (2) to payment of any costs
 318 incurred for the storage, maintenance, security and forfeiture of any
 319 such property; and (3) to payment of court costs. The balance, if any,
 320 shall be deposited in the Criminal Injuries Compensation Fund
 321 established in section 54-215.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	54-33g
Sec. 2	<i>October 1, 2017</i>	54-36h
Sec. 3	<i>October 1, 2017</i>	54-36o
Sec. 4	<i>October 1, 2017</i>	54-36p

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill clarifies asset forfeiture laws, specifying conditions in which asset forfeiture is to occur, and does not result in a fiscal impact as it conforms statute to current practice.

House "A" struck the language of the underlying bill and removed the revenue loss in the underlying bill.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 7146 (as amended by House "A")******AN ACT REQUIRING A CRIMINAL CONVICTION FOR CERTAIN OFFENSES BEFORE ASSETS SEIZED IN A LAWFUL ARREST OF LAWFUL SEARCH MAY BE FORFEITED IN A CIVIL PROCEEDING.*****SUMMARY**

This bill makes changes to the laws governing civil forfeiture of property seized in connection with criminal offenses, including certain controlled substances, drug sales, money laundering, identity theft, sexual exploitation, prostitution, and human trafficking offenses. Under the bill, property seized during a lawful search associated with these offenses may only be subject to forfeiture proceedings if the search results in an arrest. It also requires the court to return seized property to its owner unless there is a:

1. guilty plea or nolo contendere to any offense charged as a result of the same criminal information;
2. guilty verdict after a trial to the forfeiture-eligible offense under which the property was seized and the property (a) was possessed, controlled, designed, or intended for use in the offense; (b) was or had been used in committing the offense; or (c) constitutes the proceeds of such an offense; or
3. dismissal from completing a pretrial diversionary program (e.g., the accelerated pretrial rehabilitation program).

The bill also makes minor, technical, and conforming changes.

*House Amendment "A" strikes the underlying bill, which, among other things, (1) permitted the chief state's attorney to petition the court to order forfeiture of such property within 90 days of a criminal

conviction, instead of within 90 days of the seizure; (2) limited the conditions under which property is subject to forfeiture to the state and established a procedure for someone to petition the court for the return of seized property; and (3) made various changes to the civil forfeiture proceedings, including when the court must order property returned to its owner and the evidence the state must provide in the proceedings.

EFFECTIVE DATE: October 1, 2017

PROPERTY SUBJECT TO FORFEITURE PROCEEDINGS

Applicability

The bill applies to seized property:

1. taken during a lawful arrest or a lawful search for a criminal offense, except for certain drug paraphernalia, sale, and possession offenses, that the state claims to be a nuisance and wants to dispose of or destroy;
2. constituting or derived from the proceeds obtained by a person as a result of certain identity theft offenses;
3. used or associated with, or that constitutes the proceeds of, certain drug and controlled substances (including selling and manufacturing) and money laundering offenses; and
4. used to commit, constituting, or derived from certain sexual exploitation, prostitution, or human trafficking offenses.

Lawful Searches

For criminal offenses and the controlled substance and drug sale, sexual exploitation, prostitution, and human trafficking offenses, current law allows the chief state's attorney to petition the court to order forfeiture of property seized as a result of a lawful arrest or search. Under the bill, he may petition the court regarding property seized as a result of a lawful search only if it results in an arrest.

For identity theft offenses, current law does not require that the property be seized in connection with either a lawful arrest or search. The bill conforms the identity theft statutes to the bill's provisions for the other offenses described above by limiting property subject to forfeiture to property seized in connection with a lawful arrest or a lawful search resulting in an arrest.

FORFEITURE PROCEEDINGS

By law, forfeiture proceedings are civil suits in equity in which the court has jurisdiction over property. Any petition to the court to forfeit property associated with a crime must be brought by the chief state's attorney within 90 days of its seizure. The court must identify and notify the property's owner and any other interested party.

Current law requires the court to hold a hearing on the petition at least two weeks after notifying the owner and interested parties. The bill instead requires the hearing to be held within two weeks of the criminal proceeding being nolle, dismissed, or disposed of.

RETURN OF PROPERTY

Under the bill, property may be returned to its owner if the court (1) denies the state's petition (see below) or (2) finds that property seized in connection with criminal offenses, except for certain drug and controlled substance sale, possession, and paraphernalia offenses, was not associated with the criminal offense. Existing law, unchanged by the bill, provides a process by which an owner may petition the court for the return of property seized during a criminal arrest or pursuant to a search warrant (see BACKGROUND).

Denied Petition

Under the bill, the court must deny the petition and return any property to the owner unless the proceeding results in a:

1. guilty plea or nolo contendere to any offense charged as a result of the same criminal information;
2. guilty verdict after a trial to a forfeiture-eligible offense under

which the property was seized; or

3. dismissal from completing a pretrial diversionary program (e.g., the accelerated pretrial rehabilitation program).

Return of Property Seized in Connection with Non-Drug Crimes

Under current law, the court must order the property returned if the state fails to prove that it (1) was not possessed, controlled, designed, or intended for criminal use; (2) is not or was not intended to be used to commit a crime; or (3) does not constitute criminal proceeds.

Property must also be returned if the court finds it (1) has not been kept to violate or in violation of the law; (2) does not constitute criminal proceeds; or (3) is the property of a person who is not the defendant. The bill specifies that the court must return property under these circumstances irrespective of the findings in the related criminal proceeding.

Destruction or Disposition of Forfeited Property

By law, unchanged by the bill, if the state meets its burden of proof, the court must order that the property is a nuisance and that it be destroyed or disposed of to a charitable or educational institution or governmental agency or institution. Under the bill, the court may not issue such an order unless one of the following is entered: (1) a guilty plea or nolo contendere to the offense or another charge in the same criminal information, (2) a guilty verdict after a trial for the forfeiture-eligible offense, or (3) a dismissal resulting from a completed pretrial diversionary program.

By law, the state may not destroy or dispose of the property if (1) it is subject to a bona fide mortgage, lease, rent, lien, or security deposit and (2) the destruction or disposition would violate the holder's rights.

BACKGROUND

Related Law

CGS § 54-36a provides a process for disposing of property seized in

connection with a criminal arrest or seized pursuant to a search warrant. It includes specific provisions for the forfeiture of seized property such as stolen property, currency, fireworks, drugs, or drug paraphernalia. Among other things, the law generally requires law enforcement to inventory the seized property and provides a way for an owner to petition the court for its return.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 10 Nay 9 (03/07/2017)

Judiciary Committee

Joint Favorable

Yea 21 Nay 14 (05/09/2017)