

MAINE STATE LEGISLATURE

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Date: 4/17/19

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 249, L.D. 324, Bill, "An Act Regarding Forfeiture of Assets of Persons Convicted of Certain Criminal Restraint Offenses, Aggravated Sex Trafficking Offenses and Sex Trafficking Offenses"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Forfeiture of Assets of Persons Convicted of Aggravated Sex Trafficking Offenses, Sex Trafficking Offenses, Aggravated Criminal Forced Labor Offenses and Criminal Forced Labor Offenses'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 15 MRSA §5821, sub-§7-A, ¶A, as enacted by PL 1999, c. 349, §2, is amended to read:

A. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner; and

Sec. 2. 15 MRSA §5821, sub-§9, as enacted by PL 2007, c. 684, Pt. C, §2 and affected by Pt. H, §1, is amended to read:

9. Assets in human trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C;

Sec. 3. 15 MRSA §5821, sub-§§10 and 11 are enacted to read:

10. Assets in sex trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to an aggravated sex trafficking offense as defined in Title 17-A, section 852 or a sex trafficking offense as defined in Title 17-A, section 853; and

11. Assets in criminal forced labor offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable

COMMITTEE AMENDMENT

1 to a criminal forced labor offense as defined in Title 17-A, section 304 or an aggravated
2 criminal forced labor offense as defined in Title 17-A, section 305.

3 **Sec. 4. 15 MRSA §5826, sub-§1**, as enacted by PL 1995, c. 421, §1, is amended
4 to read:

5 **1. Property subject to criminal forfeiture.** Notwithstanding any other provision of
6 law, a person convicted of a ~~violation of Title 17-A, chapter 45 crime that subjects the~~
7 person to forfeiture of property under section 5821 forfeits to the State all rights,
8 privileges, interests and claims to ~~that property that is subject to forfeiture pursuant to~~
9 ~~section 5821.~~ All rights, privileges, interest and title in property subject to forfeiture
10 under this section vests in the State upon the commission of the act giving rise to
11 forfeiture pursuant to section 5821.

12 **Sec. 5. 15 MRSA §5826, sub-§2**, as amended by PL 2015, c. 431, §33, is further
13 amended to read:

14 **2. Commencement of criminal forfeiture action.** Property subject to forfeiture
15 may be proceeded against by indictment of the grand jury or by complaint in the District
16 Court in any related criminal proceeding in which a person with an interest in the
17 property has been simultaneously charged with a ~~violation of Title 17-A, chapter 45~~
18 crime that subjects the person to forfeiture of property under section 5821. At any time
19 prior to trial, the State, with the consent of the court and any defendant with an interest in
20 the property, may file an ancillary charging instrument or information alleging that
21 property is subject to criminal forfeiture. Discovery in the criminal action must be as
22 provided for by the Maine Rules of Unified Criminal Procedure.

23 **Sec. 6. 15 MRSA §5826, sub-§6**, as amended by PL 2017, c. 460, Pt. F, §1, is
24 further amended to read:

25 **6. Final order of disposition of property; public education campaign.** Following
26 the entry of a verdict of forfeiture of property pursuant to this section or the entry of a
27 guilty plea in open court on the record and following the court's disposition of all
28 petitions for hearing timely filed by 3rd parties, the State has clear title to property that is
29 the subject of the indictment, information or complaint. The final order must provide for
30 the deposit of the property or the proceeds from the disposition of the property, less the
31 reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of
32 custody, advertising and notice, in the General Fund, except that, to the extent that the
33 court finds it reasonable, the court may order forfeiture of as much of the property as is
34 appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage,
35 maintenance of custody, advertising and notice, to a municipality, county or state agency
36 that has made a substantial contribution to the investigation or prosecution of a related
37 criminal case or, upon request of the investigating agency or the prosecuting agency, to a
38 law enforcement agency in this State that provides case management and other social
39 services to persons ~~with substance use disorders~~ affected by crimes that are subject to
40 forfeiture of property under this chapter.

41 **SUMMARY**

42 This amendment strikes and replaces the bill and the title. The amendment adds
43 aggravated sex trafficking and sex trafficking offenses and aggravated criminal forced

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labor and criminal forced labor offenses to the offenses subject to criminal forfeiture of assets pursuant to a court procedure specified in statute, after a criminal conviction, and with distribution of the forfeited property or proceeds of the forfeited property in accordance with statute and as ordered by the court. The amendment broadens one of the allowable uses of the property forfeited or the proceeds of the property. In current law, property or proceeds may be given to a law enforcement agency in this State that provides case management and other social services to persons with substance use disorders; in the amendment, property or proceeds may be given to a law enforcement agency that provides case management and other social services to persons affected by crimes that are subject to forfeiture of property.

FISCAL NOTE REQUIRED
(See attached)



129th MAINE LEGISLATURE

LD 324

LR 359(02)

**An Act Regarding Forfeiture of Assets of Persons Convicted of Certain Criminal Restraint Offenses,
Aggravated Sex Trafficking Offenses and Sex Trafficking Offenses**

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-106)

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases does not require additional funding at this time for the courts.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.