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Maryland Democratic, Republican lawmakers back bill to further curb asset seizures

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As a veto override vote looms on a bill to restrict police and prosecutorial powers to seize assets, some Republicans and Democrats are calling for legislation that goes even further.

At a news conference Tuesday in Annapolis, advocates charged that law enforcement officers all too often "rob" citizens of cash and other assets when they suspect them of being involved in drug activity.

Sen. Michael J. Hough, one of the Maryland Senate's most conservative Republicans, has joined forces with Sen. Jamie Raskin, one of its most liberal Democrats, to sponsor legislation clamping down on asset seizures.

The legislation goes further than a bill sponsored by Raskin last year that passed the General Assembly before being vetoed by Gov. Larry Hogan at the behest of police chiefs and prosecutors. Instead of just putting the burden of proof on prosecutors to show that assets are tainted, as last year's bill did, the new measure requires that they convict the person whose cash or other property is seized before they can seek forfeiture.

"You never actually have to be charged with a crime or convicted to lose your property," said Hough, who represents Frederick and Carroll counties. "As someone who cares deeply about the Constitution and individual liberty and due process, the current situation is absolutely wrong."

Raskin, from Montgomery County, agreed that the state should not forfeit people's property without a conviction.

"It is causing a lot of problems in terms of public confidence in government," he said.

Current law allows local and state agencies to seize assets from someone even if they're not charged with a crime and it puts the burden on an individual trying to recover assets that they are not ill-gotten gains.

While standing by his veto of last year's bill, Hogan took no position on the new legislation.

"We will wait to see what actually reaches the governor's desk," spokesman Doug Mayer said.

The legislation won the backing of Sen. Robert A. Zirkin, the Baltimore County Democrat who chairs the committee that will consider the bill.

Zirkin criticized a recent opinion article written by Harford County State's Attorney Joseph I. Cassilly that argued against an override of Hogan's veto of last year's more limited bill to curbed asset seizures. That bill shifts the burden of proof that seized money is tainted to the state and prohibits seizures of amounts less than \$300 unless the money can be directly tied to drug distribution.

In his article, Cassilly, a Republican, argued that the move to override the veto, expected Thursday in the Senate, shows that state lawmakers are "concerned that street level drug dealers will be unable to replace the heroin, crack cocaine and other poisons that the police seize when they arrest the dealers."

Zirkin called Cassilly's letter "misleading."

"This is not Democrats versus Republicans. This is not us versus them. It's about the public policy," Zirkin said.

But Cassilly said it's unreasonable for prosecutors to have to meet the same burden of proof to confiscate property that they do to obtain a criminal conviction. He said there are many cases where the law allows civil sanctions short of jail based on a lower standard of proof.

"Everything does not rise and fall based on reasonable doubt," he said.

Cassilly charged that lawmakers had spurned prosecutors' efforts to suggest improvements to last year's bill.

"We're trying to work with them and they ignore us," Cassilly said.

Tuesday's news conference brought together an unusual coalition that included the libertarian Cato Institute and the Maryland chapters of the NAACP and American Civil Liberties Union, which raised alarms about Maryland's use of asset seizures — particularly in African-American communities.

"I hear so many young men say they were robbed by the police," said Tessa Hill-Aston, president of the Baltimore NACCP, in a movie shown at the news conference.