



MD governor vetoes civil asset forfeiture reform in wake of Baltimore riots

By [Moe Lane](#)

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Once upon a time, there was a Senate Bill in the Maryland Legislature. This bill (SB 528) focused on civil asset forfeiture (CAF) reform...and that's where the libertarians reading this can start swearing, because civil asset forfeiture is a really sore subject in that particular part of the political spectrum.

Essentially, and as regular readers of Watchdog.org probably [already know](#), the basic idea behind asset forfeiture is to take away the incentive for doing crimes by taking away the stuff that criminals presumably bought with their ill-gotten gains.

The classic example would be the confiscation of a Miami drug dealer's sports car and mansion, just in time for Crockett and Tubbs to use them to go undercover (seriously, asset forfeiture was in fact the inspiration for [Miami Vice](#)). And—at least some—of the people currently objecting to CAF might not have a problem if that was the extent of it.

Alas, it's a bit more of a problem now. See, *civil* asset forfeiture, as the Cato Institute is [happy to distinguish for us](#), operates under a set of [rules and permissions](#) that make it relatively easy for the cops to seize assets and definitely harder for the former holders of those assets to get them back. If you don't like to hear Cato's opinion on the subject, rest assured: [the ACLU hates the process, too](#).

What happened here essentially was that thanks to an expansion beyond *criminal* asset forfeiture, which has much stricter standards for seizing property (you have to be charged with a crime), law enforcement got potential access to a remarkable amount of confiscated wealth; and as soon as it was realized that the voting public would be just fine with confiscated drug dealer money

being used to pay for law enforcement budgets instead of, say, taxpayer dollars...well, it was Katie, bar the door.

And like pretty much all government programs, things then began to drift off-center and innocent people were caught in the crossfire.

The irony in all of this is that Maryland has better protections than most in the field of CAF. From Cato, [again](#):

Procedurally, Maryland does not afford strong protections to property owners swept up in civil forfeiture, but it does eliminate the profit incentive. Property can be forfeited under a preponderance of the evidence standard; the government must merely prove it is more likely than not that the property was involved in a crime, a far lower standard than beyond a reasonable doubt.

Property owners are effectively “guilty until proven innocent”: To contest a seizure, the property owner must prove that the property was wrongfully seized or that the owner did not have actual knowledge of the conduct. But Maryland civil forfeiture law, unlike most other states, avoids creating a profit incentive for local law enforcement. All proceeds from civil forfeiture flow to the state general fund or the local governing body.

Why, yes: that [does](#) reflect ‘better protections’ than most. SB 528’s goal, however, was to tighten [the rules](#) by establishing “a minimum \$300 threshold before law enforcement could seize property believed to be connected to a crime and would have added meaningful protections for innocent property owners by requiring law enforcement to show evidence that seized items are connected to a crime.”

And, again: why, yes, that is considered a significant reform. Or, it would have been considered a reform, except that Republican Gov. Larry Hogan [vetoed it](#):

Senate Bill 528, as amended, would greatly inhibit local law enforcement agencies from pursuing asset forfeitures from drug dealers. In addition, the bill poses new restrictions that would interfere with joint federal and State task forces investigating drug crimes. For those reasons, the Maryland State’s Attorneys’ Association, the Maryland Chiefs of Police Association, and the Maryland Sheriffs’ Association have requested a veto of Senate Bill 528.

There was more—mostly using Maryland’s current heroin epidemic as a bit of a smokescreen—but that last sentence is tacitly the meat of Hogan’s rationale, anyway. Cato, [one last time](#): “Despite the mandate that forfeiture proceeds go the general fund, state law enforcement, working with their federal partners, received more than \$50 million in forfeiture revenue from 2000 to 2008.”

Hogan would probably rather not have that particular fight with the cops right now.

There’s no real happy ending, here: the bill got vetoed, and I am officially not going to comment about how likely an override is, here. But there is a [national bipartisan coalition](#) emerging to

push for reforms across the country, so there's a chance reforms will pass the Legislature again in the near future.