

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2521**

5 (By Delegates Skaff and Marcum)

6
7 (Originating in the House Committee on the Judiciary)

8
9 [March 26, 2013]

10
11 AN ACT to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §60A-7-705a, relating
13 to the West Virginia Contraband Forfeiture Act; providing
14 procedures for voluntary administrative forfeiture of
15 forfeitable money used in or obtained through the illegal
16 trafficking of controlled substances; establishing time
17 frames; providing notice requirements; and providing for use
18 of existing forfeiture law in contested cases.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended
21 by adding thereto a new section, designated §60A-7-705a, to read as
22 follows:

23 **ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.**

24 **§60A-7-705a. Additional procedures for forfeiture.**

1 (a) Notwithstanding the provisions of section seven hundred
2 five of this article, forfeitable moneys are subject to
3 administrative forfeiture by the prosecuting attorney of a county
4 or duly appointed special prosecutor.

5 (b) An administrative forfeiture notice shall be provided by
6 the prosecuting attorney after the seizure of the money in
7 question. The notice shall contain the following:

8 (1) A description of the money seized;

9 (2) A statement as to who is responsible for the seizure;

10 (3) A statement of the time and place of seizure;

11 (4) The identity of the owner or owners of the money, if
12 known; and

13 (5) The identity of the person or persons in possession of the
14 money at the time seized.

15 (c) At the time of filing or as soon as practicable
16 thereafter, a copy of the petition for forfeiture shall be served
17 upon the owner or owners of the seized money. Should diligent
18 efforts fail to disclose the lawful owner or owners of the seized
19 money, a copy of the petition for forfeiture shall be served upon
20 any person who was in possession or alleged to be in possession of
21 the money at the time of seizure, where such person's identity is
22 known. The above service shall be made pursuant to the provisions
23 of the West Virginia Rules of Civil Procedure.

24 (d) The administrative forfeiture notice shall include a

1 statement substantially as follows: "To any claimant: "The
2 confiscated money is subject to administrative forfeiture unless
3 you provide a written notice, within thirty days of receipt of this
4 notice, that you wish to contest this forfeiture. If you fail to
5 provide a notice to the prosecuting attorney, you will immediately
6 and forever lose all right, claim, title and interest to the
7 confiscated money, and it will be disposed of according to law."

8 (e) If, after thirty days of the delivery of notice from the
9 prosecuting attorney as provided in subsections (c) and (d) of this
10 section, no notice is received from any person indicating a desire
11 to contest the administrative forfeiture, all right, title and
12 interest to the confiscated money shall immediately vest in the
13 state, and shall be disposed of in the same manner as in a civil
14 forfeiture.

15 (f) If notice is received from any person, within the required
16 period of time, indicating a desire to contest the administrative
17 forfeiture, then no forfeiture may be obtained except through a
18 civil forfeiture proceeding under section seven hundred five of
19 this article.