CHAPTER 517

ASSET FORFEITURE

§5821. Subject property

Except as provided in section 5821-A or 5821-B, the following are subject to forfeiture to the State and no property right may exist in them if the owner of the following is convicted of a crime in which the following was involved: [PL 2021, c. 454, §1 (AMD).]

1. Scheduled drugs. All scheduled drugs that have been manufactured, made, created, grown, cultivated, sold, bartered, traded, furnished for consideration, furnished, distributed, dispensed, possessed or otherwise acquired in violation of any law of this State, any other state or of the United States;
[PL 2013, c. 194, §1 (AMD).]

2. Materials related to scheduled drugs. All raw materials, products and equipment of any kind that are used or intended for use in manufacturing, compounding, processing, delivering, cultivating, growing or otherwise creating any scheduled drug in violation of any law of this State, any other state or the United States;
[PL 2013, c. 194, §1 (AMD).]

3. Other property. All property which is used or intended for use as a container for property described in subsection 1 or 2, and all property which is used or intended for use to defend, protect, guard or secure any property or items described in subsection 1 or 2;
[PL 1989, c. 448, §1 (AMD).]

3-A. Firearms and other weapons. Law enforcement officers may seize all firearms and dangerous weapons that they may find in any lawful search for scheduled drugs in which scheduled drugs are found. Except for weapons declared by a court to be forfeited in accordance with section 5826, subsection 9, if the owner of a seized firearm or dangerous weapon is convicted of a crime in which the firearm or dangerous weapon was involved, after notice and opportunity for hearing the firearm or dangerous weapon must be forfeited to the State by the District Court 90 days after a list of the weapons and drugs seized is filed in the District Court in the district in which the weapons and drugs were seized. A weapon may not be forfeited unless the State satisfies the court, by a preponderance of evidence, that the owner of the firearm or dangerous weapon was convicted of a crime in which the firearm or dangerous weapon was involved.

A. [PL 2021, c. 454, §2 (RP).]

B. [PL 2021, c. 454, §2 (RP).]

C. [PL 2021, c. 454, §2 (RP).]

Post-hearing procedures are as provided in section 5822.

A confiscated or forfeited firearm that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the firearm was stolen and the rightful owner was not the person who committed the homicide, in which case the firearm must be returned to the owner if ascertainable;
[PL 2021, c. 454, §2 (AMD).]

3-B. Forfeiture of firearms used in the commission of certain acts. In addition to the provisions of subsection 3-A and Title 17-A, section 1504, this subsection controls the forfeiture of firearms used in the commission of certain acts.

A. Except as provided in paragraph B, a firearm is subject to forfeiture to the State if the firearm is used by a person who is the owner of the firearm to commit a criminal act that in fact causes serious bodily injury or death to another human being and, following that act, the person either commits suicide or attempts to commit suicide and the attempt results in the person's becoming incompetent to stand trial or the person is killed or rendered incompetent to stand trial as the result of a justifiable use of deadly force by a law enforcement officer. Except as provided in paragraph B, a property right does not exist in the firearm subject to forfeiture. [PL 2021, c. 454, §3 (AMD).]

B. A firearm that is used in the commission of a criminal act described in paragraph A is exempt from forfeiture under this subsection if the firearm belongs to another person who is the rightful owner from whom the firearm has been stolen and the other person is not a principal or accomplice in the criminal act. In that case, the firearm must be transferred to the other person unless that person is otherwise prohibited from possessing a firearm under applicable law. [PL 2013, c. 328, §2 (NEW).]

A firearm subject to forfeiture pursuant to this subsection that is declared by a court to be forfeited pursuant to section 5826, subsection 9 must be promptly destroyed, or caused to be promptly destroyed, by the law enforcement agency that has custody of the firearm;
[PL 2021, c. 454, §3 (AMD).]

4. Conveyances. All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use to transport or in any manner to facilitate the transportation, sale, trafficking, furnishing, receipt, possession or concealment of property described in subsection 1 or 2, except that:

A. No conveyance used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under this section, unless it appears that the owner or other person in charge of the conveyance was a consenting party or had knowledge of that violation of law; and [PL 1987, c. 420, §2 (NEW).]

B. No conveyance may be forfeited under this section by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this State, any other state or of the United States; [PL 1987, c. 420, §2 (NEW).]
[PL 1987, c. 420, §2 (NEW).]

4-A. Conveyances used in violation of litter laws. All conveyances, including aircraft, watercraft, vehicles, vessels, containers or cranes that are used, or attempted to be used, to dump more than 500 pounds or more than 100 cubic feet of litter in violation of Title 17, section 2264-A;
[PL 2003, c. 452, Pt. I, §1 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

5. Records. All books, records and research, including formulas, microfilm, tapes and data, which are used or intended for use in violation of Title 17-A, chapter 45;
[PL 1987, c. 420, §2 (NEW).]

6. Money instruments. Except as provided in paragraph A, all money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a scheduled drug in violation of Title 17-A, chapter 45; all proceeds traceable to such an exchange; and all money, negotiable instruments and securities used or intended to be used to facilitate any violation of Title 17-A, chapter 45.

A. No property may be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner; [PL 1989, c. 302, §1 (AMD).]
[PL 2013, c. 194, §3 (AMD).]

7. Real property. Except as provided in paragraph A, all real property, including any right, title or interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended for use, in any manner or part, to commit or to facilitate the commission of a violation of Title 17-A, section 1103, 1105-A, 1105-B or 1105-C that is a Class A, Class B or Class C crime, with the exception of offenses involving marijuana.

A. Property may not be forfeited under this subsection, to the extent of an 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 that owner. When an owner of property that is that person's primary residence proves by a preponderance of the evidence that the owner is the spouse or minor child of the coowner of the primary residence who has used or intended to use the residence, in any manner or part, to commit or facilitate the commission of a violation of Title 17-A, section 1103, 1105-A, 1105-B or 1105-C, the State shall bear the burden of proving knowledge or consent of the spouse or minor child by a preponderance of the evidence; [PL 2013, c. 194, §4 (AMD).]

[PL 2013, c. 194, §4 (AMD).]

7-A. Computers. Computers, as defined in Title 17-A, section 431, subsection 2, and computer equipment, including, but not limited to, printers and scanners, that are used or are attempted to be used in violation of Title 17-A, section 259-A;

A. [PL 2021, c. 454, §4 (RP).]

[PL 2021, c. 454, §4 (AMD).]

8. Bona fide lienholders.

[PL 2007, c. 684, Pt. C, §1 (RP); PL 2007, c. 684, Pt. H, §1 (AFF).]

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;

[PL 2019, c. 97, §2 (AMD).]

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

[PL 2019, c. 97, §3 (NEW).]

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

[PL 2019, c. 97, §3 (NEW).]

A forfeiture under this section of property encumbered by a perfected bona fide security interest is subject to the interest of the secured party if the party neither had knowledge of nor consented to the act or omission upon which the right of forfeiture is based. [PL 2007, c. 684, Pt. C, §3 (NEW); PL 2007, c. 684, Pt. H, §1 (AFF).]

Unless in conjunction with a federal criminal case, a law enforcement agency, prosecuting authority, state agency, county or municipality may not enter into an agreement to transfer or refer property seized under this section to a federal agency directly, indirectly, through adoption, through an intergovernmental joint task force or by other means that circumvent the provisions of this section. [PL 2023, c. 91, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 420, §2 (NEW). PL 1989, c. 302, §§1-3 (AMD). PL 1989, c. 448, §§1,2 (AMD). PL 1989, c. 820, §1 (AMD). IB 1999, c. 1, §2 (AMD). PL 1999, c. 349, §§1,2 (AMD). PL 2001, c.

348, §2 (AMD). PL 2003, c. 452, §I1 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 688, §B2 (AMD). PL 2007, c. 684, Pt. C, §§1-3 (AMD). PL 2007, c. 684, Pt. H, §1 (AFF). PL 2011, c. 465, §§1-4 (AMD). PL 2011, c. 597, §1 (AMD). PL 2013, c. 194, §§1-4 (AMD). PL 2013, c. 328, §§1, 2 (AMD). PL 2013, c. 588, Pt. A, §19 (AMD). PL 2017, c. 409, Pt. B, §1 (AMD). PL 2019, c. 97, §§1-3 (AMD). PL 2019, c. 113, Pt. C, §52 (AMD). PL 2021, c. 454, §§1-5 (AMD). PL 2023, c. 91, §1 (AMD).

§5821-A. Property not subject to forfeiture based on medical use of cannabis

Property is not subject to forfeiture under this chapter if the activity that subjects the person's property to forfeiture is medical use of cannabis and the person meets the requirements for medical use of cannabis under Title 22, chapter 558-C. [IB 2009, c. 1, §1 (AMD); PL 2021, c. 669, §5 (REV).]

SECTION HISTORY

IB 1999, c. 1, §3 (NEW). IB 2009, c. 1, §1 (AMD). PL 2021, c. 669, §5 (REV).

§5821-B. Property not subject to forfeiture based on adult use of cannabis

Property is not subject to forfeiture under this chapter if the activity that subjects the person's property to forfeiture is the adult use of cannabis pursuant to a license issued under Title 28-B, chapter 1 or relating to the personal adult use of cannabis pursuant to Title 28-B, chapter 3 and the person meets all applicable requirements for the adult use of cannabis pursuant to Title 28-B. [PL 2017, c. 409, Pt. B, §2 (NEW); PL 2021, c. 669, §5 (REV).]

SECTION HISTORY

PL 2017, c. 409, Pt. B, §2 (NEW). PL 2021, c. 669, §5 (REV).

§5822. Procedure

1. Filing of petition.

[PL 2021, c. 454, §6 (RP).]

2. Jurisdiction and venue.

[PL 2021, c. 454, §7 (RP).]

3. Type of action.

[PL 2021, c. 454, §8 (RP).]

4. Hearings.

[PL 2021, c. 454, §9 (RP).]

5. Default proceedings.

[PL 2021, c. 454, §10 (RP).]

6. Preliminary process. Any Justice of the Supreme Judicial Court or the Superior Court, Judge of the District Court or justice of the peace may issue, at the request of the attorney for the State, ex parte, any preliminary order or process as is necessary to seize or secure the property for which forfeiture is or will be sought and to provide for its custody. That order may include an order to a financial institution or to any fiduciary or bailee to require the entity to impound any property in its possession or control and not to release it except upon further order of the court. Process for seizure of the property may issue only upon a showing of probable cause that the property is subject to forfeiture under section 5821. The application for process and the issuance, execution and return of process is subject to applicable state law. Any property subject to forfeiture under this section may be seized upon process, except that seizure without the process may be made when:

A. The seizure is incident to an arrest with probable cause, a search under a valid search warrant or an inspection under a valid administrative inspection warrant; [PL 1987, c. 420, §2 (NEW).]

B. The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section or any other provision of the laws of this State, any other state or the United States; [PL 1987, c. 420, §2 (NEW).]

C. There is probable cause to believe that the property has been directly or indirectly dangerous to health or safety; or [PL 1987, c. 420, §2 (NEW).]

D. There is probable cause to believe that the property has been used or is intended to be used in violation of any criminal law of this State, any other state or the United States. [PL 1987, c. 420, §2 (NEW).]

[RR 1999, c. 2, §18 (COR); RR 1999, c. 2, §19 (AFF).]

7. Rules. After January 1, 1988, the prosecution of proceedings under this chapter shall be governed by rules adopted or amended by the Attorney General, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. These rules shall provide standards for prosecution, settlement, approval of settlement and equitable transfer of forfeited property.
[PL 1987, c. 420, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 420, §2 (NEW). PL 1987, c. 648 (AMD). PL 1987, c. 736, §26 (AMD). PL 1989, c. 302, §4 (AMD). PL 1991, c. 461, §§1,2 (AMD). RR 1999, c. 2, §18 (COR). RR 1999, c. 2, §19 (AFF). PL 1999, c. 408, §1 (AMD). PL 2021, c. 454, §§6-10 (AMD).

§5823. Perfecting titles to forfeited vehicles

1. Vehicle report. Any officer, department or agency seizing any vehicle subject to forfeiture under section 5821, shall file a report of seizure with the Attorney General or a district attorney having jurisdiction over the vehicle. This report must be filed at least 21 days from the date of seizure. The report shall be labeled "Vehicle Report" and shall include:

A. A description of the vehicle; [PL 1987, c. 420, §2 (NEW).]

B. The place and date of seizure; [PL 1987, c. 420, §2 (NEW).]

C. The name and address of the owner or operator of the vehicle at the time of seizure; and [PL 1987, c. 420, §2 (NEW).]

D. The name and address of any other person who appears to have an ownership interest in the vehicle. [PL 1987, c. 420, §2 (NEW).]

The seizing officer, department or agency must make a diligent search and inquiry as to ownership of the vehicle. The filing of a vehicle report is conclusive evidence that a diligent search and inquiry were completed.
[PL 1987, c. 420, §2 (NEW).]

2. Procedure.

[PL 2021, c. 454, §11 (RP).]

3. Defaced or missing identification numbers. Any vehicle disposed of under this section that does not have a vehicle identification number or the number is illegible must be issued a special number by the Secretary of State under Title 29-A, section 407.
[PL 1995, c. 65, Pt. A, §50 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

4. Subsequent actions. Neither replevin or any other action to recover any interest in any vehicle disposed of under this section may be maintained in any court of this State.
[PL 1987, c. 420, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 420, §2 (NEW). PL 1991, c. 461, §3 (AMD). PL 1995, c. 65, §A50 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2021, c. 454, §11 (AMD).

§5824. Equitable transfer of forfeited assets

In the case of any asset decreed forfeit under this chapter or under Title 25, to any entity other than the General Fund, transfer of title to the asset shall not occur until the transfer is approved by: [PL 1987, c. 420, §2 (NEW).]

1. State; agency or department. In the case of an agency or department of the State, the Governor or the Attorney General;
[PL 1999, c. 408, §2 (AMD).]

2. County; agency or department. In the case of an agency or department of a county, a majority of the commissioners of the county; and
[PL 1987, c. 420, §2 (NEW).]

3. Municipality; agency or department. In the case of an agency or department of a municipality, the municipal officers of the municipality.
[PL 1999, c. 408, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 420, §2 (NEW). PL 1999, c. 408, §2 (AMD).

§5825. Records; reports

1. Records of forfeited property. Any officer to whom or department or agency to which property subject to forfeiture under section 5821 has been ordered forfeited shall maintain records showing:

A. The name of the court that ordered each item of property to be forfeited to the officer, department or agency; [PL 2019, c. 651, §1 (AMD).]

B. [PL 2019, c. 651, §1 (RP).]

C. [PL 2019, c. 651, §1 (RP).]

D. The date on which each item of property was ordered forfeited to the officer, department or agency; and [PL 2019, c. 651, §1 (AMD).]

E. A description of each item of property forfeited to the officer, department or agency. [PL 2019, c. 651, §1 (AMD).]

The records must be open to inspection. A copy of each record must be filed with the Department of Public Safety.
[PL 2021, c. 454, §12 (AMD).]

2. Department of Public Safety. A report of the transfer of property previously held by the Department of Public Safety and then ordered by a court to be forfeited to another governmental entity must be provided upon request to the Commissioner of Administrative and Financial Services and the Office of Fiscal and Program Review. The report must account for any such transfer that occurred during the 12 months preceding such a request. The Department of Public Safety shall maintain all records filed with the department pursuant to subsection 1. The Department of Public Safety shall make all records under this subsection available on a publicly accessible website.
[PL 2021, c. 454, §12 (AMD).]

SECTION HISTORY

PL 1987, c. 420, §2 (NEW). PL 1991, c. 780, §Y116 (AMD). RR 2017, c. 1, §9 (COR). PL 2019, c. 651, §1 (AMD). PL 2021, c. 454, §12 (AMD).

§5826. Criminal forfeiture

1. Property subject to criminal forfeiture. Notwithstanding any other provision of law, a person convicted of a crime that subjects the person to forfeiture of property under section 5821 forfeits to the State all rights, privileges, interests and claims to that property. All rights, privileges, interest and title in property subject to forfeiture under this section vests in the State upon the commission of the act giving rise to forfeiture pursuant to section 5821.
[PL 2019, c. 97, §4 (AMD).]

2. Commencement of criminal forfeiture action. Property subject to forfeiture may be proceeded against by indictment of the grand jury or by complaint in the District Court in any related criminal proceeding in which a person with an interest in the property has been simultaneously charged with a crime that subjects the person to forfeiture of property under section 5821. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that property is subject to criminal forfeiture. Discovery in the criminal action must be as provided for by the Maine Rules of Unified Criminal Procedure.
[PL 2019, c. 97, §5 (AMD).]

3. Seizure upon indictment. Property subject to forfeiture that has been indicted by the grand jury pursuant to this section may be seized pursuant to section 5822, subsection 6, except that real property subject to forfeiture pursuant to section 5821, subsection 7 may not be seized without prior notice to and opportunity to be heard by all owners of record or upon a finding by probable cause that prior notice to one or more of the owners is likely to result in the destruction, diminution of value or alienation of interest of the property.
[PL 1995, c. 421, §1 (NEW).]

4. Trial proceedings. Trial against property charged by indictment, information or complaint may be by jury and must be held in a single proceeding together with the trial of the related criminal violation.

A. Forfeiture of the property must be proved by the State by a preponderance of the evidence. [PL 1999, c. 408, §3 (NEW).]

B. The court, in its discretion, may allow any defendant with an interest in property charged pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged. [PL 1999, c. 408, §3 (NEW).]

C. At trial by jury, the court, upon motion of a defendant or the State, shall separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. If the jury finds a defendant guilty of the related criminal offense, the court shall instruct and submit to the jury the issue of the forfeiture of the property. [PL 1999, c. 408, §3 (NEW).]

[PL 1999, c. 408, §3 (AMD).]

5. Ancillary hearing of 3rd-party interests. A person not charged in the indictment may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property, within 30 days of the date of receipt of the notice, may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request

for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require but in no event may the hearing be scheduled later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or [PL 1995, c. 421, §1 (NEW).]

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section. [PL 1995, c. 421, §1 (NEW).]

[PL 2011, c. 559, Pt. A, §14 (AMD).]

6. Final order of disposition of property; public education campaign. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment, information or complaint. The final order must provide for the deposit of the property, the proceeds from the disposition of the property and any cash seized or forfeited, less any outstanding restitution, which must be sent to the office of the attorney for the State who prosecuted the case, then the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, in the General Fund, except that, to the extent that the court finds it reasonable, the court may order forfeiture of as much of the property as is appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case or, upon request of the investigating agency or the prosecuting agency, to a law enforcement agency in this State that provides case management and other social services to persons affected by crimes that are subject to forfeiture of property under this chapter.

[PL 2023, c. 196, §1 (AMD).]

7. Default proceedings. Upon motion of the State, the court having jurisdiction over a criminal forfeiture matter may declare a default judgment of forfeiture if the court finds as follows:

A. By clear and convincing evidence that:

(1) There was probable cause to support the seizure of the property at the time of its seizure;

(2) The interested party has knowledge of the seizure of the property or the property was seized under circumstances in which a reasonable person would have knowledge of the seizure of that person's property; and

(3) The interested party has failed to appear for any court appearance in accordance with Title 17-A, chapter 45 for a violation that forms the basis of the forfeiture, and that a warrant of arrest for the interested party for such failure to appear has been outstanding for 6 months or more; and [PL 1999, c. 395, §1 (NEW).]

B. By a preponderance of the evidence that the State is entitled to a judgment of forfeiture pursuant to chapter 517. [PL 1999, c. 395, §1 (NEW).]

The State may meet its burden under paragraphs A and B by presentation of testimony or affidavit.

The interested party has 30 days from the date of the declaration of default judgment of forfeiture to appear before the court in person, submit to its jurisdiction on the companion criminal charge and to petition the court to remove the default judgment.

Post-default proceedings are governed by section 5825.
[PL 1999, c. 395, §1 (NEW).]

7. (REALLOCATED TO T. 15, §5826, sub-§8) Equitable transfer of forfeited assets.
[PL 1999, c. 408, §4 (NEW); RR 1999, c. 1, §24 (RAL).]

8. (REALLOCATED FROM T. 15, §5826, sub-§7) Equitable transfer of forfeited assets. In the case of any asset forfeited under this section to any entity other than the State, transfer of title to the asset may not occur until the transfer is approved by:

A. In the case of an agency or department of a county, a majority of the commissioners of the county; and [PL 1999, c. 408, §4 (NEW); RR 1999, c. 1, §24 (RAL).]

B. In the case of an agency or department of a municipality, the municipal officers of the municipality. [PL 1999, c. 408, §4 (NEW); RR 1999, c. 1, §24 (RAL).]

When property is forfeited and transferred to a municipality in accordance with this section, the municipal officers of the municipality shall determine the disposition of the property. When property is forfeited and transferred to a county in accordance with this section, the county commissioners shall determine the disposition of the property.
[PL 1999, c. 408, §4 (NEW); RR 1999, c. 1, §24 (RAL).]

9. Exceptions to requirement for conviction. A conviction is not required for seizure only as provided in this subsection.

A. Nothing in this chapter prevents property from being forfeited as part of:

(1) A plea agreement; or

(2) A grant of immunity or reduced punishment, with or without the filing of a criminal charge, in exchange for testifying or assisting a law enforcement investigation or prosecution. [PL 2021, c. 454, §13 (NEW).]

B. The court may waive the conviction requirement in this section and grant title to the property to the State if the State files a motion no fewer than 90 days after seizure and shows by a preponderance of the evidence that, before conviction, the defendant:

(1) Died;

(2) Was deported by the United States Government;

(3) Abandoned the property; or

(4) Fled the jurisdiction. [PL 2021, c. 454, §13 (NEW).]
[PL 2021, c. 454, §13 (NEW).]

SECTION HISTORY

PL 1995, c. 421, §1 (NEW). PL 1999, c. 395, §1 (AMD). PL 1999, c. 408, §§3,4 (AMD). RR 1999, c. 1, §24 (COR). PL 2011, c. 559, Pt. A, §14 (AMD). PL 2015, c. 431, §33 (AMD). PL 2017, c. 460, Pt. F, §1 (AMD). PL 2019, c. 97, §§4-6 (AMD). PL 2021, c. 454, §13 (AMD). PL 2023, c. 196, §1 (AMD).

§5827. Construction

The provisions of this chapter must be liberally construed to effectuate its remedial purposes. [PL 1995, c. 421, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 421, §1 (NEW).

§5828. Post-seizure proceedings

1. Prompt post-seizure hearing. This subsection governs post-seizure proceedings for assets seized pursuant to this chapter.

A. Following the seizure of property, a defendant or any person with an interest in the property has a right to a prompt post-seizure hearing. [PL 2021, c. 454, §14 (NEW).]

B. A person with an interest in the property may petition the court for a hearing. [PL 2021, c. 454, §14 (NEW).]

C. At the court's discretion, the court may hold a prompt post-seizure hearing:

(1) As a separate hearing; or

(2) At the same time as a probable-cause determination, a post-arraignment hearing or other pretrial hearing. [PL 2021, c. 454, §14 (NEW).]

D. A party, by agreement of all parties or for good cause, may move for one extension of the hearing date of no more than 10 days. Any motion may be supported by affidavits or other submissions. [PL 2021, c. 454, §14 (NEW).]

E. The court shall order the return of seized property if it finds:

(1) The seizure was invalid;

(2) A criminal charge has not been filed and no extension of the filing period established under this section is available;

(3) The property is not reasonably required to be held as evidence; or

(4) The final judgment likely will be in favor of the claimant. [PL 2021, c. 454, §14 (NEW).] [PL 2021, c. 454, §14 (NEW).]

SECTION HISTORY

PL 2021, c. 454, §14 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 132nd Maine Legislature and is current through October 1, 2026. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.