

§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).

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