

HOUSE BILL 866

E2

3lr0434

By: Delegates Arora, Barkley, Clippinger, Conaway, Dumais, Elliott, Frick, Glass, Hershey, Hixson, Hough, Ivey, Lee, McComas, McDermott, McDonough, A. Miller, Mitchell, Murphy, Myers, Niemann, Parrott, Reznik, B. Robinson, Rosenberg, Stukes, Szeliga, and Valentino-Smith
Introduced and read first time: February 7, 2013
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Financial Crimes Against Vulnerable and Elder Adults**
3 **– Petition to Freeze Assets**

4 FOR the purpose of authorizing a State’s Attorney to file a petition to freeze assets of a
5 defendant charged with a certain financial crime involving a vulnerable or elder
6 adult under certain circumstances; requiring that a petition to freeze assets be
7 served in accordance with the Maryland Rules and include certain information;
8 authorizing a court to grant a petition to freeze assets and issue an order to
9 freeze assets under certain circumstances; requiring that an order to freeze
10 assets remain in effect for a certain period of time; authorizing the court to
11 modify an order to freeze assets under certain circumstances; specifying that a
12 certain lienholder is not prohibited from exercising certain rights if a default
13 occurs in the obligation giving rise to the lien; defining certain terms; and
14 generally relating to petitions to freeze assets.

15 BY adding to
16 Article – Criminal Procedure
17 Section 4–206
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2012 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Criminal Procedure**

23 **4–206.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

3 (2) “FINAL DISPOSITION” MEANS A DISMISSAL, AN ENTRY OF A
4 NOLLE PROSEQUI, THE MARKING OF A CRIMINAL CHARGE “STET” ON THE
5 DOCKET, AN ENTRY OF A NOT GUILTY VERDICT, THE PRONOUNCEMENT OF A
6 SENTENCE, OR IMPOSITION OF PROBATION UNDER § 6-220 OF THIS ARTICLE.

7 (3) “FREEZE ASSETS” MEANS TO PROHIBIT A PERSON FROM
8 TRANSFERRING THE PERSON’S MONEY OR PERSONAL OR REAL PROPERTY BY
9 PLACING THE PROPERTY UNDER SEAL OR REMOVING THE PROPERTY TO A
10 PLACE DESIGNATED BY A COURT.

11 (4) “LIENHOLDER” MEANS A PERSON WHO HAS A LIEN OR A
12 SECURED INTEREST ON PERSONAL OR REAL PROPERTY.

13 (B) A STATE’S ATTORNEY MAY FILE A PETITION TO FREEZE ASSETS OF
14 A DEFENDANT CHARGED WITH VIOLATING § 8-801 OF THE CRIMINAL LAW
15 ARTICLE WITH THE CIRCUIT COURT OF THE COUNTY IN WHICH THE DEFENDANT
16 WAS CHARGED IF:

17 (1) THE PETITION IS FILED WITHIN 60 DAYS OF THE DEFENDANT
18 BEING CHARGED WITH A VIOLATION OF § 8-801 OF THE CRIMINAL LAW
19 ARTICLE;

20 (2) THE ALLEGED VALUE OF LOST OR STOLEN PROPERTY IN THE
21 CRIMINAL CHARGE GIVING RISE TO THE PETITION IS \$5,000 OR MORE;

22 (3) THE AMOUNT OF MONEY OR PROPERTY SUBJECT TO THE
23 PETITION DOES NOT EXCEED THE ALLEGED VALUE OF LOST OR STOLEN
24 PROPERTY IN THE CRIMINAL CHARGE GIVING RISE TO THE PETITION; AND

25 (4) THE STATE’S ATTORNEY SENDS A NOTICE OF INTENT TO FILE
26 A PETITION TO ANY LIENHOLDERS OF PROPERTY SUBJECT TO THE PETITION.

27 (C) A PETITION TO FREEZE ASSETS SHALL BE SERVED IN ACCORDANCE
28 WITH THE MARYLAND RULES AND INCLUDE:

29 (1) THE NAME OF THE DEFENDANT;

30 (2) THE CASE NUMBER OF THE CHARGE GIVING RISE TO THE
31 PETITION;

1 **(3) A DESCRIPTION OF THE MONEY OR PROPERTY THAT IS**
2 **SUBJECT TO THE PETITION;**

3 **(4) THE NAME OF EACH LIENHOLDER ON ANY OF THE PROPERTY**
4 **IF KNOWN OR REASONABLY SUBJECT TO DISCOVERY; AND**

5 **(5) AN OATH OR AFFIRMATION THAT THE CONTENTS OF THE**
6 **PETITION ARE TRUE TO THE BEST OF THE STATE'S ATTORNEY'S KNOWLEDGE,**
7 **INFORMATION, AND BELIEF.**

8 **(D) A COURT MAY GRANT A PETITION TO FREEZE ASSETS AND ISSUE AN**
9 **ORDER TO FREEZE ASSETS IF THE STATE'S ATTORNEY PROVES BY A**
10 **PREPONDERANCE OF THE EVIDENCE THAT:**

11 **(1) THE DEFENDANT HAS A LEGAL, EQUITABLE, OR POSSESSORY**
12 **INTEREST IN THE MONEY OR PROPERTY LISTED IN THE PETITION; AND**

13 **(2) THE MONEY OR PROPERTY LISTED IN THE PETITION IS NOT**
14 **JOINTLY HELD, UNLESS THE STATE'S ATTORNEY ALSO PROVES BY A**
15 **PREPONDERANCE OF THE EVIDENCE THAT:**

16 **(I) THE DEFENDANT TRANSFERRED THE DEFENDANT'S**
17 **MONEY OR PROPERTY TO AVOID BEING SUBJECT TO AN ORDER TO FREEZE**
18 **ASSETS; OR**

19 **(II) THE MONEY OR PROPERTY LISTED IN THE PETITION**
20 **WAS USED IN CONNECTION WITH A VIOLATION OF § 8-801 OF THE CRIMINAL**
21 **LAW ARTICLE.**

22 **(E) AN ORDER TO FREEZE ASSETS SHALL REMAIN IN EFFECT UNTIL THE**
23 **EARLIER OF:**

24 **(1) A DISMISSAL, AN ENTRY OF A NOLLE PROSEQUI, OR AN ENTRY**
25 **OF A NOT GUILTY VERDICT FOR THE CRIMINAL CHARGE FOR THE VIOLATION**
26 **GIVING RISE TO THE ORDER;**

27 **(2) THE MARKING OF THE CHARGE "STET" ON THE DOCKET, THE**
28 **PRONOUNCEMENT OF A SENTENCE, OR THE IMPOSITION OF PROBATION UNDER**
29 **§ 6-220 OF THIS ARTICLE FOR THE CRIMINAL CHARGE GIVING RISE TO THE**
30 **ORDER, PROVIDED THAT THE DEFENDANT HAS MADE FULL RESTITUTION IF**
31 **ORDERED BY THE COURT; OR**

1 **(3) 1 YEAR AFTER THE FINAL DISPOSITION OF THE CRIMINAL**
2 **CHARGE FOR THE VIOLATION GIVING RISE TO THE ORDER.**

3 **(F) ON MOTION, THE COURT MAY MODIFY AN ORDER TO FREEZE ASSETS**
4 **TO ALLOW THE DEFENDANT TO MAKE RESTITUTION, TO ALLOW THE VICTIM TO**
5 **COLLECT RESTITUTION, OR FOR GOOD CAUSE.**

6 **(G) THIS SECTION DOES NOT PROHIBIT A LIENHOLDER FROM**
7 **EXERCISING RIGHTS UNDER APPLICABLE LAW, INCLUDING THE RIGHT TO SELL**
8 **PROPERTY THAT HAS BEEN SUBJECT TO AN ORDER TO FREEZE ASSETS UNDER**
9 **THIS SECTION, IF A DEFAULT OCCURS IN THE OBLIGATION GIVING RISE TO THE**
10 **LIEN.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2013.