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# Issue Brief | Asset Forfeiture

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Bill

HB / SB: Asset Forfeiture for Human Trafficking and Related Offenses

Sponsors

## The Issue

- The primary reason that human traffickers exploit children and adults is profit. Human traffickers make over \$32 billion dollars in profit each year, worldwide.
- Human trafficking victims are low-cost, low-risk investments for traffickers. The victims are easily manipulated, easily replaceable, and can be sold repeatedly.
- Trafficking victims, once removed from the situation, often have little to no financial resources because the trafficker has kept all money gained through the sexual exploitation.
- Alternative financial penalties such as fines and restitution orders are insufficient alone. Fines require that a trafficker pay a set dollar amount, which may not even approach the amount gained by traffickers, and thus, offer little to no deterrence. Additionally, fines may be paid at a low installment rate or may be completely avoided by asset dissipation. Restitution orders are not punitive in nature, and thus do not take into account the profits gained by the trafficker. Restitution may also be avoided by dissolution of assets.

## Legislative Solution

Enact an asset forfeiture bill that provides for disgorgement of the profits attained by traffickers, and that uses such proceeds to fund law enforcement and victim services.

## How HB / SB: Asset Forfeiture for Human Trafficking Addresses the Issue

- Provides for the forfeiture of real and personal property used, or intended to be used, to commit, facilitate or promote the commission of any of the following offenses: Md. Code Ann. § 11-303 (Human Trafficking), § 11-304 (Receiving earnings of prostitute), § 11-305 (Abduction of child under 16), §11-207(a) (Child pornography), § 3-324 (Sexual solicitation of minor). Such forfeiture is ordered as part of a defendant's sentence, following a criminal conviction.
  - Because forfeiture is only authorized as a part of a criminal sentence, only convicted offenders will be subject to forfeiture. The due process protections in place for criminal proceedings will ensure that innocent owners are protected. Additionally, the bill includes proceedings for objections by any innocent third party.
- Such forfeiture is punitive, and will disgorge any profits that the offender realized from his illegal activity. Forfeiture may be ordered in addition to restitution.
- In order to secure the assets identified for forfeiture, the bill provides for protective orders to dissolution or dissipation of the property by the defendant before the conclusion of the criminal proceeding.
  - Pre-forfeiture seizure is only authorized where these orders are insufficient.
- Establishes an Anti-Human Trafficking Fund to provide aid to victims and funding to law enforcement and nonprofit or private organizations that work on the issue of human trafficking.
  - 50% must be given to nonprofit or private organizations that provide direct services to victims of human trafficking, programs for prevention of human trafficking, or education programs on human trafficking.
  - The balance is to be distributed to law enforcement organizations that respond to and investigate human trafficking cases.
- The bill is modeled on asset forfeiture bills currently used throughout the country.

