

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Legislative Attorney 

SUBJECT: **Public Hearing:** Expedited Bill 35-09, Police – Drug Enforcement Forfeitures Fund - Amendments

Expedited Bill 35-09, Police – Drug Enforcement Forfeitures Fund - Amendments, sponsored by Councilmember Trachtenberg, Council President Andrews, and Councilmember Elrich, was introduced on October 13. A Public Safety/Heath and Human Services Committee worksession is tentatively scheduled for November 5 at 2:00 p.m.

Bill 35-09 would authorize the use of the Drug Enforcement Forfeitures Fund for drug prevention and treatment programming and Drug Court operations. The Bill would also require the Chief of Police to report quarterly to the Council concerning the revenue and expenses of the Drug Enforcement Fund. Recent shortfalls in County revenue have increased the need to find additional funds for these much needed services.

<u>This packet contains:</u>	<u>Circle #</u>
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Expedited Bill No. 35-09
Concerning: Police – Drug Enforcement
Forfeitures Fund – Amendments
Revised: October 12, 2009 Draft No. 4
Introduced: October 13, 2009
Expires: April 13, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Trachtenberg, Council President Andrews, Councilmember Elrich, and
Council Vice President Berliner

AN EXPEDITED ACT to:

- (1) authorize the use of the Drug Enforcement Forfeitures Fund for drug prevention and treatment programming and Drug Court operations;
- (2) require the Chief of Police to report quarterly to the Council concerning the revenue and expenses of the Drug Enforcement Forfeitures Fund; and
- (3) generally amend the law concerning the Drug Enforcement Forfeitures Fund.

By amending

Montgomery County Code
Chapter 35, Police
Section 35-13B

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 35-13B is amended as follows:**

2 **35-13B. Drug Enforcement Forfeitures Fund**

3 (a) In the Department of Police, [there is created] the Chief must
4 administer the Drug Enforcement Forfeitures Fund (hereinafter the
5 Fund).

6 (b) The [county executive] County Executive or a designee must deposit
7 in the [Drug Enforcement Forfeitures] Fund all money that is forfeited
8 to the County under state law as drug-related contraband. Forfeited
9 money may include cash and:

- 10 (1) proceeds from the sale of real property;
- 11 (2) criminal proceeds;
- 12 (3) proceeds from the sale of means of transport, including
13 vehicles, boats, and airplanes;
- 14 (4) personal property, including financial instruments;
- 15 (5) funds turned over to the County by other government agencies
16 through drug enforcement asset sharing procedures; and
- 17 (6) any other funds to which the County is entitled as the result of
18 drug forfeiture proceedings.

19 (c) [(1) The Director of the Department of Police must administer the
20 Drug Enforcement Forfeitures Fund.]

21 [(2)] The [Director] Chief must use the [Drug Enforcement
22 Forfeitures] Fund for expenses related to enforcement of laws
23 regarding controlled dangerous substances. These expenses
24 may include:

- 25 [(A)] (1) drug prevention and treatment programs;
- 26 (2) Drug Court operations and programs;
- 27 (3) payments to informants;

28 [(B)] (4) purchase or lease of equipment; and
 29 [(C)] (5) any other expense related to [such] enforcement
 30 [activities] of laws regarding controlled dangerous
 31 substances.

32 (3) (A) The [director] Chief may transfer funds to another law
 33 enforcement agency if the other law enforcement agency
 34 initiated the forfeiture proceeding or was significantly
 35 involved in the arrest or investigation leading to the
 36 forfeiture.

37 (B) The [director] Chief must transfer to the Maryland-
 38 National Capital Park Police all funds in the [Drug
 39 Enforcement Forfeitures] Fund that result from any arrest
 40 [within the boundaries of] in any park under the
 41 Commission's jurisdiction [of the Maryland-National
 42 Capital Park and Planning Commission] if the arrest was
 43 initiated by the Park Police and another law enforcement
 44 agency was not involved in the arrest or investigation.

45 (d) The money in [this fund] the Fund:

46 (1) is subject to audit by the [county executive] Executive; and

47 (2) must be included and identified in any financial report of the
 48 [Police department] Department.

49 (e) The Chief must provide a quarterly report on the Fund to the
 50 Executive and Council. This report must include:

51 (1) the current balance;

52 (2) all deposits from forfeitures; and

53 (3) all expenditures by category.

54 (f) The [county executive] Executive may adopt regulations under

55 method (2) to implement this Section.

56 **Sec. 2. Expedited Effective Date.**

57 The Council declares that this legislation is necessary for the immediate
58 protection of the public interest. This Act takes effect on the date it becomes law.

59 *Approved:*

60 _____
Philip M. Andrews, President, County Council Date

61 *Approved:*

62 _____
Isiah Leggett, County Executive Date

63 *This is a correct copy of Council action.*

64 _____
Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 35-09

Police – Drug Enforcement Forfeitures Fund - Amendments

DESCRIPTION: To require quarterly reports to the Council on the Drug Enforcement Forfeitures Fund (DEFF) and to expand the authorized uses of the Fund to include drug prevention and treatment programming and Drug Court operations.

PROBLEM: To identify additional funds for drug prevention and treatment programs and Drug Court operations. Recent shortfalls in County revenue have increased the need to find additional funds for these much needed services.

GOALS AND OBJECTIVES: To protect the interest of the public.

COORDINATION: Department of Police, Department of Finance

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Legislative Attorney, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: None