

Model Money Laundering Act

Table of Contents

| | | |
|----------------------|-------|---|
| | C-105 | Policy Statement |
| | C-107 | Highlights |
| | C-109 | Section by Section Summary |
| <i>Section One</i> | C-111 | Short Title |
| <i>Section Two</i> | C-111 | Legislative Findings |
| <i>Section Three</i> | C-111 | Purposes |
| <i>Section Four</i> | C-112 | Definitions |
| <i>Section Five</i> | C-112 | Penalty; Civil Remedies |
| <i>Section Six</i> | C-113 | Uniformity of Construction and Application |
| <i>Section Seven</i> | C-114 | Severability |
| <i>Section Eight</i> | C-114 | Effective Date |

Model Money Laundering Act

Policy Statement

Illegal drug industries are composed of a network of interdependent activities, generally including production, processing, transportation, sales and money laundering. The successful elimination of a necessary component activity will stop the flow of drugs through the network. This is true even if other components are still capable of functioning well. Federal, state, and local authorities agree that money laundering is both critical to the perpetuation of a drug enterprise and susceptible to disruption.

Money laundering is the process by which illegally derived property is converted into income which has the appearance of legitimacy. Money laundering can be complex, such as setting up sham companies, or simple, such as purchasing luxury items. Without the capacity to conceal the illegality of drug money so it can be reinvested in the drug enterprise and used to support a luxurious lifestyle, the profit motive on which the drug business thrives disappears.

Money laundering is as vulnerable as it is necessary for several reasons. First, it is generally dominated by professional people, such as attorneys, bankers, and accountants, who are responsive to deterrence. Second, money launderers who become state witnesses are valuable and effective because they are likely to be educated, articulate, sophisticated, and have no criminal records. Also, their testimony is likely to be corroborated by plentiful records and documents. Third, the money launderer's records must surface and interface with those of legitimate business creating a paper trail which can be investigated. Fourth, the professional launderer with specialized skills is difficult to replace. Concentration on the removal of money launderers will create a bottleneck in the flow of illicit funds.

Money laundering's combination of necessity and vulnerability makes it a prime target for enforcement efforts to dismantle the economic foundation of a drug enterprise.

The purpose of the Model Money Laundering Act is twofold. First, to make the flow of money and property which is important for the continuation of criminal enterprises more difficult. Second, to provide disincentives for the facilitation of criminal activity. The Model Act draws upon the money laundering language in the Uniform Controlled Substances Act (UCSA), and incorporates improvements to the UCSA provision recommended by a working group of local, state, and federal prosecutors. The Model Act is similar to several existing state money laundering laws. It is also compatible with the federal money laundering statute in structure and vocabulary, though shorter and simpler in form. The terms used and the definitions of the operative terms are taken from federal law. The Model Act provides for both criminal and civil remedies, meshing with the Commission Forfeiture Reform Act (CFRA), the Model Ongoing Criminal Conduct Act, and the Model Financial Transaction Reporting Act.

Highlights of the Model Money Laundering Act

- Provides legislative findings on the economic rationale for financial remedies.
- Guides the application of financial remedies and allows reciprocal agreements encouraging interstate cooperation and uniformity through special purpose and uniformity sections.
- Creates the following four violations:
 - (1) knowingly dealing in the proceeds of unlawful activity;
 - (2) making property available to another for the purpose of furthering specified unlawful activity;
 - (3) knowingly conducting transactions that conceal or disguise illegal proceeds or avoid transaction reporting requirements; and
 - (4) engaging in money laundering as a business. This violation carries with it an enhanced penalty.
- Imposes a civil treble damages sanction in addition to criminal penalties to deter individuals who provide services to the drug industry for profit.
- Provides that money laundering is conduct giving rise to forfeiture and integrates the [Act] with the Commission Forfeiture Reform Act (CFRA).

Section by Section Summary of the Model Money Laundering Act

Section 1.

Provides short title.

Section 2.

Provides legislative findings on the economics of ongoing criminal activity and provides an economic-based rationale for financial remedies.

Section 3.

Sets out the goals of the [Act], defending legitimate commerce from criminal activity and remedying the economic effects of crime.

Section 4.

Defines key phrases including “proceeds”, “property”, “specified unlawful activity”, and “unlawful activity”.

Section 5.

(a) Describes money laundering in three circumstances, and adds an enhancement provision in a fourth. Knowing participation in the finances of crime is made unlawful.

(1) Deals with the character of “dirty money” itself, and prohibits any knowing control of it. Dirty money in this paragraph must be the proceeds of specified unlawful activity, SUA, defined in Section 4, paragraph (3) of this [Act].

(2) Complements (a)(1) by prohibiting the capitalization of SUA by knowingly providing property to facilitate such conduct.

(3) Focuses on transactions, a term defined in Section 4, paragraph (4) of this [Act]. It prohibits knowingly conducting a transaction involving the

proceeds of any unlawful activity if the transaction is for the purpose of concealment or disguise or done with the intent to avoid a reporting requirement.

(4) Prohibits knowingly engaging in transactions involving the proceeds of unlawful activity as a business.

(b) Grades the prohibitions in (a) as degrees of felony; provides for an enhanced sentence for engaging in money laundering as a business; and provides for fines of the greater of a set amount or twice the value of the property involved.

(c) Provides for treble damages, setting the value of the property involved as the social damage. It also provides a location for reference to the state racketeering statutes, if any, to assure that money laundering is made a predicate offense and, separately, that money laundering is made conduct giving rise to forfeiture under state forfeiture statutes.

Section 6.

Encourages uniformity in the application, liberal construction and interstate employment of the [Act].

Section 7.

States that the provisions of the [Act] are severable so the invalidity of one does not affect the validity of the others.

Section 8.

Makes the [Act] effective on a date to be specified.

Model Money Laundering Act

Section 1. Short Title.

This [Act] shall be known and may be cited as the “Model Money Laundering Act”.

Section 2. Legislative Findings.

(a) Criminal activity and the networks that characterize criminal industries divert millions of dollars from the legitimate commerce of this state each year through the provision of illicit goods and services, force, fraud, and corruption.

(b) Individuals and groups associated together to conduct criminal activity pose an additional threat to the integrity of legitimate commerce by obtaining control of legitimate enterprises through criminal means, by force or fraud, and by manipulating those enterprises for criminal purposes.

(c) Money and power generated by criminal activity are being used to obtain control of legitimate enterprises, to invest in legitimate commerce, and to control the resources of facilitating ongoing criminal activity.

(d) Criminal activity and proceeds of criminal activity subvert the basic goals of a free democracy by expropriating the government’s monopoly of the legitimate use of force, by undermining the monetary medium of exchange and by subverting the judicial and law enforcement processes that are necessary for the preservation of social justice and equal opportunity.

(e) Criminal activity impedes free competition, weakens the economy, harms in-state and out-of-state investors, diverts taxable funds, threatens the domestic security, endangers the health, safety, and welfare of the public and debases the quality of life of the citizens of this state.

(f) Criminal activity becomes entrenched and powerful when the social sanctions employed to combat it are unnecessarily limited in their vision of the goals that may be achieved, in their legal tools or in their procedural approach.

(g) Societal strategies and techniques that emphasize bringing criminal remedies to bear on individual offenders for the commission of specific offenses are inadequate to reach the economic incentive supporting the criminal network, are expensive to implement, and are costly in terms of the loss of personal freedom of low-level participants in criminal networks. Comprehensive strategies are required to complement the criminal enforcement strategies by focusing on the financial components and motivations of criminal networks; enlisting the assistance of private victims; empowering courts with financially oriented tools; and developing new substantive, procedural and evidentiary laws creating effective financial remedies for criminal activity.

COMMENT

Legislative findings are useful in providing guidance to interpreting courts and publicizing and memorializing the goals and objectives of the [Act]. *Block v. Hirsch*, 256 U.S. 135, 154 (1921) (“entitled at least to great respect”)

Section 3. Purposes.

The purposes of this [Act] are:

- (a) to defend legitimate commerce from criminal activity;
- (b) to provide economic disincentives for criminal activity;
- (c) to remedy the economic effects of criminal activity; and
- (d) to lessen the economic and political power of criminal networks in this state by providing to the people and to the victims of criminal activity new preventive measures through criminal sanctions and civil remedies.

Section 4. Definitions.

In this [Act], unless the context otherwise requires:

(a) "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind.

(b) "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, tangible or intangible.

(c) "Specified unlawful activity" means any act, including any preparatory or completed offense, committed for financial gain, that is punishable [as a felony] [by confinement for more than one year] under the laws of this state, or, if the act occurred outside this state, would be punishable [as a felony] [by confinement for more than one year] under the laws of the state in which it occurred and under the laws of this state, involving:

(1) [trafficking in controlled substances, homicide, robbery, extortion, extortionate extensions of credit, trafficking in explosives or weapons, trafficking in stolen property, or obstruction of justice,] [a reference to those acts or offenses described in 18 U.S.C. 1956(c)(7)].

(2) [reference to grades of offenses, such as "any first degree misdemeanor or higher," or "any felony," and/or to other appropriate specified state offenses].

(3) [for states with state racketeering or criminal profiteering statutes, reference to "predicates" to the racketeering offenses and to the racketeering offenses, e.g., Illegal investment in an enterprise, illegal control of an enterprise, illegal conduct of an enterprise].

(d) "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

(e) "Unlawful activity" means any act which is chargeable or indictable as [an offense] [a crime] of any [degree] [classification] under the laws of the state in which the act occurred [or under federal law] and, if the act occurred in a state other than this state, would

be chargeable or indictable as [an offense] [a crime] of any [degree] [classification] under the laws of this state [or under federal law].

COMMENT

Key terms are defined. The definitions of "proceeds" and "property" also appear in the Commission Forfeiture Reform Act (CFRA). If they are enacted together, the CFRA definition of "proceeds" should be retained because its additional clause has meaning in the context of forfeiture of proceeds. The CFRA definition of property should be deleted as duplicative.

"Specified unlawful activity" the so-called predicate offenses, should incorporate and build on the definition of racketeering if any exists. It should include state offenses that represent the key components of ongoing criminal networks. They should include not only the core offenses, such as offenses related to the provision of illicit goods and services such as drugs, fraud, theft, gambling, prostitution, child pornography, etc. but also offenses related to support services such as violence, corruption, obstruction of justice, money laundering and fencing. Civil remedies may be most effective preventing support service providers from participating by increasing the risk of economic loss to offset the opportunity for disproportionate gain. The definition is self-limiting to offenses committed for financial gain. Inclusion of a type of offense that is often committed for other reasons, such as murder, may therefore be safely done without including the inappropriate occurrences of that offense, such as family-related homicides. The definition should also include intentional environmental crimes that involve danger to human life or threaten vital resources.

The three subparagraphs are a guided menu of choices. If the key concept is to be given adequate reach, one choice should be selected from each of (1), (2) and (3).

The references to federal law are recommended if permitted under state constitutional limitations on the delegation of legislative authority.

Section 5. Penalty; Civil Remedies.

(a) It is unlawful for any person:

(1) who knows that the property involved is the proceeds of some form of unlawful activity, to knowingly transport, receive or acquire the property or to conduct a transaction involving the property, when, in fact, the property is the proceeds of

specified unlawful activity;

(2) to make property available to another, by transaction, transportation or otherwise, knowing that it is intended to be used for the purpose of committing or furthering the commission of specified unlawful activity;

(3) to conduct a transaction knowing that the property involved in the transaction is the proceeds of some form of unlawful activity with the intent to conceal or disguise the nature, location, source, ownership, or control of the property or the intent to avoid a transaction reporting requirement under [Model Financial Transaction Reporting Act] [or federal law]; or

(4) knowing that the property involved in the transaction is the proceeds of some form of unlawful activity, to knowingly engage in the business of conducting, directing, planning, organizing, initiating, financing, managing, supervising, or facilitating transactions involving property that, in fact, is the proceeds of specified unlawful activity.

(b) A person who violates:

(1) paragraph (1), (2) or (3) of subsection (a) of this section is guilty of a crime and upon conviction may be imprisoned for not more than [] years, fined not more than [] or twice the value of the property involved, whichever is greater, or both.

(2) paragraph (4) of subsection (a) of this section is guilty of a crime and upon conviction may be imprisoned for not more than [] years, fined not more than [] or twice the value of the property involved, whichever is greater, or both.

(c) A person who violates any subsection of this section is subject to a civil penalty of three times the value of the property involved in the transaction, in addition to any criminal sanction imposed.

(d) [reference to state racketeering statutes, if any, making money laundering a predicate offense and incorporating civil forfeiture remedies.]

COMMENT

This section is the engine that drives the rest of the financial remedies package. It prohibits knowing participation in the finances of crime in each of its manifestations. The prohibition of money laundering defines the core conduct that regulatory and reporting measures seek to prevent, give early warning of, and remedy.

Criminal sanctions for money laundering should be at the top of the state classification system except for homicide and similar offenses. Money laundering makes ongoing criminal conduct possible. A system that imprisons the drug dealers, robbers, burglars and other racket operatives cannot conscientiously allow the providers of the most essential activity in the racket to take advantage of their superior social station, education or professional credentials to escape punishment. Indeed, imprisoning a relatively small number of money launderers can be expected to allow a far larger number of would-be operatives to remain free.

Civil remedies for money laundering, including civil racketeering and forfeiture remedies are the most important portion of this [Act]. Civil remedies are better suited to deter profit-seeking conduct of facilitators because they can be employed in regulatory and reporting contexts, because they can include injunctive and other equitable relief, and because economic sanctions remove economic incentive and attack the financial superstructure of ongoing criminal enterprises.

Section 6. Uniformity of Construction and Application.

(a) The provisions of this [Act] shall be liberally construed to effectuate its remedial purposes. Civil remedies under this [Act] shall be supplemental and not mutually exclusive. They do not preclude and are not precluded by any other provision of law.

(b) The provisions of this [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among states enacting it.

(c) The attorney general is authorized to enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this [Act].

COMMENT

Uniformity of statutory provisions and cooperative enforcement mechanisms are important goals in the development of effective state enforcement mechanisms. Cooperation between sister states becomes increasingly necessary as travel, communications and wide-spread criminal networks “shrink” the country.

Section 7. Severability.

If any provision of this [Act] or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the [Act] which can be given effect without the invalid provisions or application, and to this end the provisions of this [Act] are severable.

Section 8. Effective Date.

This [Act] shall be effective on [reference to normal state method of determination of the effective date] [reference to specific date].

Appendix C

States With Money Laundering or Related Statutes



SOURCE: American Prosecutors Research Institute

Money Laundering and Related Laws¹

| | <u>STATE</u> | <u>CITATION</u> ² |
|-----|----------------|---|
| 1. | Arizona | Ariz. Rev. Stat. §13-2317 (Supp. 1992) |
| 2. | California | A. Cal. Penal Code §§186.9 to 186.10 (Deering Supp. 1993) B. Cal. Health & Safety Code §11370.9 (Deering Supp. 1993) |
| 3. | Connecticut | Conn. Gen Stat. Ann. §§53a-275 to 53a-282 (Supp. 1992) |
| 4. | Florida | Fla. Stat. Ann. §896.101 (West Supp. 1993) |
| 5. | Georgia | Ga. Code Ann. §7-1-911 to 7-1-916 (1989, Supp. 1992) |
| 6. | Hawaii | Haw. Rev. Stat. §708-8120 (Supp. 1992) |
| 7. | Idaho | Idaho Code §18-8201 (Supp. 1992) |
| 8. | Illinois | Ill. Ann. Stat. ch. 38 §29B-1 (Smith-Hurd Supp. 1992) |
| 9. | Louisiana | La. Rev. Stat. Ann. §40:1049 (West Supp. 1992) |
| 10. | Maryland | Md. Ann. Code art. 27 §297B (Supp. 1992) |
| 11. | Minnesota | Minn. Stat. Ann. §§609.496 to 609.497 (West Supp. 1993) |
| 12. | Nevada | Nev. Rev. Stat. §207.195 (1992) |
| 13. | New York | N.Y. Penal Law §§470.00 to 470.20 (Supp. 1993) |
| 14. | Oklahoma | Okla. Stat. Ann. tit. 63 §2-503.1 (West Supp. 1993) |
| 15. | Pennsylvania | Pa. Stat. Ann. tit. 18 §5111 (Purdon Supp. 1992) |
| 16. | Rhode Island | R.I. Gen. Laws §11-9.1-15 (Supp. 1992) |
| 17. | South Carolina | S.C. Code Ann. §44-53-475 (Law Co-op. Supp. 1992) |
| 18. | Texas | Tx. Health & Safety Code Ann. §481.126 (Vernon Supp. 1993) |
| 19. | Utah | Utah Code Ann. §§76-10-1901 to 76-10-1908 (1990) as amended by S. B. 151 (1993) |
| 20. | Virginia | Va. Code Ann. §18-2-248.7 (Supp. 1992) |
| 21. | Washington | Wash. Rev. Code §§9A.83.010 to 9A.83.040 (West Supp. 1993) |

¹ Citation information current through April 10, 1993. Citation list prepared by the American Prosecutors Research Institute.

² Includes statutes which are not titles "money laundering" but serve the same purpose as and are applied similarly to money laundering laws. See CA, FL, GA, LA, MD, MN, NV, OK, PA, TX.

Money Laundering and Related Laws Survey¹ of State Statutes²

ARIZONA [1985]³

Money Laundering: classifications; definitions. Ariz. Rev. Stat. §13-2317 (Supp. 1992)

A person is guilty of money laundering in the 2nd degree who:

- (1) acquires or maintains an interest in, transacts, transfers, transports, receives or conceals racketeering proceeds knowing or having reason to know they are proceeds of an offense.
- (2) makes property available by transaction, transportation or otherwise knowing it is intended to facilitate racketeering.
- (3) conducts a transaction knowing or having reason to know the property is proceeds of an offense and with the intent:
 - (A) to conceal or disguise the nature, location, source, ownership, or control of the property; or
 - (B) to avoid a state transaction reporting requirement.

Penalty: Class 3 felony

A person who knowingly initiates, organizes, plans, finances, directs, manages, supervises or is in the business of money laundering is guilty of 1st degree money laundering.

Penalty: Class 2 felony

¹ Survey information current through April 10, 1993. Analysis includes only statutory language and was prepared under a grant from the Bureau of Justice Assistance. © 1993 by the American Prosecutors Research Institute. This material may be reprinted in full or part with attribution as follows: "Reprinted with permission of the American Prosecutors Research Institute."

² Survey includes statutes which are not titled "money laundering" but serve the same purpose as and are applied similarly to money laundering laws. See CA, FL, GA, LA, MD, MN, NV, OK, PA, TX.

³ Bracketed numbers represent effective or enactment date.

CALIFORNIA [1986]

Money Laundering. Cal. Penal Code §186.9-186.10 (Deering Supp. 1993)

A person who conducts or attempts to conduct through a financial institution a transaction or more than one transaction within a 24 hour period involving over \$5,000 in monetary instruments with:

- (1) intent to promote or otherwise facilitate any criminal activity; or
- (2) knowing the instrument represents or is derived from proceeds of criminal activity,

is guilty of money laundering.

“Criminal activity” means an offense punishable by death or imprisonment in state prison, or an offense in another jurisdiction punishable by death or imprisonment for more than one year.

The prosecution shall additionally prove an attorney providing criminal defense services accepted money to intentionally disguise or help disguise the source of the funds or the nature of the criminal activity.

Penalty: 1st offense - Imprisonment for not more than 1 year, a fine of not more than the greater of \$250,000 or twice the value of the property involved, or both.

2nd offense - Imprisonment for not more than 1 year, a fine of not more than the greater of \$500,000 or 5 times the value of the property involved, or both.

CALIFORNIA [1992]

Concealment or disguise of nature, location, ownership, control, or source of proceeds of offense; Avoidance of transaction report. Cal. Health & Safety Code §11370.9 (Deering Supp. 1993)

It is unlawful for any person to knowingly:

- (a) receive or acquire proceeds, or engage in a transaction involving proceeds known to be derived from a drug violation with the intent:
 - (1) to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds; or
 - (2) to avoid a state or federal transaction reporting requirement.
- (b) give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in, or otherwise make available, anything of value known to be used to commit or further the commission of a drug violation with the intent:
 - (1) to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds; or
 - (2) to avoid a state or federal transaction reporting requirement.
- (c) direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from a drug violation with the intent:
 - (1) to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds; or
 - (2) to avoid a state or federal transaction reporting requirement.

- (d) conduct a transaction involving proceeds derived from a drug violation designed to conceal or disguise the nature, location, source, ownership or, control of proceeds known to be derived from a drug violation with the intent:
- (1) to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds; or
 - (2) to avoid a state or federal transaction reporting requirement.

The Act excludes transactions necessary to preserve an individuals right to counsel under the federal and state constitutions in a criminal investigation or prosecution.

The Act only applies to a transaction, or series of related transactions within a 30-day period, involving over \$25,000 or to proceeds of a value exceeding \$25,000.

Penalty: Imprisonment in county jail for not more than 1 year or in the state prison for 2 to 4 years, a fine of not more than the greater of \$250,000 or twice the value of the proceeds or property involved, or both.

CONNECTICUT [1987]

Money Laundering. Conn. Gen. Stat. Ann. §§53a-275 to 53a-282 (Supp. 1992)

A person who exchanges or receives in exchange over \$10,000 in monetary instruments derived from a felony with intent:

- (1) to conceal that the instrument is derived from a criminal drug sale; or
- (2) to help a person commit or benefit from a drug sale,

is guilty of 1st degree money laundering.

Penalty: Class B felony

A person who exchanges or receives in exchange over \$10,000 in monetary instruments derived from a felony with intent:

- (1) to conceal that the instrument was derived from any criminal activity; or
- (2) to help a person commit or benefit from a crime.

is guilty of 2nd degree money laundering.

Penalty: Class C felony

A person who exchanges or receives in exchange over \$10,000 in monetary instruments derived from a felony with knowledge the exchange:

- (1) will conceal that the instrument is derived from any criminal activity; or
- (2) will help a person engage in or benefit from any criminal activity,

is guilty of 3rd degree money laundering.

Penalty: Class D felony

A person who exchanges or receives in exchange monetary instruments (no amount limit) derived from a felony with knowledge that the exchange:

- (1) will conceal that the instrument is derived from any criminal activity; or
- (2) will help a person engage in or benefit from any criminal activity,

is guilty of 4th degree money laundering.

Penalty: Class A misdemeanor

A person is presumed to know the monetary instruments are derived from criminal activity if the person:

- (1) pays or receives substantially less than face value; or
- (2) knows or believes the instruments bear fictitious names; or
- (3) fails to record or report a transaction as required by law or in the ordinary course of business;
or
- (4) knows the physical condition or form of the instruments indicates they are not the product of bona fide business or financial transactions.

In lieu or in addition to any other fine, a person shall be fined:

1st offense - Not more than the greater of \$250,000 or twice the value of the instruments.

2nd or subsequent offense - Not more than the greater of \$500,000 or five times the value of the instruments.

A corporation shall be fined:

1st offense - Not more than the greater of \$250,000 or twice the value of the instruments.

2nd or subsequent offense - Not more than the greater of \$500,000 or five times the value of the instruments.

FLORIDA [1987]

Offense of conduct of financial transaction involving proceeds of unlawful activities. Fla. Stat. Ann. §896.101 (West Supp. 1993)

A person commits an offense if:

- (a) the person, knowing property represents proceeds of some form of unlawful activity, conducts or attempts to conduct a financial transaction involving proceeds of specified unlawful activity:
 - (1) with intent to promote the specified unlawful activity; or
 - (2) knowing the transaction will:
 - (A) conceal or disguise the nature, location, source, ownership, or control of the proceeds;
or
 - (B) avoid a state transaction reporting requirement.
- (b) the person transports or attempts to transport monetary instruments or funds:

- (1) with intent to promote specified unlawful activity; or
- (2) knowing the instruments or funds represent proceeds from some form of unlawful activity and that the transaction will:
 - (A) conceal or disguise the nature, location, source, ownership, or control of the proceeds; or
 - (B) avoid a state transaction reporting requirement.
- (c) the person conducts or attempts to conduct a transaction involving property or proceeds which a state or federal enforcement officer, or someone acting under the officer's direction, represents as being derived from or used to conduct or facilitate specified unlawful activity, and the person intends:
 - (1) to promote specified unlawful activity; or
 - (2) to conceal or disguise the nature, location, source, ownership, or control of the represented proceeds or property; or
 - (3) to avoid a state transaction reporting requirement.

"Specified unlawful activity" means any racketeering activity.

Penalty: 2nd degree felony

Civil Penalty: Not more than the greater of the value of property or instruments involved, or \$10,000.

GEORGIA [1989]

Records and Reports of Currency Transactions. Ga. Code Ann. §§7-1-911 to 7-1-916 (1989, Supp. 1992)

- (a) It is a felony to willfully violate Article 11:
 - (1) to further any other violation of state law; or
 - (2) as part of a pattern of illegal activity involving transactions exceeding \$100,000 in a 12 month period.
- (b) It is unlawful for a person, knowing moneys represent proceeds of some unlawful activity, to conduct or attempt to conduct a transaction involving proceeds of specified unlawful activity:
 - (1) with intent to promote the specified unlawful activity; or
 - (2) knowing the transaction will:
 - (A) conceal or disguise the nature, location, source, ownership, or control of the proceeds or specified unlawful activity; or
 - (B) avoid a transaction reporting requirement.

"Specified unlawful activity" means any felony or acts constituting a pattern of racketeering.

Penalty: Subsection (a) - Imprisonment for not more than 5 years, or a fine of not more than \$500,000, or both. Subsection (b) - Imprisonment for not more than 20 years, or a fine the greater of twice the amount of money involved or not more than \$500,000.

Civil Penalty: Willful violation - \$1,000 maximum penalty may be assessed upon financial institution, director, officer, or employee. Subsection (b) -Not more than the greater of amount of funds involved or \$10,000.

HAWAII [1987]

Monetary Laundering. Haw. Rev. Stat. §708-8120 (Supp. 1991)

A person who conducts or attempts to conduct through a financial institution a financial transaction involving over \$5,000 in instruments with:

- (a) intent to promote, conceal, disguise, or otherwise facilitate any criminal activity; or
- (b) knowing the instruments represent or are derived from proceeds of criminal activity,

is guilty of money laundering.

Penalty: Class C felony

IDAHO [1992]

Money Laundering and Illegal Investment. Idaho Code §18-8201 (Supp. 1992)

It is unlawful for any person knowingly or intentionally:

- (a) to give, sell, transfer, trade, invest, conceal, transport, or make available anything of value known to be for the purpose of committing or furthering a racketeering or drug violation;
- (b) to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from a racketeering or drug violation; or
- (c) to conduct a financial transaction involving proceeds known to be derived from a racketeering or drug violation which is designed to (1) conceal or disguise the nature, location, source, ownership, or control of the proceeds or (2) to avoid a state or federal transaction reporting requirement.

Penalty: Imprisonment for not more than 10 years, fine of not more than the greater of \$250,000 or twice the value of the property involved, or both.

ILLINOIS [1987-1988]

Money Laundering. III. Ann. Stat. Ch. 38 §29B-1 (Smith-Hurd Supp. 1992)

A person is guilty of money laundering if he knowingly engages or attempts to engage in a financial transaction in criminally derived property with:

- (a) intent to promote the unlawful activity from which the property was obtained; or
- (b) knowledge the transaction will conceal or disguise the nature, location, source, ownership or control of the property.

“Criminally derived property” means any property representing or derived from proceeds of a violation of the Controlled Substance Act or Cannabis Control Act.

“Financial transaction” excludes receipt by an attorney of bona fide fees for legal representation.

Penalty: Class 3 felony - \$10,000 or less
Class 2 felony - More than \$10,000 but no more than \$100,000.
Class 1 felony - More than \$100,000.

LOUISIANA [1989]

Transactions Involving Proceeds from Controlled Dangerous Substances Activity. La. Rev. Stat. Ann §40:1049 (West Supp. 1992)

It is unlawful for a person knowingly or intentionally:

- (a) to conduct a financial transaction involving proceeds known to be derived from a drug violation which is designed to (1) conceal or disguise the nature, location, source, ownership, or control of the proceeds or (2) to avoid a state or federal transaction reporting requirement;
- (b) to give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering a drug violation;
- (c) to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from a drug violation; or
- (d) to receive, acquire, or engage in any transaction involving proceeds derived from drug violations.

The Act excludes transactions necessary to preserve an individual's right to counsel under the federal and state constitutions. However, the state retains the right to forfeit drug-related proceeds.

Penalty: Imprisonment for not more than 10 years, fine of not more than \$10,000, or both.

MARYLAND [1990]

Proceeds from Controlled Dangerous Substances Offenses. Md. Ann. Code art. 27 §297B (Supp. 1992)

A person knowing that proceeds are derived from a drug offense and with intent :

- (a) to conceal or disguise the nature, location, source, ownership, or control of drug proceeds; or
- (b) to promote a drug offense, may not:
- (c) receive or acquire the proceeds;
- (d) engage in a financial transaction involving the proceeds;
- (e) give, sell, transfer, trade, invest, conceal, transport or maintain an interest in the proceeds;
- (f) direct, promote, plan, organize, initiate, finance, manage, supervise or facilitate the transportation or transfer of the proceeds; or
- (g) conduct a financial transaction involving the proceeds.

Proceeds means money or other property with a value greater than \$10,000.

The Act excludes transactions necessary to preserve an individual's right to counsel under the federal and state constitutions.

Penalty: 1st felony conviction - Fine not exceeding the greater of \$250,000 or twice the value of the proceeds, or imprisonment not exceeding 5 years, or both.

2nd felony conviction - Fine not exceeding the greater of \$500,000 or 5 times the value of the proceeds, or imprisonment not exceeding 10 years, or both.

MINNESOTA [1989]

Concealing Criminal Proceeds. Minn. Stat. Ann. §§609.496 to 609.497 (West Supp. 1993)

It is a felony for a person who knows or has reason to know that monetary instruments represent or are derived from proceeds of a felony to conduct a transaction involving over \$5,000 in monetary instruments.

The provision excludes payment or receipt of reasonable attorney fees.

Penalty: Imprisonment for not more than 10 years, a fine of not more than \$100,000 or both.

It is a felony for a person to knowingly initiate, organize, plan, finance, direct, manage, supervise, or otherwise engage in a business that has as a primary or secondary purpose concealing property derived from a felony.

Penalty: Imprisonment for not more than 20 years, a fine of not more than \$1,000,000 or both.

NEVADA [1991]

Use of Monetary Instrument Proceeding or Derived From Unlawful Activity, Nev. Rev. Stat. §207.195 (1992)

It is unlawful for a person, knowing monetary instruments represent or are derived from proceeds of unlawful activity:

- (a) to conduct or attempt to conduct a financial transaction:
 - (1) with intent to further unlawful activity;
 - (2) with knowledge the transaction conceals the location, source, ownership or control of the instruments;
 - (3) with knowledge the transaction evades a federal or state transaction reporting requirement;
- (b) to transport or attempt to transport the monetary instrument:
 - (1) with intent to further unlawful activity;
 - (2) with knowledge the transportation conceals the location, source, ownership or control of the proceeds;
 - (3) with knowledge the transportation evades a federal or state transaction reporting requirement.

“Financial transaction and “monetary instrument” exclude the payment of counsel for criminal defense services. “Unlawful activity” includes any racketeering crime or felony.

Penalty: Imprisonment for not less than 1 year nor more than 10 years, a fine of not more than \$50,000 or both.

NEW YORK [1988]**Money Laundering. N.Y. Penal Law §§470.00 to 470.20 (McKinney 1990, Supp. 1993)**

It is 3rd degree money laundering if a person exchanges or receives in exchange over \$10,000 in monetary instruments or equivalent property derived from specified criminal conduct when the person knows the instruments are from any criminal conduct and the transaction will:

- (a) conceal or disguise the nature, location, source, ownership, or control of the proceeds; or
- (b) aid in the commission of criminal conduct.

It is 2nd degree money laundering if a person exchanges or receives in exchange over \$10,000 in monetary instruments or equivalent property derived from specified criminal conduct when the person knows the instruments are from any criminal conduct and:

- (a) intends or knows the exchange will conceal or disguise the nature, location, source, ownership, or control of the proceeds; or
- (b) intends to help a person commit or benefit from specified criminal conduct.

It is 1st degree money laundering if a person exchanges or receives in exchange over \$10,000 in monetary instruments or equivalent property derived from a criminal drug sale when the person knows the instruments are from a drug sale and intends the exchange:

- (a) to conceal or disguise the nature, location, source, ownership, or control of the proceeds; or
- (b) to help a person commit or benefit from a criminal drug sale.

It remains lawful to return escrow funds held as part of a purchase price for real property or for tax or other lawful obligations of the person holding the escrow funds.

“Equivalent Property” excludes personal services and real property.

“Specified criminal conduct” means a felony listed as a criminal act under the Organized Crime Control Act, or enterprise corruption.

**Penalty: 3rd degree - class A misdemeanor
2nd degree - class E felony
1st degree - class D felony**

OKLAHOMA [1990]**Transactions involving proceeds derived from illegal drug activity prohibited. Okla. Stat. Ann. tit. 63, §2-503.1 (West Supp. 1993)**

It is unlawful for any person, knowing proceeds are derived from a drug offense, knowingly or intentionally:

- (a) to receive, acquire, conceal or engage in transactions involving the proceeds;
- (b) to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of the proceeds; or
- (c) to conduct a financial transaction involving the proceeds which is designed to conceal or disguise the nature, location, source, ownership or control of the proceeds, or to avoid a state or federal transaction reporting requirement.

It is unlawful for any person knowingly or intentionally to give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in or otherwise make available anything of value which the person knows is intended to be used for the purpose of committing or furthering commission of a drug offense.

The Act excludes transactions necessary to preserve an individual's right to counsel under the federal and state constitutions. However, the state retains the right to forfeit drug-related proceeds.

Penalty: Felony - Imprisonment for not less than 2 years or more than 10 years, fine of not more than \$50,000 or both.

PENNSYLVANIA [1989]

Dealing in proceeds of unlawful activities. Pa. Stat. Ann. tit. 18 §5111 (Purdon Supp. 1992)

It is a 1st degree felony if a person, knowing property represents proceeds of unlawful activity, conducts a financial transaction involving the proceeds:

- (a) with intent to promote the unlawful activity; or
- (b) knowing the transaction will:
 - (1) conceal or disguise the nature, location, source, ownership, or control of the proceeds; or
 - (2) avoid a state or federal transaction reporting requirement.

"Unlawful activity" means a 1st degree misdemeanor or higher graded offense under federal or state law.

Penalty: Imprisonment for not more than 20 years, a fine the greater of \$100,000 or twice the value of the property, or both.

Civil Penalty: Greater of the value of the property or \$10,000.

RHODE ISLAND [1991]

Laundering of monetary instruments. R.I. Gen. Laws §11-9.1-15 (Supp. 1992)

A person commits an offense if the person conducts or attempts to conduct a financial transaction:

- (1) intending to promote specified unlawful activity;
- (2) intending and knowing the transaction will:
 - (A) conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or
 - (B) avoid a state transaction reporting requirement;
- (3) knowing the property represents the proceeds of some form of unlawful activity or has been or is being used to conduct or facilitate some form of unlawful activity; or
- (4) involving property represented to be proceeds of some form of unlawful activity by a law enforcement officer or other person working at the direction of an investigative or prosecutorial officer.

Penalty: Felony- Imprisonment for not more than 20 years, a fine of not more than the greater of \$500,000 or twice the value of the property involved.

Civil Penalty: Not more than the greater of the value of the property, funds, or instruments involved; or \$10,000.

“Specified unlawful activity” means a felony under titles 11 and 19, or chapter 28 of title 21, and racketeering activities.

SOUTH CAROLINA [1990]

Financial transactions, monetary instruments, or financial institutions involving property or proceeds of unlawful activities in narcotic drugs or controlled substances; penalties. S.C. Code Ann. §44-53-475 (Law Co-op. Supp. 1992)

A person commits an offense if the person:

- (1) conducts or attempts to conduct a financial transaction, knowing the property involved represents or is derived from a drug offense; and:
 - (A) intends to promote a drug offense or;
 - (B) knows the transaction will conceal or disguise the nature, location, source, ownership, or control of the proceeds.
- (2) transports, transmits, or transfers monetary instruments or funds, or attempts to do so, from South Carolina to or through a place outside the United States or to South Carolina from or through a place outside the United States and:
 - (A) intends to promote a drug offense; or
 - (B) knows the instrument or funds represent the proceeds of unlawful activity and will conceal or disguise the nature, location, source, ownership, or control of the proceeds.
- (3) conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be proceeds of unlawful activity or used to conduct or facilitate the unlawful activity and intends:
 - (A) to promote a drug offense; or
 - (B) to conceal or disguise the nature, location, source, ownership, or control of property.

Penalty: Felony- Imprisonment for not more than 20 years, a fine of the greater \$500,00 or twice the value of property involved.

Civil Penalty: Not more than the greater of the value of the property, funds, or monetary instruments involved, or \$10,000.

TEXAS [1989]

Offense: Illegal Expenditure or Investment. Tex. Health & Safety Code Ann. §481.126 (Vernon Supp.1993)

It is unlawful knowingly or intentionally:

- (a) to expend funds the person knows are derived from a drug offense; or
- (b) to finance or invest funds the person knows or believes are intended to further the commission of a drug offense.

Penalty: Imprisonment for life or a term not more than 99 years or less than 5 years, and a fine of not more than \$1,000,000 or less than \$50,000.

UTAH [1989]

Money Laundering and Currency Transaction Reporting. Utah Code Ann §§76-10-1901 to 76-10-1908 (1990) as amended by S. B. 151 (1993)

A person commits an offense if the person:

- (a) knowing property represents proceeds of some unlawful activity, conducts or attempts to conduct a financial transaction involving proceeds of specified unlawful activity:
 - (1) with intent to promote specified unlawful activity; or
 - (2) knowing the transaction will:
 - (A) conceal or disguise the nature, location, source, ownership, or control of the proceeds;
or
 - (B) avoid a transaction reporting requirement; or
- (b) transports or attempts to transport a monetary instrument:
 - (1) with intent to promote specified unlawful activity; or
 - (2) knowing the instruments represent proceeds of some unlawful activity and the transportation will:
 - (A) conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or
 - (B) avoid a transaction reporting requirement.

“Specified unlawful activity” means any racketeering activity.

Penalty: 2nd degree felony

VIRGINIA [1989]

Money Laundering. Va. Code Ann. §18-2-248.7 (Supp. 1992)

It is unlawful for a person, knowing that proceeds are derived from a felony, to conduct or attempt to conduct a financial transaction:

- (a) with intent to promote a felony; or
- (b) knowing the transaction will conceal or disguise the nature, location, source, ownership, or control of proceeds derived from a felony.

Penalty: Imprisonment for not more than 40 years, fine for not more than the greater of \$500,000 or twice the value of the property, or both.

WASHINGTON [1992]

Money Laundering. Wash. Rev. Code §§9A.82.010 to 9A.82.040 (West Supp. 1993)

A person is guilty of money laundering if he conducts or attempts to conduct a financial transaction involving the proceeds of specified unlawful activity and:

- (a) knows the property is proceeds of specified unlawful activity; or
- (b) knows that the transaction is designed to conceal or disguise the nature, location, source, ownership, or control of the proceeds, and acts recklessly as to whether the property is proceeds of specified unlawful activity; or
- (c) knows that the transaction is designed to avoid a transaction reporting requirement under federal law.

The Act imposes additional proof requirements in the case of a licensed attorney who accepts legal fees and cases involving a financial institution and one or more of its employees.

The Act also incorporates provisions for the seizure and forfeiture of property involved in a money laundering violation.

“Specified unlawful activity” includes class A or B felonies under Washington law, offenses included under the Washington RICO statute (RCW 9A.82.010(14)), offenses committed out of state that are punishable under the laws of that state by more than one year in prison and offenses punishable under federal law by more than one year in prison.

Penalty: Class B felony

Civil Penalty: Costs of the suit, including reasonable investigative and attorneys’ fees, and twice the value of the proceeds involved.