

# **Civil Asset Forfeiture Reform**

## **Provisions of the Bill**

- Current law allows law enforcement to take and keep a person's property even if there is never a conviction or even charges brought. This bill allows a person's property to be forfeited only after a conviction. This ensures that citizens are truly treated as innocent until proven.
- The "innocent owner" provision requires property that is seized during an arrest to be returned to innocent owners of the property if the criminal activity occurred without their knowledge and they can prove their ownership.
- The bill allows the court, upon petition by a person whose property was seized but not yet forfeited, to return the property to the person under certain circumstances.
- This bill requires that all proceeds from the sale of all forfeited property be turned in to the state school fund.
  - The Wisconsin Constitution already requires this under Article X, 2.
- The bill prohibits local law enforcement agencies from transferring property to federal agencies for forfeiture under federal law unless the value of the property exceeds \$50,000 or the property can be forfeited only under federal law.
- This bill strengthens protections for individuals facing a potential forfeiture by raising the burden of proof for the government to prove "clear and convincing evidence" exists for law enforcement to take property that is not directly related to a crime. This higher standard insures that the rights of innocent parties are not infringed. This mirrors language in Congressman Jim Sensenbrenner's "DUE PROCESS ACT of 2016".
- This bill also allows a person who prevails in a forfeiture action to recover reasonable attorney fees from the state. This mirrors language in Congressman Jim Sensenbrenner's "DUE PROCESS ACT of 2016".
- The bill creates a timeline requiring that seized property be returned to property owners within 30 days of a dismissal or a not guilty verdict. This mirrors language in Congressman Jim Sensenbrenner's "DUE PROCESS ACT of 2016".

## **Talking Points**

- Innocent Until Proven Guilty - Forfeitures should only be made once a person is convicted, not before.
- This bill does not change criminal procedures relating to evidence. This only deals with property unrelated to a crime.
- If an innocent owner's property is being used by a person who was arrested without the owner's knowledge of the crime, they should not have their property seized. They will have recourse to keep their property.
- Many states are addressing the growing abuse by law enforcement of "Policing for Profit"
- This bill mirrors Congressman Jim Sensenbrenner's "DUE PROCESS ACT of 2016" to gain parity between Wisconsin and Federal law.

## **Notable Cases**

- Green Bay Cash Case
  - Beverly Greer of Green Bay tried to bail her son out of jail with \$7,500. Jail officials called in the same Drug Task Force that arrested her son and they deemed the money to be related to drug crime and the police department would be confiscating the bail money.
- Walworth "Innocent Owner" Case
  - John Bickley's car was seized after his daughter sold drugs to an informant three times in 2013. John despite being the owner of the car had no knowledge of his daughter's activities. The forfeiture was upheld in court and the daughter was never charged with a crime.

## **Other States Have Passed Reforms to Address the Growing Abuse**

New Mexico, Nebraska, Maryland, Florida, Minnesota, Montana, Michigan, New Hampshire, Georgia, Virginia, Mississippi, Utah, California, Oklahoma, and Ohio.