



Legislative Testimony

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Written Testimony Supporting the Concept of House Bill 7146, An Act Requiring a Criminal Conviction for Certain Offenses Before Assets Seized in a Lawful Arrest of Lawful Search May Be Forfeited in a Civil Proceeding

Representative Lesser, Senator Winfield, Senator Martin, and distinguished members of the Banking Committee:

My name is David McGuire, and I am the executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of abolishing civil asset forfeiture in our state and replacing it with criminal forfeiture, a process that Connecticut has already adopted and is used in parts of the state. Specifically, I wish to offer recommendations for strengthening House Bill 7146, which is a good first step toward righting injustice. The ACLU of Connecticut strongly supports liberty and justice for all. This includes the right to freedom from baseless searches and the right to due process.

Civil asset forfeiture provides police with the power to take and keep property from someone who has not been convicted or even charged with a crime. Often, these seizures take place without an arrest or hearing, and they result in innocent people being deprived of their property without due process of law. Under most civil asset forfeiture laws, property owners bear the burden and costs of demonstrating their property's "innocence," rather than the government bearing the burden of demonstrating wrongdoing.

In theory, civil asset forfeiture was designed to prevent ill-begotten assets from enriching their owners. In practice, civil asset forfeiture incentivizes policing for profit, disproportionately impacts innocent people of color, and frequently violates the Constitution.

Taking innocent people's money and property is unacceptable and unconstitutional, but it happens in Connecticut. From 2009 through 2013 police in Connecticut used civil asset forfeiture more than 3,700 times, to seize cash and property worth more than \$7 million. In a high-profile example of federal civil asset forfeiture, the IRS seized thousands of dollars from the Vocatura brothers, the owners of Vocatura's bakery in Norwich. The siblings were never charged with a crime, but it took them more than three years to get their property back from the government.

Disproportionately, the innocent people who are deprived of their property through civil asset forfeiture are Black and Latino, and the ability for police to seize property without arrest or

suspicion of a crime can lead to racial profiling. In 2012, for instance, the national ACLU settled a lawsuit on behalf of Black and Latino drivers in two Texas counties where police used civil asset forfeiture to seize \$3 million dollars during a two-year period. None of these people were ever arrested or charged with a crime.

In addition to its disturbing disregard for due process, civil asset forfeiture incentivizes policing for profit and fuels police militarization, with little transparency or oversight regarding how forfeiture funds are used. In 2014, a *New Haven Register* report found that police in Connecticut had used forfeiture proceeds to purchase weapons and to fund travel throughout the country, including a controversial trip to a New Orleans conference in which a state police officer discussed details of the Sandy Hook shootings that had not yet been shared with Connecticut officials. Last year, Wethersfield announced that it had used civil asset forfeiture funds to purchase stationary license plate readers, which will scan the driving information of thousands of people crossing into the town, regardless of whether they are suspected of any wrongdoing. Across the country, police have spent more than \$175 million on weaponry with funds acquired through federal and local partnering on civil asset forfeiture.

For these reasons, the ACLU of Connecticut supports banning civil asset forfeiture altogether, in favor of keeping only criminal forfeiture, which requires a criminal conviction prior to seizing forfeiture litigation in which the title to property is transferred to the state. This will not change seizure law and the daily work of law enforcement.

By requiring a conviction prior to asset forfeiture, the criminal forfeiture process holds prosecutors to a higher standard, preserves due process rights, and provides a better chance for innocent people to retain their property. In addition, we favor creating additional stopgaps to ensure that innocent property owners, who may not themselves be the defendants in criminal forfeiture cases, are able to petition the court to regain their property. For instance, last year, in a high-profile case in Illinois, 70-year-old grandmother Judy Weise lent her car to her grandson. When police arrested him for driving with a suspended license, they also confiscated Ms. Weise's car through civil asset forfeiture. We support providing legal recourse for innocent property owners like Ms. Weise, whose property may have been involved in a crime but who themselves were not.

We support this bill's goal of reforming civil asset forfeiture in Connecticut, and its current form is a good first step toward achieving that aim. We support H.B. 7146's proposal to redirect forfeiture funds into Connecticut's General Fund, as this mechanism would decrease the potential for misuse, dissuade for-profit policing, and provide more oversight regarding how the government uses forfeiture funds. We strongly believe, however, that this bill should be strengthened to abolish civil asset forfeiture altogether, rather than retaining some civil asset forfeiture mechanisms. We therefore strongly urge the committee to amend this bill to replace references to civil processes with criminal processes. This will ensure that Connecticut replaces unjust and constitutionally suspect civil asset forfeiture with criminal asset forfeiture. In addition, it will aid judicial efficiency by channeling all forfeiture cases into the same system. Similarly, we encourage the committee to clarify the bill to reflect a clear and convincing evidence standard of

proof for seizing property. In addition, we encourage the committee to consider amending this bill to allow innocent property owners, who may be the spouses, grandparents, parents, or other innocent acquaintances of criminal defendants, to petition the court to retain their assets. Finally, we encourage the committee to consider including a reporting requirement in this bill, in order to provide the public with more transparency regarding the size, scope, and locations of forfeiture seizures in Connecticut.

We applaud this bill's author and this committee for taking up the critically important issue of asset forfeiture. Abolishing civil asset forfeiture is a commonsense proposal, and it has bipartisan support in Connecticut and throughout the country. We believe that an amended version of this bill could help to protect due process rights, justice, and liberty in Connecticut, and that the bill in its current form is a good first step toward accomplishing those goals. Nebraska, New Mexico, and North Carolina have abolished civil asset forfeiture. Connecticut should do the same.

We urge you to support an amended version of H.B. 7146.