

CIVIL ASSET FORFEITURE

WHY WISCONSIN NEEDS REFORM

WHAT IS CIVIL ASSET FORFEITURE?

- Civil asset forfeiture is a process where the government permanently takes an individual's private property. This taking can occur without a criminal conviction or even criminal charges.
- The government simply brings a civil suit against the property (ex: *State of Wisconsin v. 2001 Toyota Corolla*) then directly profits from the sale or use of the property.
- The government only needs suspicion of criminal involvement to forfeit property and benefit from the sale. No other due process is required.

WHY REFORM IT?

- **Wisconsin's law is constitutionally precarious**
 - o The Fifth and Fourteenth Amendments state that no person shall "be deprived of life, liberty, or property, without due process of law". ***Wisconsin's statute allows government to take private property without due process.***
 - o Justice Clarence Thomas wrote about civil asset forfeiture: "I am skeptical that this historical practice is capable of sustaining, as a constitutional matter, the contours of modern practice ..."
- **Innocent people in Wisconsin are harmed**
 - o Innocent people have paid thousands in legal fees fighting in court to get their seized property returned to them.
 - o Those who cannot afford a lawyer to challenge the government lose their property.
- **There is no reporting requirement**
 - o Police agencies do not have to account for the money/property they forfeit under WI law
 - o Police agencies do not have to account for how they spend the forfeited funds under WI law
 - o Without reporting requirements, the potential for abuse exists.

HOW DOES THIS BILL FIX FORFEITURE?

- This bill requires a criminal conviction
 - o This preserves one of the most sacred doctrines in the American legal system - ***innocent until proven guilty.***
 - o This ensures that a judge and/or jury have reviewed and decided on the facts.
- The bill also: **(1)** requires forfeitures be proportional to the crime committed, **(2)** protects innocent owners, **(3)** requires law enforcement report forfeiture actions and expenses to the DOA, **(4)** places limits on how forfeited vehicles can be used, **(5)** raises the burden of proof in forfeiture cases, and **(6)** allows for attorney fees for innocent owners if their property is returned.

NATIONWIDE MOVEMENT

- Civil asset forfeiture reform is supported by organizations all across the political spectrum such as the American Civil Liberties Union, the Heritage Foundation, the CATO Institute, Americans for Prosperity, and the National Association of Criminal Defense Lawyers
- There are bipartisan reform efforts at the national level from Congressman Jim Sensenbrenner and Senator Rand Paul.
- 24 States (and Washington D.C.) have passed various reforms to the civil asset forfeiture, more proposed.