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SB 521 Civil Asset Forfeiture Reform Act
Testimony of Senator Steve Nass
Senate Committee on Labor & Government Reform
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Thank you committee members for allowing me to testify in support of Senate Bill 521. This legislation reforms the civil asset forfeiture process in Wisconsin to better protect the lawful property rights of innocent citizens, and reduce the potential for abuse of the forfeiture process. The bill does not impact law enforcement's ability to target the assets of an individual convicted of a crime.

Civil asset forfeiture allows law enforcement agencies to seize money and property that they suspect is being used to commit a crime, or the profit from a criminal activity. Under current Wisconsin law, however, law enforcement does not need to convict or even charge the owner of the property with a crime to make these seizures. Property can even be seized from people who are innocent of any crime and had no knowledge their property was connected to a crime.

These laws were created to go after unlawful gains of large-scale criminal enterprises, but are becoming a way to simply generate revenue to increase police department budgets. Current law provides law enforcement agencies with an incentive to seize money and property through forfeiture because a large percentage of the proceeds go back to them, and supplements their budgets outside the normal legislative process. This is a clear conflict of interest that goes well beyond using forfeiture to deprive someone of ill-gotten gains as a result of a crime.

Law enforcement agencies in Wisconsin are allowed to keep between 50%-70% of the proceeds of the property they seize, under state law. However, police agencies can also circumvent state law by turning over seized assets to federal authorities to pursue the forfeiture federally. Under the federal "equitable sharing" program, local police agencies can keep up to 80% of the proceeds of the forfeiture, with the remaining amount going to the U.S. Department of Justice.

A 2010 report by the Institute for Justice (IJ), that rated the forfeiture laws in all 50 states for fairness, gave Wisconsin a "C" grade. Police agencies in Wisconsin took in more than \$50 million from the equitable sharing program alone between 2000 and

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2008, according to the report.¹ It is more difficult to determine how much was made from the state forfeiture process because there is no existing standardized reporting mechanism.

SB 521 reforms the civil asset forfeiture process in Wisconsin to maintain the private property rights of innocent citizens. The bill is modeled on legislation recently enacted in New Mexico. It reaffirms due process protections for Wisconsin residents by creating the following safeguards:

- 1) Requires a criminal conviction before a forfeiture proceeding can begin.
- 2) Requires that the property forfeited is proportional to the crime committed.
- 3) Ends the potential “policing for profit” incentive by specifying that the proceeds of any seized property be deposited into the common school fund.
- 4) Allows innocent owners to get their property back in a timely manner, if they demonstrate they had no knowledge or complicity of the crime connected to the seizure.
- 5) Closes the “equitable sharing” loophole under which local law enforcement agencies can circumvent state law if they pursue the case with federal authorities.
- 6) Increases transparency in the forfeiture process by requiring an annual report be submitted and made accessible by law enforcement agencies and the Wisconsin Department of Justice, on their seizure and forfeiture activity for the year.

An example of the excesses of Wisconsin’s civil forfeiture law occurred in Green Bay. When the Brown County Drug Task Force arrested her son Joel in 2012, Beverly Greer worked to raise his \$7,500 bail. According to Greer, the Brown County authorities told her she had to bring cash to pay the bail – even though this is not required by Wisconsin law.

When Greer showed up at the jail with the bail money, jail officials brought in a drug dog to sniff the money and seized it after the dog indicated it smelled drug residue on it.

Studies by the Federal Reserve, the Argonne National Laboratory, and the University of Massachusetts, among others, have consistently shown that most U.S. currency contains traces of drug residue.

¹ http://www.ij.org/images/pdf_folder/other_pubs/assetforfeituretoemail.pdf

Greer had in fact taken the money out from local ATMs and had the receipts to prove it, but not until after she had gone through months of court proceedings and hired an attorney.

She wasn't the only person in Brown County to have bail money seized in this manner, but she was one of the few to be able to hire an attorney to challenge the seizure. Usually, people cannot afford to hire an attorney to contest the forfeiture or they don't bother because the cost and time required is greater than the value of the property seized.

SB 521 will enact common sense, bipartisan reforms to safeguard due process and private property rights of innocent citizens, while maintaining law enforcement's ability to seize assets that are proven to be derived from a crime. The growing use of civil forfeiture to act as a revenue stream, instead of a punishment or remedy for a crime, has raised public concerns with this process across the nation. Similar laws have been passed in New Mexico, Minnesota, Montana, and North Carolina.

Thank you again for the opportunity to provide testimony in support of SB 521. If any committee members have further questions, I am happy to answer them at this time.