

IN THE
SUPREME COURT OF INDIANA

No. _____

Court of Appeals Case No. 18A-PL-00916

JEANA M. HORNER, DENNIS JACK)	Appeal from the
HORNER, JENNIFER K. THOMPSON,)	Marion Superior Court
DANIEL C. HARGROVE, AMY M.)	
WILLIS, and DANIEL J. WILLIS,)	Trial Court Case No.
)	49D06-1602-PL-004804
<i>Appellants (Plaintiffs</i>)	
<i>below),</i>)	The Honorable Thomas J. Carroll,
)	Judge.
v.)	
)	
TERRY R. CURRY, in his official capacity as)	
Marion County Prosecuting Attorney; the)	
MARION COUNTY PROSECUTOR'S)	
OFFICE; the CONSOLIDATED CITY OF)	
INDIANAPOLIS/MARION COUNTY;)	
JOSEPH H. HOGSETT, in his official)	
capacity as Mayor of the Consolidated City)	
of Indianapolis/Marion County; PAUL)	
BABCOCK, in his official capacity as Acting)	
Director of the Office of Public)	
Health and Safety; and BRYAN ROACH,)	
in his official capacity as Chief of the)	
Indianapolis Metropolitan Police Department,)	
)	
<i>Appellees (Defendants</i>)	
<i>below).</i>)	

**APPELLANTS' VERIFIED MOTION
FOR IMMEDIATE TRANSFER AND EXPEDITED CONSIDERATION**

Appellants Jeana M. Horner, Dennis Jack Horner, Jennifer K. Thompson, Daniel C. Hargrove, Amy M. Willis, and Daniel J. Willis (Taxpayers) respectfully request that this Court grant transfer and accept jurisdiction over this appeal before consideration by the Court of Appeals. Ind. Appellate Rules 4(A)(2) & 56(A). The Taxpayers also ask that this appeal be expedited under Rule 21(B).

INTRODUCTION

This is the rare case in which immediate transfer is warranted. Article 8, Section 2 of the Indiana Constitution requires that “all forfeitures which may accrue” must be paid to the State’s common school fund. But despite that command, Indiana’s Civil Forfeiture Statute provides that forfeiture revenue can be diverted away from the school fund, to “reimburse[]” police and prosecutors. Ind. Code §§ 34-24-1-3(a), -4(d). In 2011, this Court remarked that the constitutionality of these “limited diversion[s]” is “an unresolved question.” *Serrano v. State*, 946 N.E.2d 1139, 1142 n.3 (Ind. 2011). Yet while describing the issue as “very much in flux,” Compl. Ex. 1, at 48 (Clerk’s Record, July 7, 2017), the Defendants in this case—police and prosecutors in Marion County—have for years kept 100 percent of civil-forfeiture revenue for themselves. As a result, millions of dollars go to police and prosecutorial “law enforcement funds” in Marion County, with not a penny of civil-forfeiture revenue going to the common school fund.

The trial court upheld the Civil Forfeiture Statute against the Taxpayers’ constitutional challenge, on the ground that Article 8’s reference to “all forfeitures” does not include civil forfeitures. That ruling breaks with basic principles of constitutional interpretation. By upholding a statute that gives law enforcement a financial stake in civil forfeiture, moreover, the trial court also ratified a system that incentivizes agencies to seize more cash, cars, and

belongings “to bolster shrinking budgets.” Koppel Dep. Ex. 6, at 2 (Clerk’s Record, July 7, 2017). Properly construed, Article 8 thus secures not just the public’s interest in education but also the due-process and private-property rights of Hoosiers across the State.

The need for this Court’s intervention is pressing. Citizens statewide are harmed every day law enforcement continues to siphon money from the school fund. And beginning July 1, 2018, an amendment to the Civil Forfeiture Statute will further entrench the law’s conflict with Article 8. Currently, the statute provides that forfeiture revenue can be diverted from the school fund only to reimburse case-specific expenses, and although Marion County ignores that constraint, other counties have honored it. The amended statute, by contrast, will direct no less than 90 percent of forfeiture revenue—in every case, in every county—to police, prosecutors, and even contingency-fee lawyers. If, as the Taxpayers contend, the current version of the Civil Forfeiture Statute is unconstitutional, the amended version will be equally so and will result in even greater diversions of money from the school fund. Immediate transfer should be granted and the appeal expedited.

QUESTION PRESENTED

Whether the Civil Forfeiture Statute, I.C. § 34-24-1-4(d), violates Article 8, Section 2 of the Indiana Constitution by authorizing civil-forfeiture revenue to be diverted away from the common school fund.

BACKGROUND

A. Legal background

I. When Indiana overhauled its Constitution in 1851, the convention’s “leading achievement was an education article that mandated a ‘general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.’” *Serrano*, 946 N.E.2d at 1142 (quoting Ind. Const. art. 8, § 1). At the heart of the financing scheme for this objective

was the common school fund, a “perpetual” depository for “the support of Common Schools, and . . . no other purpose whatever.” Ind. Const. art. 8, § 3. Over the intervening 165 years, the school fund has changed with the State’s public-education system. In the early 1900s, for example, the fund’s interest financed teachers’ wages. Fletcher Harper Swift, *A History of Public Permanent Common School Funds in the United States, 1795-1905*, 266 (1911). Now, it finances loans for educational-technology programs, school construction, and charter-school operations. *See* I.C. § 20-49-3-8.

Article 8, Section 2 of the Constitution establishes the revenue sources that are committed to the school fund. Among these sources is “all forfeitures which may accrue.”

2. Since 1984, however, Indiana’s Civil Forfeiture Statute has provided that civil-forfeiture revenue go, not to the school fund, but to law-enforcement agencies. Ind. Acts 1984, P.L. 173, sections 4 & 8. The State gains title to property under the statute if it proves that the property is linked to a criminal offense. I.C. § 34-24-1-1, -4(a). Once that showing is made, the property (or the proceeds from the sale of the property) is “deposited in the general fund of the state, or the unit that employed the law enforcement officers that seized the property.” *Id.* § 34-24-1-4(d)(2)(C)(i). Of that money, only the amount exceeding “law enforcement costs” is then “forfeited and transferred to the treasurer of state for deposit in the common school fund.” *Id.* § 34-24-1-4(d)(2)(D). The rest stays “in the general fund of the state, or the unit that employed the law enforcement officers that seized the property.” *See id.* § 34-24-1-4(d)(2)(C)(i).

The Civil Forfeiture Statute defines reimbursable “law enforcement costs” in case-specific terms. A prosecutor’s office can be reimbursed only for “expenses of the prosecuting attorney associated with the costs of proceedings associated with the seizure and the offenses related to the seizure.” *Id.* § 34-6-2-73(3). And a police department can be reimbursed for

“expenses incurred by the law enforcement agency that makes a seizure . . . for the criminal investigation associated with the seizure.” *Id.* § 34-6-2-73(1). Thus, in this Court’s words, the statute allows for “limited diversion” of revenue from the school fund, to reimburse “actual expenses on a case-by-case basis.” *Serrano*, 946 N.E.2d at 1142 n.3. The Court has further remarked that “[w]hether this limited diversion . . . is consonant with the constitutional command that ‘all forfeitures’ be deposited in the Common School Fund is an unresolved question.” *Id.*

3. Given an inch, police and prosecutors in Marion County have taken a mile. While many other counties reimburse their costs on case-by-case bases, the Marion County Prosecutor’s Office (Prosecutor’s Office) and the Indianapolis Metropolitan Police Department (IMPD) demand—in every case—that courts award 30 percent of forfeiture revenue to the Prosecutor’s Office and the remaining 70 percent to IMPD. Koppel Dep. 42:06-42:10, 108:24-109:09 (Clerk’s Record, July 7, 2017). The resulting awards are substantial. Between 2003 and 2017, more than 9,500 forfeiture cases were filed in Marion County alone, with more than \$17.5 million in revenue going to law enforcement. Rimstidt Dep. Ex. 2, at 1 (Clerk’s Record, July 7, 2017). At the same time, not a penny of civil-forfeiture revenue has been awarded to the school fund within Marion County’s institutional memory. Rimstidt Dep. 28:07-28:15 (Clerk’s Record, July 7, 2017); Koppel Dep. 38:20-38:24.

The Prosecutor’s Office has acknowledged that this Court “in *Serrano* indicated displeasure” with this state of affairs. Compl. Ex. 1, at 48 (Clerk’s Record, July 7, 2017). Even so, the Prosecutor’s Office has urged government lawyers statewide to “stay the course and be prepared to lobby for or against any proposed legislation.” *Id.* at 49.

4. Effective July 1, 2018, Marion County’s percentage-based approach to dividing up forfeiture revenue will become a statewide mandate. As amended, the Civil Forfeiture Statute

will no longer authorize only “limited diversion” of forfeiture revenue from the school fund. *Serrano*, 946 N.E.2d at 1142 n.3. Instead, it will establish a blanket formula under which 90 percent of forfeiture revenue will be diverted in every case. Ind. Acts 2018, P.L. 47 (S.E.A. 99), section 3. (The percentage will be even higher for counties that outsource forfeiture prosecutions to private lawyers. *See id.*, sections 3 & 5). Under the amendment, the Marion County Prosecutor’s Office will claim 33.33 percent of forfeiture revenue in every case. *Id.* (I.C. § 34-24-1-4(d)(3)(B) (2018) (providing that one third of forfeiture revenue will go to prosecutor)). IMPD will claim 56.67 percent. *Id.* (I.C. § 34-24-1-4(d)(3)(C) (2018) (providing that 85 percent of remaining two thirds, or 56.67 percent, will go to local government)). Only the remaining 10 percent will go to the school fund. *Id.*

B. Procedural background

This lawsuit, brought on behalf of three Indiana couples, asserts that the Civil Forfeiture Statute violates the plain terms of Article 8, Section 2. On cross-motions for summary judgment, the trial court ruled that Article 8 does not apply to the statute. The court reasoned that “civil forfeitures . . . were unknown in 1851 when Article 8, Section 2, was added to the Indiana Constitution.” Order Cross-Mots. Summ. J. 2 (Mar. 27, 2018) (Order). Thus, the court concluded, Article 8’s reference to “all forfeitures” places no constraint on how civil-forfeiture revenue can be used. At the same time, the trial court acknowledged that “this case is important” and “the public needs these things resolved.” Tr. 39:4-39:5. The court further observed that the case would “undoubtedly” be a candidate for this Court’s review. *Id.* 40:19.¹

¹ Excerpts of a draft transcript of the March 16, 2018 hearing are attached to this motion as Exhibit 1. The certified transcript has been ordered.

ARGUMENT

I. This appeal meets the criteria for immediate transfer.

Immediate transfer is appropriate where an appeal “involves a substantial question of law of great public importance and . . . an emergency exists requiring a speedy determination.” App. Rule 56(A). Those factors support immediate transfer here. This Court has already identified the question presented in this case as “unresolved,” *Serrano*, 946 N.E.2d at 1142 n.3, and even the Marion County Prosecutor’s Office has described the question as “very much in flux,” Compl. Ex. 1, at 48. This Court has also acknowledged that “the disposition of the assets” in civil-forfeiture cases is “a matter of public note.” *Serrano*, 946 N.E.2d at 1141. And this appeal’s urgency is only intensified by the recent amendment to the Civil Forfeiture Statute. Effective July 1, the amendment will compound the statute’s existing constitutional defects by diverting a minimum of 90 percent of forfeiture revenue away from the school fund—in every case statewide—for the benefit of police, prosecutors, and private law firms. This Court’s intervention is needed.²

A. Whether the Civil Forfeiture Statute violates Article 8 is a substantial question of constitutional law.

Article 8 could not be clearer that “all forfeitures which may accrue” belong to the State’s common school fund. As the text suggests, “all forfeitures” means “all forfeitures,” including

² In the proceedings below, the Taxpayers also asserted a statutory claim, which challenged Marion County’s policy of diverting forfeiture revenue based on a fixed formula as inconsistent with the Civil Forfeiture Statute’s case-specific reimbursement regime. Compl. ¶¶ 124-34 (Clerk’s Record, Feb. 10, 2016). As discussed above, last session’s amendment to the Civil Forfeiture Statute will replace that case-specific reimbursement regime with one that diverts forfeiture revenue based on a fixed formula. For that reason, the Taxpayers’ statutory claim will become moot after the amendment goes into effect on July 1. Because the amended statute will continue to divert forfeiture revenue away from the school fund, however, the Taxpayers’ claim that the statute violates Article 8 will persist. *See Van Hess v. Bd. of Comm’rs*, 190 Ind. 347, 129 N.E. 305, 306 (1921) (holding that controversy persists in these circumstances); *see also Matter of Tina T.*, 579 N.E.2d 48, 54 (Ind. 1991) (public-interest exception).

civil forfeitures like those under the Civil Forfeiture Statute. In fact, the only time it has addressed the question, this Court remarked (unanimously) that “Indiana’s system for civil forfeitures proceeds under at least two constitutional provisions,” one of which is Article 8. *Serrano*, 946 N.E.2d at 1141. Article 8, the Court observed, is “[t]he leading constitutional provision governing forfeiture.” *Id.* Yet the court below adopted a different view, reasoning that “civil forfeitures . . . were unknown in 1851 when Article 8, Section 2, was added to the Indiana Constitution.” Order 2. On that basis, the court determined that Article 8 does not apply to the Civil Forfeiture Statute.

That break with this Court’s decision in *Serrano* presents—at minimum—the sort of “substantial question of law of great public importance” warranting this Court’s review. *See* App. R. 56(A). Constitutional text “must be treated with particular deference, as though every word had been hammered into place.” *Nagy ex rel. Nagy v. Evansville-Vanderburgh Sch. Corp.*, 844 N.E.2d 481, 484 (Ind. 2006) (citation omitted). And contrary to the trial court’s view, the words “all forfeitures” would absolutely have been understood in 1851 to include civil *in rem* forfeitures. Far from a novelty, “[c]ivil forfeiture traces to ancient Roman and medieval English law.” *Serrano*, 946 N.E.2d at 1141. “Since the earliest years of this Nation,” in fact, “Congress has authorized the Government to seek parallel *in rem* civil forfeiture actions and criminal prosecutions based upon the same underlying events.” *C.R.M. v. State*, 799 N.E.2d 555, 558 (Ind. Ct. App. 2003) (citation omitted). Even the Prosecutor’s Office describes “forfeiture” as “an *in rem*, traditionally civil action.” Prosecutor’s Office Summ. J. Br. 9 (Clerk’s Record, Oct. 5, 2017). In short, the trial court was wrong to break from the plain text of Article 8 and wrong to conclude that the phrase “all forfeitures which may accrue” does not include civil forfeitures.

Beyond *Serrano*, this Court’s older precedent drives the point home. As early as 1882, this Court made clear that “[a] forfeiture may be generally defined to be the loss of what belongs to a person in consequence of some fault, misconduct or transgression of law.” *State ex rel. Baldwin v. Bd. of Comm’rs*, 85 Ind. 489, 493 (1882). And as “used in the Constitution,” the word “forfeitures” likewise “means the loss of a certain sum of money as the consequence of violating the provisions of some statute, or of the refusal to comply with some requirement of law.” *Id.*

The Civil Forfeiture Statute squares perfectly with that conception of “forfeiture,” because it applies *only* “as the consequence of violating the provisions of some statute, or of the refusal to comply with some requirement of law.” *See id.* On the statute’s face, property can be forfeited only if the government proves that it “was used to commit one of the enumerated offenses under the statute.” *Serrano*, 946 N.E.2d at 1143; *see also* I.C. tit. 34, art. 24, ch. 1, title (“Forfeiture of Property Used in Violation of Certain Criminal Statutes”). Civil forfeitures thus fit within the meaning of “all forfeitures,” both as the term was understood in 1851 and as it is understood today.

None of the three decisions the trial court cited suggests otherwise; none even mentions civil forfeiture. Rather, each addressed Article 8’s effect on monetary payments that are fundamentally different from civil forfeitures. *Judy v. Thompson*, for example, held that Article 8 does not apply to statutory damages awarded from one private party to another. 156 Ind. 533, 60 N.E. 270, 271 (1901). But unlike the private remedy at issue in *Judy*, the Civil Forfeiture Statute imposes “criminal-like penalties” that accrue to the government. *See Hughley v. State*, 15 N.E.3d 1000, 1005 (Ind. 2014). These sanctions are quintessential “forfeitures” within the meaning of Article 8.

The other two decisions on which the trial court relied likewise do not support that court’s interpretation of Article 8. The first, *State v. Indiana & I.S.R. Co.*, held that pecuniary penalties for purely *civil* infractions are not covered by Article 8. 133 Ind. 69, 32 N.E. 817, 820 (1892). Again, however, that says nothing about civil forfeitures, which follow directly from a court’s determination of *criminal* wrongdoing. The second decision, *Burgh v. State ex rel. McCormick*, does not mention Article 8’s forfeitures clause at all; it construed a separate clause in Article 8—covering “fines assessed for breaches of the penal laws of the State”—that is not at issue in this case. 108 Ind. 132, 9 N.E. 75, 76 (1886). Put simply, “all forfeitures” was understood in 1851, as it is today, to include civil forfeitures. Neither the trial court’s order nor the precedent it cites casts doubt on that straightforward application of Article 8.

The Taxpayers’ reading of Article 8 finds added support in the constitutional provisions of other States. *See Hoagland v. Franklin Twp. Cmty. Sch. Corp.*, 27 N.E.3d 737, 741 (Ind. 2015). Of the 10 other States whose constitutions have assigned “forfeitures” to education, every court or agency to consider the issue has agreed that the term embraces civil forfeitures.³ There is no basis on which to read Article 8 differently, and the trial court’s interpretation stands alone. At a minimum, the decision below presents a substantial question that merits this Court’s review.

B. The question presented is exceptionally important.

Whether the Civil Forfeiture Statute comports with Article 8 is also a question of great public importance. As early as 1989, a former Attorney General voiced concern that

³ *State ex rel. Thornburg v. 532 B St.*, 432 S.E.2d 684, 687 (N.C. 1993); *Reorganized Sch. Dist. No. 7 v. Douthit*, 799 S.W.2d 591, 594 (Mo. 1990); Wis. Att’y Gen. Op. OAG 48-87, 1987 WL 341131, at *1 (1987); N.M. Att’y Gen. Op. No. 87-20, 1987 WL 270320, at *1-2 (1987); 44 Or. Op. Att’y Gen. OP-5905, 1985 WL 200052, at *1-2 (1985); Utah Att’y Gen. Op. No. 82-67, 1982 WL 176527, at *2 (1982); 1980-81 Va. Op. Att’y Gen. 151, 1981 WL 141055 (1981); *accord Dean v. State*, 736 S.E.2d 40, 52 (W. Va. 2012) (Ketchum, C.J., concurring). The Washington and Wyoming constitutions also reference forfeitures in the context of school financing, but those States’ provisions do not appear to have been construed.

“[o]bviously, the ‘Marion County Prosecutor’s Law Enforcement Fund’ is not the same receptacle as the ‘State Common School Fund.’” Gedge Aff. Ex. 1 (Clerk’s Record, July 7, 2017). In 2011, this Court singled out this issue as “an unresolved question” and further remarked that “[t]he relative ease of effecting [civil] forfeiture and the disposition of the assets have become a matter of public note.” *Serrano*, 946 N.E.2d at 1141, 1143 n.3; *see also Sargent v. State*, 27 N.E.3d 729, 735 (Ind. 2015) (Massa, J., dissenting) (observing that “misuse” of forfeiture “invites further scrutiny”). Also in 2011, then-Governor Daniels remarked that draining the common school fund of civil-forfeiture revenue is “unwarranted as policy and constitutionally unacceptable” given “the plain language of Article 8, Section 2 of the Indiana Constitution.” Gedge Aff. Ex. 2 (Clerk’s Record, July 7, 2017). Even the trial court acknowledged that “this case is important” and that “the public needs these things resolved.” Tr. 39:4-39:5.

As this range of jurists and officials suggests, the question presented in this case is important. Statewide, civil forfeiture generates millions of dollars each year. Whether that revenue must go to the school fund or whether it can be diverted elsewhere is an important statewide question of constitutional law, making it appropriate for review under Rule 56(A). *See Meredith v. Pence*, 984 N.E.2d 1213, 1217 (Ind. 2013) (noting grant of immediate transfer to decide whether scholarship program complied with, among other provisions, Article 8); Order, *Daniels v. Hamilton Se. Schs.*, 29S00-1103-PL-00167 (Ind. Mar. 22, 2011) (granting immediate transfer to decide whether public-school funding law complied with, among other provisions, Article 8). Moreover, because the Civil Forfeiture Statute is enforced across dozens of counties, only this Court can ensure that Article 8 applies uniformly.

Equally important, Article 8 serves as a check on law enforcement’s impulse to “overreach” when seeking punitive economic sanctions. *See Sargent*, 27 N.E.3d at 735 (Massa, J., dissenting). The Civil Forfeiture Statute gives law-enforcement agencies a direct financial stake in civil forfeiture, so “these entities have strong incentives to pursue forfeiture.” *See Leonard v. Texas*, 137 S. Ct. 847, 848 (2017) (statement of Thomas, J., respecting denial of certiorari). In Marion County, for example, civil forfeiture is used as a law-enforcement “revenue source.” Compl. ¶ 55 (Clerk’s Record, July 7, 2017). The Indiana Drug Enforcement Association advocates using forfeiture “to bolster shrinking budgets.” Koppel Dep. Ex. 6, at 2. And across the State, hundreds of thousands of dollars in forfeiture revenue are diverted away from the school fund for the benefit of private lawyers. *See David B. Smith, Prosecution and Defense of Forfeiture Cases* ¶ 1.01, at 1-13 (LexisNexis 2017) (“The biggest scandal of all is Indiana’s institutionalized bounty hunter system in which state DA’s contract with *private* attorneys to handle all of the county’s civil forfeiture cases for a contingent fee of a quarter or a third of all the property they forfeit.”).

For ordinary citizens—many of them low-level offenders or innocent property owners—the real-world consequences of these practices are profound. In Indiana, “law enforcement Weapons of Mass Destruction” like civil forfeiture are increasingly deployed against “pedestrian targets.” *Sargent*, 27 N.E.3d at 735 (Massa, J., dissenting). In one case, the Marion County Prosecutor’s Office sued to forfeit a teenager’s car, which was found with “a large quantity of Gatorade bottles and assorted snacks and candies” stolen from a playground concession stand. Pls.’ Mot. Summ. J., *State v. Jaynes*, No. 49D01-1111-MI-043642, 2012 WL 12974140 (Ind. Super. Ct. May 23, 2012). In another, the Office tried to forfeit a woman’s 1996 Buick Century after she attempted to shoplift four iPhones. *Sargent*, 27 N.E.3d at 731. In still other cases—like

that of Plaintiffs Jeana and Jack Horner—the property owners are innocent. J. Horner Aff. ¶¶ 3-9 (Clerk’s Record, July 7, 2017). These and other troubling examples all are fueled by the revenue-generating aspects of the Civil Forfeiture Statute. *See generally In re McKinney*, 948 N.E.2d 1154 (Ind. 2011) (disciplinary proceeding); *Knox Cty. Council v. Sievers*, 895 N.E.2d 1263 (Ind. Ct. App. 2008) (intragovernmental litigation). The question presented thus affects not only the deep-seated public rights enshrined in Article 8; it has broader implications for private-property and due-process rights statewide.

C. The decision below should be reviewed immediately.

An immediate grant of transfer is necessary. Absent transfer under Rule 56(A), it is likely that even expedited proceedings in the Court of Appeals would lead to months of damaging delay. During that time, law-enforcement agencies in Marion County would continue to divert forfeiture revenue away from the common school fund. (In the two years since this lawsuit was filed, more than \$2 million have been diverted in Marion County alone. *See Rimstidt Dep. Ex. 2, at 1.*) Once awarded to police and prosecutors, that money is lost to the school fund.

The recent amendment to the Civil Forfeiture Statute only compounds the problem. Unconstitutional as it is, the statute currently authorizes only “limited diversion” of forfeiture revenue, to reimburse “actual expenses on a case-by-case basis.” *Serrano*, 946 N.E.2d at 1142 n.3; I.C. § 34-6-2-73. Some counties honor that provision. *See Gedge Aff. Exs. 13-20* (Clerk’s Record, July 7, 2017). But beginning July 1, every seizing agency, prosecutor, and trial court statewide will be required to adopt the sort of formulaic split that Marion County has used for years. As amended, the statute will mandate that a minimum of 90 percent of forfeiture revenue be diverted away from the school fund in every case. *See Ind. Acts 2018, P.L. 47, section 3.* As

a result, even counties that have historically sent civil-forfeiture revenue to the school fund will begin sending far less.

For administrative reasons, too, this appeal should be resolved before the amendment to the Civil Forfeiture Statute becomes entrenched as the new status quo. Once the amendment goes into effect, law-enforcement agencies and prosecutor's offices statewide will have to reorder their affairs in several ways. Counties that reimburse only their case-specific costs will need to implement the statute's new formula. The many counties that outsource forfeiture cases to private lawyers will have to negotiate new "compensation agreements," setting forth the amount of forfeiture revenue to be paid in contingency fees. *Id.*, section 5 (establishing fee rates). The Attorney General must then review and approve those contracts "for form and legality." *Id.* All these adjustments will take place across the State, but they will operate under a cloud of constitutional doubt until the question presented in this case is resolved.

No matter the outcome of this appeal, therefore, the question presented should be resolved as soon as practicable. No one benefits from the lingering uncertainty surrounding the Civil Forfeiture Statute—not taxpayers, not law enforcement, not elected officials, and not courts. This Court's intervention is needed so that the meaning of Article 8, Section 2 can be decided once and for all.

II. Expedited consideration is warranted.

Rule 21(B) provides that appeals may be expedited when they "involve the constitutionality of any law, the public revenue, [or] public health, or are otherwise of general public concern" or "for other good cause." This appeal implicates three of those considerations: It involves the constitutionality of the Civil Forfeiture Statute; it pertains to the disposition of millions of dollars in public revenue; and it raises issues of grave public concern. The General

Assembly's recent amendment to the Civil Forfeiture Statute only increases the pressing need to resolve the question presented. Government agencies and property owners statewide would thus benefit from the Court's immediate attention to this case.

CONCLUSION

Appellants' motion for transfer should be granted and the appeal expedited.

Dated: May 3, 2018.

Respectfully submitted,

/s/ J. Lee McNeely

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**Appellate motions for temporary admission
pending*

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VERIFICATION

I verify under the penalties for perjury that the foregoing representations are true. I further verify that the document attached to this motion as Exhibit 1 is an excerpt of the draft transcript of the March 16, 2018 hearing held in the trial-court proceedings in this case.

/s/ J. Lee McNeely
J. Lee McNeely

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WORD COUNT CERTIFICATE

As required by Indiana Rule of Appellate Procedure 34(G)(2), I verify that the foregoing, excluding cover page, signature block, and certificates, contains no more than 4,200 words according to the word-count function of the word-processing program used to prepare the document.

/s/ J. Lee McNeely
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CERTIFICATE OF SERVICE

I certify that on May 3, 2018, I electronically filed the foregoing document (with exhibit) using the Indiana E-filing System (IEFS). I hereby certify that a copy of the foregoing was served on the following persons using the IEFS:

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