

ANTI-CIRCUMVENTION FORFEITURE ACT

Regulating Local and State Agencies' Access to Federal Forfeiture Litigation

Under the Federal Equitable Sharing Program.

February 21, 2019

- A. **Prohibition on federal adoption.** A local, county or state law enforcement agency shall not refer, transfer or otherwise relinquish possession of property seized under state law to a federal agency by way of adoption of the seized property or other means for the purpose of the property's forfeiture under the federal Controlled Substances Act, 21 United States Code, section 881 or the Comprehensive Drug Abuse 16.6 Prevention and Control Act of 1970, Public Law 91-513, section 413.
- B. **Forfeiture litigation following seizures by joint task forces.**
- (1) In a case in which the aggregate net equity value of the property and currency seized has a value of \$50,000 or less, excluding the value of contraband, a local, county or state law enforcement agency or participant in a joint task force or other multijurisdictional collaboration with the federal government (agency) shall transfer responsibility for the seized property to the state prosecuting authority for forfeiture under state law.
 - (2) If the federal government prohibits the transfer of seized property and currency to the state prosecuting authority as required by paragraph (1) and instead requires the property be transferred to the federal government for forfeiture under federal law, the agency is prohibited from accepting payment of any kind or distribution of forfeiture proceeds from the federal government.
 - (3) Nothing in paragraphs (1) and (2) shall be construed to restrict an agency from transferring responsibility to the federal government for forfeiture of seized property and currency that has an aggregate net equity value of greater than \$50,000, excluding the value of contraband.
- C. **No change to seizure laws.** Nothing in paragraphs A or B shall be construed to restrict a local, county or state law enforcement agent from seizing, at any time, contraband or property the agent has probable cause to believe is the proceeds or instruments of a crime that subjects property to forfeiture.
- D. **No control over federal government.** Nothing in paragraphs A or B shall be construed to prohibit the federal government, acting without the involvement of a local, county or state law enforcement agents, from seizing property and seeking forfeiture under federal law.

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