



# CRIMINAL FORFEITURE PROCESS ACT

BY THE INSTITUTE FOR JUSTICE

Civil forfeiture represents one of the most serious assaults on cash, vehicles, and other private property by government today. Prosecutors in most states do not have to charge you, let alone convict you, for you to lose your property. If you do not engage in complex civil litigation to protect your own property, you can lose it. Worst of all, most states allow police, sheriffs, and prosecutors to keep most of the forfeited property to supplement their budgets, even if you have done nothing wrong. This undermines the proper separation of powers between the executive branch and the legislature. It is the role of state legislators to raise and appropriate all funds, not law enforcement.

Long-standing policies like civil forfeiture undermine the proper role of law enforcement and fuel the public's distrust. Especially in light of the tragedies of 2020 involving police misconduct, these status quo policies must be reformed or ended.

The Institute for Justice (IJ) is a national public interest, civil liberties law firm. We have advocated for civil forfeiture reform in state legislatures for years and litigate the issue in courts, including at the U.S. Supreme Court.

## IJ'S CRIMINAL FORFEITURE PROCESS ACT

IJ's Criminal Forfeiture Process Act is a compromise. It balances and reflects:

- Since 2014, 25 states and the District of Columbia have instituted new reporting requirements for seizure and forfeiture activity; and
- Among the 25 states, Arizona, Kansas, and New Jersey now lead the nation in forfeiture transparency by enacting this Act.

## IT ADDRESSES THE DUE PROCESS FLAWS OF CIVIL FORFEITURE BY:

- Ending civil forfeiture and replacing it with criminal forfeiture that follows the defendant's conviction of the underlying crime: §100:19
- Exempting low dollar amounts of property from seizure and forfeitures: §100:10
- Creating a prompt post-seizure hearing: §100:15
- Paying attorney's fees if the property owner prevails: §100:28

## IT ADDRESSES CONCERNS RAISED BY POLICE, SHERIFFS, AND PROSECUTORS BY:

- Waiving the conviction prerequisite in cases where the suspect abandons property or flees the jurisdiction and is unavailable for prosecution: §100:19 (D)
- Empowering judges to order that forfeiture proceeds be used to pay for operational and equipment costs: §100:30 (D)
- Prohibiting or establishing a minimum dollar amount of the seizure before the U.S. Department of Justice can adopt property seized under state law: §100:33
- Allowing for federal forfeiture of property seized by joint state/federal task forces above a certain minimum dollar amount: §100:34



**FOR MORE INFORMATION ABOUT  
OUR FREE LEGISLATIVE SERVICE:**

[www.2021initiative.com](http://www.2021initiative.com)

[View IJ's Criminal Forfeiture Process Act by clicking here.](#)

## THE INSTITUTE FOR JUSTICE CAN HELP

The 2021 Initiative, a project of IJ, is a free legislative service that partners lawmakers with our lawyers, researchers, and advocates to identify and develop responsive and tailored legislation that will work for your state as you recover from 2020. We can help you implement civil forfeiture reform and other reforms in your state.

For questions or to get started, e-mail Christina Walsh, director of the 2021 Initiative, at [cwalsh@ij.org](mailto:cwalsh@ij.org).